

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1570

H.P. 1170

House of Representatives, March 13, 2001

**An Act to Update the Property Tax Exemption for Pollution Control
Facilities to Promote Clean Production through Pollution Prevention and
Toxics Use Reduction.**

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative COWGER of Hallowell.
Cosponsored by Senator GAGNON of Kennebec and
Representatives: BRYANT of Dixfield, GREEN of Monmouth, KOFFMAN of Bar Harbor,
McLAUGHLIN of Cape Elizabeth, PINEAU of Jay, SAVAGE of Buxton, Senators:
LEMONT of York, MILLS of Somerset.

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

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Sec. 1. 36 MRSA §198, sub-§3, ¶A, as amended by PL 1999, c. 708, §19, is further amended to read:

A. Section 1760, subsections 11 to 30 28; and

Sec. 2. 36 MRSA §655, sub-§1, ¶N, as repealed and replaced by PL 1973, c. 592, §13, is amended to read:

N. Water pollution control facilities and air pollution control facilities as defined in section 656, subsection 1, paragraph E, and clean production systems as defined in section 656, subsection 1, paragraph K;

Sec. 3. 36 MRSA §656, sub-§1, ¶E, as amended by PL 1989, c. 890, Pt. A, §9 and affected by §40, is further amended to read:

E. Pollution control facilities.

(1) Water pollution control facilities having a capacity to handle at least 4,000 gallons of waste per day, certified as such by the Commissioner of Environmental Protection, and all parts and accessories thereof.

As used in this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Facility" means any disposal system or any treatment works, appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling or eliminating water pollution caused by industrial, commercial or domestic waste.

(b) "Disposal system" means any system used primarily for disposing of or isolating industrial, commercial or domestic waste and includes thickeners, incinerators, pipelines or conduits, pumping stations, force mains and all other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial, commercial or domestic waste to a point of disposal, treatment or isolation, except that which is necessary to the manufacture of products.

2 (c) "Industrial waste" means any liquid, gaseous
or solid waste substance capable of polluting the
4 waters of the State and resulting from any
process, or the development of any process, of
industry or manufacture.

6 (d) "Treatment works" means any plant, pumping
8 station, reservoir or other works used primarily
for the purpose of treating, stabilizing,
10 isolating or holding industrial, commercial or
domestic waste.

12 (e) "Commercial waste" means any liquid, gaseous
14 or solid waste substance capable of polluting the
waters of the State and resulting from any
16 activity which is primarily commercial in nature.

18 (f) "Domestic waste" means any liquid, gaseous or
solid waste substance capable of polluting the
20 waters of the State and resulting from any
activity which is primarily domestic in nature.

22 (2) Air pollution control facilities, certified as
24 such by the Commissioner of Environmental Protection,
and all parts and accessories thereof.

26 As used in this paragraph, unless the context otherwise
28 indicates, the following terms have the following
meanings.

30 (a) "Facility" means any appliance, equipment,
32 machinery, installation or structures installed,
acquired or placed in operation primarily for the
34 purpose of reducing, controlling, eliminating or
disposing of industrial air pollutants.

36 Facilities such as air conditioners, dust collectors,
38 fans and similar facilities designed, constructed or
installed solely for the benefit of the person for whom
40 installed or the personnel of that person shall are not
be deemed air pollution control facilities.

42 (3) The Commissioner of Environmental Protection shall
44 issue a determination regarding certification by April
1st for any air or water pollution control facility for
46 which it has received a complete application by
December 15th of the preceding year.

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2 (4) An exemption under subparagraph (1) or (2) is not
3 available with respect to any property purchased,
4 built, erected or installed for use or service on or
5 after the effective date of this subparagraph.

6 **Sec. 4. 36 MRS.A §656, sub-§1, ¶K** is enacted to read:

8 K. Clean production systems.

10 (1) As used in this paragraph, unless the context
11 otherwise indicates, the following terms have the
12 following meanings.

14 (a) "Clean production system" means any
15 equipment, production process, raw material,
16 product formulation or procedure that
17 significantly reduces, avoids or eliminates the
18 generation of waste or air or water pollution
19 through the use of pollution prevention or toxics
20 use reduction.

22 (b) "Pollution prevention" has the same meaning
23 as "source reduction" as defined by the federal
24 Pollution Prevention Act of 1990, 42 United States
25 Code, Section 13102(5).

26 (c) "Toxics use reduction" has the same meaning
27 as in Title 38, section 2301, subsection 18.

30 (d) "Beyond compliance" means environmental
31 performance that is significantly in excess of
32 that required by current law or by existing or
33 reasonably anticipated regulations or license
34 conditions.

36 (2) Clean production systems that meet the standards
37 of subparagraph (3) are exempt from taxation with
38 respect to the tax years commencing on or after April
39 1, 2002 when installed or operated for the first time
40 on or after the effective date of this paragraph.

42 (3) Any clean production system qualifies for a tax
43 exemption under this paragraph if certified by the
44 Commissioner of Environmental Protection as likely to
45 achieve the following environmental performance
46 standards after proper installation and operation:

48 (a) Ninety percent or greater reduction in air
49 pollution or water pollution generated per unit of
50 production or service as determined for the

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appropriate unit, process or plant affected by the clean production system; and

(b) Environmental results that are beyond compliance as determined at the date of certification of an application for a tax exemption.

(4) A clean production system listed pursuant to this subparagraph qualifies for a tax exemption under subparagraph (2) if it meets the standards established under subparagraph (3), divisions (a) and (b). A clean production system that qualifies under this subparagraph does not require certification by the Commissioner of Environmental Protection. The list of clean production systems includes, but is not limited to, the following:

(a) Advanced oxygen delignification and associated wastewater recycling that enables low-flow discharge in the pulp and paper industry;

(b) Totally chlorine-free bleaching in kraft pulp and paper mills;

(c) Powder coating systems that replace spray painting of metal parts and significantly reduce or eliminate volatile organic compounds; and

(d) Water-based cleaning systems that replace solvent-based cleaning systems.

The Board of Environmental Protection shall adopt rules by April 1, 2002 to expand the list of clean production systems that qualify for a tax exemption under this subparagraph and to provide for an annual review and revision of the list. Additional clean production systems that meet the definition in subparagraph (1), division (a) must be added to the list if determined to be in actual use anywhere and to have a reasonable potential of being used by any person in this State. A clean production system listed by rule by the Board of Environmental Protection pursuant to this subparagraph does not qualify for a tax exemption under subparagraph (2) if such a system is mandated by, or necessary to achieve compliance with, laws or rules enacted after the effective date of this subparagraph. Any specific property that was exempted from taxation under this subparagraph continues to qualify after that type of clean production system no longer qualifies for a tax

2 exemption under subparagraph (2). Rules adopted
3 pursuant to this subparagraph are routine technical
4 rules as defined in Title 5, chapter 375, subchapter
5 II-A.

6 (5) The Commissioner of Environmental Protection shall
7 issue a determination regarding certification under
8 subparagraph (3) by April 1st for any clean production
9 system for which the Commissioner of Environmental
10 Protection has received a complete application by
11 December 15th of the preceding year.

12 The owner or operator of any property that qualifies for a
13 tax exemption under this paragraph shall demonstrate
14 achievement with respect to the performance standards in
15 subparagraph (3), divisions (a) and (b) within one year
16 after first placing the clean production system in use or
17 service. If the standards are not met to the satisfaction
18 of the Commissioner of Environmental Protection, the tax
19 exemption must be revoked until such time as the standards
20 are met.

21 **Sec. 5. 36 MRSA §1760, sub-§29**, as amended by PL 1989, c. 890,
22 Pt. A, §10 and affected by §40, is repealed.

23 **Sec. 6. 36 MRSA §1760, sub-§30**, as amended by PL 1989, c. 890,
24 Pt. A, §11 and affected by §40, is repealed.

25 **Sec. 7. 38 MRSA §352, sub-§5-A**, as amended by PL 1999, c. 731,
26 Pt. Z, §1, is further amended by amending Table I in that part
27 relating to Title 36, section 656 to read:

TITLE 36	PROCESSING	CERTIFICATION
SECTION	FEE	FEE
36 656, sub-§ subsection 1,		
37 ¶ paragraph E, Pollution		
38 Control Facilities		
39 A. Water pollution	\$250	\$20
40 control facilities		
41 with capacities at		
42 least 4,000 gallons		
43 of waste per day and		
44 § section 1760, sub-§		
45 former subsection 29,		
46 water pollution control		
47 facilities		
48 B. Air pollution	250	20
49 control and § section		
50 1760, sub-§ former		

2 subsection 30, air pollution
3 control facilities

4 **Sec. 8. Task Force to Study Clean Production Tax Exemptions.** The
5 Task Force to Study Clean Production Tax Exemptions, referred to
6 in this section as the "task force," is established to advise the
7 Department of Environmental Protection and the Legislature on tax
8 exemptions for clean production systems and pollution control
9 equipment under the Maine Revised Statutes, Title 36, section
10 656, subsection 1.

11 **1. Appointments.** The task force consists of 13 members
12 appointed as follows:

13 A. Two members from the Senate, appointed by the President
14 of the Senate. When making the appointments, the President
15 of the Senate shall give preference to a member who serves
16 on the Joint Standing Committee on Natural Resources and a
17 member who serves on the Joint Standing Committee on
18 Taxation;

19 B. Two members from the House of Representatives, at least
20 one of whom is a member of a political party that does not
21 hold a majority of seats in that body, appointed by the
22 Speaker of the House. When making the appointments, the
23 Speaker of the House shall give preference to a member who
24 serves on the Joint Standing Committee on Natural Resources
25 and a member who serves on the Joint Standing Committee on
26 Taxation;

27 C. Two members representing environmental interests, one of
28 whom is appointed by the President of the Senate and one of
29 whom is appointed by the Speaker of the House;

30 D. Two members representing municipal interests, one of
31 whom is appointed by the President of the Senate and one of
32 whom is appointed by the Speaker of the House;

33 E. Two members representing business interests, one of whom
34 is appointed by the President of the Senate and one of whom
35 is appointed by the Speaker of the House;

36 F. One member representing a statewide economic policy
37 organization, appointed by the Speaker of the House;

38 G. One member representing environmental engineering
39 interests, appointed by the President of the Senate; and

40 H. One member representing corporate accountability
41 interests, appointed by the Speaker of the House.

2 The Commissioner of Environmental Protection or the
3 commissioner's designee and the Executive Director of the Bureau
4 of Revenue Services within the Department of Administrative and
5 Financial Services or the director's designee serve as nonvoting
6 members.

8 **2. Chairs; appointments; convening of task force.** The
9 first named Senate member is the Senate chair and the first named
10 House member is the House chair. All appointments must be made
11 no later than 30 days following the effective date of this Act.
12 The appointing authorities shall notify the Executive Director of
13 the Legislative Council upon making their appointments. The
14 chairs of the task force shall call and convene the first meeting
15 of the task force within 30 days of the date the last member is
16 appointed. The task force may hold up to 6 meetings.

18 **3. Duties.** The duties of the task force are as follows.

20 A. The task force shall develop recommendations for
21 revisions to the initial list of clean production systems
22 described in the Maine Revised Statutes, Title 36, section
23 656, subsection 1, paragraph K and review and comment on
24 proposed rules by the Department of Environmental Protection
25 to expand the initial list of clean production systems that
26 qualify for a tax exemption.

28 B. The task force shall evaluate the effectiveness of tax
29 exemptions in promoting clean production and continuous
30 environmental improvement.

32 C. The task force shall evaluate the historic and projected
33 property tax impacts of these tax exemptions and compare the
34 incidence of those impacts on individual municipalities with
35 the resulting environmental outcomes and the populations
36 benefited. The task force shall develop recommendations on
37 how to equitably share the burden of this tax expenditure
38 among state and local taxpayers.

40 The task force may establish advisory working groups, which may
41 include persons outside of the task force, as the task force
42 considers appropriate.

44 **4. Report.** The task force shall complete its work by
45 November 1, 2002 and submit its report to the joint standing
46 committee of the Legislature having jurisdiction over taxation
47 matters and the joint standing committee of the Legislature
48 having jurisdiction over natural resources matters. The task
49 force may submit its report and any necessary implementing
50 legislation to the First Regular Session of the 121st Legislature

no later than November 15, 2002. If the task force requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

5. Compensation. Members of the task force who are Legislators are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of the task force. Members of the task force who are not Legislators and are not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the task force.

6. Staff. Upon approval of the Legislative Council, the Department of Environmental Protection and the Bureau of Revenue Services within the Department of Administrative and Financial Services shall provide necessary staffing services to the task force.

7. Budget. The cochairs of the task force, with assistance from the task force staff, shall administer the task force's budget. Within 10 days after its first meeting, the task force shall present a work plan and proposed budget to the Legislative Council for approval. The task force may not incur expenses that would result in the task force's exceeding its approved budget.

SUMMARY

This bill establishes a property tax exemption for certain clean production systems and eliminates the sales tax exemption for water and air pollution control facilities. It also establishes the Task Force to Study Clean Production Tax Exemptions.