

# MAINE STATE LEGISLATURE

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BWG  
R. O. S.

L.D. 1479

Date: 3-2-18

(Filing No. H-624)

# MAJORITY TAXATION

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

COMMITTEE AMENDMENT "A" to H.P. 1018, L.D. 1479, Bill, "An Act To Modernize and Improve Maine's Property Tax System"

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

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**Sec. 1. 36 MRSA §271, sub-§1**, as amended by PL 1989, c. 503, Pt. B, §165, is further amended to read:

**1. Organization; meetings.** The State Board of Property Tax Review, as established by Title 5, section 12004-B, subsection 6, ~~shall consist~~ consists of 15 members appointed by the Governor for terms of 3 years, ~~except for initial appointments which shall be 1/3 of the membership for one year, 1/3 of the membership for 2 years and 1/3 of the membership for 3 years.~~ Vacancies on the board shall must be filled for the remainder of the unexpired term. The membership shall must be equally divided among attorneys, real estate brokers or appraisers, engineers, ~~retired~~ assessors who have a current certificate of eligibility from the State Tax Assessor under section 311, except assessors employed by the bureau, and public members. Beginning August 1, 2018, at least one vacancy in the term of a public member or a position open as the result of an expired term of a public member must be filled by a member of the public with expertise in taxation, finance or property valuation matters. The board shall annually elect a chair and secretary. The secretary need not be chosen from the members of the board.

**Sec. 2. 36 MRSA §271, sub-§5-A** is enacted to read:

# COMMITTEE AMENDMENT

1           **5-A. Mediation.** For appeals pursuant to section 843 or 844, if the board determines  
 2 that the appeal is within the jurisdiction of the board and all rights to appeal the  
 3 determination of jurisdiction have expired, within 120 days after filing a petition for  
 4 appeal, the assessor or assessors, chief assessor of a primary assessing area or State Tax  
 5 Assessor in the case of the unorganized territory and the taxpayer shall retain the services  
 6 of a mutually agreed-upon mediator knowledgeable in taxation, valuation matters or  
 7 conflict resolution, unless otherwise excused by the chair of the board. The cost of  
 8 mediation must be shared equally between the municipality, or the State Tax Assessor in  
 9 the case of the unorganized territory, and the taxpayer. Unless the parties have been  
 10 excused by the chair of the board from mediation, the board may not schedule a hearing  
 11 until after it is notified by the parties that mediation has been completed. Upon the  
 12 completion of mediation, the parties must notify the board in writing stating whether  
 13 further board action is necessary.

14           **Sec. 3. 36 MRSA §611, 2nd ¶** is amended to read:

15           When the assessors are informed by the owner or otherwise of the presence within  
 16 the town of such personal property, the assessors shall give notice in writing to the owner  
 17 to furnish to the assessors a true and perfect list of such property within 15 days from the  
 18 receipt of such notice and, except as otherwise provided in this section, ~~section 706 shall~~  
 19 ~~be 706-A~~ is applicable to this section.

20           **Sec. 4. 36 MRSA §706**, as amended by PL 2013, c. 544, §5 and affected by §7, is  
 21 repealed.

22           **Sec. 5. 36 MRSA §706-A** is enacted to read:

23           **§706-A. Taxpayers to list property; notice; penalty; verification**

24           **1. Taxpayers to list property; inquiries.** Before making an assessment, the  
 25 assessor or assessors, chief assessor of a primary assessing area or State Tax Assessor in  
 26 the case of the unorganized territory may give seasonable notice in writing to all persons  
 27 liable to taxation or qualifying for exemption pursuant to subchapter 4-C in the  
 28 municipality, the primary assessing area or the unorganized territory to furnish to the  
 29 assessor or assessors, chief assessor or State Tax Assessor true and perfect lists of all the  
 30 property the taxpayer possessed on the first day of April of the same year and may at the  
 31 time of the notice or thereafter require the taxpayer to answer in writing all proper  
 32 inquiries as to the nature, situation and value of the taxpayer's property liable to be taxed  
 33 in the State or subject to exemption pursuant to subchapter 4-C. The list and answers are  
 34 not conclusive upon the assessor or assessors, chief assessor or State Tax Assessor.

35           As may be reasonably necessary to ascertain the value of property according to the  
 36 income approach to value pursuant to the requirements of section 208-A or generally  
 37 accepted assessing practices, these inquiries may seek information about income and  
 38 expense, manufacturing or operational efficiencies, manufactured or generated sales price  
 39 trends or other related information.

40           A taxpayer has 30 days from receipt of a request for a true and perfect list or of proper  
 41 inquiries to respond to the request or inquiries. Upon written request to the assessor or  
 42 assessors, chief assessor of a primary assessing area or State Tax Assessor in the case of  
 43 the unorganized territory, a taxpayer is entitled to a 30-day extension to respond to the

1 request for a true and perfect list or proper inquiries, and the assessor may at any time  
2 grant additional extensions upon written request. Information provided by the taxpayer in  
3 response to an inquiry that is proprietary information, and is clearly labeled by the  
4 taxpayer as proprietary and confidential information, is confidential and is not a public  
5 record for purposes of Title 1, chapter 13.

6 A notice to or inquiry of a taxpayer made under this section may be by mail directed to  
7 the last known address of the taxpayer or by any other method that provides reasonable  
8 notice to the taxpayer.

9 If notice is given by mail and the taxpayer does not furnish the list and answers to all  
10 proper inquiries, the taxpayer may not apply to the assessor or assessors, chief assessor of  
11 a primary assessing area or State Tax Assessor in the case of the unorganized territory for  
12 an abatement or appeal an application for abatement of those taxes unless the taxpayer  
13 furnishes the list and answers with the application and satisfies the assessing authority or  
14 authority to whom an appeal is made that the taxpayer was unable to furnish the list and  
15 answers in the time required. The list and answers are not conclusive upon the assessor  
16 or assessors, chief assessor or State Tax Assessor.

17 If the assessor or assessors, chief assessor of a primary assessing area or State Tax  
18 Assessor in the case of the unorganized territory fails to give notice by mail, the taxpayer  
19 is not prohibited from applying for an abatement; however, upon demand, the taxpayer  
20 shall furnish the list and answer in writing all proper inquiries as to the nature, situation  
21 and value of the taxpayer's property liable to be taxed in the State. A taxpayer's refusal or  
22 neglect to answer the inquiries bars an appeal, but the list and answers are not conclusive  
23 upon the assessor or assessors, chief assessor or State Tax Assessor.

24 The assessor or assessors, chief assessor of a primary assessing area or State Tax  
25 Assessor in the case of the unorganized territory may require the person furnishing the list  
26 and answers to all proper inquiries to subscribe under oath to the truth of the list and  
27 answers.

28 **2. Penalty.** It is unlawful for any public official or any employee, agent, attorney or  
29 consultant of the taxing jurisdiction to willfully disclose any taxpayer information made  
30 confidential by this section or examine information made confidential by this section for  
31 any purpose other than the conduct of official duties pertaining to property tax  
32 administration. Information made confidential by this section may be disclosed:

33 A. To the State Tax Assessor, who shall treat such information as confidential for  
34 purposes of section 191, subsection 2, paragraph I;

35 B. To a mediator retained pursuant to section 271, subsection 5-A;

36 C. In a judicial proceeding in camera;

37 D. In an administrative proceeding, in executive session, pursuant to Title 1, section  
38 405, subsection 6, paragraph F;

39 E. To the person who filed the confidential information or that person's  
40 representative authorized by the person in writing to receive the information;

41 F. To a public official or any employee, agent, attorney or consultant of the taxing  
42 jurisdiction; and

# COMMITTEE AMENDMENT

1 G. To any other person with the taxpayer's written consent.

2 A person who knowingly violates the confidentiality provisions of this subsection  
3 commits a Class E crime.

4 3. Proprietary information. For the purposes of this section, "proprietary  
5 information" means information that is a trade secret or production, commercial or  
6 financial information the disclosure of which would impair the competitive position of  
7 the person submitting the information and would make available information not  
8 otherwise publicly available and information protected from disclosure by federal or state  
9 law, rules or regulations.

10 **Sec. 6. 36 MRSA §713, last ¶** is amended to read:

11 Persons subjected to a tax under this section ~~shall be~~ are deemed to have received  
12 sufficient notice if the notice required by section ~~706~~ 706-A was given.

13 **Sec. 7. 36 MRSA §841, sub-§1**, as repealed and replaced by PL 1993, c. 133, §1,  
14 is amended to read:

15 **1. Error or mistake.** The assessors, either upon written application filed within 185  
16 days from commitment stating the grounds for an abatement or on their own initiative  
17 within one year from commitment, may make such reasonable abatement as they consider  
18 proper to correct any illegality, error or irregularity in assessment, ~~provided that~~ if the  
19 taxpayer has complied with section ~~706~~ 706-A.

20 The municipal officers, either upon written application filed after one year but within 3  
21 years from commitment stating the grounds for an abatement or on their own initiative  
22 within that time period, may make such reasonable abatement as they consider proper to  
23 correct any illegality, error or irregularity in assessment, ~~provided~~ if the taxpayer has  
24 complied with section ~~706~~ 706-A. The municipal officers may not grant an abatement to  
25 correct an error in the valuation of property.

26 **Sec. 8. 36 MRSA §841, sub-§4**, as amended by PL 2015, c. 300, Pt. A, §9, is  
27 further amended to read:

28 **4. Veteran's widow or widower or minor child.** Notwithstanding failure to  
29 comply with section ~~706~~ 706-A, the assessors, on written application within one year  
30 from the date of commitment, may make such abatement as they think proper in the case  
31 of the unmarried widow or widower or the minor child of a veteran, if the widow,  
32 widower or child would be entitled to an exemption under section 653, subsection 1,  
33 paragraph D, except for the failure of the widow, widower or child to make application  
34 and file proof within the time set by section 653, subsection 1, paragraph G, if the veteran  
35 died during the 12-month period preceding the April 1st for which the tax was  
36 committed.

37 **Sec. 9. 36 MRSA §1331, 3rd ¶**, as repealed and replaced by PL 1977, c. 509,  
38 §31, is amended to read:

39 Persons subjected to a tax under this section ~~shall be~~ are deemed to have received  
40 sufficient notice if the notice required by section ~~706~~ 706-A was given.

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**Sec. 10. Task force established.** Notwithstanding Joint Rule 353, the Task Force To Restructure and Improve the Efficiency of the State Board of Property Tax Review, referred to in this section as "the task force," is established.

**1. Membership; chair.** The task force consists of 9 members as follows:

A. The Commissioner of Administrative and Financial Services or the commissioner's designee, who shall serve as the chair of the task force;

B. The State Tax Assessor or the State Tax Assessor's designee;

C. The Attorney General or the Attorney General's designee;

D. A member of the State Board of Property Tax Review, as established by the Maine Revised Statutes, Title 5, section 12004-B, subsection 6, appointed by the Governor;

E. Two current or retired assessors who have certificates of eligibility as assessors from the State Tax Assessor under the Maine Revised Statutes, Title 36, section 311, who are familiar with the assessment of large industrial properties and who are appointed by the Governor based on the recommendation of a statewide municipal association;

F. Two persons representing large industrial property taxpayers, appointed by the Governor; and

G. A municipal official representing a community with a large industrial taxpayer, appointed by the Governor based on the recommendation of a statewide municipal association.

**2. Appointments; convening of first meeting.** All appointments must be made no later than 45 days following the effective date of this Act. The appointing authorities shall notify the Commissioner of Administrative and Financial Services upon making the appointments. When the appointment of all members is complete, the chair shall call and convene the first meeting of the task force no later than September 10, 2018.

**3. Duties.** The task force shall study, assess and evaluate the process of and the duties assigned to the State Board of Property Tax Review. The task force shall develop recommendations for restructuring the board to improve the efficiency of the appeal process, if necessary. Recommendations may include, but are not limited to, changes in board membership; access to full-time resources and professional staff; changes to the appeal process; changes in the type of appeals reviewed by the board; and any other recommendations the task force members find necessary to improve board efficiencies.

**4. Report.** No later than February 28, 2019, the task force shall submit a report with its findings and recommendations, including suggested legislation, for presentation to the First Regular Session of the 129th Legislature. The joint standing committee of the Legislature having jurisdiction over taxation matters may report out to the First Regular Session of the 129th Legislature legislation to implement recommendations on matters related to the report.'

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**SUMMARY**

This amendment replaces the bill. The amendment makes the following changes to the process for the appeal of tax assessments to the State Board of Property Tax Review.

The amendment clarifies a tax assessor's authority to request a true and perfect list of property and to request additional information from taxpayers. It revises existing confidentiality restrictions to clarify that assessors may share confidential information with other municipal officials, attorneys, consultants and other persons involved in an appeal or approved by the taxpayer. It provides that the position of one public member of the board must be filled by a person with expertise in taxation, finance or property valuation matters and permits current assessors, as well as retired assessors, to be members of the board. If a taxpayer files an appeal with the board, the board may not schedule a hearing until after mediation between the taxpayer and the assessor has been completed, unless the parties have been excused by the board.

The amendment establishes the Task Force To Restructure and Improve the Efficiency of the State Board of Property Tax Review. Its duties are to study, assess and evaluate the process of and duties assigned to the State Board of Property Tax Review and to make recommendations for restructuring the board to improve the efficiency of the appeal process. The task force must submit a report with its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over taxation matters, which may report out legislation to the First Regular Session of the 129th Legislature.

The amendment also adds a mandate preamble.

**FISCAL NOTE REQUIRED**

**(See attached)**



# 128th MAINE LEGISLATURE

LD 1479

LR 1634(02)

## An Act To Modernize and Improve Maine's Property Tax System

Fiscal Note for Bill as Amended by Committee Amendment *A (H-624)*

Committee: Taxation

Fiscal Note Required: Yes

### Fiscal Note

Potential State Mandate - Unfunded

#### Correctional and Judicial Impact Statements

Establishes new Class E crimes; the collection of additional fines may also increase General Fund revenue by minor amounts.

#### State Mandates

**Required Activity**

Enter into mediation with a taxpayer who has appealed a municipality's real estate assessment to the State Board of Property Tax Review.

**Unit Affected**

Municipality

**Local Cost**

Moderate limited scope

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

#### Fiscal Detail and Notes

Additional costs to the Department of Administrative and Financial Services associated with serving on the task force and developing and reporting recommendations can be absorbed within existing budgeted resources.