

MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 654

H. P. 1470

House of Representatives, February 16, 1937.

Referred to Committee on Appropriations and Financial Affairs and Taxation jointly. Sent up for concurrence and 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Flanders of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Creating a Department of Taxation.

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

Sec. 1. Creation of the department of taxation. Chapter 216 of the public laws of 1931 is hereby amended by the insertion of a new article, to be designated Article II-A, as follows:

ARTICLE II-A

Department of Taxation

‘Sec. 1. Department of taxation. A department of taxation is hereby created, at the head of which shall be the state tax commissioner.’

‘Sec. 2. Appointment, salary and qualifications. The state tax commissioner shall be appointed by the governor, with the advice and consent of the council, for a term of 6 years, and shall be removable by the governor for cause. He shall receive a salary of \$—, payable as the salaries of other state officers are paid.

‘The state tax commissioner shall be a person known to possess knowledge of and training in the subject of taxation and tax laws and skilled in matters pertaining thereto. He shall devote his entire time to the duties of his office and shall not hold any position of trust or profit, engage in

any occupation interfering with or inconsistent with his duties, or serve on or under any committee or any political party. He shall maintain an office in Augusta which shall be open for the transaction of business every secular day and he may hold sessions at any place other than the capitol when deemed necessary in the performance of his duties. Before entering upon his duties the state tax commissioner shall execute and file an official bond in the sum of \$50,000, approved as to form and sufficiency by the attorney general.'

'Sec. 3. Appointment and removal of assistants. The tax commissioner may appoint and remove tax assistants and such other assistants and employees as may be necessary for the exercise of the powers and the proper discharge of the duties imposed upon him by this act. He shall prescribe the duties and fix the compensation of each such appointee and employee, but the total compensation shall not for any year exceed the aggregate amount appropriated by the legislature for that purpose. He may transfer officers or employees from their positions to other positions, or abolish or consolidate such positions.'

'Sec. 4. Expenses. The reasonable and necessary traveling and other expenses of the tax commissioner and of his officers or employees while actually engaged in the performance of their duties outside of the city of Augusta, shall be paid by the treasurer of state upon the order of the controller upon vouchers approved by the tax commissioner.'

'Sec. 5. Powers and duties of the state tax commissioner. The state tax commissioner shall have power and it shall be his duty:

First, to investigate and examine, from time to time, as to the methods of assessment within the state, and confer with, advise, assist and supervise the assessors and other officials charged by the statutes of this state with duties relating to the assessment and equalization of property for taxation;

Second, to furnish local assessors with such information and instructions as may be necessary or proper to aid them in making assessments. Assessors and other officials shall comply with these instructions. In case of neglect or refusal to comply, the tax commissioner may suspend the assessor or other official and appoint a substitute.

Third, to have general supervision of the assessment of property throughout the state, make investigations thereof, and of the general system of state and local taxation from time to time.

Fourth, to order reassessment of property in any county, city or town when found necessary to secure a just and equitable assessment of all property in the said county, city or town.

Fifth, to make, or cause to be made, a reassessment, when he deems such action necessary in the interest of equitable taxation, of all property or of any class of property, in any county, city or town. The expense of such reassessment shall be shared equally by the state and the county, city or town affected thereby.

Sixth, to establish property assessment districts, and to appoint, remove, control and direct the supervisors of property assessment in each of the several districts.

Seventh, to make, in every even-numbered year, an equalization of the assessments of property among the several cities and towns.

Eighth, to prescribe the form of blanks, reports, abstracts and other records relating to the assessment of property for taxation, and furnish such forms to assessors and other officers at the expense of the state. Assessors and other officers shall use and follow the forms so prescribed and the tax commissioner shall have power to enforce their use.

Ninth, to prepare and issue instructions respecting the construction of tax maps for the several cities and towns, and to require that steps be taken by the proper officials of each city and town to provide such maps for the use of the assessors.

Tenth, to assess annually all property, real, personal and mixed, all gross receipts, capital stock and franchises, which the tax commissioner is, by the constitution and laws of this state, required to assess. He shall apportion to the several cities and towns the assessment or the valuation of any property as may be required by law to be so apportioned.

Eleventh, upon induction into office to assume all the duties and responsibilities of the present state assessor of taxation.

Twelfth, to hear appeals from the assessments which he shall fix on any property, real, personal or mixed, gross receipts, capital stock or franchises, and make final disposition thereof, subject to appeal for review before the superior court.

Thirteenth, to take testimony and proofs, under oath in real matters under jurisdiction of the department. Any deputy commissioner or other qualified employee or officer in the staff of the tax commissioner may be designated by him for that purpose.

Fourteenth, to require from all state and local officers such information as may be necessary for the proper discharge of his duties.

Fifteenth, to compile and publish statistics relating to state and local taxation and the assessments therefor.

Sixteenth, to inquire into the provisions of the tax laws of other states and jurisdictions; confer with tax commissioners of other states regarding the most effectual and equitable methods of assessment and taxation, and

particularly regarding the best methods of reaching all property for taxation, and avoiding conflicts and duplication of taxation of the same property, and the best methods for the administration of such other taxes as may fall within his jurisdiction, and recommend to the governor and legislature such measures as will promote uniformity of methods of assessment and harmony and cooperation among the different states and jurisdictions in matters of taxation.

Seventeenth, to conduct careful and thorough studies of the operation of the system of state and local taxation for the purpose of discovering its defects and inequalities. He shall publish reports of his findings and conclusions from time to time, and shall advise the governor and legislature regarding such remedial measures as in his judgment will best correct or eliminate such defects and inequalities, to the end that the burden of taxation shall fall equitably on all citizens.

Eighteenth, to prepare a biennial report to the governor and legislature and recommend such changes or amendments to the tax laws as he may deem advisable.

Nineteenth, to exercise such other powers and perform such other duties in the operation and administration of the tax laws as may be conferred upon him by law.'

'Sec. 6. Administer oaths and take testimony. The tax commissioner, his secretary, deputies or other officers or employees duly designated and authorized by him for that purpose shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the powers or duties granted under this act. The tax commissioner shall have power to subpoena and require the attendance of witnesses and the production of books, papers, documents and records pertinent to the investigations and inquiries which he is authorized to conduct, and to examine them in relation to any matter which he has to investigate, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or are excused from attendance. The tax commission shall have the same power to enforce his writs, processes and orders that the public utilities commission has under the provisions of chapter 62 of the revised statutes and amendments thereto including the power to punish for contempt.'

'Sec. 7. Official seal. The state tax commissioner shall have and use an official seal; and the records, proceedings and copies of all papers and documents in his possession and custody may be authenticated in the usual form, under such seal and the signature of the tax commissioner, the secretary or any deputy commissioner, and shall be received in evidence in

the same manner, and with like effect as deeds regularly acknowledged and proven.'

'Sec. 8. Conference of assessors. The tax commissioner may request the assessors of the several cities and towns to meet with him annually, at times and places designated by him, for the purpose of receiving advice, information and instructions with respect to the assessment of property. The traveling and other necessary expenses incurred by the assessors in attending such conferences shall be a charge against the city or town which they represent.'

'Sec. 9. Official visits. The tax commissioner shall cause an official visit to be made in every city and town at least once in every year, to inquire into the methods of assessment and taxation, and to ascertain whether the assessors faithfully discharge their duties under the law.'

'Sec. 10. Equalization and state assessment. In each even-numbered year the state tax commissioner shall cause to be made a state valuation of all property subject to taxation for state purposes. To this end he shall examine and revise the valuations of real and personal property of the several cities and towns. He may increase or diminish the aggregate valuation of any class of real or personal property in any county, city or town by adding or deducting such sum as in his opinion may be just and necessary to produce a just relation among the valuations of the several classes of property in the state. The determination of the tax commissioner as to the equalized valuation of the real and personal property of each county, city and town shall be final and conclusive. He shall also compute a ratio of the assessed to the true value of the real and personal property in each city and town.'

'Sec. 11. Review of assessments. The tax commissioner shall notify each taxpayer whose property, gross receipts, capital stock or franchise he is required by law to assess of the assessment placed on his property, gross receipts, capital stock or franchise, as the case may be, and each such taxpayer shall have the right to ask for a hearing upon and review of said assessments. The tax commissioner shall hear such appeals, giving not less than 10 days notice of the time and place where they shall be heard, and he shall after review, determine finally the assessment to be made on such property, gross receipts, capital stock or franchise. Such determination shall be conclusive in any subsequent proceeding. Appeals for review must be filed with the tax commissioner within 60 days from the date of the notice of assessment.'

‘Sec. 12. Review of individual assessments. Any taxpayer, individual or corporate, may appeal from the assessment of his or its property as fixed by the assessor, to the tax commissioner. He shall investigate such complaints and make such order as appears to him just and reasonable. The assessor shall be notified of any change or correction thus made in the assessment of the property of any taxpayer, and upon receipt of such notice shall make the necessary adjustment in the assessment roll. No appeal against the assessment of a given year shall be entertained by the tax commissioner unless it be presented to him on or before.’

‘Sec. 13. Appeals; procedure before the tax commissioner. The tax commissioner may prepare a form of petition and notice of appeal from decisions of the assessors, and a like form of petition and notice of appeal from his own action in the assessments fixed on property, gross receipts, capital stock and franchises. He may also prepare rules and regulations in relation to bringing such appeals to hearing or trial before him. Such rules and regulations, and the procedure of conducting reviews of assessment on appeal shall be so devised as to promote the interests of an equitable assessment while relieving appellants of as much as may be of the expense and delay incident to such actions. The purpose of this provision is to secure equitable assessment and taxation by the speedy correction and adjustment of grievances, to the end that all assessments shall be just and reasonable, and the tax commissioner shall keep this purpose in view in preparing the forms and procedure to be observed.’

Sec. 2. Repeal of conflicting provisions. All acts or provisions of law which conflict with the provisions of this act are hereby repealed or amended to conform herewith.

Sec. 3. Validating provision. If any clause, sentence, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.