

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2251

H.P. 1445

House of Representatives, March 5, 2024

An Act to Amend the Mining Excise Tax Laws

Reported by Representative PERRY of Bangor for the Joint Standing Committee on Taxation pursuant to Resolve 2023, chapter 83, section 1.

Reference to the Committee on Taxation suggested and ordered printed pursuant to Joint Rule 218.

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

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 1 MRSA §2601, sub-§4**, as enacted by PL 1981, c. 711, §1, is repealed.

3 **Sec. 2. 14 MRSA §6662, sub-§1, ¶C**, as enacted by PL 1983, c. 189, is amended
4 by amending subparagraph (2) to read:

5 (2) Payment of ~~any the~~ excise tax under Title 36, ~~sections 2851 to 2865~~ section
6 2856-A;

7 **Sec. 3. 36 MRSA §271, sub-§2, ¶A**, as amended by PL 2019, c. 401, Pt. A, §4, is
8 further amended by repealing subparagraph (6).

9 **Sec. 4. 36 MRSA §271, sub-§10, ¶A**, as enacted by PL 2009, c. 571, Pt. WWW,
10 §7, is amended to read:

11 A. The filing fee for a petition for an appeal of current use valuation under the tree
12 growth tax law, chapter 105, subchapter 2-A, the farm and open space tax law, chapter
13 105, subchapter 10, or the working waterfront land law, chapter 105, subchapter 10-A
14 ~~or a petition for an appeal relating to section 2865~~ is \$75.

15 **Sec. 5. 36 MRSA §1760, sub-§115** is enacted to read:

16 **115. Products used in commercial mining.** Sales to a mining company for use in
17 mining in a mining area. As used in this subsection, "mining" and "mining company" have
18 the same meanings as in section 2855 and "mining area" has the same meaning as in Title
19 38, section 490-MM, subsection 12.

20 **Sec. 6. 36 MRSA §2854**, as enacted by PL 1981, c. 711, §10, is amended to read:

21 **§2854. Excise tax in lieu of property taxes**

22 **1. Annual excise tax.** A mining company shall pay to the State Tax Assessor, for the
23 use set forth in this chapter, an annual excise tax for the privilege of conducting mining
24 within the State.

25 ~~**2. Property tax exemption.** The excise tax imposed by this chapter shall be in lieu~~
26 ~~of all property taxes on or with respect to mining property, except for the real property~~
27 ~~taxes on the following:~~

28 ~~A. Buildings, excluding fixtures and equipment; and~~

29 ~~B. Land, excluding the value of minerals or mineral rights.~~

30 **Sec. 7. 36 MRSA §2855, sub-§2**, as enacted by PL 1981, c. 711, §10, is repealed.

31 **Sec. 8. 36 MRSA §2855, sub-§3**, as enacted by PL 1981, c. 711, §10, is repealed.

32 **Sec. 9. 36 MRSA §2855, sub-§4**, as enacted by PL 1981, c. 711, §10, is repealed.

33 **Sec. 10. 36 MRSA §2855, sub-§5**, as enacted by PL 1981, c. 711, §10, is amended
34 to read:

35 **5. Gross proceeds.** "Gross proceeds" means a mining company's federal gross income
36 from mining with respect to a mine site mining, as defined in Section 613 of the ~~code~~ Code,
37 in the State.

38 **Sec. 11. 36 MRSA §2855, sub-§6**, as enacted by PL 1981, c. 711, §10, is repealed.

1 **Sec. 12. 36 MRSA §2855, sub-§7**, as enacted by PL 1981, c. 711, §10, is repealed.

2 **Sec. 13. 36 MRSA §2855, sub-§9**, as enacted by PL 1981, c. 711, §10, is amended
3 to read:

4 **9. Minerals.** "Minerals" means all ~~naturally occurring~~ naturally occurring metallic
5 minerals as defined in Title 38, section 490-MM, subsection 8.

6 **Sec. 14. 36 MRSA §2855, sub-§10**, as enacted by PL 1981, c. 711, §10, is repealed
7 and the following enacted in its place:

8 **10. Mining.** "Mining" has the same meaning as in Title 38, section 490-MM,
9 subsection 11, except that activity described in Title 38, section 490-MM, subsection 11,
10 paragraph D is mining regardless of any exclusion by the Department of Environmental
11 Protection pursuant to Title 38, section 490-NN, subsection 4.

12 **Sec. 15. 36 MRSA §2855, sub-§12**, as amended by PL 1983, c. 776, §5, is repealed.

13 **Sec. 16. 36 MRSA §2855, sub-§13**, as enacted by PL 1981, c. 711, §10, is repealed.

14 **Sec. 17. 36 MRSA §2855, sub-§14**, as amended by PL 1993, c. 395, §18, is
15 repealed.

16 **Sec. 18. 36 MRSA §2855, sub-§16**, as enacted by PL 1981, c. 711, §10, is repealed.

17 **Sec. 19. 36 MRSA §2855, sub-§17**, as enacted by PL 1981, c. 711, §10, is repealed.

18 **Sec. 20. 36 MRSA §2856**, as corrected by RR 2013, c. 2, §45, is repealed and the
19 following enacted in its place:

20 **§2856. Amount of annual excise tax**

21 The amount of the annual excise tax on a mining company is the mining company's
22 gross proceeds multiplied by 0.35.

23 **Sec. 21. 36 MRSA §2857**, as enacted by PL 1981, c. 711, §10, is amended to read:

24 **§2857. Returns**

25 **1. Annual return.** A mining company shall file, on or before the date the mining
26 company's state income tax return is due to be filed, an annual return on a form specified
27 by the State Tax Assessor for each tax year.

28 **2. Form and contents.** The return ~~shall~~ must indicate:

29 A. The tax due;

30 B. The estimated tax payments made; and

31 C. ~~Credits provided under section 2858; and~~

32 D. Information relating to ~~the value of facilities and equipment~~, gross proceeds, ~~net~~
33 ~~proceeds~~ or other relevant information as the State Tax Assessor may ~~by rule~~ require.

34 **3. Payments.** A mining company shall pay the tax due, less estimated tax payments
35 ~~and credits~~, at the time its annual return is due without extensions.

36 **4. Extensions.** The State Tax Assessor may grant a reasonable extension of time for
37 filing a return, declaration, statement or other document or payment of tax or estimated tax

1 required by this chapter on such terms and conditions as ~~he~~ the State Tax Assessor may
2 require. The extension may not exceed 8 months.

3 **5. Computation.** ~~In computing a mining company's tax, gross proceeds and net~~
4 ~~proceeds shall be computed as if each mine site were a separate taxpayer.~~ The State Tax
5 Assessor may distribute, apportion or allocate on a reasonable basis gross proceeds,
6 deductions, credits or allowances between or among mining companies ~~or mine sites~~, if
7 such distribution, apportionment or allocation is necessary to prevent evasion of taxes
8 imposed by this chapter, or to reflect clearly the gross ~~or net~~ proceeds of any mining
9 company ~~or mine site~~.

10 **Sec. 22. 36 MRSA §2858**, as amended by PL 1987, c. 772, §26, is repealed.

11 **Sec. 23. 36 MRSA §2861**, as amended by PL 2011, c. 653, §4 and affected by §33
12 and amended by c. 682, §38, is repealed.

13 **Sec. 24. 36 MRSA §2862**, as amended by PL 2011, c. 653, §5 and affected by §33,
14 is repealed.

15 **Sec. 25. 36 MRSA §2862-A** is enacted to read:

16 **§2862-A. Distribution of revenues**

17 Excise tax revenues must be deposited in the Mining Excise Tax Fund established in
18 section 2866.

19 **Sec. 26. 36 MRSA §2863**, as amended by PL 2017, c. 211, Pt. E, §7, is repealed.

20 **Sec. 27. 36 MRSA §2865**, as amended by PL 2007, c. 627, §76, is repealed.

21 **Sec. 28. 36 MRSA §2866**, as amended by PL 2011, c. 653, §6 and affected by §33
22 and amended by c. 682, §38, is further amended to read:

23 **§2866. Mining Oversight Excise Tax Fund**

24 **1. Creation of fund.** ~~The Mining Oversight Excise Tax Fund, referred to in this~~
25 ~~section as "the fund," is established as a nonlapsing fund administered by the Mining Excise~~
26 ~~Tax Trust Fund Board of Trustees, referred to in this section as "the board." The board~~
27 ~~shall oversee and authorize expenditures from the fund.~~

28 **2. Investment.** The Treasurer of State shall invest the money in the fund as authorized
29 by Title 5, section 138.

30 **4. Uses of fund.** ~~Money from the fund may be used only to fund oversight of mining~~
31 ~~activity as provided in the mining rules adopted by the Department of Environmental~~
32 ~~Protection under the Maine Metallic Mineral Mining Act, and expenses for site oversight.~~
33 ~~Expenses for site oversight include, but are not limited to, expenses of the department or~~
34 ~~the department's agents or contractors related to site oversight, including costs of personnel~~
35 ~~and administrative costs and expenses necessary to administer, review and monitor~~
36 ~~corrective action.~~

37 **5. Uses for fund.** Beginning in 2025, the Governor shall propose uses for the fund,
38 consistent with section 2853, as part of the biennial budget.

1 **SUMMARY**

2 This bill makes changes to the mining excise tax as recommended by the Department
3 of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax
4 Policy, as required by Resolve 2023, chapter 83, section 1 including providing a sales tax
5 exemption for sales to a mining company for use in mining. The bill also:

6 1. Simplifies the excise tax imposed on a mining company by establishing a formula
7 of the gross proceeds of that mining company multiplied by 0.35 and eliminating credits
8 for payment of certain property taxes and prepayment of taxes;

9 2. Renames the Mining Oversight Fund the Mining Excise Tax Fund and simplifies the
10 distribution of excise tax revenues by requiring all revenue to be deposited in the Mining
11 Excise Tax Fund, instead of being split between the General Fund, the Mining Excise Tax
12 Trust Fund and the Mining Impact Assistance Fund;

13 3. Eliminates the Mining Impact Assistance Fund, which is used to provide grants to
14 municipalities, counties and the unorganized territory to offset the loss of property tax
15 revenue and to provide necessary new or additional public facilities and services related to
16 mining; and

17 4. Requires the Governor to propose uses for the Mining Excise Tax Fund as part of
18 the biennial budget.