

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 453-End

AND AT THE

**FIRST SPECIAL SESSION**  
September 6, 1983 to September 7, 1983  
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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in the preamble, this Act shall take effect when approved.

Effective June 30, 1983.

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## CHAPTER 556

H.P. 1342 - L.D. 1781

AN ACT to Amend the Forest Fire Control  
Laws and Change the Method of Funding Forest  
Fire Control Services.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the procedure established by this bill must begin this summer in order to provide sufficient revenues for continued state forest fire protection; and

Whereas, in the judgment of the Legislature these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §243, sub-§5, as amended by PL 1973, c. 537, §2, is repealed.

Sec. 2. 12 MRSA §679, as amended by PL 1973, c. 460, §17, is repealed.

Sec. 3. 12 MRSA §901, first ¶, as amended by PL 1975, c. 497, §3, is further amended to read:

All the lands in Townships 2, 3, 4, 5 and 6, Range 9 W.E.L.S. and in Townships 3, 4, 5 and 6, Range 10 W.E.L.S., ~~Piscataquis~~ Piscataquis County, and Township 6, Range 8 W.E.L.S., Penobscot County, that have been donated and conveyed to the State of Maine in trust by Percival Proctor Baxter and all lands in ~~said~~ the Townships 2, 3, 4, 5 and 6, Range 9 and in Townships 3, 4, 5 and 6, Range 10, and in Township 6, Range 8 and all lands in Piscataquis and Penobscot Counties that hereafter shall be donated and conveyed to the ~~said~~ State by ~~said~~ Percival Proctor Baxter in trust for state forest, public park

and public recreational purposes are named and shall hereafter be named "Baxter State Park" in honor of the donor, and the same hereafter shall forever be so designated on the official maps and records of the State. They shall be under the joint supervision and control of, and shall be administered by the Director of the Bureau of Forestry, the Commissioner of Inland Fisheries and Wildlife and the Attorney General, and the said commissioner, director and Attorney General shall have full power in the control and management of the same, under the title of Baxter State Park Authority. The authority shall make payments to the Bureau of Forestry in lieu of taxes on the basis of the state-wide annual per acre expenditures for forest fire protection for the last fiscal year for all land within the Baxter State Park area. The authority shall receive moneys available from trust funds established by the donor of the park and shall include fees collected, income from park trust funds invested by the Treasurer of State and other miscellaneous income derived from the park for maintenance and operation of the park.

Sec. 4. 12 MRSA c. 215, sub-c. II, as amended, is repealed.

Sec. 5. 12 MRSA c. 215, sub-c. X, as amended, is repealed.

Sec. 6. 12 MRSA §8902, first ¶, as enacted by PL 1979, c. 545, §3, is amended to read:

The director shall appoint a forest fire warden in each organized municipality within the State outside the limits of the Maine Forestry District for the control of forest fires. The municipal fire chief shall be appointed as forest fire warden if practicable and no other person shall may be appointed without the approval of the municipal officers. All appointed forest fire wardens shall serve at the pleasure of the director and shall be sworn to the faithful discharge of these duties and a certificate thereof shall be returned to the bureau. Whoever has been notified of this appointment shall file with the director his acceptance or rejection within 10 days. The appointed forest fire warden may appoint one or more deputy forest fire wardens subject to approval of the municipal officers.

Sec. 7. 12 MRSA §8906, sub-§2, as enacted by PL 1973, c. 545, §3, is amended to read:

2. Equipment. The director may establish lookout stations connected by telephone and radio, and construct, equip and maintain office - storehouse headquarters for necessary supplies, tools and equipment and provide for any other facilities essential for forest fire control. Within the Maine Forestry

~~District~~ unorganized territory the director may, in addition to this subsection, construct and maintain roads and trails.

Sec. 8. 12 MRSA §9201, first ¶, as enacted by PL 1979, c. 545, §3, is amended to read:

Responsibility for the control of forest fires in municipalities ~~outside the Maine Forestry District~~ lies in the first instance with the town forest wardens appointed for ~~such~~ these municipalities by the director. When in the judgment of a forest ranger the situation so warrants, the forest ranger may relieve a town forest fire warden of responsibility for control of a forest fire within a municipality and assume responsibility therefor. Final authority and responsibility for the control of a forest fire shall be that of the forest ranger.

Sec. 9. 12 MRSA §9202, first ¶, as enacted by PL 1979, c. 545, §3, is amended to read:

~~Within municipalities not members of the Maine Forestry District,~~ forest Forest rangers and town forest fire wardens may employ any person considered necessary to assist in fighting forest fires. All called and employed for assistance shall proceed to help control forest fires as directed by the forest ranger or forest fire warden in charge.

Sec. 10. 12 MRSA §9204, as enacted by PL 1979, c. 545, §3, is amended to read:

§9204. Payment of costs; state reimbursement

Municipalities, ~~outside the limits of the Maine Forestry District,~~ shall pay for controlling and extinguishing forest fires up to 1/2 of 1% of their state valuation and the State shall reimburse them 1/2 these costs incurred by the forest fire warden in charge therein. Reimbursement will not be allowed for use or loss of municipally-owned equipment within the town in which the fire occurred. A ~~town~~ municipality going to the aid of another, even to protect itself, when requested by the state forest ranger in charge, shall, if it requests payment, be paid by the ~~town~~ municipality aided if the total suppression cost of the ~~town~~ municipality is not over 1/2 of 1% of its state valuation.

Sec. 11. 12 MRSA §9205, as enacted by PL 1979, c. 545, §3, is amended to read:

§9205. Payment of costs beyond 1/2 of 1% of state valuation

All forest fire suppression costs in municipalities ~~outside the limits of the Maine Forestry Dis-~~

~~triet~~ in an amount greater than  $\frac{1}{2}$  of 1% of the state valuation of the municipality in which the fire occurred shall be paid by the State. Any municipality, in order to pay labor quickly, may pay beyond  $\frac{1}{2}$  of 1% of its state valuation and submit for full state reimbursement or forward the unpaid bills, approved by the state forest ranger in charge, for payment.

Sec. 12. 12 MRSA §9205-A is enacted to read:

§9205-A. Payment of costs in the unorganized territory

1. Legislative findings. The Legislature makes the following findings.

A. The unorganized territory is a portion of the State which is large in area and small in population.

B. The unorganized territory is without any local government to provide services to protect it from the potential devastation of forest fire.

C. Because of the lack of any municipal government, State Government, as the guardian of the unorganized territory, shall provide forest fire protection services in that area that are above and beyond the level of municipal services which are provided in the rest of the State.

D. For 1983, the cost of forest fire protection services provided by the State in the unorganized territory that are above and beyond the level of municipal services provided elsewhere in the State is equal to 9¢ an acre.

2. Charge to the unorganized territory. For 1983, the unorganized territory shall be charged 9¢ an acre for land which is subject to a property tax including rights in public reserved lots. This charge shall be part of the municipal cost component and collected as part of the Unorganized Territory Educational and Services Tax provided under Title 36, chapter 115.

Sec. 13. 12 MRSA §9322, sub-§1, as enacted by PL 1979, c. 545, §3, is amended to read:

1. Permits. No person shall may kindle or use an out-of-door fire in the Maine Forestry District unorganized territory unless a permit has been obtained from the director. The director is authorized to may issue a permit on lands of another unless the majority ownerships of the land have with-

drawn permission in writing to the director.

Sec. 14. 12 MRSA §9322, sub-§4, as enacted by PL 1979, c. 545, §3, is amended to read:

4. Saco River Corridor. For the purpose of issuing permits under this section, the lands within Oxford County within the Saco River Corridor, so designated by Private and Special Laws of Law 1973, chapter 150, as amended, shall be considered a part of the Maine Forestry District subject to the same requirements and procedures as lands within the unorganized territory.

Sec. 15. 12 MRSA §9334, as enacted by PL 1979, c. 545, §3, is amended to read:

§9334. Along land bordering on another

Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to be cut any forest growth on land which borders land of another outside the limits of the Maine Forestry District unorganized territory or within the Maine Forestry District unorganized territory which borders property outside shall dispose of the slash in the manner described: All slash resulting from such cutting of forest growth shall not remain on the ground within 25 feet of the property line, provided that the director on his own initiative or upon written complaint of another declares that the situation constitutes a fire hazard.

Sec. 16. 12 MRSA c. 807, sub-c. VII is enacted to read:

#### SUBCHAPTER VII

#### FOREST FIRE ADVISORY COUNCIL

§9621. Forest Fire Advisory Council

The Governor shall appoint a 9-member council to advise the Department of Conservation on all matters pertaining to the forest fire control program. The council shall consist of one representative each from the Forest Fire Control Division of the Department of Conservation and the Maine State Fire Chief's Association. At least one member shall be a municipal official. Four members shall represent the commercial forest industry, of which 2 shall represent landowners in the organized portions of the State and 2 shall represent landowners in the unorganized portion of the State. One member shall represent a forest related tourist industry and one shall represent a noncommercial private owner of



acreage which is subject to the tax assessed under Title 36, chapter 366.

The council shall review the annual reports of the Forest Fire Control Division, the annual accounts of the forest fire control program and the proposed budget for forest fire control. It shall annually review the financing, organization, administration, and delivery of state forest fire control services, including local capabilities for forest fire control, alternative methods of forest fire prevention and suppression and identify the most modern, cost effective and efficient method for providing forest fire control services within the State, utilizing and coordinating local resources, to protect the state's important forest resource. It may make recommendations to the department and the Legislature regarding changes in any of the areas subject to its review.

The members of the council shall receive actual expenses incurred in the conduct of the council's activities.

Sec. 17. 36 MRSA §841-B, as enacted by PL 1979, c. 666, §20, is amended to read:

§841-B. Land Classification Appeals Board; purpose, composition

The Land Classification Appeals Board is established to hear appeals from decisions of municipal tax assessors, chief assessors and the State Tax Assessor acting as assessor of the unorganized territory relating to the Maine Tree Growth Tax Law ~~or~~, the Farm and Open Space Tax Law or the Forest Fire Suppression Tax Law. The board shall be composed of 4 voting members: The Commissioner of Conservation or his designee; the Commissioner of Agriculture, Food and Rural Resources or his designee; the person who, pursuant to section 584, is currently serving on the Forest Land Valuation Advisory Council as the landowner member; and the person who, pursuant to section 584, is currently serving on the Forest Land Valuation Advisory Council as the municipal officer. The Commissioner of Finance and Administration or his designee shall serve in an advisory capacity as a nonvoting member and as chairman of the board. In the case of a tie vote, the Commissioner of Finance and Administration or his designee shall vote to break the tie. The landowner member and the municipal officer shall be compensated by the Bureau of Taxation at \$25 per day plus actual expenses. All other members shall be compensated by the agency they represent for actual expenses incurred in the performance of their duties under this section.

Sec. 18. 36 MRSA §841-C, 2nd ¶, as enacted by PL 1979, c. 666, §21, is amended to read:

On receipt of an application for review by the Land Classification Appeals Board, the chairman shall designate a time and place for hearing and make such other arrangements for the hearing as may be necessary. The board may summons witnesses, administer oaths, order the production of books, records, papers, instruments and any additional evidence it deems necessary in order to make a decision. The board may affirm, reject or amend determinations of assessors, chief assessors and the State Tax Assessor, made pursuant to the Maine Tree Growth Tax Law ~~or~~, the Farm and Open Space Tax Law or the Forest Fire Suppression Tax Law. The board may order a refund in whole or in part of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid. If the board fails to give written notice of its decision within 90 days of the filing of such an appeal, the appeal shall be deemed to be denied and the applicant may appeal further as provided, unless the applicant consents in writing to further delay.

Sec. 19. 36 MRSA §1603, sub-§1, ¶B, as repealed and replaced by PL 1979, c. 646, §3, is amended to read:

B. The cost of services the state funds in the unorganized territory that are funded locally by a municipality; the cost of forest fire protection to be included in the cost component shall be determined in accordance with Title 12, section ~~1604~~ 9205-A and collected in the same manner as other portions of the municipal cost component; and

Sec. 20. 36 MRSA §1605, sub-§2, as repealed and replaced by PL 1979, c. 520, §10, is repealed and the following enacted in its place:

2. Disbursements. The treasurer shall withdraw from the fund all sums necessary to pay the expenses attributable to the municipal cost component, including the amount charged to the fund under Title 12, section 9205-A.

Sec. 21. 36 MRSA c. 366 is enacted to read:

CHAPTER 366

FOREST FIRE SUPPRESSION

§2711. Forest fire suppression costs

1. Annual tax. An excise tax is assessed

against owners of parcels of land containing 100 or more acres of protected land in the 1983 tax year. Ownership and number of acres owned shall be determined as of April 1, 1983. "Protected land" means forest land and other undeveloped land such as blueberry barrens, swamps, bogs or brushland. It does not include federal, municipal or state-owned land.

2. Computation of tax for the 1983 tax year. The State Tax Assessor shall determine annually the total number of acres of protected land subject to the excise tax under this chapter. For the 1983 tax year, he shall divide the total number of acres of protected land into \$3,250,000 and round to the nearest 1/10 of a cent to determine the cents per acre tax. The cents per acre tax shall be multiplied by the number of protected acres in each parcel containing 100 or more acres of protected land to determine the amount of the excise tax to be assessed against each owner.

#### §2712. Identification of parcels

1. Parcel. As used in this chapter, unless the context otherwise indicates, "parcel" means a unit of real estate, or contiguous units of real estate under identical ownership, notwithstanding that it is divided by a road, way, railroad, pipeline or municipal or county line.

2. Municipal certification. By July 15th, the State Tax Assessor shall notify municipal assessors of the requirements of this chapter and require municipal assessors to make a determination of which landowners within their municipality are subject to taxation under this chapter.

By August 1st, municipal assessors shall notify all landowners who may be subject to taxation under this chapter, including landowners whose land borders on a municipal boundary, and require them to supply information to enable the local assessor to determine the number of acres in parcels containing 100 or more acres. If a landowner does not respond by September 1st, he waives his right to appeal the determination made by the municipal assessors.

By September 15th, municipal assessors shall review information received from landowners and notify all landowners of their decision concerning the number of acres of protected land in each parcel. Landowners shall have 15 days within which to request a reconsideration by the municipal assessors.

All reconsiderations shall be completed by October 15th and the final determination regarding all parcels of land subject to taxation under this chapter shall be certified to the State Tax Assessor. A

landowner may appeal a municipality's decision to the Land Classification Appeals Board within 60 days of the municipal assessors final determination. If the board makes a determination that the owner is not subject to taxation under this chapter, the municipality shall notify the State Tax Assessor who shall abate the tax assessed under this chapter. In regard to the unorganized territory, the State Tax Assessor has the same rights and obligations as municipal assessors under this section.

Any municipality which certifies to the State Tax Assessor by October 15th, the landowners subject to the tax assessed under this chapter shall be entitled to compensation for administrative costs as provided in section 2715.

By October 15, 1983, municipal assessors shall review all land within their municipality and provide to the Forest Fire Advisory Council an estimate of the number of parcels containing at least one acre of protected land and the numbers of acres in each parcel.

By September 15, 1984, municipal assessors shall review all land within their municipality and provide to the State Tax Assessor a listing of all persons owning at least one acre of protected land on April 1, 1984, and the numbers of acres in each parcel owned by each person listed.

#### §2713. Assessment of tax

1. Assessment. By November 15th, the State Tax Assessor shall assess the tax based upon municipal certifications and the State Tax Assessor's review of land in the unorganized territory. The tax shall be due December 31st.

2. Supplemental assessment. Within 3 years of an assessment made under this chapter, the State Tax Assessor may make a supplemental assessment if he finds that any previous assessment is incorrect in any material aspect. An assessment may be made at any time with respect to a period for which fraudulent information has been supplied.

#### §2714. Enforcement

1. Interest and penalty. If any excise tax remains unpaid after it becomes due, it shall draw interest at the rate determined pursuant to section 186. A penalty of 10% of the unpaid tax shall be added to the liability of any person who fails to pay the tax when due.

2. Lien. There shall be a tax lien to secure the payment of all taxes, penalties and interest assessed under this chapter. If the tax is unpaid when due, the lien shall attach when the tax is due, if the State Tax Assessor follows the procedures provided in Title 12, section 8427, subsection 6.

§2715. Compensation to municipalities

The State Tax Assessor shall divide the amount of \$180,000 appropriated for municipal compensation by the total number of parcels that were identified by municipalities by October 15th to determine the amount of compensation per parcel due each municipality. This amount shall be multiplied by the number of parcels identified by a municipality to determine the amount of compensation which shall be paid by the State Tax Assessor by November 15th.

The State Tax Assessor shall make a report by January 15th, annually, to the Legislature listing the numbers of parcels identified by each municipality and the amount of compensation paid.

Sec. 22. Report to the Legislature. The Forest Fire Control Advisory Council shall make a report to the Second Regular Session of the 11th Legislature by January 15, 1984, containing the results of its review of the state's forest fire control activities. The report shall also make recommendations for establishing a method for determining the cost of state first response services in the unorganized territory as well as in any municipalities that do not have a first response capability and shall recommend the appropriate acreage cutoff for the Forest Fire Suppression Tax. The report shall include any legislation necessary to accomplish its recommendations.

Sec. 23. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1983-84</u>	<u>1984-85</u>
<u>CONSERVATION, DEPARTMENT OF</u>		
Forest Fire Advisory Council		
All Other	\$5,000	\$5,000
<u>FINANCE AND ADMINISTRATION, DEPARTMENT OF</u>		
Bureau of Taxation		
Positions		(1)
Personal Services	\$ 20,000	

	<u>1983-84</u>	<u>1984-85</u>
All Other	5,000	
Capital Expenditures	500	
Bureau of Taxation		
All Other	\$180,000	
Compensation to municipalities	_____	
Total		\$205,500

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 30, 1983.

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## CHAPTER 557

H.P. 1321 - L.D. 1756

### AN ACT Relating to Involuntary Admission.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, under current law, the procedure for involuntary admission of a mentally retarded person requires that he present a likelihood of serious harm due to mental retardation; and

Whereas, psychological examiners have not been able to make a causal link between a person's mental retardation and his likelihood of serious harm, even though they find that the person is mentally retarded and presents a likelihood of serious harm; and

Whereas, the criminal justice system is often inadequate to handle the dangerous mentally retarded person because he is often incompetent to stand trial; and

Whereas, in several recent cases, mentally retarded persons presenting a likelihood of serious harm have been released into Maine's communities because neither the mental retardation laws nor the criminal laws provide alternatives to protect the safety of Maine's citizens; and

Whereas, in the judgment of the Legislature,