

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1844

H.P. 1273

House of Representatives, May 13, 1991

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

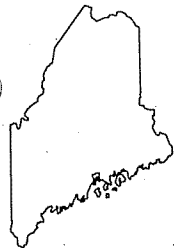
EDWIN H. PERT, Clerk

Presented by Representative GRAY of Sedgwick.
Cosponsored by Representative MAYO of Thomaston.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Amend the Tree Growth and Open Space Laws.



Be it enacted by the People of the State of Maine as follows:

2
3 Sec. 1. 36 MRSA §574-B, first ¶, as enacted by PL 1989, c. 555,
4 §16, is amended to read:

6 An owner of a parcel containing forest land may apply at the
7 landowner's election by filing with the assessor the schedule
8 provided for in section 579; except that this subchapter shall
9 does not apply to any parcel containing less than 10 acres of
10 forest land nor to any shoreland areas as defined in Title 38,
11 section 435. For purposes of this subchapter, a parcel is deemed
12 to include a unit of real estate, notwithstanding that it is
13 divided by a road, way, railroad or pipeline, or by a municipal
14 or county line. The election to apply shall require the
15 unanimous consent of all owners of an interest in a parcel,
16 except for the State, which is not subject to taxation hereunder.

18 Sec. 2. 36 MRSA §574-B, sub-§4 is enacted to read:

20 4. No posting of property. The landowner may not post
21 signs prohibiting the public from entering onto any lands taxed
22 pursuant to this subchapter.

24 Sec. 3. 36 MRSA §576, as amended by PL 1985, c. 99, is
25 further amended to read:

26 **§576. Powers and duties**

28 The State Tax Assessor shall determine the average annual
29 net wood production rate for each forest type described in
30 section 573, subsections 5 to 7, ~~in each county or region~~ to be
31 used in determining valuations applicable to forest land under
32 this subchapter, on the basis of the surveys of average annual
33 growth rates applicable in the State made from time to time by
34 the United States Forest Service or by the Maine Forestry
35 Bureau. The growth rate surveys shall must be reduced by a
36 percentage discount factor determined by the State Tax Assessor
37 pursuant to section 576-B to reflect the growth which can be
38 extracted on a sustained basis. The rates shall must be
39 determined ~~after passage of this subchapter,~~ and when determined
40 shall remain in effect without change ~~for each county~~ annually
41 through the property tax year ending March 31, ~~1975~~ 1992. In
42 1974 1993 and in every 10th year thereafter, the State Tax
43 Assessor shall review and set such rates for the following
44 10-year period in the same manner.

46 The State Tax Assessor shall determine annually the average
47 stumpage value for each forest type described in section 573,
48 subsections 5 to 7, ~~applicable in each county, or in such~~
49 ~~alternative forest economic regions as he may designate, after~~
50 ~~passage of this subchapter and in each year thereafter,~~ taking
51 into consideration the prices upon sales of sound standing timber
52

2 of that forest type in--that--area during the previous calendar
year, and such other considerations as he--deems State Tax
3 Assessor considers appropriate.

4
5 The proportions of the various species making up the type
6 are to be used in the computations of the average annual net wood
production rates and average stumpage values for each forest type
7 and the proportions of the various products are to be used in the
8 computations of average stumpage values.

9
10 After the State Tax Assessor has made the foregoing
11 determinations, he the State Tax Assessor shall apply a
12 capitalization rate as determined by--him pursuant to section
13 576-B, to the value of the annual net wood production to
14 determine the 100% valuation per acre for each forest type ~~for~~
15 each-area on an average, statewide basis and shall state the wood
production rates and values used to compute same.

16
17 The State Tax Assessor shall hold one or more public
18 hearings, upon the foregoing matters to be determined, shall
19 provide for a transcript thereof, and shall issue a rule or rules
20 stating those determinations on or before April 15, 1985, and on
21 or before October 1st each year thereafter.

22
23 The State Tax Assessor shall certify and transmit such rules
24 to the municipal assessors of each municipality with respect to
25 forest land therein on or before April 1st of each year.

26
27 **Sec. 4. 36 MRSA §1102, sub-§6**, as amended by PL 1989, c. 748,
28 **§1**, is further amended to read:

29
30 **6. Open space land.** "Open space land" means any area of
31 land of at least 5 contiguous acres, including state wildlife and
32 management areas, sanctuaries and preserves designated as such in
33 Title 12, the preservation or restriction of the use of which
34 provides a public benefit in any of the following areas:

- 35
36
37 A. Conserving scenic resources;
38
39 B. Enhancing public recreation opportunities;
40
41 C. Promoting game management; or
42
43 D. Preserving wildlife or wildlife habitat.

44
45 **Sec. 5. 36 MRSA §1103**, as amended by PL 1987, c. 728, **§3**, is
46 further amended to read:

47
48 **§1103. Owner's application**

2 An owner of farmland or open space land may apply for
3 taxation under this subchapter for the calendar year 1989, and
4 for subsequent calendar years, at his the owner's election by
5 filing with the assessor the schedule provided for in section
6 1109. The election to apply ~~shall require~~ requires the unanimous
7 consent of all owners of an interest in that farmland or open
8 space land. An owner of farmland or open space land may not
9 include in the owner's application any shoreland area as defined
10 in Title 38, section 435.

12 Sec. 6. 36 MRSA §1105, as amended by PL 1989, c. 748, §2, is
13 further amended to read:

14 **§1105. Valuation of farmland and open space land**

15 The ~~municipal assessor, chief assessor or~~ State Tax Assessor
16 ~~for the unorganized territory~~ shall establish the 100% valuation
17 per acre based on the current use value of farmland used for
18 agricultural or horticultural purposes and open space land used
19 for open space purposes. The values established must be based on
20 such considerations as farmland rentals, farmer-to-farmer sales,
21 soil types and quality, commodity values, topography, sales of
22 land subject to permanent conservation restrictions, sales of
23 land subject to enforceable deed restrictions, enhancement to
24 unclassified appurtenant land areas under same ownership, before
25 and after appraisals of permanently restricted land in the region
26 and other relevant considerations. These values may not reflect
27 development or market value purposes other than agricultural,
28 horticultural or open space use. The values may not reflect
29 value attributable to road frontage or shore frontage. ~~In~~
30 ~~developing these values, local assessors may be guided by the~~
31 ~~Department of Agriculture, Feed and Rural Resources as provided~~
32 ~~in section 1119 and by the State Tax Assessor as provided by~~
33 ~~section 1106.~~

34 The 100% valuation per acre for farm woodland within a
35 parcel classified as farmland under this subchapter is the 100%
36 valuation per acre for each forest type established ~~for each~~
37 ~~county~~ pursuant to subchapter II-A. Areas other than woodland,
38 agricultural land, horticultural land or open space located
39 within any parcel of farmland or open space classified under this
40 subchapter are valued on the basis of just value.

41 Sec. 7. 36 MRSA §1106, as amended by PL 1989, c. 748, §3, is
42 further amended to read:

43 **§1106. Powers and duties; State Tax Assessor**

44 The State Tax Assessor, working with representatives of
45 municipal officials, appraisers and conservation organizations,
46 shall ~~prepare guidelines for valuation of open space and shall~~

2 also establish recommended current use values by county for each
classification of open space land established in section 1102,
4 subsection 6. The municipal assessors are not required to use
the values recommended, but must be prepared in any appeal to
6 explain their systems of arriving at current use values and shall
have the burden of proving the recommended values to be in error
8 with regard to the parcel or parcels of land in question
established. For the purposes of this section "current use"
10 means the sale price per acre that a particular parcel of land
would command in the marketplace if it were required to remain in
12 an open space qualifying use. When applicable, this value is
adjusted by the valuation ratio then current in the municipality.

14 **Sec. 8. 36 MRSA §1108**, as amended by PL 1987, c. 728, §5, is
further amended to read:

16 **§1108. Assessment of tax**

18 **1. Organized areas.** The municipal assessors shall adjust
20 the State Tax Assessor's 100% valuations per acre for farmland
for their jurisdiction by whatever ratio or percentage of current
22 just value, is then being applied to other property within the
municipality to obtain the assessed values. For any tax year,
24 the classified farmland value must reflect only the current use
value for farm or open space purposes and shall may not include
26 any increment of value reflecting development pressure.
Commencing April 1, 1978, land in the organized areas subject to
28 taxation under this subchapter shall must be taxed at the
property tax rate applicable to other property in the
30 municipality, which rate shall must be applied to the assessed
values so determined.

32 **2. Unorganized territory.** The State Tax Assessor shall
34 adjust the 100% valuations per acre for farmland for the
unorganized territory by such the ratio or percentage as is then
36 being used to determine the state valuation applicable to other
property in the unorganized territory to obtain the assessed
38 values. For any tax year, the classified farmland value must
reflect only the current use value for farm or open space
40 purposes and shall may not include any increment of value
reflecting development pressure. Commencing April 1, 1978, land
42 in the unorganized territory subject to taxation under this
subchapter shall must be taxed at the state property tax rate
44 applicable to other property in the unorganized territory, which
rate shall must be applied to the assessed values so determined.
46 Upon collection by the State Tax Assessor, the taxes must be
48 deposited in the Unorganized Territory Education and Services
Fund in accordance with section 1605.

50 **3. Reimbursement to municipalities.** The State Tax Assessor
is authorized to make provisional payment of up to 75% of any
52 municipal claim found to be in satisfactory form. The payment

2 must be made within 90 days after receipt of a satisfactory claim
and be presented for final settlement to the next Legislature.

4 In tax years beginning on or after April 1, 1991, the State Tax
6 Assessor shall determine annually the amount of acreage in each
8 municipality that is classified and taxed in accordance with this
10 subchapter. A municipality actually levying and collecting
12 municipal property taxes and within whose boundaries this acreage
14 lies is entitled to annual payments from money appropriated by
16 the Legislature provided the municipality submits an annual
18 return in accordance with section 383 and achieves the
20 appropriate minimum assessment ratio described in section 327.
22 For property tax years based on the status of property on April
24 1, 1991, or thereafter, the per acre reimbursement must be 90% of
26 the per acre tax revenue lost as a result of this subchapter.
28 For purposes of this section, the tax lost is the tax that would
30 have been assessed, but for this subchapter, on the classified
32 farm and open space lands if they were assessed according to the
34 undeveloped acreage valuations used in the state valuation then
36 in effect, or according to the current local valuation on
38 undeveloped acreage, whichever is less, minus the tax that was
40 actually assessed on the same lands in accordance with this
42 subchapter.

44 A municipality may not receive a reimbursement payment under this
46 section that would exceed an amount determined by calculating the
48 farm and open space tax loss less the municipal savings in
50 educational costs attributable to reduced state valuation.

52 A. The farm and open space tax loss is the adjusted tax
54 that would have been assessed, but for this subchapter, on
56 the classified farm and open space lands if they were
58 assessed according to the undeveloped acreage valuations
60 used in the state valuation then in effect minus the tax
62 that was actually assessed on the same lands in accordance
64 with this subchapter.

66 In determining the adjusted tax that would have been
68 assessed, the tax rate to be used is computed by adding the
70 additional school support required by the modified state
72 valuation attributable to the increased valuation of farm
74 and open space land to the original tax committed and
76 dividing this sum by the modified total municipal
78 valuation. The adjusted tax rate is then applied to the
80 valuation of farm and open space lands based on the
82 undeveloped acreage valuations, adjusted by the certified
84 ratio, to determine the adjusted tax.

86 B. The municipal savings in educational costs are
88 determined by multiplying the school subsidy index by the
90 change in state valuation attributable to the use of the
92 valuations determined in accordance with this subchapter on

2 classified farm and open space lands rather than their
3 valuation using the undeveloped acreage valuations used in
4 the state valuation then in effect.

5 Sec. 9. 36 MRSA §1114, as enacted by PL 1987, c. 726, §2, is
6 amended to read:

7 **§1114. Application**

8
9
10 No person can ~~may~~ apply for classification for more than an
11 aggregate total of 15,000 acres under this subchapter. The
12 classification of farmland or open space land hereunder ~~shall~~
13 ~~continue~~ continues until the municipal assessor, or State Tax
14 Assessor in the unorganized territory, ~~determine~~ determines that
15 the land no longer meets the requirements of such
16 classification. Property classified under this subchapter may
17 not be posted to prohibit access by the public except such
18 property as the State Tax Assessor may designate by rule.

19

20 **STATEMENT OF FACT**

21

22 This bill provides that land abutting any shoreland area may
23 not qualify for benefits under the tree growth program or the
24 open space program.

25

26 The bill also provides for a statewide method of assessing
27 value under the tree growth tax laws. The bill makes
28 reimbursement to municipalities under the farmland and open space
29 laws the same as reimbursement under the tree growth tax laws.
30