MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1080

H.P. 798

House of Representatives, March 4, 2003

An Act To Impose a Municipal Services Fee on Tax-exempt Property

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. Macfarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PELLON of Machias.

Cosponsored by Representative DUDLEY of Portland, Senator CARPENTER of York and Representatives: JACOBSEN of Waterboro, LANDRY of Sanford, McGOWAN of Pittsfield, McLAUGHLIN of Cape Elizabeth, SHERMAN of Hodgdon, STONE of Berwick, SULLIVAN of Biddeford, WHEELER of Kittery.

	Sec. 1. 36 MRSA §652, sub-§1, ¶L, as enacted by PL 1977, c.
4	487, is repealed.
6	Sec. 2. 36 MRSA §652-A is enacted to read:
8	§652-A. Direct benefit service charges
10	Notwithstanding the provisions of sections 651 and 652, and
12	pursuant to the provisions and limitations in this section, a municipality may impose a charge for direct benefit services
14	provided to an otherwise tax-exempt property of a public or private institution or organization, as described in sections 651
16	and 652 and referred to in this section as the "tax-exempt
16	entity," for direct benefit services provided to the tax-exempt entity by the municipality. For purposes of this section,
18	"tax-exempt entity" includes any identifiable subunit of that
	entity.
20	1 Discretionary imposition Who imposition of discret
22	1. Discretionary imposition. The imposition of direct benefit service charges under this section is not mandatory, but
	is at the discretion of the municipality in which the tax-exempt
24	property is located. The municipal legislative body shall
	determine the scope of any charge system imposed; these charges
26	may not exceed limitations outlined in this section, but they may
	be narrower in scope than this section specifically allows,
28	reaching only some, but not all direct benefit services provided
	by the municipality. They may exempt classes of property
30	nominally subject to charges as provided by this section. If a
2.2	municipality levies service charges on any classification of
32	property as defined in this section, that municipality shall levy
34	those service charges on all tax-exempt entities in that classification.
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36	2. Chargeable services. The only direct benefit services
	of a municipality for which a system of charges may be imposed
38	pursuant to this section are:
40	A. Fire protection services, which may include a medical
40	crisis unit and E-9-1-1 system;
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	B. Police protection services, which may include a medical
44	crisis unit and E-9-1-1 system;
46	C. Water and sewer services which may include fresh water
	treatment, wastewater cleanup, pollution control and hydrant
48	services;
50	D. Trash collection, storage and disposal services; and

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

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- E. Public works department services, which may include municipal sidewalk and road construction and maintenance, traffic control and snow plowing and removal.
- A municipality may include charges for a medical crisis unit or E-9-1-1 system as part of either fire protection services or police protection services, but not both.
- 3. Calculation of charges. A municipality imposing a system of charges for direct benefit services shall calculate on an annual basis the actual costs of providing the service, including capital costs, and may impose on any individual tax-exempt entity only its proportional share of these costs according to the following formula:
 - A. The total annual costs of the municipality for direct benefit services is divided by the total value of all taxable and tax-exempt property in the municipality. This results in the direct benefit service charge rate; and
 - B. The direct benefit service charge calculated under paragraph A is multiplied by the assessed value of individual tax-exempt property. The result is the prorated charge for direct benefit services.
- 4. Tax-exempt entity subject to service charges; exemption. Charges for direct benefit services may be imposed 28 only on that tax-exempt entity that derives at least 50% of its annual revenue from charges such as, but not limited to, service 30 fees, rents, rates or tuitions imposed on a client group served by that tax-exempt entity, regardless of the source of those 32 charges. A tax-exempt entity otherwise subject to charges under this section is exempt if that tax-exempt entity expends 50% or 34 more of its annual revenues to provide temporary housing, food, clothing or other services to individuals and families at or 36 below the federal poverty level, as defined in Title 22, section 38 3762.
- A tax-exempt entity claiming exemption from municipal charges for direct benefit services must apply annually for exempt status on appropriate forms provided by the municipality for that purpose. The burden of proving a right to exemption initially and in any succeeding year lies with the tax-exempt entity seeking exemption. The tax-exempt entity shall provide tax, annual audit and business records necessary to prove the tax-exempt entity's exempt status. The granting of an exemption in any given year does not preclude the municipality from verifying or denying the exempt status of an entity in succeeding years.

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- 5. Upper limit of charges. Annual municipal charges for direct benefit services imposed pursuant to this section may not exceed 2% of the gross annual revenues of the charged tax-exempt entity. The tax-exempt entity subject to the service charges shall file with the municipality an audit of or other financial data or records showing the revenues of the tax-exempt entity for the year immediately prior to the year for which the service charges are levied. The municipal officers shall abate any service charges that are in excess of 2% of the gross revenues shown.
 - Municipalities imposing charges on otherwise tax-exempt entities for direct benefit services provided shall expend the accrued revenues only to fund those municipal services for which the tax-exempt entities are being charged. Bills for the payment of direct benefit service charges must be sent at the same time and in the same manner as property tax bills. A municipality may in its implementing ordinance establish a payment schedule that is annual, semiannual, quarterly or monthly.
 - 7. Appeals process. Appeals of valuation or the calculation of the direct benefit service charge are allowed and must be conducted in the same manner provided for appeals by taxable entities in subchapter 8.
 - 8. Collection of unpaid charges. Collection of unpaid municipal charges for direct benefit services must be conducted in the same manner as provided in subchapter 9 for the collection of unpaid property taxes, and municipalities and their officials or agents have the same rights and authority conferred by that subchapter.
 - 9. Implementing ordinances. A municipality that imposes charges for direct benefit services pursuant to this section may adopt any ordinances necessary to implement the charges and other purposes of this section.

40 SUMMARY

This bill allows a municipality to charge an entity that is exempt from property tax for "direct benefit services" provided in that municipality, such as: fire and police protection; water and sewer services; trash collection and disposal; and public works department services, including sidewalk and road construction and maintenance. Only a tax-exempt entity that derives at least 50% of its annual revenue from charges such as service fees, rents, rates or tuitions imposed on a client group served by that tax-exempt entity, regardless of the source of

- those charges, may be charged for direct benefit services. A tax-exempt entity otherwise subject to charges is exempt if that tax-exempt entity expends 50% or more of its annual revenues to
- 4 provide temporary housing, food, clothing or other services to individuals and families at or below the federal poverty level.