

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

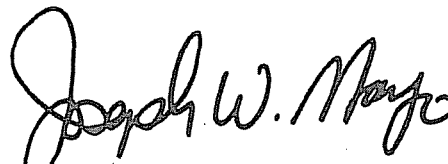
No. 1116

H.P. 830

House of Representatives, April 1, 1993

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

Reference to the Committee on Taxation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative GRAY of Sedgwick.
Cosponsored by Representatives: BOWERS of Washington, SKOGLUND of St. George,
SPEAR of Nobleboro, Senator: PINGREE of Knox.

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

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

6 An owner of a parcel containing forest land may apply at the
8 landowner's election by filing with the assessor the schedule
10 provided for in section 579; except that this subchapter ~~shall~~
12 does not apply to any parcel containing less than ~~10~~ 25 acres of
14 forest land nor to any shoreland areas as defined in Title 38,
16 section 435. For purposes of this subchapter, a parcel is deemed
to include a unit of real estate, notwithstanding that it is
divided by a road, way, railroad or pipeline, or by a municipal
or county line. The election to apply ~~shall require~~ requires the
unanimous consent of all owners of an interest in a parcel,
except for the State, ~~which~~ that 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
22 signs prohibiting the public from entering onto any lands taxed
24 pursuant to this subchapter.

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

28 **§576. Powers and duties**

30 The State Tax Assessor shall determine the average annual
32 net wood production rate for each forest type described in
section 573, subsections 5 to 7, ~~in each county or region~~ to be
used in determining valuations applicable to forest land under
34 this subchapter, on the basis of the surveys of average annual
growth rates applicable in the State made from time to time by
36 the United States Forest Service or by the Maine Forestry
Bureau. The growth rate surveys ~~shall~~ must be reduced by a
38 percentage discount factor determined by the State Tax Assessor
pursuant to section 576-B to reflect the growth ~~which~~ that can be
40 extracted on a sustained basis. The rates ~~shall~~ must be
determined ~~after passage of this subchapter,~~ and when determined
42 ~~shall~~ remain in effect without change ~~for each county~~ annually
through the property tax year ending March 31, ~~1975~~ 1994. In
44 ~~1974~~ 1995 and in every 10th year thereafter, the State Tax
Assessor shall review and set such rates for the following
46 10-year period in the same manner.

48 The State Tax Assessor shall determine annually the average
stumpage value for each forest type described in section 573,
50 subsections 5 to 7, ~~applicable in each county, or in such~~

2 ~~alternative forest economic regions as he may designate, after~~
3 ~~passage of this subchapter and in each year thereafter,~~ taking
4 into consideration the prices upon sales of sound standing timber
5 of that forest type ~~in that area~~ during the previous calendar
6 year, and such other considerations as he deems the State Tax
7 Assessor considers appropriate.

8 The proportions of the various species making up the type
9 are to be used in the computations of the average annual net wood
10 production rates and average stumpage values for each forest type
11 and the proportions of the various products are to be used in the
12 computations of average stumpage values.

13 After the State Tax Assessor has made the foregoing
14 determinations, he the State Tax Assessor shall apply a
15 capitalization rate as determined by ~~him~~ pursuant to section
16 576-B, to the value of the annual net wood production to
17 determine the 100% valuation per acre for each forest type ~~for~~
18 each area on an average, statewide basis and shall state the wood
19 production rates and values used to compute same.

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

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

28 **Sec. 4. 36 MRSA §1102, sub-§6,** as amended by PL 1989, c. 748,
29 §1, is further amended to read:

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

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

2 **§1103. Owner's application**

4 An owner of farmland or open space land may apply for
6 taxation under this subchapter for the calendar year 1989, and
8 for subsequent calendar years, at his the owner's election by
10 filing with the assessor the schedule provided for in section
12 1109. The election to apply ~~shall require~~ requires the unanimous
14 consent of all owners of an interest in that farmland or open
16 space land. An owner of farmland or open space land may not
18 include in the owner's application any shoreland area as defined
20 in Title 38, section 435.

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

26 **§1105. Valuation of farmland and open space land**

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

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

Sec. 7. 36 MRSA §1106, as amended by PL 1991, c. 508, §1, is
further amended to read:

2 **§1106. Powers and duties; State Tax Assessor**

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

28 ~~The valuation guidelines required by this section must be~~
30 ~~completed and reported to the joint standing committee of the~~
32 ~~Legislature having jurisdiction over taxation matters by February~~
34 ~~1, 1992. The report must also contain information and~~
36 ~~recommendations, if any, on the impact of public access~~
38 ~~requirements when determining eligibility for farm, open space~~
40 ~~and tree growth classifications.~~

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

46 **§1108. Assessment of tax**

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

52 **2. Unorganized territory.** The State Tax Assessor shall
54 adjust the 100% valuations per acre for farmland for the
56 unorganized territory by sueh the ratio or percentage as is then
58 being used to determine the state valuation applicable to other
60 property in the unorganized territory to obtain the assessed

2 values. For any tax year, the classified farmland value must
reflect only the current use value for farm or open space
4 purposes and shall may not include any increment of value
reflecting development pressure. Commencing April 1, 1978, land
6 in the unorganized territory subject to taxation under this
subchapter shall must be taxed at the state property tax rate
8 applicable to other property in the unorganized territory, which
rate shall must be applied to the assessed values so determined.
10 Upon collection by the State Tax Assessor, the taxes must be
deposited in the Unorganized Territory Education and Services
Fund in accordance with section 1605.

12
14 3. Reimbursement to municipalities. The State Tax Assessor
is authorized to make provisional payment of up to 75% of any
16 municipal claim found to be in satisfactory form. The payment
must be made within 90 days after receipt of a satisfactory claim
and be presented for final settlement to the next Legislature.

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

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

44
46 A. The farm and open space tax loss is the adjusted tax
that would have been assessed, but for this subchapter, on
48 the classified farm and open space lands if they were
assessed according to the undeveloped acreage valuations
50 used in the state valuation then in effect minus the tax
that was actually assessed on the same lands in accordance
with this subchapter.

2 In determining the adjusted tax that would have been
4 assessed, the tax rate to be used is computed by adding the
6 additional school support required by the modified state
8 valuation attributable to the increased valuation of farm
10 and open space land to the original tax committed and
12 dividing this sum by the modified total municipal
14 valuation. The adjusted tax rate is then applied to the
16 valuation of farm and open space lands based on the
18 undeveloped acreage valuations, adjusted by the certified
20 ratio, to determine the adjusted tax.

22 B. The municipal savings in educational costs are
24 determined by multiplying the school subsidy index by the
26 change in state valuation attributable to the use of the
28 valuations determined in accordance with this subchapter on
30 classified farm and open space lands rather than their
32 valuation using the undeveloped acreage valuations used in
34 the state valuation then in effect.

36 **Sec. 9. 36 MRSA §1114**, as enacted by PL 1975, c. 726, §2, is
38 amended to read:

40 **§1114. Application**

42 No A person can may not apply for classification for more
44 than an aggregate total of 15,000 acres under this subchapter.
46 The classification of farmland or open space land hereunder shall
48 continue continues until the municipal assessor, or State Tax
50 Assessor in the unorganized territory, determine determines that
the land no longer meets the requirements of such
classification. Property classified under this subchapter may
not be posted to prohibit access by the public except such
property as the State Tax Assessor may designate by rule.

36 STATEMENT OF FACT

38 This bill provides that land abutting any shoreland area may
40 not qualify for benefits under the tree growth program or the
42 open space program.

44 The bill provides for a statewide method of assessing value
46 under the tree growth tax laws. The bill makes reimbursement to
48 municipalities under the farmland and open space laws the same as
50 reimbursement under the tree growth tax laws.

The bill increases the minimum size land parcel eligible
under the tree growth tax laws from 10 to 25 acres.

2 Under current law, the current use value of farmland and
open space land may not reflect value attributable to road
frontage or shore frontage. This bill eliminates that
4 restriction.