

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1996

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H.P. 1344

House of Representatives, March 11, 1996

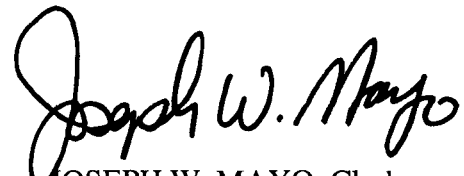
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### An Act to Broaden the Municipal Service Charge.

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Reported by Representative TRIPP for the Commission to Study the Growth of Tax-exempt Property in Maine's Towns, Cities, Counties and Regions pursuant to Resolve 1995, chapter 47.

Reference to the Joint Standing Committee on Taxation suggested and printing ordered under Joint Rule 20.

  
JOSEPH W. MAYO, Clerk

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

2           Sec. 1. 36 MRSA §652, sub-§1, ¶L, as enacted by PL 1977, c.  
4 487, is repealed.

6           Sec. 2. 36 MRSA §§652-A and 652-B are enacted to read:

8 **§652-A. Optional municipal service charges**

10           1. Definitions. As used in this section, unless the  
12 context otherwise indicates, the following terms have the  
following meanings.

14           A. "Actual municipal costs" means a municipality's direct  
16 costs, including capital costs, expended or incurred to  
18 provide direct benefit services during the municipal fiscal  
20 year, less the allocable portion of state and federal  
revenue sharing and grants-in-aid received by the  
municipality during that year.

22           B. "Annual receipts" means income received in the most  
24 recent fiscal year by a tax-exempt entity from receipts of  
26 goods and services provided at the exempt property. "Annual  
receipts" does not include amounts received by a tax exempt  
entity in the form of governmental or corporate grants,  
private charitable donations or trust or endowment earnings.

28           C. "Capital costs" means capital expenditures for equipment  
30 and facilities necessary to provide the services rendered  
and calculated as follows:

32                   (1) Current fiscal year debt service on the equipment  
34 and facilities; and

36                   (2) In the case of equipment and facilities purchased  
38 or constructed as a current expense item or by the  
40 withdrawal of accumulated reserve funds, 20% of the  
total amount expended during the year of purchase or  
construction and in each of the following 4 municipal  
fiscal years.

42           D. "Improved tax-exempt property" means a parcel of land  
44 containing a building or other principal use structure that  
is exempt from taxation under section 652.

46           E. "Principal use structure" means a building that is used  
48 in providing services that are tax-exempt.

50           2. Direct-benefit service charge; establishment; exemption.  
Pursuant to the provisions of this section, improved tax-exempt

2 property may be subject to municipal charges for direct-benefit  
3 services, as defined in subsection 3, actually provided to a  
4 tax-exempt entity by a municipality. The establishment of  
5 direct-benefit service charges is at the discretion of the  
6 municipality in which the improved tax-exempt property is  
7 located. The municipal legislative body shall determine the  
8 scope of any charge system imposed; however, any charge  
9 established may not exceed the limitations specified in this  
10 section.

11 A tax-exempt entity that expends 50% or more of its annual income  
12 providing temporary housing, food, clothing or other services to  
13 persons at or below the federal poverty level is exempt from the  
14 provisions of this section.

15 **3. Municipal services eligible for direct-benefit service**  
16 **charges. The only direct-benefit services of a municipality for**  
17 **which a system of charges may be imposed are:**

18 **A. Fire protection, including ambulance and rescue services;**

19 **B. Police protection, including emergency 911 services;**

20 **C. Road maintenance and construction, traffic control and**  
21 **snow and ice removal;**

22 **D. Water and sewer service provided to the tax-exempt**  
23 **property and not otherwise recovered through user fees or**  
24 **other charges; and**

25 **E. Sanitation services, including the net cost of municipal**  
26 **recycling services, provided to the tax-exempt property and**  
27 **not otherwise recovered through user fees or other charges.**

28 **4. Calculation of charges. Any system of charges for**  
29 **direct-benefit services must calculate on an annual basis the**  
30 **actual municipal costs of providing the services, including**  
31 **capital costs, and may impose on any individual tax-exempt entity**  
32 **only its proportional share of these costs according to the**  
33 **formula set out in this subsection.**

34 **The direct-benefit service charge rate is determined by dividing**  
35 **the actual municipal costs of direct-benefit services provided in**  
36 **that year by the total assessed value of all taxable and improved**  
37 **tax-exempt property in the municipality. The direct-benefit**  
38 **service charge rate is then multiplied by the assessed value of**  
39 **each individual improved tax-exempt property. This results in**  
40 **the prorated charge for direct-benefit services for each**  
41 **tax-exempt entity.**

2           5. Amount of service charges limited. The total  
3 direct-benefit service charges levied by a municipality on a  
4 tax-exempt entity under this section may not exceed the lesser of  
5 1.5% of the taxing entity's annual receipts or 25% of the amount  
6 that would have been assessed as taxes on the property concerned  
7 if it were not exempt from taxation. To qualify for this  
8 limitation, the tax-exempt entity must file with the municipality  
9 a report of the annual receipts of the entity for the year  
10 immediately prior to the year for which the service charge is  
11 levied. The municipal officers shall abate the service charge  
12 amount that is in excess of the applicable limitation.

13           6. Service charges applied equally. If a municipality  
14 levies service charges on a classification of property, that  
15 municipality shall levy those service charges on all institutions  
16 and organizations owning property in that classification.

17           7. Payment schedule; payments. A municipality may  
18 establish a payment schedule that is annual, semiannual,  
19 quarterly or monthly.

20           Payment of direct-benefit service charges may be in kind, in the  
21 form of goods or services provided to the municipality or its  
22 residents at a reduced charge or no charge.

23           8. Use of service charges restricted. Municipalities shall  
24 use the revenues accrued from direct-benefit service charges to  
25 fund the costs of those services or to reduce the municipality's  
26 tax commitment for the subsequent tax year.

27           9. Collection of unpaid service charges. The collection of  
28 unpaid direct-benefit service charges must be carried out in the  
29 manner provided in Title 38, section 1208.

30           10. Appeals. Appeals concerning the assessed valuation of  
31 the improved tax-exempt property must be undertaken in accordance  
32 with subchapter VIII. An appeal mechanism, including the right  
33 of an appeal in accordance with the Maine Rules of Civil  
34 Procedure, Rule 80B, for all other issues must be provided by the  
35 municipality's implementing ordinance.

36           11. Adopt ordinance. Municipalities adopting a system of  
37 direct-benefit service charges must do so by ordinance.

38 **§652-B. Optional municipal service charge; public property**

39           Municipalities may assess direct-benefit service charges  
40 against any of the following categories of public property as  
41 defined in section 651 in accordance with section 652-A,  
42 notwithstanding section 652-A, subsection 5:

2 1. State property. Property of the State that generates  
4 any income from recipients of goods and services provided to the  
property;

6 2. Public water and power facilities. Public water and  
8 power facilities as defined in section 651, subsection 1,  
paragraph E, unless the municipality or its residents receive  
service from the facilities concerned;

10 3. Airports. Public airports and landing fields as defined  
12 in section 651, subsection 1, paragraph F that are exempt from  
taxation under that subsection; and

14 4. Public sewage disposal facilities. Public sewage  
16 disposal facilities as defined in section 651, subsection 1,  
paragraph G, unless the municipality or its residents receive  
18 service from the facilities concerned.

20  
22 **STATEMENT OF FACT**

24 This bill is the result of the findings of the Commission to  
26 Study the Growth of Tax-exempt Property in Maine's Towns, Cities,  
28 Counties and Regions. The bill broadens the current provision in  
30 which municipalities are given the option of assessing service  
fees on a very limited classification of otherwise tax-exempt  
entities. This bill gives municipalities the option of assessing  
a direct-benefit service charge on a larger number of tax-exempt  
entities if they choose to do so.

32 Direct-benefit service charges are calculated using the  
34 following formula:

$$\begin{array}{rcll} & \text{Total Annual municipal} & & \\ & \text{costs of direct benefit} & & \\ & \text{services} & & \\ & \text{-----} & & \\ \text{Step 1.} & & = & \text{Direct benefit service charge} \\ & & & \text{rate} \\ & \text{Total value of all} & & \\ & \text{taxable and improved} & & \\ & \text{tax-exempt property} & & \\ & \text{in the municipality} & & \\ \\ \text{Step 2.} & \text{Direct benefit} & \text{Assessed value} & \text{Prorated charge} \\ & \text{service charge} & \text{of individual} & \text{for direct} \\ & \text{rate} & \text{tax exempt} & \text{benefit} \\ & & \text{property} & \text{services} \\ & & & \\ & & \text{X} & \text{=} \end{array}$$

2           The bill includes a number of restrictions. Any  
3 direct-benefit service charge may not exceed 1.5% of the tax  
4 entity's annual receipts or 25% of the amount that would have  
5 been otherwise assessed as taxes if the property were not tax  
6 exempt. Service charges must be used to fund the cost of those  
7 services or to reduce the municipality's tax commitment for the  
8 subsequent year. Any municipality that chooses to adopt a system  
9 of direct-benefit service charges must do so by ordinance.  
10