

MAINE STATE LEGISLATURE

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L.D. 1338

Date: 4/13/18

(Filing No. H-767)

TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 932, L.D. 1338, Bill, "An Act To Create and Sustain Jobs through Development of Cooperatives and Employee-owned Businesses"

Amend the bill by inserting after the enacting clause and before section 1 the following:

Sec. 1. 36 MRSA §191, sub-§2, ¶EEE is enacted to read:

EEE. The disclosure to the joint standing committee of the Legislature having jurisdiction over taxation matters of information necessary to make the report required under section 199-F, subsection 2.

Sec. 2. 36 MRSA §199-F is enacted to read:

§199-F. Transfers to cooperatives and employee-owned businesses

1. Information. The bureau shall require taxpayers claiming the exclusion for gain on sale of a business under section 5122, subsection 2, paragraph PP and section 5200-A, subsection 2, paragraph BB and the exclusion for interest on a loan financing acquisition of a business under section 5122, subsection 2, paragraph QQ, section 5200-A, subsection 2, paragraph CC and section 5206 to provide information that identifies the standard industrial classification of the business that is being transferred, the total value of the transaction to which the tax expenditure relates, the average number of full-time equivalent employees employed by the business being transferred during the calendar year preceding the transfer and the number of units of housing owned or controlled by the business in question.

2. Report. By December 1st of each year beginning in 2021, the bureau shall submit a report to the Office of Program Evaluation and Government Accountability established in Title 3, section 991 and the committee identifying the United States Department of Commerce, Bureau of the Census, North American Industry Classification System code identification and location of each transaction for which a deduction was claimed under section 5122, subsection 2, paragraph QQ, section 5200-A, subsection 2, paragraph CC and section 5206 during the previous calendar year, the aggregate number of full-time

COMMITTEE AMENDMENT

1 equivalent employees employed by the businesses for which a deduction was claimed and
2 the aggregate number of units of housing owned or controlled by the businesses for which
3 a deduction was claimed. Notwithstanding any other provision of law to the contrary, the
4 reports provided under this section are public records as defined in Title 1, section 402,
5 subsection 3.'

6 Amend the bill in section 1 in paragraph PP in the first line (page 1, line 3 in L.D.) by
7 striking out the following: "2017" and inserting the following: '2019 and before January
8 1, 2027'

9 Amend the bill in section 1 in paragraph PP in the 3rd line (page 1, line 5 in L.D.) by
10 striking out the following: "taxpayer of an" and inserting the following: 'taxpayer of a
11 majority'

12 Amend the bill in section 1 in paragraph PP in subparagraph (2) in the first line (page
13 1, line 9 in L.D.) by striking out the following: "of" and inserting the following:
14 'organized in'

15 Amend the bill in section 1 in paragraph PP in the blocked paragraph in the first line
16 (page 1, line 17 in L.D.) by inserting after the following: "means a business" the
17 following: 'that employs 100 or fewer full-time equivalent employees and'

18 Amend the bill in section 1 in paragraph PP in the blocked paragraph in the last line
19 (page 1, line 21 in L.D.) by striking out the following: "private entities related by
20 common" and inserting the following: 'entities that are not publicly traded related by
21 common majority'

22 Amend the bill in section 1 in paragraph QQ in the first line (page 1, line 22 in L.D.)
23 by striking out the following: "2017" and inserting the following: '2019 and before
24 January 1, 2027'

25 Amend the bill in section 1 in paragraph QQ in subparagraph (1) in the first line
26 (page 1, line 26 in L.D.) by inserting after the following: "means a business" the
27 following: 'that employs 100 or fewer full-time equivalent employees and'

28 Amend the bill in section 1 in paragraph QQ in subparagraph (1) in the 5th line (page
29 1, line 30 in L.D.) by striking out the following: "private entities related by common" and
30 inserting the following: 'entities that are not publicly traded related by common majority'

31 Amend the bill in section 1 in paragraph QQ in subparagraph (2) in division (a) in the
32 2nd line (page 1, line 35 in L.D.) by inserting after the following: "majority" the
33 following: 'equity'

34 Amend the bill in section 1 in paragraph QQ in subparagraph (2) in division (a) in
35 subdivision (ii) in the first line (page 1, line 39 in L.D.) by striking out the following:
36 "of" and inserting the following: 'organized in'

37 Amend the bill in section 2 in paragraph BB in the first line (page 2, line 15 in L.D.)
38 by striking out the following: "2017" and inserting the following: '2019 and before
39 January 1, 2027'

40 Amend the bill in section 2 in paragraph BB in the 2nd line (page 2, line 16 in L.D.)
41 by striking out the following: "adjusted gross" and inserting the following: 'taxable'

1 Amend the bill in section 2 in paragraph BB in the 3rd line (page 2, line 17 in L.D.)
2 by striking out the following: "taxpayer of an" and inserting the following: 'taxpayer of a
3 majority'

4 Amend the bill in section 2 in paragraph BB in subparagraph (2) in the first line (page
5 2, line 21 in L.D.) by striking out the following: "of" and inserting the following:
6 'organized in'

7 Amend the bill in section 2 in paragraph BB in the blocked paragraph in the first line
8 (page 2, line 29 in L.D.) by inserting after the following: "means a business" the
9 following: 'that employs 100 or fewer full-time equivalent employees and'

10 Amend the bill in section 2 in paragraph BB in the blocked paragraph in the last line
11 (page 2, line 33 in L.D.) by striking out the following: "private entities related by
12 common" and inserting the following: 'entities that are not publicly traded related by
13 common majority'

14 Amend the bill in section 2 in paragraph CC in the first line (page 2, line 34 in L.D.)
15 by striking out the following: "2017" and inserting the following: '2019 and before
16 January 1, 2027'

17 Amend the bill in section 2 in paragraph CC in the 2nd line (page 2, line 35 in L.D.)
18 by striking out the following: "adjusted gross" and inserting the following: 'taxable'

19 Amend the bill in section 2 in paragraph CC in subparagraph (1) in the first line (page
20 2, line 38 in L.D.) by inserting after the following: "means a business" the following:
21 'that employs 100 or fewer full-time equivalent employees and'

22 Amend the bill in section 2 in paragraph CC in subparagraph (1) in the 5th line (page
23 3, line 1 in L.D.) by striking out the following: "private entities related by common" and
24 inserting the following: 'entities that are not publicly traded related by common majority'

25 Amend the bill in section 2 in paragraph CC in subparagraph (2) in division (a) in the
26 2nd line (page 3, line 6 in L.D.) by inserting after the following: "majority" the
27 following: 'equity'

28 Amend the bill in section 2 in paragraph CC in subparagraph (2) in division (a) in
29 subdivision (ii) in the first line (page 3, line 10 in L.D.) by striking out the following:
30 "of" and inserting the following: 'organized in'

31 Amend the bill by inserting after section 2 the following:

32 '**Sec. 3. 36 MRSA §5206**, as repealed and replaced by PL 2005, c. 608, §1 and
33 affected by §5, is amended by adding at the end a new paragraph to read:

34 For taxable years beginning on or after January 1, 2019 and before January 1, 2027,
35 the taxpayer may for the purposes of the tax under this section subtract from Maine net
36 income an amount equal to the interest received during the taxable year by the taxpayer
37 with respect to a qualified business acquisition loan.'

38 Amend the bill in section 3 in subsection 13 in the 8th and 9th lines (page 3, lines 34
39 and 35 in L.D.) by striking out the following: "5200-A, subsection 2, paragraph CC," and
40 inserting the following: '5206.'

41 Amend the bill by striking out all of section 4 and inserting the following:

1 **Sec. 4. 36 MRSA §5206-D, sub-§§16-A and 16-B** are enacted to read:

2 **16-A. Qualified business.** "Qualified business" means a business that employs 100
3 or fewer full-time equivalent employees and whose securities are not publicly traded on
4 any stock exchange and that is organized in the State or whose principal place of business
5 is within the State including a corporation, an S corporation, a limited liability company,
6 a limited liability partnership, a sole proprietorship and all entities that are not publicly
7 traded related by common majority ownership or control.

8 **16-B. Qualified business acquisition loan.** "Qualified business acquisition loan,"
9 including a loan or part of a series of loans, means:

10 A. A loan of which at least 90% of the proceeds are applied to the acquisition of
11 majority equity ownership of a qualified business not owned by an entity under
12 subparagraphs (1) to (5) and that is given to:

13 (1) An employee stock ownership plan as defined in the Code, Section
14 4975(e)(7);

15 (2) An S corporation organized in the State owned by an employee stock
16 ownership plan;

17 (3) An eligible worker-owned cooperative as defined in the Code, Section
18 1042(c)(2);

19 (4) A consumer cooperative organized under Title 13, chapter 85, subchapter 1;
20 or

21 (5) If the business provides housing, a consumer cooperative or a cooperative
22 affordable housing corporation organized under Title 13, chapter 85, subchapter
23 1-A;

24 B. A loan to a corporation that sponsors an employee stock ownership plan if all
25 proceeds of the loan are loaned to the employee stock ownership plan to acquire for
26 the plan all outstanding employer securities in a qualified business and the plan's
27 repayment terms are substantially similar to the corporation's repayment terms; or

28 C. A loan used to refinance a qualified business acquisition loan.

29 **Sec. 5. Evaluation; specific public policy objective; performance**
30 **measures.** The deductions provided under this Act are subject to ongoing legislative
31 review in accordance with the Maine Revised Statutes, Title 3, chapter 37. The Office of
32 Program Evaluation and Government Accountability shall report on the first evaluation of
33 the deductions provided under this Act by February 28, 2026. In developing evaluation
34 parameters to perform the evaluation, the Office of Program Evaluation and Government
35 Accountability, the Government Oversight Committee and the joint standing committee
36 of the Legislature having jurisdiction over taxation matters shall consider:

37 **1. Policy objective.** That the specific public policy objective of the deductions
38 provided under this Act is to retain jobs in qualifying small businesses that would
39 otherwise cease operations by reducing the tax impact to business owners from qualifying
40 sales of ownership interests in order to encourage conversion of small businesses to

1 employee and cooperative ownership and thereby allow the businesses to continue
2 operations and retain jobs; and

3 **2. Performance measures.** Performance measures, including, but not limited to:

4 A. The number of qualifying business ownership conversions to employee or
5 cooperative ownership;

6 B. The number of full-time equivalent jobs retained; and

7 C. Measures of fiscal impact and overall economic impact to the State.'

8 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
9 section number to read consecutively.

10 **SUMMARY**

11 This amendment restricts the proposed income tax deduction to businesses with 100
12 or fewer employees, limits the deduction to tax years from 2018 to 2025, provides a
13 process for evaluation of the deduction and reporting of information and makes clarifying
14 and technical changes.

15 **FISCAL NOTE REQUIRED**

16 (See attached)



128th MAINE LEGISLATURE

LD 1338

LR 2069(02)

An Act To Create and Sustain Jobs through Development of Cooperatives and Employee-owned Businesses

Fiscal Note for Bill as Amended by Committee Amendment *A(H-767)*

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

| | FY 2017-18 | FY 2018-19 | Projections FY 2019-20 | Projections FY 2020-21 |
|-----------------------------------|------------|------------|---------------------------|---------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$0 | \$32,340 | \$575,432 | \$353,832 |
| Appropriations/Allocations | | | | |
| General Fund | \$0 | \$0 | \$267,157 | \$92,107 |
| Revenue | | | | |
| General Fund | \$0 | (\$32,340) | (\$308,275) | (\$261,725) |
| Other Special Revenue Funds | \$0 | (\$660) | (\$16,225) | (\$13,775) |

Fiscal Detail and Notes

This bill would reduce General Fund revenue by \$32,340 in fiscal year 2018-19 and reduce Local Government Fund revenue by \$660 in fiscal year 2018-19. The Department of Administrative and Financial Services will require a General Fund appropriation of \$267,157 in fiscal year 2019-20 for one Management Analyst II position and programming costs to process, review and analyze individual income tax returns that include a deduction by the business owner for gains recognized in transferring the business to an employee stock ownership plan, eligible worker-owned cooperative, consumer cooperative or affordable housing cooperative.