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Legislative Document **No. 2669**

H.P. 1923 House of Representatives, April 3, 2000

An Act to Implement the Tax Policy Recommendations of the Task Force Created to Review Smart Growth Patterns of Development.

Reported by Representative GAGNON for the Joint Standing Committee on Taxation pursuant to Joint Order H.P. 1851.

JOSEPH W. MAYO, Clerk

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

Sec. 1. 30-A MRSA §5681, sub-§2, ¶¶C to E are enacted to read:

C. "Annual growth ceiling" for fiscal year 2000-01 means the amount certified by the Treasurer of State by September 1, 2000 as the amount transferred to the Local Government Fund in fiscal year 1999-00. For subsequent fiscal years, "annual growth ceiling" must be determined by the State Tax Assessor by September 1st annually and means the annual growth ceiling adjusted by the lower of the increase for the previous fiscal year in the Consumer Price Index or the increase in receipts from the taxes imposed under Title 36, Parts 3 and 8. The annual growth ceiling may not be less than the annual growth ceiling for the previous year.

D. "Consumer Price Index" means the average over a 12-month period ending June 30th annually of the National Consumer Price Index, not seasonally adjusted, published monthly by the United States Department of Labor, Bureau of Labor Statistics designated as the "National Consumer Price Index for All Urban Consumers - United States City Average."

E. "Disproportionate tax burden" means the total real and personal property taxes assessed in the most recently completed municipal fiscal year, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State and reduced by .01.

Sec. 2. 30-A MRSA §5681, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Revenue-sharing funds. To strengthen the state-municipal fiscal relationship pursuant to the findings and objectives of subsection 1, there is established the Local Government Fund. To provide additional support for municipalities experiencing a higher-than-average property tax burden, there is established the Disproportionate Tax Burden Fund.

Sec. 3. 30-A MRSA §5681, sub-§4, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 4. 30-A MRSA §5681, sub-§§4-A and 4-B are enacted to read:

4-A. Distribution of Local Government Fund. The Treasurer of State shall transfer the balance in the Local Government Fund on the 20th day of each month. Money in the

Local Government Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the property tax burden of the municipality.

4-B. Distribution of Disproportionate Tax Burden Fund. The Treasurer of State shall transfer the balance in the Disproportionate Tax Burden Fund on the 20th day of each month. Money in the Disproportionate Tax Burden Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the disproportionate tax burden of the municipality.

Sec. 5. 30-A MRSA §5681, sub-§5, as amended by PL 1999, c. 528, §1, is repealed and the following enacted in its place:

5. Transfers to funds. On the last day of each month, beginning July 31, 2000, the Treasurer of State shall transfer to the Local Government Fund an amount equal to 5.3% of the receipts from the taxes imposed under Title 36, Parts 3 and 8 and credited to the General Fund without any reduction. Any amounts transferred to the Local Government Fund in excess of the annual growth ceiling must be transferred to the Disproportionate Tax Burden Fund.

Sec. 6. 36 MRSA §1102, sub-§4, as amended by PL 1999, c. 449, §1, is further amended to read:

4. Farmland. "Farmland" means any tract or tracts of land, including woodland and wasteland, of at least ~~5~~ 2 contiguous acres on which farming or agricultural activities~~, either by the owner or a lessee,~~ have ~~produced~~ contributed to a gross annual farming income of at least $2,000 per year in one of the 2, or 3 of the 5, calendar years preceding the date of application for classification. The farming or agricultural activity and income derived from that activity may be achieved by either the owner or a lessee.

Gross income as used in this section includes the value of commodities produced for consumption by the farm household. Any applicant for assessment under this subchapter bears the burden of proof as to the applicant's qualification.

Sec. 7. 36 MRSA §1105, first ¶, as amended by PL 1993, c. 452, §7, is further amended to read:

The municipal assessor, chief assessor or State Tax Assessor for the unorganized territory shall establish the 100% valuation per acre based on the current use value of farmland used for agricultural or horticultural purposes. The values established ~~must be based~~ are guided by the Department of Agriculture, Food and Rural Resources as provided in section 1119 and adjusted by the assessor if determined necessary on the basis of such considerations as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography and other relevant ~~considerations~~ factors. These values may not reflect development or market value purposes other than agricultural or horticultural 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, Food and Rural Resources as provided in section 1119.~~

Sec. 8. 36 MRSA §1108, sub-§1, as amended by PL 1987, c. 728, §5, is further amended to read:

1. Organized areas. The municipal assessors shall adjust the 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~~ may 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.

For tax years beginning on or after April 1, 2000, the State Tax Assessor shall determine annually the amount of acreage in each municipality that is classified as farmland and taxed in accordance with this subchapter. A municipality actually levying and collecting municipal property taxes and within whose boundaries this acreage lies is entitled to annual payments from money appropriated by the Legislature if the municipality submits an annual return in accordance with section 383 and it achieves the appropriate minimum assessment ratio described in section 327. The reimbursement is equal to 90% of the per-acre tax revenue lost as a result of this subchapter. For purposes of this subsection, the tax revenue lost is the tax that would have been assessed, but for this subchapter, on the classified farmlands if they had been assessed according to the undeveloped acreage valuations used in the state valuation then in effect or according to the current local valuation on undeveloped acreage, whichever is less, minus the tax that was actually assessed on the same lands in accordance with this subchapter. A municipality that fails to achieve the minimum assessment ratio established in section 327 loses 10% of the reimbursement provided by this subsection for each one percentage point the minimum assessment ratio falls below the ratio established in section 327. The State Tax Assessor shall pay any municipal claim found to be in satisfactory form within 90 days after receipt of the claim.

A municipality may not receive a reimbursement payment under this subsection that exceeds an amount determined by calculating the farmland tax loss less the municipal savings in education costs attributable to reduced state valuation.

A. The farmland tax loss is the adjusted tax that would have been assessed, but for this subchapter, on the classified farmlands if they had been assessed according to the undeveloped acreage valuations used in the state valuation then in effect minus the tax that was actually assessed on the same lands in accordance with this subchapter.

In determining the adjusted tax that would have been assessed, the tax rate to be used is computed by adding the additional school support required by the modified state valuation attributable to the increased valuation of farmland to the original tax committed and dividing this sum by the modified total municipal valuation. The adjusted tax rate is then applied to the valuation of farmland based on the undeveloped acreage valuations, adjusted by the certified ratio, to determine the adjusted tax.

B. The municipal savings in education costs is determined by multiplying the school subsidy index by the change in state valuation attributable to the use of the valuations determined in accordance with this subchapter on classified farmlands rather than their valuation using the undeveloped acreage valuations used in the state valuation then in effect.

Sec. 9. 36 MRSA §1109, sub-§2, as amended by PL 1987, c. 728, §7, is further amended to read:

2. Provisional classification. The owner of a parcel of land~~, including woodland and wasteland of at least 5 contiguous acres~~ on which farming or agricultural activities have not produced the gross income required in section 1102, subsection 4, per year for one of the 2 or 3 of the 5 preceding calendar years, may apply for a 2-year provisional classification as farmland by submitting a signed schedule in duplicate, on or before April 1st of the year for which provisional classification is requested, identifying the land to be taxed ~~hereunder~~ under this subsection, listing the number of acres of each farmland classification, showing the location of the land in each classification and representing that the applicant intends to conduct farming or agricultural activities upon that parcel. Upon receipt of the schedule, the land ~~shall~~ must be provisionally classified as farmland and subjected to taxation under this subchapter. If, at the end of the 2-year period, the land does not qualify as farmland under section 1102, subsection 4, the owner shall pay a penalty ~~which shall be~~ <u>that is</u> an amount equal to the taxes ~~which~~ <u>that</u> would have been assessed had the property been assessed at its fair market value on the first day of April for the 2 preceding tax years less the taxes paid on the property over the 2 preceding years and interest at the legal rate from the dates on which those amounts would have been payable.

Sec. 10. 36 MRSA §1112, 2nd ¶, as amended by PL 1995, c. 603, §2, is further amended to read:

~~For land classified as farmland under this subchapter for less than 5 full years, the penalty is equal to the greater of 20% of its assessed fair market value at the time the land is removed from the program or the amount necessary to meet the requirements of the Constitution of Maine, Article IX, Section 8.~~ For land ~~that has been~~ classified as farmland under this subchapter ~~for 5 full years or more~~, the penalty is the recapture of the taxes that would have been paid on the land for the past 5 years if it had not been classified under this subchapter, less all taxes that were actually paid during those 5 years and interest at the rate set by the town during those 5 years on delinquent taxes. An owner of farmland that has been classified under this subchapter for 5 full years or more may pay any penalty owed under this paragraph in up to 5 equal annual installments with interest at the rate set by the town to begin 60 days after the date of assessment. Notwithstanding section 943, for an owner paying a penalty under this procedure, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure~~,~~ and expiration of the right of redemption is 48 months from the date of the filing of the tax lien certificate instead of 18 months.

Sec. 11. 36 MRSA §1119, as amended by PL 1997, c. 526, §14, is further amended to read:

§1119. Valuation guidelines

By ~~February 1, 1992~~ <u>December 31, 2000 and biennially thereafter</u>, the Department of Agriculture, Food and Rural Resources working with the Bureau of Revenue Services, representatives of municipal assessors and farmers shall prepare and report to the joint standing committee of the Legislature having jurisdiction over taxation matters guidelines to assist local assessors in the valuation of farmland. The department shall also deliver these guidelines in training sessions for local assessors throughout the State. These guidelines must include ~~suggested~~ <u>recommended</u> values for cropland, orchard land, pastureland and horticultural land, differentiated by region where justified. Any variation in assessment of farmland from the recommended values must be substantiated by the local assessor within the parameters allowed within this subchapter.

Sec. 12. 36 MRSA §2013, as amended by PL 1997, c. 514, §1, is further amended by repealing and replacing the headnote to read:

§2013. Refund of sales tax on electricity, depreciable machinery and equipment purchases

Sec. 13. 36 MRSA §2013, sub-§§2 and 3, as amended by PL 1993, c. 151, §1, are further amended to read:

2. Credit authorized. Any person, association of persons, firm or corporation ~~who~~ that purchases electricity or that purchases or leases depreciable machinery or equipment for use in commercial agricultural production, commercial fishing or commercial aquacultural production must be refunded the amount of sales tax paid by presenting to the State Tax Assessor evidence that the ~~machinery or equipment complies with the definitions of subsection 1~~ purchase is eligible for refund under this section.

Evidence required by the State Tax Assessor may include a copy or copies of that portion of the purchaser's or lessee's most recent filing under the United States Internal Revenue Code that indicates that the purchaser or lessee is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and that the purchased machinery or equipment is depreciable for those purposes or would be depreciable for those purposes if owned by the lessee.

In the event that any piece of machinery or equipment is only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax must be prorated accordingly.

Application for refunds must be filed with the State Tax Assessor within 36 months of the date of purchase or execution of the lease.

3. Exemption for large purchase after certification. Sales tax is not paid on the purchase of electricity or a single item of machinery or equipment if the purchaser has the certification of the State Tax Assessor that the purchaser is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and that the purchaser may purchase electricity or depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the State Tax Assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the <u>electricity or</u> depreciable machinery or equipment must be used directly in commercial agricultural production, commercial fishing or commercial aquacultural production.

Sec. 14. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	2000-01
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF	
Tree Growth Tax Reimbursment	
All Other	($5,500,000)
Deappropriates funds to reflect the combination of the Tree Growth Tax Reimbursment program and new reimbursement for valuation under the farm and open space tax laws into a single program called the Current Use Valuation Tax Reimbursement program.	
Current Use Valuation Tax Reimbursment	
All Other	$5,790,000
Appropriates funds to combine the Tree Growth Tax Reimbursment program with new funding for reimbursement of 90% of the revenue loss for valuation under the farm and open space tax laws.	
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	$290,000

Sec. 15. Effective date. This Act takes effect July 31, 2000.

FISCAL NOTE

2000-01

APPROPRIATIONS/ALLOCATIONS

General Fund	$290,000

REVENUES

General Fund	($4,410,596)
Other Funds	4,172,280

This bill has a total General Fund cost of $4,700,596 in fiscal year 2000-01, $4,996,085 in fiscal year 2001-02 and $5,300,903 in fiscal year 2002-03.

This bill increases the amounts set aside in the Local Government Fund from General Fund revenue resulting in reductions of General Fund revenue of $4,184,434 in fiscal year 2000-01, $4,443,651 in fiscal year 2001-02 and $4,713,724 in fiscal year 2002-03. The annual growth ceiling for the distribution of state-municipal revenue sharing is estimated to be $106,355,582 in fiscal year 2000-01, $106,703,078 in fiscal year 2001-02 and $109,370,655 in fiscal year 2002-03. Amounts transferred to the Local Government Fund in excess of the ceiling will be transferred to the Disproportionate Tax Burden Fund. The amounts in excess of the ceiling are estimated to be $4,531,930, $11,053,661 and $15,543,034, respectively. The Office of the Treasurer of State will incur additional costs of approximately $5,000 in fiscal year 2000-01 for computer programming to implement the distribution from the Disproportionate Tax Burden Fund with a different formula. These costs will be paid from the amounts set aside in the Local Government Fund. The first distribution to municipalities from the Disproportionate Tax Burden Fund is projected to be in July 2001, fiscal year 2001-02.

This bill also expands eligibility under the farm and open space tax laws as a result of the reduction of the acreage threshold, provides reimbursement for 90% of the tax revenue loss associated with valuation under the farm and open space tax laws and combines the Tree Growth Tax Reimbursement program with this new reimbursement into one program called Current Use Valuation Tax Reimbursement. A General Fund deappropriation of $5,500,000 in fiscal year 2000-01 is included to reflect the transfer of funds to the new program. A General Fund appropriation of $5,790,000 in fiscal year 2000-01 is included to reflect the transfer of funds from the Tree Growth Tax Reimbursement program and to provide funding for the new reimbursement of 90% of the revenue loss under the farm and open space tax laws including the additional property eligible from the reduction of the acreage threshold. The estimated net additional costs for current use valuation tax reimbursements in fiscal year 2001-02 and 2002-03, including reimbursement for state mandate costs, are approximately $300,000 and $330,000, respectively. The expansion of eligibility will result in additional applications and additional processing costs for municipalities and represents a state mandate pursuant to the Constitution of Maine. The additional local costs are estimated to be less than $200 annually. Reimbursements for these mandate costs will be required beginning in fiscal year 2001-02.

The sales tax exemption or refund for electricity used in commercial agriculture, fishing or aquaculture will decrease sales tax collections by $238,316 in fiscal year 2000-01, $266,000 in fiscal year 2001-02 and $271,000 in fiscal year 2002-03. The reduction of these tax collections will decrease the amounts transferred to the Local Government Fund for state-municipal revenue sharing in those years by $12,154, $13,566 and $13,821, respectively. The resulting net reductions of General Fund revenue will be $226,162 in fiscal year 2000-01, $252,434 in fiscal year 2001-02 and $257,179 in fiscal year 2002-03.

The Bureau of Revenue Services within the Department of Administrative and Financial Services will incur some minor additional administrative costs to implement these changes to the tax laws. These costs can be absorbed within the bureau's existing budgeted resources.

The Governor's proposed 2000-2001 supplemental budget also includes proposals that provide reimbursement for valuation under farm and open space tax laws, a reduced acreage threshold for eligibility for farm and open space valuation and the sales tax exemption or refund for electricity used in commercial agriculture, fishing or aquaculture.

SUMMARY

This bill implements the tax policy recommendations of the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development, commonly referred to as the "Smart Growth Task Force." The bill implements the following tax policies.

1. The bill provides for additional state-municipal revenue-sharing for all municipalities with a property tax rate in excess of 10 mills. The amount of General Fund revenue dedicated to state-municipal revenue-sharing is increased from

5.1% to 5.3% of sales and income tax revenues. Beginning in fiscal year 2000-01, revenue-sharing funds in excess of amounts distributed to municipalities in fiscal year 1999-2000 are distributed according to a formula that provides enhanced relief to municipalities that are experiencing a disproportionate property tax burden as a result of service center responsibilities, a large proportion of exempt property or other factors. This mechanism ensures the integrity of the current state-municipal revenue-sharing program by requiring that amounts dedicated to the original revenue-sharing program be equal to amounts transferred to the program in the preceding year as adjusted for inflation or revenue growth.

2. The bill makes changes to enhance the effectiveness of the farm and open space tax law. These changes include reimbursement to municipalities for revenue lost under the program, reducing the penalty for withdrawal from the program to the constitutional minimum, enhancing the State's role in establishing recommended valuation guidelines for local assessors and expanding eligibility by reducing the minimum acreage for inclusion in the program from 5 acres to 2 acres.

3. The bill provides a sales tax exemption or refund for electricity used in commercial agriculture, fishing or aquaculture.