

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)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1590

S.P. 503

In Senate, March 13, 2001

**RESOLUTION, Proposing an Amendment to the Constitution of Maine
to Allow Landowners to Withdraw without Penalty from Current Use
Programs under Certain Conditions.**

Reference to the Committee on Taxation suggested and ordered printed.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.

2 **Constitutional amendment. Resolved:** Two thirds of each
branch of the Legislature concurring, that the following
amendment to the Constitution of Maine be proposed:

4

Constitution, Art. IX, §8, sub-§2 is amended to read:

6

8 **2. Assessment of certain lands based on current use;
penalty on change to higher use.** The Legislature shall have
power to provide for the assessment of the following types of
10 real estate whenever situated in accordance with a valuation
based upon the current use thereof and in accordance with such
12 conditions as the Legislature may enact:

14

A. Farms and agricultural lands, timberlands and woodlands;

16

B. Open space lands which are used for recreation or the
enjoyment of scenic natural beauty; and

18

C. Lands used for game management or wildlife sanctuaries.

20

22 In implementing paragraphs A, B and C, the Legislature shall
provide that any change of use higher than those set forth in
24 paragraphs A, B and C, except when the change is occasioned by a
transfer resulting from the exercise or threatened exercise of
the power of eminent domain, shall result in the imposition of a
26 minimum penalty equal to the tax which would have been imposed
over the 5 years preceding that change of use had that real
28 estate been assessed at its highest and best use, less all taxes
paid on that real estate over the preceding 5 years, and
interest, upon such reasonable and equitable basis as the
30 Legislature shall determine; except that if the use of real
estate that is assessed based on current use pursuant to this
32 subsection is substantively affected, as a result of the passage
of a referendum or the enactment of legislation, through the
imposition of conditions for continued enrollment, the landowner
34 may, within one year of the imposition of such conditions of
continued enrollment, withdraw the land without penalty from the
current use program. Any statutory or constitutional penalty
36 imposed as a result of a change of use, whether imposed before or
after the approval of this subsection, shall be determined
38 without regard to the presence of minerals, provided that, when
40 payment of the penalty is made or demanded, whichever occurs
42 first, there is in effect a state excise tax which applies or
44 would apply to the mining of those minerals.

46

; and be it further

48

**Constitutional referendum procedure; form of question; effective
date. Resolved:** That the municipal officers of this State shall
50 notify the inhabitants of their respective cities,

2 towns and plantations to meet, in the manner prescribed by law
3 for holding a statewide election, at a statewide election, on the
4 Tuesday following the first Monday of November following the
5 passage of this resolution, to vote upon the ratification of the
6 amendment proposed in this resolution by voting upon the
7 following question:

8 "Do you favor amending the Constitution of Maine to provide
9 landowners with land enrolled in the tree growth or farmland
10 and open space tax programs to withdraw their land without
11 penalty within one year of the imposition by referendum or
12 legislation of conditions for continued enrollment
13 substantively affecting the use of that land?"
14

15 The legal voters of each city, town and plantation shall
16 vote by ballot on this question and designate their choice by a
17 cross or check mark placed within the corresponding square below
18 the word "Yes" or "No." The ballots must be received, sorted,
19 counted and declared in open ward, town and plantation meetings
20 and returns made to the Secretary of State in the same manner as
21 votes for members of the Legislature. The Governor shall review
22 the returns and, if it appears that a majority of the legal votes
23 are cast in favor of the amendment, the Governor shall proclaim
24 that fact without delay and the amendment becomes part of the
25 Constitution on the date of the proclamation; and be it further
26

27 **Secretary of State shall prepare ballots. Resolved:** That the
28 Secretary of State shall prepare and furnish to each city, town
29 and plantation all ballots, returns and copies of this resolution
30 necessary to carry out the purpose of this referendum.
31

32 SUMMARY

33 This constitutional resolution allows landowners with land
34 enrolled in the tree growth or farmland and open space tax
35 programs to withdraw their land without penalty within one year
36 of the imposition by referendum of legislation of conditions for
37 continued enrollment that substantively affect the use of that
38 land.
39
40