

# MAINE STATE LEGISLATURE

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# SEVENTY-FOURTH LEGISLATURE

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SENATE.

No. 16

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND NINE.

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AN ACT for the Assessment and Taxation of Certain Public  
Service Companies.

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*Be it enacted by the Senate and House of Representatives in  
Legislature assembled, as follows:*

Section 1. The board of railroad commissioners, created  
2 under the laws of this state, shall constitute a state board for  
3 the assessment of excise taxes upon every corporation, per-  
4 son or association operating any railroad or street railroad in  
5 the state under lease or otherwise, or owning or operating  
6 palace or other cars for which extra compensation is charged  
7 for riding therein over any of the railroads of the state or  
8 operating in whole or in part a telephone or telegraph line  
9 within the state for tolls, or other compensation, or doing

10 express business on any railroad, steamboat or vessel in the  
11 state.

Sect. 2. The clerk of the board of railroad commissioners  
2 shall be clerk of the board for the assessment of the corpora-  
3 tions, persons, and associations enumerated in section one of  
4 this act, and shall keep a record of all its proceedings in addi-  
5 tion to such other duties as may be required of him by said  
6 board. In addition to the clerk, the board may with the con-  
7 sent of the governor and council employ such clerical and  
8 other assistance as may be necessary to perform the duties  
9 imposed upon it by this act, provided that the compensation  
10 paid for such assistance shall not in any one year exceed  
11 dollars. The compensation of such clerk and  
12 other assistance, and all other necessary expenses incurred in  
13 carrying out the provisions of this act, shall be allowed by the  
14 governor and council on properly itemized accounts.

Sect. 3. Said board shall have access to all books, papers,  
2 documents, statements, and accounts, on file or of record in  
3 any of the departments of state or in counties or municipali-  
4 ties. It shall have the right to subpœna witnesses, upon a  
5 subpœna signed by the chairman of said board and attested  
6 by the clerk thereof, delivered to such witnesses, which sub-  
7 pœna may be served by any person authorized to serve sub-  
8 pœnas from the supreme judicial court. In case of failure  
9 to comply with any order of the board on the part of any per-  
10 son or persons, or on the refusal of any witness to testify on  
11 any matter regarding which he may lawfully be interrogated

12 before the board, the supreme judicial court, or any judge  
13 thereof, on application of the attorney general, made at the  
14 written request of the board, may compel obedience by attach-  
15 ment proceedings for contempt, as in the case of disobedience  
16 of the requirement of a subpoena issued from such court or a  
17 refusal to testify therein. Officers who serve summonses or  
18 subpoenas, and witnesses attending when summoned, shall  
19 receive like compensation as officers and witnesses in the su-  
20 preme judicial court, such compensation to be allowed on  
21 properly itemized accounts by the governor and council.  
22 Said board may examine witnesses under oath, the oath to be  
23 administered by any member of the board, or by the clerk  
24 thereof. Said board shall also have the right to inspect and  
25 examine the books, papers, or accounts of any corporation,  
26 person or association enumerated in section one of this act,  
27 and if such corporation, person or association refuses to per-  
28 mit such inspection or examination, or refuses or neglects to  
29 make returns, or refuses or neglects to appear before said  
30 board in response to its subpoena, or makes returns which the  
31 president, clerk, treasurer, or other person certifying to such  
32 returns knows to be false, such corporation, person, or asso-  
33 ciation forfeits not less than one thousand nor more than ten  
34 thousand dollars, to be recovered by indictment, or by an ac-  
35 tion of debt in any county in which the said corporation, per-  
36 son or association operates. The board in any matter ma-  
37 terial to the valuation, assessment or taxation of such cor-  
38 porations, persons, or associations as are included in this act

39 may cause the deposition of witnesses resident without the  
40 state or absent therefrom to be taken, upon notice to the cor-  
41 poration, person or association interested, in like manner as  
42 the depositions of witnesses are taken in civil actions pending  
43 in the supreme judicial court.

Sect. 4. It shall be the duty of said board for the purpose  
2 of ascertaining the amount of the annual excise tax for the  
3 privilege of exercising their franchises and the franchises of  
4 their leased companies in the state, to make an annual valua-  
5 tion of the property within this state of every corporation,  
6 person or association, enumerated in section one of this act.

Sect. 5. Every corporation, person, or association, enum-  
2 erated in section one of this act, shall, by September first,  
3 make an annual return to the said board, verified by the oath  
4 of its treasurer, upon blanks to be furnished by said board.  
5 In the case of all such corporations, persons, or associations,  
6 the said return shall contain a statement of the name of the  
7 company; the nature of the company and under the laws of  
8 what state or country it was organized; the location of its  
9 principal office; the name and post-office address of the pres-  
10 ident, secretary, auditor, treasurer and superintendent or gen-  
11 eral manager; the name and post-office address of the chief  
12 officer or managing agent of the company in the state; the  
13 number of shares of capital stock both authorized and issued;  
14 the total amount of the bonded indebtedness on the thirtieth  
15 of June in the year in which the report is made; the par  
16 value and market value, or if there be no market value, the

17 actual value, of the bonds and shares of stock on the thirtieth  
18 of June of the year in which the report is made ; the average  
19 market value of such bonds and shares during the year end-  
20 ing on such thirtieth of June ; a detailed statement of the real  
21 estate owned by the company in the State, where situated, and  
22 the value thereof ; a detailed statement of the personal prop-  
23 erty, including securities and money at interest, owned by the  
24 company in the State on the thirtieth day of June in the year  
25 in which the report is made, where situated, and the value  
26 thereof ; the total value of the real estate and of the personal  
27 estate of the company, situated outside of the State ; the whole  
28 length of the lines and the length of so much of the lines as  
29 are within the state, such length to include what said com-  
30 pany controls as owner, lessee, or otherwise ; the gross and  
31 net receipts of such company over its whole extent ; the date  
32 and amount of dividends and interest paid during the year  
33 ending on such thirtieth of June ; and such other facts and  
34 information as the said board may require.

Sect. 6. In addition to the information required by section  
2 five, every corporation, person or association enumerated in  
3 section one of this act shall if the said board so requires fur-  
4 nish the board with a copy of any return for the same year  
5 which such corporation, person or association has furnished  
6 the Interstate Commerce Commission of the United States.

Sect. 7. In addition to the information required by the  
2 previous sections, every corporation, person or association,  
3 doing express business on any railroad, steamboat or vessel

4 in the state, shall make a return of the whole length and  
5 names of railroad lines and water and stage routes over which  
6 it did business, in such detail as said board may require, and  
7 separately, in detail, the portions of such lines and routes  
8 within this state.

Sect. 8. In addition to the information required by section  
2 five and six, every corporation, person or association, owning  
3 or operating palace or other cars for which extra compensa-  
4 tion is charged for riding therein over any of the railroads of  
5 the state shall make a return for the year ending on such  
6 thirtieth of June, of the total length of the main lines of all  
7 the railroad companies over which said cars are run, of the  
8 total length of so much of the main line of the railroad com-  
9 panies over which said cars are run as is outside of the State,  
10 and of the average number and value of such cars used within  
11 the State, and in case the said board shall require it, such  
12 statement shall show the number of miles of each or any par-  
13 ticular railroad system or division within this state in detail.

Sect. 9. Subsequent to the filing of the reports required in  
2 the preceding sections, and prior to the first day of Novem-  
3 ber in each year, the said board shall according to their best  
4 knowledge and judgment ascertain and determine the true  
5 cash value of the property within the state of each corpora-  
6 tion, person or association enumerated in section one of this  
7 act. Every such corporation, person or association shall be  
8 entitled on its own motion to a preliminary hearing and to  
9 present evidence before such board at any time on or between

10 the first and fifteenth days of September, relating to the val-  
11 uation of its property. On request in writing for such hear-  
12 ing, the board shall appoint a time and place therefor within  
13 the time aforesaid; the same to be conducted in such manner  
14 as the board shall direct. Such preliminary hearing shall not  
15 impair or affect the right to the further hearing provided for  
16 in section ten. The board may if deemed necessary, for the  
17 purpose of determining the true cash value of the property  
18 of each such corporation, person or association, view and in-  
19 spect the property of such corporation, person or association,  
20 and shall consider the reports filed in compliance with this  
21 act, the reports and returns filed in the office of any officer of  
22 this state, and such other evidence or information as may  
23 have been taken or obtained bearing upon the true cash value  
24 of the property of the corporation, person or association to  
25 be assessed.

In so far as the other evidence and information adduced be-  
27 fore said board does not make it appear to the members of  
28 said board to be improper or unjust to do so, said board shall,  
29 in determining the true cash value of the entire property of  
30 any corporation, person or association enumerated in section  
31 one of this act takes as a basis therefor, the aggregate market  
32 or true value of all its shares of stock, adding thereto the ag-  
33 gregate market or true value of all indebtedness secured by  
34 any mortgage, lien or other charge upon its property or as-  
35 sets, and the sum so produced shall be deemed and treated as  
36 prima facie the true value of said entire property. And



37 where the corporation, person or association does business  
38 or has property, both within this state and outside of it, in  
39 determining the true value of its property within this state  
40 said board shall next ascertain from said reports and evi-  
41 dence, or otherwise, the true value, in the locality where the  
42 same is situated, of each such several pieces of real estate sit-  
43 uated outside of this state, and of its other properties, if any,  
44 outside thereof, and not specifically used in the business of  
45 said corporation, person or association, and the aggregate of  
46 said value shall be deducted from the gross value of the prop-  
47 erty, as above ascertained; and the result of said deduction  
48 and the sum or value thereby obtained shall be deemed and  
49 treated as the true value of all property of such corporation,  
50 person or association in actual use in its business.

Said board shall then determine the true value of the prop-  
52 erty of such corporation, person, or association within the  
53 State, using as a basis and being guided so far as it shall not  
54 believe it unjust to do so, by the proportion which it finds to  
55 exist between the total lines or total receipts within this state  
56 and outside of it, and lines controlled or operated, or receipts  
57 obtained, entirely within this state, so that there shall be ap-  
58 portioned to this state, as the true value of the property with-  
59 in its borders of each corporation, person, or association doing  
60 business within and outside of its limits, such proportion of  
61 the true value of the entire property of such corporation, per-  
62 son or association which is specifically used in its business, as  
63 is borne by its total lines or total receipts within this State

64 compared with the total lines or total receipts both within and  
65 outside of this State.

From the entire value of the property within this state, when  
67 determined as directed by this act, said board shall deduct  
68 the assessed value of the tangible property of such corpora-  
69 tion, person, or association, taxed under the provisions of  
70 section four of chapter nine of the revised statutes, or taxed  
71 as provided in section seventeen of this act, and the residue  
72 and remainder of value shall be by said board fixed and de-  
73 clared as the true cash value of the property within the state  
74 of each corporation, person or association enumerated in sec-  
75 tion one of this act.

In determining the value of the aforesaid properties, said  
77 board shall have the right, and it shall be its duty to make use  
78 of and consider all evidence which may be put before it and  
79 all material facts at its command, and if it shall believe that  
80 some method of calculation other than that specifically pre-  
81 scribed in this act is necessary in order to produce just and  
82 lawful results, said board shall follow that method of calcu-  
83 lation which it believes the best under all circumstances, to  
84 bring about a just, fair, equitable and lawful valuation.

Sect. 10. Immediately upon the completion of the proceed-  
2 ings described in section nine of this act, the said board shall  
3 notify each corporation, person and association of the valua-  
4 tion of its property as thus fixed and declared. On the sec-  
5 ond Tuesday in November the board shall meet at the capi-  
6 tol and continue in session from day to day, unless adjourned

7 for a longer time, for such period as may be necessary, not  
8 later than the fifteenth day of December following, for the  
9 purpose of reviewing such valuations. Any corporation,  
10 person or association interested shall have the right to appear  
11 and be heard as to the value of its property and the tax to be  
12 assessed, and the board may on such application or of its own  
13 motion correct the valuation as previously determined by said  
14 board, in such manner as will in its judgment make the val-  
15 uation thereof at the full cash value. The value of the prop-  
16 erty of any such corporation, person or association as fixed  
17 and declared by the board shall not be increased without  
18 notifying the company by registered letter that such increase  
19 is contemplated, and appointing the time for a hearing in re-  
20 lation thereto. The attorney-general shall attend at such  
21 hearings and represent the interest of the state. In case it  
22 shall appear or be made to appear to the members of said  
23 board, acting in review under the provisions of this section,  
24 that the property of any corporation, person or association  
25 subject to the provisions of this act shall have been omitted  
26 from valuation by the board, it shall thereupon make the val-  
27 uation thereof as required in sections nine and ten of this  
28 act: Provided, that any such valuation shall take place in  
29 time to allow five full days for the review of the same before  
30 the expiration of the time herein provided for the completion  
31 of the review. After the said board shall have completed the  
32 review as herein provided, they shall enter opposite the name  
33 of each corporation, person or association, enumerated in sec-

34 tion one of this act, on a list prepared for the purpose, the  
35 true cash value of the property as ascertained and determined  
36 by them, and such valuation shall be the final valuation upon  
37 which the tax upon said property shall be computed as herein  
38 provided. A majority of said board shall certify under their  
39 hands officially on said list to the effect that the same has  
40 been acted upon and reviewed in accordance with law, which  
41 certificate shall state all the alterations, changes, corrections  
42 and additions made in or to the valuation of the property ap-  
43 pearing on said list. The said board shall make an annual  
44 report of its proceedings under this act, and shall therein  
45 specify in such detail as is practicable, as to the methods used  
46 in ascertaining and determining the valuation of each corpora-  
47 tion, person or association enumerated in section one of this  
48 act.

Sect. 11. The annual excise tax for the privilege of exer-  
2 cising their franchises and the franchises of their leased com-  
3 panies in the State, shall be assessed by said board for the use  
4 of the state at the rate of                    upon the final valuation,  
5 as determined by said board of the property of each corpo-  
6 ration, person or association enumerated in section one of this  
7 act. The amount of tax to be paid by such corporations, per-  
8 sons, or associations shall be entered by said board upon the  
9 assessment list opposite their respective names. The said  
10 list shall thereupon forthwith be delivered to the state treas-  
11 urer, who shall immediately notify by registered mail the sev-  
12 eral corporations, persons and associations, taxed therein, to

13 pay the taxes placed thereon, to the state treasurer, as fol-  
14 lows: one-half on the first day of July next after the levy  
15 is made, and the other half on the first day of October follow-  
16 ing. Said tax shall be a lien on the entire property of the  
17 corporation, person or association from which it is due, and  
18 shall take precedence of all other liens and incumbrances.

Sect. 12. If any corporation, person or association enumer-  
2 ated in section one of this act fails to pay the taxes imposed  
3 by this act, the treasurer of state shall forthwith commence  
4 an action of debt, in the name of the state, for the recovery of  
5 the same with interest at the rate of ten per cent a year.

Sect. 13. If any tax levied under the provisions of this act  
2 shall be adjudged illegal and non-enforcible, or shall be set  
3 aside by any court of competent jurisdiction, it shall be the  
4 duty of said board, whether any part of the taxes assessed  
5 have been paid or not, to forthwith reascertain and redeter-  
6 mine the value of the property of the corporations, persons,  
7 or associations taxed; and when such reascertainment and  
8 redetermination has been made, to make a duplicate of the  
9 original assessment list and to enter the taxes thereon accord-  
10 ing to such reassessment and when such duplicate list has been  
11 made and taxes entered thereon in the manner provided in  
12 this section, it shall be of the same force and effect as an orig-  
13 inal assessment made in accordance with law. All proceed-  
14 ings for such reassessment and for the entering and collec-  
15 tion of taxes upon such duplicate assessment list shall be  
16 conducted as near as may be in the method originally pro-

17 vided. The board shall appoint the time and place for the  
18 hearings or proceedings for the reassessment, and give five  
19 days' notice thereof by mail to the corporations, persons or  
20 associations taxed. The power to reassess such corporations,  
21 persons or associations may be exercised as aforesaid as often  
22 as may be necessary until the amount of taxes legally due  
23 from any such corporation, person or association for any year  
24 under the provisions of this act has been finally and definitely  
25 determined. Whenever any sum or part thereof, assessed  
26 under this act, has been paid and not refunded, the pay-  
27 ment so made shall if the original assessment be set aside be  
28 applied upon any reassessment of the corporation, person or  
29 association making such payment, and the reassessment to  
30 that extent shall be deemed to be satisfied.

Sect. 14. No tax assessed by the board shall be held invalid  
2 on account of any proceeding not having been had within the  
3 time required by law, or on account of the property having  
4 been valued without the name of the owner, or in the name  
5 of any corporation, person or association other than the own-  
6 er, or on account of any other irregularity, informality or  
7 omission, if the method and manner of determining the  
8 amount of such assessment is in accordance with the consti-  
9 tution and statutes of the state. The proceedings of the  
10 board shall be presumed to be regular and the determination  
11 of the board shall not be impaired, vitiated or set aside upon  
12 any grounds not affecting the substantial justice of the tax.  
13 The provisions in this act prescribing a date or period at or

14 within which an act shall be performed or a determination  
15 shall be made by the board shall be deemed directory only,  
16 and no failure to perform any such act or make such deter-  
17 mination at or within the time prescribed therefor shall affect  
18 the validity of such act or of any determination made by  
19 the board, unless it shall appear that substantial injustice has  
20 resulted therefrom.

Sect. 15. In any action, suit or proceeding brought by any  
2 corporation, person or association enumerated in section one  
3 of this act, in the supreme judicial court, to set aside, restrain,  
4 or postpone the payment or collection of any tax levied under  
5 the terms of this act, when it shall appear by the pleadings in  
6 the case or by the admission of the plaintiff that a certain por-  
7 tion of such tax is justly and equitably due and remains un-  
8 paid, the court may, upon motion, summarily and without  
9 delay, order the payment to the state treasurer of the portion  
10 thus appearing to be due.

Sect. 16. Any corporation, person or association assessed  
2 by the board under the authority of this act may within three  
3 months from the receipt of notice of any assessment made  
4 under this act appeal from the action of the said board in  
5 making such assessment to the supreme judicial court in and  
6 for Kennebec County, in term time or vacation, and said ap-  
7 peal shall be tried, heard and determined by the court with-  
8 out a jury in the manner and with the rights provided by law  
9 in other civil cases so heard. Said court may make such

10 orders and decrees as are now authorized by law in cases of  
11 appeal from the decision of local assessors.

Sect. 17. The tax provided for in this act is in lieu of all  
2 taxes upon the corporations, persons and associations enumer-  
3 ated in this act, their property, shares, and bonds; and so long  
4 as any such corporation, person or association shall pay all  
5 excise taxes required by this act, the individual share-holders  
6 and bondholders shall not be required to list its shares or  
7 bonds for taxation or to pay taxes upon such shares or bonds;  
8 provided however, that the buildings of every railroad corpo-  
9 ration or association, whether within or without the located  
10 right of way, and its lands and fixtures outside of its located  
11 right of way, are subject to taxation by the cities and towns  
12 in which the same are situated, as other property is taxed  
13 therein, and shall be regarded as non-resident land; and pro-  
14 vided further that the real estate of all other corporations,  
15 persons or associations enumerated in this act, and also the  
16 personal property other than such as is used in the conduct  
17 of their several businesses, shall be taxed in the municipality  
18 where the same is situated. The assessment of taxes on such  
19 real estate shall be legal, whether assessed as resident or non-  
20 resident property. In the case of telephone and telegraph  
21 companies the personal property used in the conduct of the  
22 business shall be held to include poles, wires, insulators, con-  
23 duits, office furniture, batteries, instruments, telegraphic and  
24 telephonic apparatus, telephones and transmitters used under  
25 lease or license or owned by such corporation, association or  
26 person.

Sect. 18. The term property as used in this act shall be  
2 deemed to include all property, real or personal, belonging to



3 the corporations, persons or associations, enumerated in this  
4 act, including the right of way, roadbed, stations, cars, roll-  
5 ing stock, tracks, vessels, wagons, horses, office furniture,  
6 poles, wires, conduits, switchboards, rights, franchises, good-  
7 will, and all other real and personal property, and including  
8 all title and interest in such property as owner, lessee or  
9 otherwise. The term railroad shall be held to include street  
10 railroads.

Sect. 19. Nothing contained in this act shall be deemed a  
2 waiver or shall affect the assessment or collection of excise  
3 or other taxes on the corporations, persons and associations  
4 enumerated herein for the years 1908 and 1909. Nor shall  
5 it defeat, remit, or affect any suit pending or any penalty or  
6 forfeiture incurred under any law of this state prior to the  
7 going into effect of this act.

Sect. 20. Section thirty of chapter eight of the revised  
2 statutes, and all acts and parts of acts inconsistent herewith  
3 are hereby repealed, provided, however, that nothing in this  
4 act shall be so construed as to alter or affect sections fifty-  
5 four and sixty-five of chapter eight of the revised statutes.

Sect. 21. This act shall take effect when approved, pro-  
2 vided, however, that the first returns under the provisions of  
3 the act shall be made by September 1, 1910, and the first  
4 taxes assessed hereunder shall be for the year ending June  
5 30, 1910.