

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-1997

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Legislative Document

No. 1826

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S.P. 623

In Senate, April 28, 1997

**An Act to Change the Name of the Bureau of Taxation and to Allow  
Other Agencies of the State to Benefit from Its Services.**

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Received by the Secretary of the Senate on April 17, 1997. Referred to the Committee on  
Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator RUHLIN of Penobscot. (GOVERNOR'S BILL).  
Cosponsored by Representatives: CIANCHETTE of South Portland, DEXTER of Kingfield,  
KERR of Old Orchard Beach, WINSOR of Norway.

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

2  
4       **Sec. 1. 12 MRSA §602, sub-§4**, as amended by PL 1995, c. 502,  
Pt. E, §20, is further amended to read:

6       **4. Fees for services and accommodations.** With the consent  
8 of the Governor, the bureau may:

10       A. Furnish accommodations and render services to the public  
on state parks and parks under state control; and

12       B. Charge reasonable fees for those services and  
14 accommodations.

16 All fees received under this subsection accrue to the General  
Fund, except that, effective July 1, 1990, all revenues resulting  
18 from an increase in fees in the Allagash Wilderness Waterway  
accrue to a dedicated revenue account to be used for capital  
improvements in the Allagash Wilderness Waterway. In cases where  
20 when fees may be more efficiently collected through ~~3rd-party~~  
3rd-party contracts, a percentage of the fee may be retained by  
22 the contractor for services, as agreed upon by the bureau. The  
bureau may contract with the Department of Administrative and  
24 Financial Services, Bureau of Revenue Services for the collection  
of fees. The bureau may also enter into an agreement with the  
26 State Tax Assessor pursuant to which applications for state park  
passes are included in state individual income tax booklets.

28 Fifteen percent of all day use and camping fees received under  
30 this subsection in any lands owned by the former Bureau of Parks  
and Recreation or designated as parks and historic sites under  
32 jurisdiction of the bureau must be apportioned and paid to all  
municipalities having those lands within their boundaries. In  
34 determining the payment to each municipality, the bureau shall  
assign one unit per front foot for each foot of lake, pond, ocean  
36 or major river frontage and 5 units for each acre of all lands  
within the municipality. Frontage and acreage must be determined  
38 as of April 1st for the year in which revenue is being  
apportioned and computed to the nearest whole unit. The bureau  
40 shall increase the fees charged by it under this subsection by an  
amount that will reflect the loss of revenue to the State  
42 occasioned by such payment to the municipalities;

44       **Sec. 2. 12 MRSA §7072, sub-§1**, as enacted by PL 1983, c. 819,  
Pt. A, §23, is amended to read:

46       **1. Appointment.** The commissioner may appoint clerks of  
48 towns, the State Tax Assessor or such other agents as ~~he~~  
the commissioner considers necessary to issue licenses and  
50 permits. The commissioner shall determine the period during which

2 the agents shall--act perform their duties. In the case of  
3 services performed for the commissioner by the State Tax  
4 Assessor, the provisions of this chapter regarding agents' fees  
do not apply.

6 **Sec. 3. 12 MRSA §7073, sub-§1-A** is enacted to read:

8 **1-A. Applications provided with income tax forms.** The  
9 commissioner may enter into an agreement with the State Tax  
10 Assessor pursuant to which applications for fishing and hunting  
11 licenses are included in state individual income tax booklets.

12 **Sec. 4. 12 MRSA §7074, sub-§7** is enacted to read:

14 **7. Exception.** This section does not apply to the State Tax  
15 Assessor with respect to services performed for the commissioner.

18 **Sec. 5. 36 MRSA §111, sub-§1-B** is enacted to read:

20 **1-B. Bureau.** "Bureau" means the Bureau of Revenue Services.

22 **Sec. 6. 36 MRSA §111, sub-§5,** as repealed and replaced by PL  
23 1981, c. 364, §5, is amended to read:

24 **5. Tax.** "Tax" means the total amount required to be paid,  
25 withheld and paid over, or collected and paid over with respect  
26 to estimated or actual tax liability under this Title, including  
27 any interest or civil penalty relating thereto. For purposes of  
28 sections 171, 175-A and 176-A, "tax" also means any fee, fine,  
29 penalty or other obligation owed to the State provided for by law  
30 if this obligation is subject to collection by the assessor  
31 pursuant to an agreement entered into by the bureau and another  
32 agency of the State.

34 **Sec. 7. 36 MRSA §111, sub-§7,** as enacted by PL 1981, c. 364,  
35 §6, is amended to read:

38 **7. Taxpayer.** "Taxpayer" means any person required to file a  
39 return under this Title or to pay, withhold and pay over or  
40 collect and pay over any tax imposed by this Title. For the  
41 purposes of sections 171, 175-A and 176-A, "taxpayer" also means  
42 any person obligated to the State for the payment of a fee, fine,  
43 penalty or other obligation to the State provided for by law, if  
44 this obligation is subject to collection by the assessor pursuant  
45 to an agreement entered into by the bureau and another agency of  
46 the State.

48 **Sec. 8. 36 MRSA §112,** as amended by PL 1995, c. 639, §1, is  
49 further amended to read:

2 §112. State Tax Assessor

4 1. **General powers and duties.** The State Tax Assessor shall  
6 administer and enforce the tax laws enacted under this Title and  
8 under Title 29-A, and may adopt rules and require such  
10 information to be reported as necessary. The assessor shall  
12 provide, at the time of issuance, to one or more entities that  
14 publish a monthly state tax service, all rules, bulletins,  
16 taxpayer notices or alerts, notices of rulemaking, any other  
18 taxpayer information issued by the assessor, and all substantive  
amendments or modifications of the same, for publication by that  
entity or entities. When a significant change has occurred in  
~~Bureau--of--Taxation~~ bureau policy or practice or in the  
interpretation by the bureau of any law, rule or instruction  
bulletin, the assessor shall, within 60 days of the change,  
provide to the same publishing entity or entities written notice,  
suitable for publication, of the change.

20 2. **Organization.** The ~~State-Tax-Assessor~~ assessor may employ  
22 such deputies, assistants and employees, subject to the Civil  
24 Service Law, as are necessary, and distribute the duties given to  
26 ~~him-or-to-the-Bureau-of-Taxation~~ the assessor or to the bureau  
among such persons or divisions in that bureau as ~~he-deems~~ the  
assessor considers necessary for economy and efficiency in  
administration. An officer within each division of the bureau  
shall must be designated by the ~~State-Tax-Assessor~~ assessor as  
28 director of that division. The ~~State-Tax-Assessor~~ assessor, for  
enforcement and administrative purposes, may divide the State  
into a reasonable number of districts in which branch offices may  
30 be maintained.

32 3. **Examination of witnesses.** The ~~State--Tax--Assessor~~  
assessor may summon and examine under oath any person whose  
34 testimony is ~~deemed~~ considered necessary to the proper discharge  
of the ~~State-Tax-Assessor's~~ assessor's duties and may require the  
36 production of all books or other documents in the custody or  
control of that person ~~which~~ that relate to any matter ~~which~~ that  
38 the ~~State-Tax-Assessor~~ assessor has authority to investigate or  
determine. This examination may be conducted by an agent  
40 designated by the ~~State-Tax-Assessor~~ assessor and is considered  
an "official proceeding" within the meaning of that term in Title  
42 17-A, section 451. The ~~State-Tax-Assessor~~ assessor or that agent  
may administer all oaths required under this Title and may, in  
44 the ~~State--Tax--Assessor's~~ assessor's discretion, reduce any  
examination under oath to writing. Any person summoned under  
46 this section is entitled to receive at the same time a copy of  
the Taxpayer Bill of Rights statement required to be prepared  
48 under subsection 7-A.

50 Any justice of the Superior Court and, with respect to the taxes  
imposed under Part 6, any judge of probate, upon application of

2 the ~~State-Tax-Assessor~~ assessor, may compel the attendance of  
witnesses and the giving of testimony before the ~~State--Tax~~  
4 ~~Assessor~~ assessor in the same manner, to the same extent and  
subject to the same penalties as if before the court over which  
6 that justice or judge presides.

8 **4. Examination of records and premises.** Whenever necessary  
to the administration of this Title, the ~~State--Tax--Assessor~~  
assessor may make, or cause to be made by an employee, an  
10 examination or investigation of the place of business, books and  
other documents and any other relevant personal property of any  
12 person who the ~~State-Tax-Assessor~~ assessor has reason to believe  
is liable for any tax imposed by this Title.

14 At the conclusion of an audit, the ~~State-Tax-Assessor~~ assessor or  
an agent shall conduct an audit conference with the taxpayer and  
16 shall give the taxpayer a written summary of the audit findings,  
18 including the legal basis for the audit findings and adjustments,  
along with copies of relevant ~~Bureau-of-Taxation~~ bureau audit  
20 workpapers.

22 **5. Contract authority.** The ~~State-Tax-Assessor~~ assessor is  
authorized to contract with persons on an independent contract  
24 basis for the furnishing of technical services to assist ~~him~~ the  
assessor in the administration of this Title.

26 **5-A. Agreements with other states.** The ~~State-Tax-Assessor~~  
28 assessor may enter into agreements with the tax departments of  
other states that the assessor considers appropriate for  
30 assistance in the administration and enforcement of this Title.

32 **6. Agent for collection.** The ~~State-Tax-Assessor~~ assessor is  
authorized to name any of his the assessor's employees as his  
34 agent agents to collect any tax imposed under this title Title.

36 **7. Evaluation of tax systems.** The ~~State--Tax--Assessor~~  
assessor shall investigate and examine the systems and methods of  
38 taxation of other states and make careful and constant inquiry  
into the practical operation and effect of the laws of this  
40 State, in comparison with the laws of other states, with the view  
of ascertaining wherein the tax laws of this State are defective,  
42 inefficient, inoperative or inequitable.

44 **7-A. Taxpayer Bill of Rights.** The ~~State--Tax--Assessor~~  
assessor shall prepare a statement describing in simple and  
46 nontechnical terms the rights of a taxpayer and the obligations  
of the ~~Bureau-of-Taxation~~ bureau during an audit. The statement  
48 must also explain the procedures by which a taxpayer may appeal  
any adverse decision of the ~~State--Tax--Assessor~~ assessor,  
50 including the informal conference and judicial appeals. This

2 statement must be distributed by the Bureau-of-Taxation bureau to  
any taxpayer contacted with respect to the determination or  
collection of any tax, excluding the normal mailing of tax forms.

4  
6 **8. Additional duties.** In addition to the duties specified  
in this Title, the State-Tax-Assessor assessor is responsible for  
the following:

8  
10 A. Collection of the tax levied on fire insurance companies  
by Title 25, section 2399;

12 B. Certification of distributors of internal combustion  
engine fuels in accordance with Title 10, section 1655; and

14  
16 C. Administration of the spruce budworm excise tax in  
accordance with Title 12, section 8427.

18 **9. Services provided to another agency of State.** The  
20 assessor may undertake, by arrangement with another agency of the  
State, to provide revenue collection services for that agency if  
22 prior approval of the arrangement has been obtained from the  
joint standing committee of the Legislature having jurisdiction  
over state and local government matters.

24  
26 **Sec. 9. 36 MRSA §114**, as enacted by PL 1995, c. 281, §3, is  
amended to read:

28 **§114. Contract services provided by bureau**

30 Notwithstanding any other provision of law, when the Bureau  
32 of-Taxation bureau provides a service to any state or quasi-state  
agency, the bureau shall bill that entity at what it determines,  
34 in conjunction with the entity served, to be a reasonable rate.  
An account may be established by the bureau for receipt of these  
36 revenues. This account must be used to defray costs associated  
with the facilities and personnel necessary to provide the  
38 services. The bureau shall annually report to the joint standing  
committee of the Legislature having jurisdiction over taxation  
40 matters the extent of such services provided and the details of  
revenues and costs involved.

42 **Sec. 10. 36 MRSA §171**, as amended by PL 1995, c. 281, §6, is  
44 repealed and the following enacted in its place:

46 **§171. Demand letter**

48 **1. Taxes imposed by this Title.** If any tax imposed by this  
Title is not paid on or before its due date and no further  
46 administrative or judicial review of the assessment is available  
50 under section 151, the assessor, within 3 years after

2 administrative and judicial review have been exhausted, may give  
4 the taxpayer notice of the amount to be paid, specifically  
6 designating the tax, interest and penalty due, and demand payment  
8 of that amount within 10 days of that taxpayer's receipt of  
10 notice. The notice must include a warning that, upon failure of  
12 that taxpayer to pay as demanded, the assessor may proceed to  
collect the amount due by any collection method authorized by  
this Title. If the taxpayer has filed a petition for relief  
under the United States Bankruptcy Code, the running of the  
3-year period of limitation imposed by this section is stayed  
until the bankruptcy case is closed or a discharge is granted,  
whichever occurs first.

14 2. Other debts owed to State. In the case of a fee, fine,  
16 penalty or other obligation owed to the State on or after January  
18 1, 1988 and authorized to be collected by the bureau, the  
20 assessor, within 3 years after administrative and judicial review  
22 provided by law have been exhausted, may give the taxpayer notice  
24 of the amount to be paid, including any interest and penalties  
provided by law, and demand payment of that amount within 10 days  
of that taxpayer's receipt of notice. The notice must include a  
warning that, upon failure of that taxpayer to pay as demanded,  
the assessor may proceed to collect the amount due by any  
collection method authorized by section 175-A or 176-A.

26 **Sec. 11. 36 MRSA §175-A,** as amended by PL 1995, c. 281, §7,  
28 is further amended to read:

30 **§175-A. Tax lien**

32 1. Filing. If any tax imposed by this Title or imposed by  
34 any other provision of law and authorized to be collected by the  
bureau is not paid when due and no further administrative or  
judicial review of the assessment is available pursuant to the  
Maine Administrative Procedure Act or section 151 law, the State  
Tax Assessor assessor may file in the registry of deeds of any  
county or in the office in which a financing statement with  
respect to tangible personal property is properly filed with  
Title 11, section 9-401, subsection (1), paragraph (b) a notice  
of lien specifying the amount of the tax, interest, penalty and  
costs due, the name and last known address of the person liable  
for the amount and, in the case of a tax imposed by this Title,  
the fact that the State Tax Assessor assessor has complied with  
all the provisions of this Title in the assessment of the tax.  
The lien arises at the time the assessment becomes final and  
constitutes a lien upon all property, whether real or personal,  
then owned or thereafter acquired by that person in the period  
before the expiration of the lien. The lien imposed by this  
section is not valid against any mortgagee, pledgee, purchaser,  
judgment creditor or holder of a properly recorded security



2 interest until notice of the lien has been filed by the State-Tax  
Assessor assessor, with respect to real property, in the registry  
4 of deeds of the county where such property is located and, with  
respect to personal property, in the office in which a financing  
6 statement for such personal property is normally filed.  
Notwithstanding the--above this subsection, a tax lien upon  
8 personal property does not extend to those types of personal  
property not subject to perfection of a security interest by  
10 means of the filing under Title 11, sections 9-104, subsection  
(7); 9-104, subsection (12); 9-302, subsection (3); and 9-304.  
12 The lien is prior to any mortgage or security interest recorded,  
filed or otherwise perfected after the notice, other than a  
14 purchase money security interest perfected in accordance with  
Title 11, section 9-301, subsection (2) and Title 11, section  
9-312, subsection (4). In the case of any mortgage or security  
16 interest properly recorded or filed prior to the notice of lien  
that secures future advances by the mortgagee or secured party,  
18 the lien is junior to all advances made within 45 days after  
filing of the notice of lien, or made without knowledge of the  
20 lien or pursuant to a commitment entered into without knowledge  
of the lien. Subject to the limitations in this section, the  
22 lien provided in this section has the same force, effect and  
priority as a judgment lien and continues for 10 years from the  
24 date of recording unless sooner released or otherwise  
discharged. The lien may, within the 10-year period, or within  
26 10 years from the date of the last extension of the lien in the  
manner provided in this subsection, be extended by filing for  
28 record in the appropriate office a copy of the notice and, from  
the time of filing, that lien must be extended for 10 years  
30 unless sooner released or otherwise discharged.

32 **2. Release.** The State-Tax-Assessor assessor shall issue to  
the taxpayer a certificate of release of the lien or release all  
34 or any portion of the property subject to any lien provided for  
in this Part or subordinate the lien to other liens if:

36 A. The State-Tax-Assessor assessor finds that the liability  
38 for the amount demanded, together with costs, has been  
satisfied or has become unenforceable by reason of lapse of  
40 time;

42 B. A bond is furnished to the State-Tax-Assessor assessor  
with surety approved by the State-Tax-Assessor assessor in a  
44 sum sufficient to equal the amount demanded, together with  
costs, and conditioned upon payment of any judgment rendered  
46 in proceedings regularly instituted by the State--Tax  
Assessor assessor to enforce collection of the bond at law  
48 or of any amount agreed upon in writing by the State-Tax  
Assessor assessor to constitute the full amount of the  
50 liability;

2 C. The ~~State-Tax-Assessor~~ assessor determines at any time  
4 that the interest of this State in the property has no  
value; or

6 D. The ~~State-Tax-Assessor~~ assessor determines that the  
8 taxes are sufficiently secured by a lien on other property  
of the taxpayer or that the release or subordination of the  
10 lien will not endanger or jeopardize the collection of the  
taxes.

12 **3. Enforcement.** The lien provided for by subsection 1 may  
be enforced at any time after the tax liability with respect to  
14 which the lien arose becomes collectible under section 173,  
subsection 1 by a civil action brought by the Attorney General in  
16 the name of the State in the Superior Court of the county in  
which the property is located to subject any property, of  
18 whatever nature, in which the taxpayer has any right, title or  
interest, to the payment of such tax or liability. The court  
20 shall, after the parties have been duly notified of the action,  
proceed to adjudicate all matters involved in the action and  
22 finally determine the merits of all claims to and liens upon the  
property, and, in all cases where a claim or interest of the  
24 State therein is established, may decree a sale of the property  
by the proper officer of the court and a distribution of the  
26 proceeds of such sale according to the findings of the court. If  
the property is sold to satisfy a lien held by the State, the  
28 State may bid at the sale such sum, not exceeding the amount of  
that lien plus expenses of sale, as the ~~State--Tax--Assessor~~  
30 assessor directs.

32 **4. Recording fees part of tax liability.** Fees paid by the  
State-Tax-Assessor assessor to registrars of deeds for recording  
34 notices of lien pursuant to subsection 1 and notices of release  
of a lien pursuant to subsection 2 may be added to the tax  
36 liability that gave rise to the lien and, in the case of a tax  
imposed by this Title, may be collected by all the methods  
38 provided for in chapter 7. In the case of other obligations  
owned to the State and authorized to be collected by the bureau,  
40 the fees may be collected by any collection method authorized by  
this section or section 176-A.

42 **Sec. 12. 36 MRSA §176-A, sub-§1, ¶A,** as enacted by PL 1989, c.  
44 880, Pt. E, §3, is amended to read:

46 A. "Delinquent," when used to refer to a tax imposed by  
this Title, means a tax liability reported by a taxpayer or  
48 a tax assessed by the assessor that is not paid by its due  
date and to which no further administrative or judicial  
50 review is available pursuant to section 151. ~~The--term~~

2           "delinquent" "Delinquent" may also refer to any other  
3           obligation owed to the State and authorized to be collected  
4           by the bureau or to a taxpayer liable for delinquent taxes.

6           **Sec. 13. 36 MRSA §176-A, sub-§2, ¶A**, as enacted by PL 1989, c.  
7           880, Pt. E, §3, is amended to read:

8           A. Upon determining that any taxpayer is delinquent, the  
9           assessor may cause notice and a demand letter, complying in  
10          all respects with section 171, to be served on the  
11          taxpayer. The demand letter must expressly warn the  
12          taxpayer that, ~~---pursuant---to---section---151,~~ no further  
13          administrative or judicial review of the tax delinquency is  
14          available pursuant to section 151 or any other provision of  
15          law and that the assessor may levy upon the taxpayer's  
16          property in accordance with the provisions of this section  
17          unless full payment of the delinquent amount is received  
18          within 10 days after the taxpayer receives the demand letter.

19          The notice must set forth the procedures applicable to the  
20          levy and sale of property under this section, the  
21          administrative appeals available to the taxpayer with  
22          respect to the levy and sale and the procedures relating to  
23          appeals, the alternatives available to taxpayers that could  
24          prevent levy on the property under this Title, including  
25          installment agreements, the provisions of this Title  
26          relating to redemption of property and release of liens on  
27          property and the procedures applicable to the redemption of  
28          the property and the release of the lien on property under  
29          this Title.

30          **Sec. 14. 36 MRSA §176-A, sub-§16**, as amended by PL 1995, c.  
31          639, §3, is further amended to read:

32          **16. Time for collection of taxes.** Taxes imposed by this  
33          Title must be collected by levy within 10 years after the  
34          assessment of the tax becomes final or before the expiration of  
35          the period of collection agreed upon in writing by the assessor  
36          and the taxpayer. Other obligations owed to the State and  
37          authorized to be collected by the bureau must be collected by  
38          levy within 10 years from the time the obligation arises. The  
39          period agreed upon may be extended by subsequent agreements in  
40          writing made before the expiration of the period previously  
41          agreed upon. A levy action ordered by the assessor before the  
42          expiration of the 10-year period continues beyond the expiration  
43          of the 10-year period for a period of 6 months from the date the  
44          levy is first made or until the liability out of which the levy  
45          arose is satisfied or becomes unenforceable, whichever occurs  
46          first. The running of the 10-year period is stayed during the  
47          time that a consensual payment plan between the taxpayer and the  
48          bureau is in effect.

2 assessor is in effect. When a taxpayer files for protection  
under the United States Bankruptcy Code, the assessor's right to  
4 collect the tax due by levy continues until 6 years after the  
date of discharge or dismissal of the bankruptcy proceeding or  
6 until 10 years after the assessment of the tax becomes final,  
whichever occurs later.

8 **Sec. 15. Maine Revised Statutes amended; revision clause.**

10 Wherever in the Maine Revised Statutes the words "Bureau of  
Taxation" appear or reference is made to those words, they are  
12 amended to read and mean "Bureau of Revenue Services," and the  
Revisor of Statutes shall implement this revision when updating,  
publishing or republishing the statutes.

14

16

**SUMMARY**

18

This bill changes the name of the Bureau of Taxation in the  
Department of Administrative and Financial Services to the Bureau  
20 of Revenue Services. The bill also authorizes the State Tax  
Assessor to enter into agreements with other agencies of the  
22 State to provide revenue collection services for those agencies  
if prior approval of the arrangement has been obtained from the  
24 joint standing committee of the Legislature having jurisdiction  
over state and local government matters. Certain tax collection  
26 tools provided by the Maine Revised Statutes, Title 36, including  
the lien and levy laws, are amended in order to accommodate such  
28 collection.

30

The bill also authorizes the Bureau of Parks and Lands to  
enter into an agreement with the State Tax Assessor pursuant to  
32 which applications for state park passes are included in state  
individual income tax booklets. Finally, the bill authorizes the  
34 Commissioner of Inland Fisheries and Wildlife to enter into an  
agreement with the State Tax Assessor pursuant to which  
36 applications for fishing and hunting licenses are included in  
state individual income tax booklets.