

MAINE STATE LEGISLATURE

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

Legislative Document

No. 953

H. P. 1371

House of Representatives, February 27, 1951

Referred to the Committee on Taxation. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Woodworth of Fairfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT to Increase the Taxing Powers of Municipalities.

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

R. S., c. 81, §§ 156 - 166, additional. Chapter 81 of the revised statutes is hereby amended by adding thereto 11 new sections to be numbered 156 to 166, inclusive, to read as follows:

‘Sec. 156. Delegation of taxing powers and restrictions thereon. In addition to the rights of tax already enjoyed, cities, towns and plantations may, in their discretion, by ordinance or resolution, for general revenue purposes, levy, assess and collect or provide for the levying, assessment and collection of such taxes on persons, transactions, occupations, privileges and subjects within the limits of such political subdivisions, as they shall determine, except that such local authorities shall not have authority by virtue of sections 156 to 166, inclusive,

I. to levy, assess and collect or provide for the levying, assessment and collection of any tax on a privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a state tax or license fee for revenue purpose; or

II. to levy, assess or collect a tax on the gross receipts from utility

service of any person or company whose rates and services are fixed and regulated by the public utilities commission or on any public utility services rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service; or

III. except on sales of admission to places of amusement or on sales or other transfers of title or possession of property, to levy, assess or collect a tax on the privilege of employing such tangible property as is now or does hereafter become subject to a state tax; or

IV. to levy, assess and collect a tax on goods and articles manufactured in such political subdivision or on the by-products of manufacture, or on minerals, timber, natural resources and farm products produced in such political subdivision or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources, or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or on any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products.

Sec. 157. Vacation of tax ordinances and resolution by state tax measures. If, subsequent to the passage of any ordinance or resolution under the authority of sections 156 to 166, inclusive, the legislature shall impose for revenue purposes a tax or license fee on any privilege, transaction, subject or occupation, or on personal property or on sales of admission to places of amusement or on sales or other transfers of title or possession of property taxed by any such political subdivision hereunder, the act of legislature imposing the state tax or license fee for revenue purposes thereon shall automatically vacate the ordinance or resolution passed under the authority of sections 156 to 166, inclusive, as to all taxes accruing subsequent to the end of the current fiscal year of such political subdivision. It is the intention of this section to confer upon such political subdivision the power to levy, assess and collect taxes upon any and all subjects of taxation, except as above restricted and limited, which the state has power to tax but which it does not tax or license for revenue purposes, subject only to the foregoing provision that any tax upon a subject which the state does hereafter tax or license for revenue purposes shall automatically terminate at the end of the current fiscal year of the political subdivision.

Sec. 158. Over-all limit of tax revenues. The aggregate amount of

taxes imposed by enactment of an ordinance or resolution by any political subdivision under this section and in effect during any fiscal year shall not exceed an amount equal to the product obtained by multiplying the total assessed valuation of real estate in such political subdivision and personal property as returned by local assessors at the time of said enactment by 15 mills.

Sec. 159. Reduction of rates where taxes exceed limitations; use of excess moneys. If, during any fiscal year, it shall appear that the aggregate revenues from taxes levied and collected under the authority of sections 156 to 166, inclusive, will materially exceed the limitations imposed by said sections, the municipality shall forthwith reduce the rate or rates of such tax or taxes to stay within such limitations as nearly as may be. Any one or more persons liable for the payment of taxes levied and collected under the authority of sections 156 to 166, inclusive, shall have the right to complain to the superior court of the county in an action of mandamus to compel compliance with the preceding provision of this section. Tax moneys levied and collected in any fiscal year, shall not be expended during such year, but shall be deposited in a separate account in the municipal treasury for expenditure in the following fiscal year. The amount so deposited shall be deducted from the property assessments before the property tax assessments are committed and before the overlay is computed and before the tax rate for the said following fiscal year is determined.

Sec. 160. Limitations or rates of specific taxes. No taxes shall be levied by any political subdivision on the following subjects exceeding the rates specified in this section:

I. Per capita, poll or other similar head taxes, \$10.

II. On each dollar of the whole volume of business transacted by wholesale dealers in goods, wares and merchandise, 1 mill; by retail dealers in goods, wares and merchandise and by proprietors of restaurants or other places where food, drink and refreshments are served, 2 mills. No such tax shall be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

III. On wages, salaries, commissions and other earned income of individuals, 1%.

IV. On retail sales involving the transfer of title or possession of tangible personal property, 2%.

V. On sales involving the transfer of title of real property, 1%.

VI. On admissions to places of amusement, athletic events and the like, 10%.

Sec. 161. Filing of certified copies of ordinances and resolutions. A certified copy of each ordinance or resolution imposing a tax under the authority of sections 156 to 166, inclusive, which is adopted by a political subdivision shall be filed with the secretary of state within 10 days after the ordinance is adopted.

Sec. 162. Advertisement of intention to adopt tax ordinance or resolution. Prior to the passage of any ordinance or the adoption of any resolution imposing a tax or license fee under the authority hereunder granted, such political subdivision shall give notice of the intention to pass such ordinance or adopt such resolution. Such notice shall be given in addition to all other notices required by law to be given and shall set forth the substantial nature of the tax or license fee to be imposed by the proposed ordinance or resolution, the reason which, in the judgment of the officials of the subdivision, necessitates the imposition of the tax, and the amount of revenue estimated to be derived from the tax. Publication of such notice shall be made by advertisement once a week for 3 weeks in a newspaper of general circulation within such political subdivision if there is such newspaper and, if there is not, then such publication shall be made in a newspaper of general circulation within the county in which the advertising political subdivision is located.

Sec. 163. Appeals by taxpayers. No tax levied by any political subdivision to which sections 156 to 166, inclusive, applies shall in any event go into effect until 30 days from the time of the adoption of the ordinance or resolution levying the tax. Within said 30 days, taxpayers of the political subdivision not less than 25 in number aggrieved by the ordinance or resolution shall have the right to appeal therefrom in term time or vacation to the superior court of the county upon giving bond with sufficient security in the amount of \$500, approved by the court, to prosecute the appeal with effect and for the payment of costs. The petition shall set forth the objections to the tax and the facts in support of such objections, and shall be accompanied by the affidavit of at least 5 of the petitioners that the averments of the petition are true and the petition is not filed for the purpose of delay.

No such appeal shall act as a supersedeas unless specifically allowed by the court to which the appeal is taken or a judge thereof.

Immediately upon the filing of any such petition, the petitioners shall serve a copy of the petition and any rule granted by the court upon any of the municipal officers, or upon the clerk of the municipality.

The court shall fix a day for a hearing not less than 7 days nor more than 20 days after the filing of the petition. Notice of the time of such hearing shall be given to all interested parties as the court shall direct. The court shall promptly hear and dispose of the appeal.

It shall be the duty of the court to declare the ordinance and the tax imposed thereby to be valid unless it concludes that the ordinance is unlawful or finds that the tax imposed is excessive or unreasonable; but the court shall not interfere with the reasonable discretion of the legislative body in selecting the subjects or fixing the rates of the tax. The court may declare invalid all or any portion of the ordinance or of the tax imposed or may reduce the rates of tax.

Any party to the proceedings shall have the right to appeal from the decision of the superior court to the supreme judicial court as in other cases, but such appeal shall be taken within 20 days from the time the decree of the court was entered and not thereafter. Any two or more parties may join in such appeal.

Sec. 164. Administrative personnel; joint agreements. Any such political subdivision is hereby authorized to provide by ordinance or resolution for the creation of such bureaus or the appointment and compensation of such officers, clerks, collectors and other assistants and employees, either under existing departments, or otherwise as may be deemed necessary, for the assessment and collection of taxes imposed under authority of sections 156 to 166, inclusive.

If no other bureau is made, the regularly chosen tax collector of the municipality shall collect all taxes assessed under the authority of sections 156 to 166, inclusive.

Any municipalities imposing taxes under authority of sections 156 to 166, inclusive, are authorized to make joint agreements for the collection of such taxes or any of them. The same person or agency may be employed by 2 or more political subdivisions to collect any taxes imposed by them under authority of sections 156 to 166, inclusive.

Sec. 165. Penalties. Any such political subdivision shall have power to prescribe and enforce reasonable penalties for the non-payment, within the time fixed for their payment, of taxes imposed under authority of sec-

tions 156 to 166, inclusive, and for the violations of the provisions of ordinances or resolutions passed under authority of sections 156 to 166, inclusive.

Sec. 166. Enforcement. The municipality or the collector may enforce payment of any tax levied under the authority of sections 156 to 166, inclusive, by bringing any action authorized for the collection of property taxes assessed by the municipality.'