

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)



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1288

S.P. 412

In Senate, April 15, 1993

An Act to Clarify the Responsibilities of Property Assessment Review Boards.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CAREY of Kennebec.
Cosponsored by Representative: KERR of Old Orchard Beach.

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

2
4 Sec. 1. 36 MRSA §843, as amended by PL 1991, c. 546, §12, is
further amended to read:

6 **§843. Appeals**

8 **1. Municipalities.** Where the municipality has adopted a
10 board of assessment review, if the assessors or the municipal
officers refuse to make the abatement asked for, the applicant
12 may apply in writing to the board of assessment review within 60
days after notice of the decision from which the appeal is being
14 taken or after the application is deemed to have been denied,
and, if the board ~~thinks~~ he makes a finding that the applicant is
over-assessed, ~~he--shall~~ the applicant must be granted such
16 reasonable abatement as the board ~~thinks~~ considers proper.
Except with regard to ~~nonresidential~~ commercial or industrial
18 property with an equalized municipal value of \$500,000 or
greater, either party may appeal from the decision of the board
20 of assessment review directly to the Superior Court, in
accordance with Rule 80B of the Maine Rules of Civil Procedure.
22 If the board of assessment review fails to give written notice of
their its decision within 60 days of the date the application is
24 filed, unless the applicant agrees in writing to further delay,
the application shall ~~be~~ is deemed denied and the applicant may
26 appeal to the Superior Court as if there had been a written
denial or the applicant may appeal to the State Board of Property
28 Tax Review by following the procedures specified in subsection 2.

30 **1-A. Commercial or industrial property exceeding \$500,000.**
With regard to ~~nonresidential~~ commercial or industrial property
32 with an equalized municipal valuation of \$500,000 or greater,
either party may appeal the decision of the local board of
34 assessment review to the State Board of Property Tax Review
within 60 days after notice of the decision from which the appeal
36 is taken or after the application is deemed to be denied. The
board shall hold a hearing de novo. If the board ~~thinks~~ makes a
38 finding that the owner is over-assessed, ~~it~~ the board shall grant
such reasonable abatement as the board ~~thinks~~ considers proper.

40 **2. Primary assessing areas.** If the chief assessor,
42 municipal officer or the State Tax Assessor refuses to make the
abatement asked for, the applicant may apply in writing to the
44 State Board of Property Tax Review within 60 days after notice of
the decision from which the appeal is being taken or after the
46 application shall ~~be~~ is deemed to have been denied, and if the
board ~~thinks--he~~ makes a finding that the applicant is
48 over-assessed, ~~he--shall~~ the applicant must be granted such
reasonable abatement as the board ~~thinks~~ considers proper. The

2 decision of the State Board of Property Tax Review shall-be is
3 deemed final agency action by that board under the Maine
4 Administrative Procedure Act. Appeals to the State Board of
5 Property Tax Review shall-be are directed to the Chairman Chair
6 of the State Board of Property Tax Review, who shall convene the
7 board to hear the appeal and shall notify all parties of the time
8 and place thereof of the hearing.

9
10 **3. Notice of decision.** Any An agency to which an appeal is
11 made under this section is subject to the provisions for notice
12 of decision in section 842. The agency's notice must include
13 written findings of fact and conclusions of law relied on by the
14 agency in support of its decision. An agency decision awarding
15 an abatement must also include a finding of overassessment. For
16 the purpose of an appeal to Superior Court from a decision issued
17 under this section, to the extent the agency's written decision
18 fails to substantially meet the requirements of this subsection,
19 the Superior Court shall issue a limited remand of the appeal to
20 the agency with instructions to prepare and file with the court a
21 written decision within 30 days in accordance with this section.

22 **4. Finding of overassessment.** A finding of overassessment
23 may be made by an agency under this section only after the agency
24 has determined that the assessed value of the property is not
25 accurate within reasonable limits of practicality as set forth in
26 section 848-A and that at least one of the following criteria has
27 been met:

28
29 A. The property assessment being appealed is irrational or
30 so unreasonable in light of the circumstances that the
31 property is substantially overvalued and an injustice
32 results;

33
34 B. The property assessment results in unjust
35 discrimination; or

36
37 C. The assessment is fraudulent, dishonest or illegal.

38
39 **Sec. 2. 36 MRSA §844,** as amended by PL 1991, c. 546, §13, is
40 further amended to read:

41
42 **§844. Appeals to county commissioners**

43
44 **1. Municipalities without board of assessment review.**
45 Except where the municipality has adopted a board of assessment
46 review or has been designated as a primary assessing area, if the
47 assessors or the municipal officers refuse to make the abatement
48 asked for, the applicant may apply to the county commissioners
49 within 60 days after notice of the decisions from which the
50 appeal is being taken or within 60 days after the application is

2 deemed to have been denied. If the commissioners ~~think~~ make a
3 finding that the applicant is over-assessed, the applicant shall
4 must be granted such reasonable abatement as the commissioners
5 think consider proper. If the applicant has paid the tax, he
6 shall the applicant must be reimbursed out of the municipal
7 treasury, with costs in either case. If the applicant fails, the
8 commissioners shall allow costs to the municipality, taxed as in
9 a civil action in the Superior Court, and issue their warrant of
10 distress against ~~him~~ the applicant for collection of such the
11 amount ~~as may be~~ that is due the municipality. The commissioners
12 may require the assessors or municipal clerk to produce the
13 valuation by which the assessment was made or a copy of ~~it~~ the
14 valuation. Either party may appeal from the decision of the
15 county commissioners to the Superior Court, in accordance with
16 the Maine Rules of Civil Procedure, Rule 80B. If the county
17 commissioners fail to give written notice of their decision
18 within 60 days of the date the application is filed, unless the
19 applicant agrees in writing to further delay, the application
20 shall ~~be~~ is deemed denied and the applicant may appeal to the
21 ~~Superior Court as if there had been a written denial or the~~
22 ~~applicant may appeal to the~~ State Board of Property Tax Review by
23 following the procedures specified in section 843, subsection 2.

24 **2. Commercial or industrial property exceeding \$500,000.**
25 Notwithstanding subsection 1, the owner of nonresidential
26 commercial or industrial property with an equalized municipal
27 valuation of \$500,000 or greater may choose to appeal the
28 decision of the assessors or the municipal officials with regard
29 to a request for abatement to the State Board of Property Tax
30 Review within 60 days after notice of the decision from which the
31 appeal is taken or after the application is deemed to be denied.
32 If the state board ~~thinks~~ makes a finding that the owner is
33 over-assessed, ~~it~~ the state board shall grant such reasonable
34 abatement as the board ~~thinks~~ considers proper.

36 **3. Notice of decision.** An appeal to the county
37 commissioners is subject to the provisions for notice of decision
38 in section 842. The agency's notice must include written
39 findings of fact and conclusions of law relied on by the agency
40 in support of its decision. An agency decision awarding an
41 abatement must also include a finding of overassessment. For the
42 purpose of an appeal to Superior Court from a decision issued
43 under this section, to the extent the agency's written decision
44 fails to substantially meet the requirements of this subsection,
45 the Superior Court shall issue a limited remand of the appeal to
46 the agency with instructions to prepare and file with the court a
47 written decision within 30 days in accordance with this section.
48 In the circumstance of a deemed denial, the Superior Court shall
conduct a de novo hearing of the appeal.

2 4. Finding of overassessment. A finding of overassessment
4 may be made by an agency under this section only after the agency
6 has determined that the assessed value of the property is not
8 accurate within reasonable limits of practicality as set forth in
10 section 848-A and that at least one of the following criteria has
12 been met:

14 A. The property assessment being appealed is irrational or
16 so unreasonable in light of the circumstances that the
18 property is substantially overvalued and an injustice
20 results;

22 B. The property assessment results in unjust
24 discrimination; or

26 C. The assessment is fraudulent, dishonest or illegal.

28 Sec. 3. 36 MRSA §848-A, as repealed and replaced by PL 1977,
30 c. 509, §22, is amended to read:

32 §848-A. Assessment ratio evidence

34 Reports of assessment ratios contained in assessment ratio
36 studies of the Bureau of Taxation shall--be are prima facie
38 evidence of what the reported ratio is in fact, unless a party to
40 such the proceedings establishes that such the ratio was derived
42 or established in a manner contrary to law or proves the
44 existence existence of a different ratio.

46 In any proceedings relating to a protested assessment
48 pursuant to section 843 or 844, it shall--be is a sufficient
50 defense of such assessment that it is accurate within reasonable
 limits of practicality, except when a proven deviation of 10% or
 more from the relevant assessment ratio of the municipality or
 primary assessing area exists.

For the purposes of this section, the relevant assessment
 ratio is:

1. Reevaluation. One hundred percent if a recently
 conducted municipal reevaluation warrants such a ratio;

2. Overall assessment ratio. The most current overall
 assessment ratio contained in the municipality's Bureau of
 Taxation Report of Assessment Review; or

3. Factoring ratio. When the property assessment is being
 conducted pursuant to a factoring procedure in order to ensure
 compliance with section 327, the relevant assessment ratio must

2 be the factoring ratio determined to most accurately reflect the
4 relevant sales ratio applicable to the subject property type in
6 accordance with the overall assessing ratio that the municipality
8 designs to achieve.

10 When inadequate sales of the property have occurred or sales
12 ratio studies are unavailable or otherwise are proven to be
14 inapplicable, the relevant assessment ratio must be the ratio
16 calculated to achieve maximum assessment equity.

18 STATEMENT OF FACT

20 This bill clarifies and strengthens current property
22 assessment appeal law that requires boards or agencies that rule
24 on property assessment appeals to issue written decisions that
26 include evidentiary findings and conclusions of law. When the
28 appeal moves from an intermediate level of review into the
30 Superior Court and the board's or agency's written decision does
not substantially meet the statutory standards, the Superior
Court shall order the board or agency to produce a written
decision that substantially complies with the standards contain
in this bill.

32 The bill clarifies the appeal route when the county
34 commissioners fail to issue a written decision resulting in a
deemed denial. As amended by this bill, the appeal route in such
a circumstance would be to the State Board of Property Tax Review
for an evidentiary hearing, as is the case with deemed denials
from local boards of assessment review.

This bill also clarifies the variety of relevant assessment
ratios that may be utilized by municipal assessors to adjust
market value assessments in accordance with established assessing
equity requirements.