

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

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Legislative Document

No. 783

H.P. 583

House of Representatives, February 18, 2003

**An Act To Make the Business Equipment Tax Reimbursement
Program a Local Option**

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LEMOINE of Old Orchard Beach.

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

2
4 **Sec. 1. 5 MRSA §13070-J, sub-§1, ¶D,** as corrected by RR 2001,
c. 2, Pt. A, §11, is amended to read:

6 D. "Economic development incentive" means:

8 (1) Assistance from Maine Quality Centers under Title
20-A, chapter 431-A;

10 (2) The Governor's Training Initiative Program under
12 Title 26, chapter 25, subchapter 4;

14 (3) Municipal tax increment financing under Title
30-A, chapter 206;

16 (4) The jobs and investment tax credit under Title 36,
18 section 5215;

20 (5) The research expense tax credit under Title 36,
section 5219-K;

22 (6) Reimbursement for taxes paid on certain business
24 property under Title 36, chapter 915 916;

26 (7) Employment tax increment financing under Title 36,
chapter 917;

28 (8) The shipbuilding facility credit under Title 36,
30 chapter 919; or

32 (9) The credit for seed capital investment under Title
36, section 5216-B.

34 **Sec. 2. 36 MRSA §661, sub-§6** is enacted to read:

36 **6. Local option reimbursement program reduction.** If a
38 municipality adopts a local option business equipment tax
reimbursement program pursuant to chapter 916, the amount of the
40 reimbursement provided under that program is not eligible for
reimbursement pursuant to this section.

42 **Sec. 3. 36 MRSA §5219-E, sub-§1, ¶B,** as amended by PL 1997, c.
44 24, Pt. C, §11, is further amended to read:

46 B. "Investment credit base" means the total original basis,
without adjustment, for federal income tax purposes, of the
48 taxpayer of all machinery and equipment placed in service
for the first time in this State by the taxpayer or other
50 person during any of the prior 5 taxable years, except in

2 taxable years ending in 1995, the prior 6 taxable years,
3 excluding the basis of machinery and equipment placed in
4 service in this State prior to January 1, 1989 and after
5 April 1, 1996. In the case of a combined report, the term
6 "investment credit base" means the sum of the investment
7 credit bases for all corporations included in the report.

8 If the taxpayer is reimbursed pursuant to chapter 915 916
9 for 100% of the property taxes assessed during the taxable
10 year against all of the machinery and equipment that
11 constitutes eligible property as defined in section 6651
12 6672, subsection 1 2, that machinery and equipment may not
13 be included in the investment credit base for that taxable
14 year. The term "taxable year" means the taxable year for
15 income tax purposes of the taxpayer.

16 **Sec. 4. 36 MRSA c. 915**, as amended, is repealed.

17 **Sec. 5. 36 MRSA c. 916** is enacted to read:

18 **CHAPTER 916**

19 **LOCAL OPTION BUSINESS EQUIPMENT TAX REIMBURSEMENT**

20 **§6671. Local option tax reimbursement**

21 **1. Municipalities authorized to adopt program.** If the
22 legal voters of a municipality give their approval in a
23 referendum vote, the legislative body of that municipality may
24 adopt a local option business equipment tax reimbursement
25 program, referred to in this chapter as "a reimbursement
26 program," as specified in this chapter.

27 **§6672. Organization of reimbursement program**

28 A municipality that adopts a reimbursement program must do
29 so according to this section.

30 **1. Percentage of reimbursement.** The municipality may adopt
31 a reimbursement program that provides for a maximum reimbursement
32 of 100% of the personal property taxes levied pursuant to this
33 Part and paid to that municipality on eligible business equipment.

34 **2. Eligible business equipment.** Business equipment that is
35 eligible for reimbursement is tangible personal property that:

36 **A.** Is used or held for use exclusively for a business
37 purpose by the person in possession of it or, in the case of
38 construction in progress or inventory parts, is intended to
39 be used for a business purpose.

2 be used exclusively for a business purpose by the person who
3 will possess that property; and

4 B. Either:

6 (1) Was subject to an allowance for depreciation under
7 the Code on April 1st of the property tax year to which
8 the claim for reimbursement relates or would have been
9 subject to an allowance for depreciation under the Code
10 as of that date but for the fact that the property has
11 been fully depreciated; or

12 (2) In the case of construction in progress or
13 inventory parts, would be subject under the Code to an
14 allowance for depreciation when placed in service or
15 would have been subject to an allowance for
16 depreciation under the Code as of that date but for the
17 fact that the property has been fully depreciated.

18
19
20 "Business property" also includes all property that is affixed or
21 attached to a building or other real estate if it is used to
22 further a particular trade or business activity taking place in
23 that building or on that real estate. "Business property" does
24 not include components or attachments to a building if used
25 primarily to serve the building as a building, regardless of the
26 particular trade or activity taking place in or on the building.
27 "Business property" also does not include land improvements if
28 used primarily to further the use of the land as land, regardless
29 of the particular trade or business activities taking place in or
30 on the land. In the case of construction in progress or inventory
31 parts, the term "used" means "intended to be used." "Business
32 property" also does not include any vehicle registered for
33 on-road use on which a tax assessed pursuant to chapter 111 has
34 been paid or any watercraft registered for use on state waters on
35 which a tax assessed pursuant to chapter 112 has been paid.

36
37 3. Reimbursement program restrictions. A municipality may
38 adopt a reimbursement program that:

39
40 A. Has stricter eligibility requirements for business
41 equipment than those specified in subsection 2;

42
43 B. Applies only to businesses located in specific areas of
44 the municipality; or

45
46 C. Applies only to businesses engaged in a specific
47 business activity.

48
49 §6673. Notification to assessor
50

2 A municipality that adopts a reimbursement program under
3 this chapter shall notify the assessor at least 90 days before
4 the reimbursement program is effective. The municipality shall,
5 by July 1st of each year, notify the assessor of the following:

6 1. Percentage. The percentage of the personal property
7 taxes reimbursed;

8
9 2. Reimbursement paid. The total dollar amount of the
10 reimbursement paid; and

11 3. Eligibility requirements. The type of business and
12 business equipment eligible for reimbursement under the
13 reimbursement program and any location restrictions.

14
15 **§6674. Referendum**

16
17 The question of whether to adopt a reimbursement program
18 must be submitted to the legal voters of a municipality that
19 seeks to adopt a reimbursement program. The petition process and
20 the voting at elections held in towns and plantations must be
21 held and conducted in accordance with Title 30-A, sections 2528,
22 2529 and 2532 even if the town or plantation has not accepted the
23 provisions of section 2528. The voting at elections held in
24 municipalities must be held and conducted in accordance with
25 Title 21-A.

26
27 The municipal clerk shall make a return of the results,
28 certify the results and send them to the Secretary of State. The
29 Secretary of State shall forward the results to the assessor.

30
31 A reimbursement program may be discontinued by referendum
32 conducted in the same manner as the referendum adopting the
33 reimbursement program under this chapter.

34
35 **§6675. Effective date of reimbursement program**

36
37 A reimbursement program authorized by this chapter takes
38 effect 120 days after the municipal referendum vote if it is
39 accepted by a majority of the local voters voting at the election
40 and the total number of votes cast for and against acceptance of
41 the reimbursement program exceeds 20% of the total votes cast in
42 that municipality in the most recent gubernatorial election.

43
44
45 **SUMMARY**

46
47 **48** This bill repeals the Business Equipment Tax Reimbursement
48 program that provides state reimbursement of property taxes paid
49 on personal business property.
50

2 This bill allows a municipality to adopt a local option
business equipment tax reimbursement program in which the
4 municipality would reimburse the business for property taxes paid
on business equipment located in that municipality. The
6 municipality may reimburse any portion of the taxes paid, up to
100%. The municipality also may restrict the program to certain
8 types of business equipment, specific areas of the municipality
or certain types of business.

10
12 Taxes reimbursed pursuant to the local option reimbursement
program adopted by a municipality are not eligible for
reimbursement by the State.