

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DRAFT

**REPORT
OF THE
COMMISSION TO STUDY PROBLEMS WITH
THE MUNICIPAL ASSESSMENT, VALUATION
AND
COLLECTION OF PROPERTY TAXES**

April, 1990

COMMISSION MEMBERS

Sen. Thomas H. Andrews, Portland, Chair

Sen. John E. Baldacci, Bangor

Rep. Neil Rolde, York

Rep. Arnold Brewer, Jr., Boothbay Harbor

Rep. Donald A. Strout, E. Corinth

Michael Austin, Assessor, Bath

David D. Cote, Town Manager, Greenville

Ralph Ryder, Superintendent of Schools, E. Millinocket

George A. Mayo, Director, Property Tax Division.

**Staff: Kevin M. Madigan
Legislative Analyst**

The Commission to Study Problems with the Municipal Assessment, Valuation and Collection of Property Taxes was created by Public Law 1989, chapter 534 as part of the comprehensive property tax relief legislation. The Legislature believed that, in addition to direct property tax relief measures, further review of certain problems with taxation at the local level was necessary. Therefore, the Commission was given four specific charges:

1. Examine the problems, if any, preventing municipalities from adopting the State of Maine Assessment Manual;
2. Examine the methods used to collect property taxes;
3. Study whether the State payment to low-income and elderly taxpayers under the property tax circuit breaker programs could be credited to property taxes owed rather than made as direct payments to the taxpayer; and
4. Study whether the inequities in the assessments of residential properties within a municipality and between residential and other types of property within a municipality can be reduced.

Each of these areas became the subject of extensive debate and discussion, which led to a much broader discussion of related concerns. Many different issues were raised and each meeting of the Commission found the members becoming increasingly aware of the fact that, without a substantial infusion of State dollars, there was no easy solution to the property tax problem. Then, even additional State funding as a potential solution became a moot point when the State found itself in the midst of a budget crisis.

Given no apparent possibility of funding any suggested changes and lacking sufficient time and resources to fully investigate all potential ramifications of adjusting State-local formulas or local property tax administrative procedure, the Commission has decided to defer any recommendations at this time. Rather, we hope that the Legislature, the administration and municipal officials will continue to work together to develop and implement a long-term strategy to overhaul existing tax policy and interrelationships. Only then can true tax reform occur. Legislation creating the Select Committee on Comprehensive Tax Reform establishes the means by which this long-term focus can be developed. To aid the continuation of this process, we enclose a summary of our discussions on each issue brought before this Commission.

Sen. Thomas Andrews, Chairman

ISSUE: What problems prevent municipalities from using the State of Maine Assessment Manual?

Simply put, the answer to the question is that the manual is outdated. Last revised in 1979, the current version doesn't even contain information about newer building techniques such as 2" x 6" construction, changes in insulation material types and methodologies or improved plumbing and electrical materials. Since the purpose of the manual is "to identify accepted and preferred methods of assessing property", many towns find it useless when trying to determine the value of new or improved properties. The law does allow municipalities to use "another professionally accepted manual or procedure" but it is believed that many assessors, especially part-timers in small towns, prefer a Maine specific manual.

Since the only real problem is a lack of recency, the obvious solution is to update the manual. In the two most recent sessions of the Legislature, legislation has been introduced to fund just such an updating. However, with an estimated cost of \$200,000, this separate legislation has failed every time. Thus, the Bureau of Taxation says that it has been willing to update the manual but has been unable to obtain funding to do so. The Commission strongly disagrees with this rationale. Title 36 MRSA, §331, enacted in 1985, specifically states that "the State Tax Assessor shall maintain and periodically update a State assessment manual...". This clearly makes updating an ongoing administrative expense of the Bureau of Taxation which should be included as part of the Administration's budget request. Therefore, separate "extra cost" bills should not have to be introduced by the Bureau where they have to compete with hundreds of other bills for limited funds at the end of a session.

The Commission fully expects funding for updating the State Assessment Manual will be included in the Fiscal Year 1992 budget of the Bureau of Taxation in accordance with existing law.

ISSUE: Methods used to collect property taxes.

Many people believe that the major reason people complain about their property tax bill is because it is a single, one-time bill that can be fairly large. For example, income tax complaints are minimal by comparison even though annual income tax payments nearly always exceed property taxes and often are more than four or five times higher than property taxes. The same argument applies to sales taxes. That is, they can very easily exceed property tax amounts (especially for anyone that has bought a new car recently!) but because we pay them in small amounts over time, there are nowhere near as many complaints about sales taxes as there are about property taxes.

Once again, the solution appears obvious: more frequent property tax billings at a proportionate rate, i.e., semiannual or quarterly billings at 50% or 25% due respectively. Current law allows municipalities this option and the Commission discussed mandating the issue. If all the towns and cities that have recently suffered tax revolts were billing the same way, the issue might be clearer. Some towns with split billings had major complaints and some didn't. Some towns with single billings had major complaints, most didn't. The argument raised most eloquently in the Commission by the municipal members was leave it optional. There are some administrative concerns surrounding partial tax payments and the Commission believes that these issues are best addressed if and when a municipality is ready and willing to address them, not when they are told to do so.

However, this entire matter of when tax bills are issued is more cosmetic than substantive. The real issue of increasing demands on the property tax must be addressed. This source of funding, the only one available to municipalities, is the least progressive yet most heavily used major tax in the State in terms of total funding. Unless the pressure on property tax rates is removed or greatly reduced, changing the timing of tax Bills will not solve anything.

ISSUE: Study the relationship between property taxes owed and direct circuit breaker payments to the taxpayer.

The Commission received testimony indicating that one of the major problems with the circuit breaker program continues to be administrative paperwork. Even the much simpler form and instructions issued last year appear to cause problems just because the program exists as a separate program. The Michigan and Vermont programs were cited as "better" because they are tied directly to those States' income tax filings. Supposedly, just adding a single line to the Maine income tax form would allow people to claim the credit without any additional administrative burden.

Of course, no solution is this easy. While it is true that Michigan has a line for the credit on its income tax form, if taxpayers fill in that line, they must attach a very complicated form to the return in order to prove eligibility. For Maine to adopt the same system would require a major shift in administrative processing at the State level. The program was originally kept separate to even out the work flow between the income tax filings early in the year and circuit breaker later. To change now would cost more than the apparent "benefit" of combining the programs.

Others pointed out that many of the low income beneficiaries of the circuit breaker program did not have to file income tax forms, so separate forms are still going to be needed anyway. Also, the circuit breaker form is used to determine eligibility for the low-cost drug program, which would further complicate the process if combined elsewhere. Therefore, while the Commission believes that it is certainly possible to combine these programs, it is unclear whether the State should do so. The additional funding, time and effort to accomplish the task may not pay off in terms of program improvements.

Another reason for the Commission's reluctance to recommend change to the circuit breaker program this year is because it would represent the fourth major change to the program in the last three years. Some people already believe that the reason for large surpluses in this program is the fact that people don't understand it. Participation builds over time as filers become familiar with eligibility requirements. Constant change to the program prevents this familiarity from developing, thereby limiting participation, which means overfunding the program.

ISSUE: Study whether the inequities in the assessments of residential properties within a municipality and between residential and other types of property within a municipality can be reduced.

This was the most controversial charge given to the Commission and naturally led to a great deal of discussion both by itself and by opening the door to many other areas. "Inequities in the assessments of residential properties" is difficult to define, if not impossible, and Commission members discussed many perceived examples of inequity. From the homeowner in Bangor who is suddenly surrounded by the Bangor Mall (and assessed accordingly!), to the taxpayer in Rockland that retired to his summer place with a newly assessed value of nearly \$500,000, to the camp owner in Vienna whose tax bill went from \$82 to \$481, people complained of inequity. Yet, if all taxpayers are treated fairly and in a similar manner within the same assessment area, as required by the Constitution, how can inequity exist? Therein lies the difficulty.

Article 9, section 8 of the State Constitution reads "All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof." With only a few minor exceptions, such as tree growth, farmland and open space lands that allow for assessments less than "just value", the mandate is clear. Further, 36 MRSA §305, sub-§1 requires the State Tax Assessor to certify the equalized just value of every municipality and that "...equalized just value shall be uniformly assessed in each municipality and unorganized place and shall be based on 100% of the current market value." (emphasis added). However, while this definition is clear and straightforward, it is seemingly at odds with 36 MRSA §701-A, which also defines "just value":

36 §701-A. Just value defined

In the assessment of property, assessors in determining just value are to define this term in a manner which recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put. In determining just value, assessors must consider all relevant factors, including without limitation, the effect upon value of any enforceable restrictions to which the use of the land may be subjected, current use, physical depreciation, functional obsolescence, and economic obsolescence. Restrictions shall include but are not limited to zoning restrictions limiting the use of land, subdivision restrictions and any recorded contractual provisions limiting the use of lands. The just value of land is deemed to arise from and is attributable to legally permissible use or uses only.

Since the Supreme Court has tended to follow the first definition in deciding property tax cases and since "current market value" does not necessarily have anything to do with "just value", inequities may arise.

For example, the Bangor home on two acres that used to border a farm but now borders the Mall has an assessed value significantly higher than before, even though it is still a home on two acres. Likewise, the camp owner still has the same camp as always but pays 5 or 6 times higher taxes just because someone with little or no sense of the local market bought someone else's camp on the same lake for a greatly inflated price, thereby determining "current market value" for all camps on the lake.

It is tax increases like these, happening without any change or control by the affected homeowner, that are at the base of most complaints. Assessors correctly point out that value can and does change for a number of reasons. They also point out that assessment is not the problem because in and of itself assessment has no impact on a homeowner. Rather, it is the mill rate applied to the assessed value that determines the tax bill and the mill rate is determined by the level of municipal spending. Of course, municipal spending is determined by local needs and State mandates, but that is another issue! In any event, there appears to be an ever-increasing circle of cause and effect that can only be changed through meaningful tax reform. Such reform is clearly outside the purview of this Commission.

Closely related to the perceived inequity issue was the issue of different assessors using different assessing techniques (or even the same techniques) and determining different assessed values. Obviously, a single statewide assessor or assessing agency might overcome this problem. However, such a recommendation was determined to be too expensive, too cumbersome and too significant without a long-term study of all the ramifications of such a change. Even primary assessing districts have not fared too well under enabling legislation passed in 1975, so a statewide assessment might prove too drastic a change. Still, the equalized state valuation is currently used to determine State aid to most municipalities. To some people this process has the same effect as a single valuation anyway. Therefore, more study in this area may prove beneficial.

Many other sub-issues were discussed in the Commission without reconciliation. Some of these included:

- The amount of individual property tax bills used for education purposes and for state mandates;
- The lack of an "ability to pay" factor in the property tax equation;
- The narrow range of exceptions to classify property;
- The burdens placed on local assessors and other municipal officials regarding property tax administration; and
- The lack of use of existing property tax relief programs.

Many potential solutions were also discussed. These included:

- More State funding of mandated programs;
- More State funding of education costs;
- More State revenue sharing;
- Allow municipalities additional sources of income, such as local sales or income taxes;
- Tax commercial/industrial properties at rates higher than residential rates;
- Limit property tax rates or assessment levels;
- Improve existing tax relief programs;
- Dedicate new or existing State taxes for use by municipalities; and
- Increase the Sales tax to fund municipal relief.

Each of these problems and solutions have many pros and cons associated with them. The limited time and resources allotted this commission did not allow for the level of study and analyses needed for major changes to occur. As mentioned earlier, even the State budget crisis impacted the study by eliminating from consideration any major changes that would have affected State revenue or appropriations.

The State of Maine needs meaningful property tax reform. To the extent such reform will have an impact on the broad based taxes (sales and income), the entire tax mix of the State must be reviewed, analyzed and changed to better reflect circumstances that have recently emerged or will emerge in the future. Problems exist and must be addressed by all levels of government soon if we are going to avoid future crises. A well-funded, well-rounded, long-term property tax study may begin finding the answers. A sincere effort by a strongly committed Legislature and Governor may begin implementing them.