

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1479

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H.P. 1018

House of Representatives, April 18, 2017

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

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STANLEY of Medway.  
Cosponsored by Senator SAVIELLO of Franklin and  
Representatives: CAMPBELL of Orrington, FARRIN of Norridgewock, HANINGTON of  
Lincoln, HARLOW of Portland, NADEAU of Winslow, RILEY of Jay, SKOLFIELD of Weld,  
Senator: CUSHING of Penobscot.

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

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

4 **1. Organization; meetings.** The State Board of Property Tax Review, as  
5 established by Title 5, section 12004-B, subsection 6, ~~shall consist~~ consists of 15  
6 members appointed by the Governor for terms of 3 years, ~~except for initial appointments~~  
7 ~~which shall be 1/3 of the membership for one year, 1/3 of the membership for 2 years and~~  
8 ~~1/3 of the membership for 3 years.~~ Vacancies on the board ~~shall~~ must be filled for the  
9 remainder of the unexpired term. The membership ~~shall~~ must be equally divided among  
10 attorneys, real estate brokers, ~~engineers~~ representatives of business and industry who are  
11 experienced in taxation, finance or valuation matters, retired assessors and public  
12 members. A public member may not be an assessor, former assessor, municipal official or  
13 former municipal official. The board shall annually elect a chair and secretary. The  
14 secretary need not be chosen from the members of the board.

15 **Sec. 2. 36 MRSA §271, sub-§7**, as enacted by PL 1985, c. 764, §8, is amended to  
16 read:

17 **7. Appeal.** Decisions of the board may be appealed ~~pursuant to the Maine~~  
18 ~~Administrative Procedure Act, Title 5, chapter 375~~ directly to the Law Court in the same  
19 manner as an appeal taken from a judgment of the Superior Court in a civil action.

20 **Sec. 3. 36 MRSA §305, sub-§5**, as amended by PL 2001, c. 564, §3, is further  
21 amended to read:

22 **5. Rules.** ~~Promulgate~~ Adopt, after appropriate notice and hearing, all rules ~~and~~  
23 ~~regulations~~ necessary to carry into effect any of its duties and responsibilities; ~~and~~

24 **Sec. 4. 36 MRSA §305, sub-§6**, as amended by PL 2011, c. 655, Pt. II, §8 and  
25 affected by §11 and amended by c. 657, Pt. W, §6, is further amended to read:

26 **6. Report on changes in land ownership.** On or before September 1st of each year,  
27 report to the Commissioner of Agriculture, Conservation and Forestry, the Commissioner  
28 of Inland Fisheries and Wildlife and the joint standing committee of the Legislature  
29 having jurisdiction over public lands on the transfer in ownership of parcels of land  
30 10,000 acres or greater within the unorganized territory of the State. Using information  
31 maintained by the State Tax Assessor under section 1602 and section 4641-D, the bureau  
32 shall provide information for each transfer that includes:

- 33 A. Name of the seller;
- 34 B. Name of the buyer;
- 35 C. Number of acres transferred;
- 36 D. Classification of land;
- 37 E. Location by township and county;

- 1 F. Sale price; and
- 2 G. A brief description of the property; and

3 **Sec. 5. 36 MRSA §305, sub-§7** is enacted to read:

4 **7. Valuation of industrial facilities.** Notwithstanding any other provision of this  
5 Title to the contrary, determine the just value of real and personal property located at  
6 industrial facilities as of the first day of each April beginning in 2018 and provide those  
7 just values to each municipality in which an industrial facility is located no later than  
8 June 1st of each property tax year. In the bureau's determination of the just value of an  
9 industrial facility, the State Tax Assessor may utilize section 706 or any other powers  
10 granted to the assessor under this Title to obtain necessary information from the taxpayer.  
11 The just value of an industrial facility determined by the bureau is binding on local  
12 assessors, subject to equalization. A municipality that is aggrieved by the bureau's  
13 determination of just value of an industrial facility may petition for reconsideration  
14 pursuant to section 151. A taxpayer that is aggrieved by the bureau's determination of  
15 just value of an industrial facility may seek an abatement of the municipal assessment  
16 pursuant to sections 841, 843 and 844. For purposes of this subsection, "industrial  
17 facility" means a manufacturing facility that has or is anticipated by the bureau to have a  
18 total just value exceeding \$10,000,000 in any municipality for all real and personal  
19 property located in that municipality.

20 **Sec. 6. 36 MRSA §706**, as amended by PL 2013, c. 544, §5 and affected by §7, is  
21 further amended to read:

22 **§706. Taxpayers to list property; notice; verification**

23 Before making an assessment, the assessor or assessors, the chief assessor of a  
24 primary assessing area or the State Tax Assessor in the case of the unorganized territory  
25 may give reasonable notice in writing to all persons liable to taxation or qualifying for  
26 exemption pursuant to subchapter 4-C in the municipality, primary assessing area or the  
27 unorganized territory to furnish to the assessor or assessors, chief assessor or State Tax  
28 Assessor true and perfect lists of all their estates of which they were possessed on the first  
29 day of April of the same year.

30 The notice to owners may be by mail directed to the last known address of the  
31 taxpayer or by any other method that provides reasonable notice to the taxpayer.

32 ~~If notice is given by mail and the taxpayer does not furnish the list, the taxpayer is~~  
33 ~~barred of the right to make application to the assessor or assessors, chief assessor or State~~  
34 ~~Tax Assessor or any appeal from an application for any abatement of those taxes, unless~~  
35 ~~the taxpayer furnishes the list with the application and satisfies the assessing authority or~~  
36 ~~authority to whom an appeal is made that the taxpayer was unable to furnish the list at the~~  
37 ~~time appointed.~~

38 The assessor or assessors, chief assessor or State Tax Assessor may require the  
39 person furnishing the list to make oath to its truth, which oath any of them may  
40 administer.

1 The assessor or assessors, chief assessor or State Tax Assessor may require the  
2 taxpayer to answer in writing ~~all proper inquiries~~ a total of no more than 30  
3 interrogatories or document requests or a combination of interrogatories and document  
4 requests not exceeding 30 in the aggregate seeking information as to the nature, situation  
5 and value of the taxpayer's property liable to be taxed in the State or subject to exemption  
6 pursuant to subchapter 4-C. Each distinct subpart in an interrogatory or document request  
7 is considered a separate interrogatory for the purpose of the 30-request limit. A taxpayer  
8 may make reasonable objections to responding to interrogatories or document requests to  
9 the same extent as objections may be made under the Maine Rules of Civil Procedure.  
10 As may be reasonably necessary to ascertain the value of property according to the  
11 income approach to value pursuant to the requirements of section 208-A or generally  
12 accepted assessing practices, these ~~inquiries~~ interrogatories and document requests may  
13 seek information about income and expenses, manufacturing or operational efficiencies,  
14 manufactured or generated sales price trends or other related information. A taxpayer has  
15 30 days from receipt of such ~~an inquiry~~ interrogatories and document requests to respond.  
16 Upon written request, a taxpayer is entitled to a 30-day extension to respond to the  
17 ~~inquiry~~ interrogatories and document requests and the assessor may at any time grant  
18 additional extensions upon written request. Information provided by the taxpayer in  
19 response to an ~~inquiry~~ interrogatory or document request that is proprietary information,  
20 and clearly labeled by the taxpayer as proprietary and confidential information, is  
21 confidential and is exempt from the provisions of Title 1, chapter 13. An assessor of the  
22 taxing jurisdiction may not, without the taxpayer's written consent, allow the inspection  
23 of or otherwise release such proprietary information to anyone other than the State Tax  
24 Assessor, who shall treat such proprietary information as subject to section 191,  
25 subsection 1, except that the exemption provided in section 191, subsection 2, paragraph I  
26 does not apply to such proprietary information. As used in this subsection, "proprietary  
27 information" means information that is a trade secret or production, commercial or  
28 financial information the disclosure of which would impair the competitive position of  
29 the person submitting the information and would make available information not  
30 otherwise publicly available and information protected from disclosure by federal or state  
31 law or regulations. A person who knowingly violates the confidentiality provisions of  
32 this paragraph commits a Class E crime.

33 ~~A taxpayer's refusal or neglect to answer inquiries bars an appeal, but the answers are~~  
34 ~~not conclusive upon the assessor or assessors, chief assessor or State Tax Assessor.~~

35 ~~If the assessor or assessors, chief assessor or State Tax Assessor fail to give notice by~~  
36 ~~mail, the taxpayer is not barred of the right to make application for abatement; however,~~  
37 ~~upon demand the taxpayer shall answer in writing all proper inquiries as to the nature,~~  
38 ~~situation and value of the taxpayer's property liable to be taxed in the State. A taxpayer's~~  
39 ~~refusal or neglect to answer the inquiries and subscribe the same bars an appeal, but the~~  
40 ~~list and answers are not conclusive upon the assessor or assessors, chief assessor or the~~  
41 ~~State Tax Assessor.~~

42 **Sec. 7. 36 MRSA §708**, as amended by PL 1973, c. 620, §17, is further amended  
43 to read:

1           **§708. Assessors to value real estate and personal property**

2           ~~The~~ Except as provided in section 305, the assessors and the chief assessor of a  
3 primary assessing area shall ascertain as nearly as may be the nature, amount and value as  
4 of the first day of each April of the real estate and personal property subject to be taxed,  
5 and shall estimate and record separately the land value, exclusive of buildings, of each  
6 parcel of real estate.

7           **Sec. 8. 36 MRSA §843, sub-§1,** as amended by PL 1995, c. 262, §4, is further  
8 amended to read:

9           **1. Municipalities.** ~~If~~ Except as otherwise provided in subsection 1-A, if a  
10 municipality has adopted a board of assessment review and the assessors or the municipal  
11 officers refuse to make the abatement asked for, the applicant may apply in writing to the  
12 board of assessment review within 60 days after notice of the decision from which the  
13 appeal is being taken or after the application is deemed to have been denied, and, if the  
14 board thinks the applicant is over-assessed, the applicant is granted such reasonable  
15 abatement as the board thinks proper. ~~Except with regard to nonresidential property or~~  
16 ~~properties with an equalized municipal valuation of \$1,000,000 or greater either~~  
17 ~~separately or in the aggregate,~~ either party may appeal from the decision of the  
18 board of assessment review directly to the Superior Court, in accordance with Rule 80B  
19 of the Maine Rules of Civil Procedure. If the board of assessment review fails to give  
20 written notice of its decision within 60 days of the date the application is filed, unless the  
21 applicant agrees in writing to further delay, the application is deemed denied and the  
22 applicant may appeal to Superior Court as if there had been a written denial.

23           **Sec. 9. 36 MRSA §843, sub-§1-A,** as amended by PL 1995, c. 262, §4, is  
24 repealed and the following enacted in its place:

25           **1-A. Nonresidential property of \$1,000,000 or greater.** The following provisions  
26 apply to real property or properties that are used primarily for commercial, industrial or  
27 business purposes, excluding unimproved land that is not associated with a commercial,  
28 industrial or business use, with an equalized municipal valuation of \$1,000,000 or greater  
29 either separately or in the aggregate, referred to in this subsection as "nonresidential  
30 property."

31           A. The taxpayer may waive consideration of a decision involving nonresidential  
32 property by a local board of assessment review by:

33           (1) Appealing the decision of the assessor or municipal officers directly to the  
34 State Board of Property Tax Review within 60 days after notice of the decision  
35 from which the appeal is taken or after the abatement application is deemed  
36 denied; or

37           (2) Appealing the decision of the assessor or municipal officers directly to the  
38 Superior Court within 60 days after notice of the decision from which the appeal  
39 is taken or after the abatement application is deemed denied, in accordance with  
40 Rule 80B of the Maine Rules of Civil Procedure.

1           The State Board of Property Tax Review or Superior Court, as the case may be, shall  
2           conduct a de novo hearing and make a de novo determination of the merits of the  
3           case. If the board or Superior Court determines that the applicant is over-assessed, it  
4           shall grant such reasonable abatement as the board or Superior Court thinks proper.

5           B. If the owner of nonresidential property elects to appeal the decision of the  
6           assessors or municipal officers to a local board of assessment review, either party  
7           may appeal the decision of the local board of assessment review or the primary  
8           assessing area board of assessment review to:

9                   (1) The State Board of Property Tax Review within 60 days after notice of the  
10                   decision from which the appeal is taken or after the application is deemed denied,  
11                   as provided in subsections 1 and 2; or

12                   (2) The Superior Court within 60 days after notice of the decision from which  
13                   the appeal is taken or after the abatement application is deemed denied, in  
14                   accordance with Rule 80B of the Maine Rules of Civil Procedure.

15           The State Board of Property Tax Review or Superior Court, as the case may be, shall  
16           conduct a de novo hearing and make a de novo determination of the merits of the  
17           case. If the board or Superior Court determines that the applicant is over-assessed, it  
18           shall grant such reasonable abatement as the board or Superior Court thinks proper.

19           **Sec. 10. 36 MRSA §843, sub-§2**, as amended by PL 2001, c. 396, §17, is further  
20 amended to read:

21           **2. Primary assessing areas.** ~~If~~ Except as provided in subsection 1-A, if a primary  
22 assessing area has adopted a board of assessment review and the assessors or municipal  
23 officers refuse to make the abatement asked for, the applicant may apply in writing to the  
24 board of assessment review within 60 days after notice of the decision from which the  
25 appeal is being taken or after the application is deemed to have been denied, and if the  
26 board thinks the applicant is over-assessed, the applicant is granted such reasonable  
27 abatement as the board thinks proper. ~~Except with regard to nonresidential property or~~  
28 ~~properties with an equalized municipal valuation of \$1,000,000 or greater, either~~  
29 ~~separately or in the aggregate, either~~ Either party may appeal the decision of the board of  
30 assessment review directly to the Superior Court, in accordance with the Maine Rules of  
31 Civil Procedure, Rule 80B. If the board of assessment review fails to give written notice  
32 of its decision within 60 days of the date the application was filed, unless the applicant  
33 agrees in writing to further delay, the application is deemed denied and the applicant may  
34 appeal to the Superior Court as if there had been a written denial.

35           **Sec. 11. 36 MRSA §844, sub-§2**, as amended by PL 2011, c. 548, §13, is  
36 repealed and the following enacted in its place:

37           **2. Nonresidential property of \$1,000,000 or greater.** Notwithstanding subsection  
38 1, the applicant may appeal the decision of the assessors or the municipal officers on a  
39 request for abatement with respect to nonresidential property or properties having an  
40 equalized municipal valuation of \$1,000,000 or greater, either separately or in the  
41 aggregate, to:

