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STATE OF MAINE
AUGUSTA, MAINE

Forestry - Taxation
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REPORT OF THE
JOINT STANDING COMMITTEE ON TAXATION
ON THE MAINE FORESTRY
DISTRICT TAX

Senate

Sen. Thomas M. Teague, Chair
Sen. Jerone A. Emerson
Sen. Frank P. Wood

House

Rep. Bonnie Post, Chair
Rep. R. Donald Twitchell
Rep. Edward J. Kane
Rep. Karen L. Brown
Rep. John E. Masterman
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Rep. Martin Hayden
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Legislative Assistant

Julie S. Jones

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TABLE OF CONTENTS

I.	History of the Maine Forestry District	1
II.	The Forestry District Tax	2
III.	Problems	3
	A. Recent tax increases	3
	B. Disproportionate burden of the tax	4
	C. Administration	5
	D. Non-reimbursed state services	5
	E. Reimbursement to municipalities within the district	6
IV.	Recommendations	6
	A. Withdrawal plan	7
	B. Liability of municipalities outside the district	7
	C. Municipal payment for state services	7
	D. Reimbursement to municipalities within the district for non-forest fire costs	8
	Appendices	
	A. Calculation of 1981 Forestry District Tax	9
	B. Historical Summary and Proposed 1982 Rate	10
	C. Comparison of Tax and State Valuation for Municipalities with MFD	11
	D. Proposed Legislation	13

I. History of the Maine Forest District

Former Forestry Commissioner Austin Wilkins in his book Ten Million Acres of Timber chronicles the story of the Maine Forestry District (MFD) from 1909 to 1972. The development of the MFD and the forest district tax was largely the result of disastrous forest fires in 1903 and 1908, inadequate state fire-fighting organization and the dissatisfaction of large landowners who were spending increasingly large sums for fire control on their own lands. The budget for forest fire protection for 1909 was \$50,000 which was collected by a special tax on all landowners within the unorganized territory. The tax was prorated on the basis of acreage. In the early years, state forest fire activity was restricted solely to the MFD. In the late forties, another series of serious fires in areas outside of the district highlighted the need for centralized state supervision of forest fires in non-district areas as well. In response, authority was extended to allow the state to take over control of forest fires it considered serious and to require the municipalities assisted to pay a portion of the cost of the fire. As a result, two state forest fire organizations existed until 1975 when the two functions were combined.

Since 1975, essentially the same state forest fire protection has been available both within and outside the MFD. There are several distinctions. Within the forestry district, primary responsibility for responding to forest fires rests with the state. Outside the district initial responsibility lies with the municipality where the fire is located, with the possibility of assistance from the state. The state may assume responsibility for any forest fire, even in the absence of a municipal request; it has never refused to assist with a forest fire when

asked. The state has also on occasion provided assistance with structural fires both within and outside the district and does not make any charge for such assistance.

The second distinction is the method by which state services are paid for. Within the MFD state services are paid through the forestry district. Municipalities outside the district pay only in the event of a fire, with maximum annual liability set at 1/2 of 1% of the municipality's state valuation.

II. Forestry District Tax.

Prior to fiscal year 1980-81 the forestry district tax was assessed as a specified number of mills on the valuation of all property within the forestry district. As a result of complaints that municipalities and taxpayers with highly developed land were paying the burden of the tax which benefitted land which was not highly developed, the tax was changed beginning with fiscal year 1980-81 to a formula which results in a tax of whatever number of cents per acre is necessary to raise the amount of revenue estimated by the Commissioner of Conservation as the total projected costs of the Maine Forestry District for the next fiscal year.

Since 1975, the costs of providing forest fire protection to the forestry district have not been accounted for separately from other forest fire protection costs. As the result of a survey conducted in 1978 by the Department of Conservation, it was estimated that approximately two-thirds of the total forest fire control budget was spent in the forestry district. Therefore, the total projected cost of the MFD submitted to the Legislature by the Commissioner of Conservation is two-thirds of the total forest fire control budget. This amount is divided by the number of acres in the forestry district to determine the cents per

acre tax. (See Appendix A.)

In the unorganized territory the forestry district tax is collected by the State Tax Assessor through the mechanism of the municipal cost component. Municipalities within the district are billed annually by the State Treasurer. The tax is added to the municipality's annual tax commitment and collected from all taxpayers within the municipality. The money collected from the forestry district tax in the unorganized territory is deposited in the Unorganized Territory Education and Services Fund and transferred to the General Fund when the Department of Conservation submits its bill for the municipal cost component at the end of the fiscal year. The forestry district tax money collected from the organized territory is deposited directly into the General Fund. The Department receives its funds for forest fire control each year through a General Fund appropriation as part of the normal budget process.

III. Problems.

The Taxation Committee has met six times to discuss the Maine Forestry District Tax Study. It has received useful information and comments from the Maine Forest Service, the Maine Municipal Association, the Paper Industry Information Office and several officers of municipalities located within the district. The Committee has identified the following problems with the forestry district tax.

A. Recent tax increases. The tax has increased rapidly in the past few years. (See Appendix B.) The reasons for this increase have not always been apparent to the municipalities and taxpayers who must pay the tax. The Committee recognizes the following causes for recent increases in

the tax. The cost of operation of the Maine Forest Service has increased; the majority of that increase is attributable to personnel services. Federal funds for forest fire control have been decreasing, thereby increasing the need for state revenues. Several municipalities have withdrawn from the district in recent years, thereby increasing the proportion of the tax that the remaining taxpayers must pay. By far the largest reason for the increase is that prior to fiscal year 1981-82 the tax revenues collected were not calculated to produce the full cost of services to the MFD. Shortfalls were covered by money made available by the Governor from other sources.

In addition to the above factors which have increased the tax for all taxpayers within the district, the 1979 change in basis for the tax from valuation to acreage has resulted in dramatic increases for those municipalities with low valuation and high acreage.

B. Disproportionate burden of the tax. As the tax is currently calculated, those municipalities with the largest amount of acreage pay the largest amount of the tax. On one hand that burden seems fair when it is considered that those areas are the ones most likely to have a forest fire and the ones that require the greatest Forest Service courage. On the other hand, municipalities with high acreage and little development (valuation) have limited resources with which to pay the tax. In fact, two municipalities with high acreage and low valuation pay a tax which is greater than 1/2 of 1% of their state valuation, which means they pay a higher amount for the annual forestry district tax than would be their annual liability outside the district even if they had

a forest fire every year. (See Appendix C.) For these municipalities and for some others with low valuation it is financially beneficial to withdraw from the district and risk the 1/2 of 1% liability in the event of a fire or purchase insurance which would cover that cost. In either case the services received from state will be essentially the same.

C. Administration. Since 1975, forest fire services within and outside the forestry district have been administered, budgeted and accounted for jointly. While this might make excellent administrative sense, it does present certain difficulties in the calculation and definition of the forestry district tax. Staff and equipment are used in both areas without separate accountings. Services are not identified by the area in which they are provided. As a result, it is very difficult to determine accurately the actual cost of services provided within the district.

The expanding role of the state in providing forest fire services outside the district has resulted in questions regarding the constitutionality of the forestry district tax which may be seen as unequal taxation if taxpayers outside the district are receiving some of the same services as those within the district without having to pay an additional tax.

D. Non-reimbursed state services. A number of state services are provided by the Maine Forest Service without reimbursement. If the Service is not involved with forest fire related activities and is conveniently located, it will provide assistance with structural fires both within and outside the district without requiring any reimburse-

ment for costs. It also does not bill municipalities outside the district for the costs of state services for forest fires, usually management of a fire or minor extinguishing costs with the result that a municipality's 1/2 of 1% liability applies primarily to contracted services. While it is admirable for the Service to assist with non-forest fires, it does not seem fair that the cost is absorbed in the forest fire control budget rather than by those who actually receive the service. It would seem fairer that municipalities outside the district should have the cost of state services included in their potential liability rather than having a portion absorbed by forestry district taxpayers.

E. Reimbursement to municipalities within the district.

Currently, municipalities within the MFD are eligible for reimbursement for costs they incur in protecting against the kinds of fires for which the forestry district does not have responsibility. Reimbursement is provided for 100% of such costs up to a maximum limit of one half of the amount of the forestry district tax paid. Information received by the Taxation Committee indicates that some municipalities are taking advantage of this provision by submitting bills for marginally allowable equipment. This provision also appears to encourage municipalities to acquire "free" (i.e., 100% reimbursed) equipment and then withdraw from the district.

IV. Recommendations

The Taxation Committee makes the following recommendations regarding the forestry district tax. While it is recognized that these recommendations are not a complete solution to all of the

problems identified in this report, it is hoped that they will help to make the tax more equitable to those within the district who feel that they are not receiving sufficient benefit for the amount of taxes paid. For the long run, it is understood that the Department of Conservation will be studying these issues with a view toward recommending alternative methods of funding state forest fire control services.

A. Withdrawal plan. The Committee recommends that municipalities within the district be permitted to withdraw from the district, but only after a full consideration of the issues involved by the voters of the municipality and recommendations from the Department as to the adequacy of the municipality's initial forest fire response capability. This would help to ensure that withdrawing municipalities would be assuming some responsibility for maintaining a forest fire response capability rather than shifting the cost to the remaining taxpayers within the district.

B. Liability of municipalities outside the district. The Committee recommends that that state reimbursement to municipalities outside the district for forest fire costs in the amount of 1/2 of 1% of the municipality's state valuation be eliminated. This recommendation has the effect of doubling the municipality's potential liability from 1/2 of 1% to 1% of state valuation. Costs in excess of 1% would still continue to be assumed by the state.

C. Municipal payment for state services. The Committee recommends that municipal liability should include the cost of state services both for forest and non-forest fire services up to the 1% limit. In the event of a sizable fire this recommendation would have little effect because other

costs would consume the full 1% liability; however, it would assure state compensation from municipalities which receive only assistance with structural fires or minor forest fire extinguishing services.

D. Reimbursement to municipalities within the district for non-forest fire costs. The Committee recommends that municipalities within the district be reimbursed for only half of their costs for non-forest fire protection. The maximum would still be one half of the amount of the forestry district tax paid. This copayment requirement would assure greater municipal consideration of the advisability of incurring the cost and assure that the state was not reimbursing for superfluous or questionable expenditures.

These recommendations are incorporated in legislation which is attached as Appendix D. It is hoped that these recommendations will encourage more municipalities to remain within the MFD and to make the payment for the state's forest fire control budget more equitably apportioned.

STATE OF MAINE

Inter-Departmental Memorandum Date January 30, 1981

To Senator Thomas M. Teague
Representative Bonnie Post, Chairpersons Dept. Taxation Committee

From Rodney L. Scribner, Commissioner Dept. Finance and Administration

Subject Maine Forestry District Tax

The Bureau of Taxation has brought to my attention that the amount (\$2,721,390) included in the Municipal Cost Component for Fiscal Year 1981 for the Maine Forestry District Tax is incorrect. The amount should be revised to read \$2,514,380.

Based upon the total estimated cost of the Maine Forestry District of \$2,888,056 for Fiscal Year 1982 (as submitted by Richard E. Barringer, Commissioner of the Department of Conservation, on January 26, 1981) this figure was arrived at in accordance with 12 M.R.S.A., Section 1601 as follows:

FY 1982 M.F.D. Costs 2,888,056 = .298058 Per Acre
Total Taxable Acreage of M.F.D. 9,689,561

Organized Municipality M.F.D. Acreage = 1,253,689 x .298058 = \$ 373,676

Unorganized Territory M.F.D. Acreage = 8,435,872 x .298058 = 2,514,380

Total M.F.D. Acreage 9,689,561 \$2,888,056

I apologize for any inconvenience that this oversight might have caused your committee.

RLS/dr

cc: Richard E. Barringer, Commissioner of Conservation
 Raymond L. Halperin, State Tax Assessor
 Legislative Liaison, Executive
 Clerk, Taxation Committee
 Legislative Assistant, Taxation
 Legislative Finance Officer
 State Budget Officer

MAINE FORESTRY DISTRICT TAX

HISTORICAL SUMMARY AND PROPOSED 1982 RATE

<u>Year</u>	<u>Cost</u>	<u>Organized Acreage</u>	<u>Cost</u>	<u>Unorganized Acreage</u>	<u>Total Cost</u>	<u>% increase over prior year</u>	<u>Tax rate per Acre</u>
*1982	\$427,810.00	1,247,675	\$2,810,998.00	8,198,053	\$3,238,808.00	12.1	.342886
*1981	373,676.00	1,253,689	2,514,380.00	8,435,872	2,888,056.00	42.8	.298058
*1980	267,878.56		1,753,478.00		2,021,356.56	6.3	.213000
1979	399,780.00		1,500,000.00		1,899,780.00	2.5	
1978	463,875.40		1,389,323.66		1,853,199.06	10.1	
1977	351,765.33		1,330,650.20		1,682,415.53		

*Chapter 646, P.L.1979 provides for a tax per acre in determining Maine Forestry District Tax liabilities.

For 1982, the Public lots have been removed from taxable acreage.

APPENDIX C

<u>Municipality</u>	<u>Maine Forest District Tax 1981</u>	<u>Tax as % of state valuation</u>	<u>1981 State Valuation</u>	<u>1980 Tax Assessment</u>	<u>Total Forest Acreage</u>
Allagash	\$ 22,706.95	.39%	\$ 5,750,000	\$ 101,959	76,183
E. Plantation	3,658.36	.32	1,150,000	22,254	12,274
Garfield Plt.	2,104.00	.12	1,750,000	7,636	7,059
Glenwood Plt.	7,063.97	.46	1,550,000	29,089	23,700
Hammond Plt.	7,238.93	.47	1,550,000	26,218	24,287
Macwahoc Plt.	5,435.98	.27	2,050,000	24,088	18,238
Nashville Plt.	6,378.44	.04	16,250,000	50,609	21,400
Oxbow Plt.	6,364.13	.34	1,850,000	28,740	21,352
Reed Plt.	10,919.06	.30	3,600,000	66,414	36,634
Wallagrass Plt.	7,302.42	.10	7,150,000	83,977	24,500
Westmanland Plt.	6,097.97	.27	2,300,000	17,323	20,459
Winterville Plt.	2,752.57	.07	4,200,000	41,810	9,235
Coplin Plt.	6,053.86	.14	4,350,000	39,107	20,311
Dallas Plt.	7,219.56	.13	5,750,000	73,679	24,222
Rangeley Plt.	7,095.57	.06	10,950,000	69,770	23,806
Sandy River Plt.	6,082.17	.10	5,800,000	31,297	20,406
Lincoln Plt.	6,408.24	.12	5,350,000	33,122	21,500
Magalloway Plt.	8,803.44	.35	2,500,000	45,591	29,536
Drew Plt.	7,296.76	.42	1,700,000	29,102	24,481
Seboeis Plt.	7,058.01	.42	1,700,000	19,072	23,680
Webster Plt.	6,639.24	.43	1,550,000	31,458	22,275
Barnard Plt.	4,816.92	.37	1,300,000	23,322	16,161
Bowerbank	8,170.66	.12	6,800,000	37,515	27,413
Elliotsville Plt.	8,014.18	.25	3,250,000	46,262	26,888
Kingsbury Plt.	8,050.54	.36	2,250,000	33,432	27,010
Lakeview Plt.	7,334.61	.12	6,100,000	23,919	24,608

<u>Municipality</u>	<u>Maine Forest District Tax 1981</u>	<u>Tax as % of state valuation</u>	<u>1981 State Valuation</u>	<u>1980 Tax Assessment</u>	<u>Total Forest Acreage</u>
Brighton Plt.	\$ 6,642.52	.32%	\$ 2,050,000	\$ 49,162	22,286
Caratunk	9,090.77	.28	3,300,000	47,987	30,500
Dennistown Plt.	6,820.46	.39	1,750,000	26,290	22,883
Highland Plt.	7,382.00	.38	1,950,000	26,135	24,767
Moose River	6,627.92	.19	3,450,000	55,720	22,237
Moscow	8,786.75	.08	11,250,000	210,894	29,480
Pleasant Ridge Plt.	3,426.47	.04	8,150,000	220,192	11,496
The Forks Plt.	7,157.57	.20	3,650,000	45,698	24,014
West Forks	9,082.42	.33	2,750,000	29,339	30,472
Baring Plt.	1,068.84	.04	3,000,000	41,220	3,586
Beddington	6,784.40	.23	2,950,000	19,501	22,762
Centerville	7,958.74	.53	1,500,000	23,269	26,702
Codyville Plt.	9,819.82	.63	1,550,000	28,058	32,946
Cooper	5,556.69	.16	3,450,000	59,710	18,643
Crawford	5,674.13	.28	2,050,000	28,240	19,037
Deblois	6,804.07	.25	2,750,000	26,878	22,828
Grand Lake Stream	7,964.41	.13	5,950,000	75,059	26,721
Northfield	8,156.95	.20	4,150,000	53,766	27,367
No. 14 Plt.	6,286.34	.28	2,250,000	19,307	21,091
No. 21 Plt.	5,959.97	.18	3,250,000	41,672	19,996
Topsfield	6,735.51	.24	2,800,000	46,537	22,598
Wesley	8,856.50	.31	2,850,000	34,983	29,714

AN ACT to Revise the Procedure for Municipalities Withdrawing from the Maine Forestry District

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

Sec. 1. 12 M.R.S.A. §1204 is enacted to read:

§1204. Withdrawal of municipality from district.

1. 20% petition. Upon receipt of a petition of 20% of the number of voters in a municipality who voted at the last gubernatorial election, the municipal officers shall prepare a plan for withdrawal from the Maine Forestry District.

2. Withdrawal plan. The withdrawal plan shall contain at least the following information:

- all underlined*
- a. number and training of personnel who will be available to make initial response to a forest fire within the municipality,
 - b. an inventory of forest fire fighting equipment which the municipality possesses or will obtain prior to withdrawal,
 - c. plans for maintaining and storing such equipment,
 - d. a copy of any contracts with other municipalities or agencies which will provide assistance in the event of a forest fire,
 - e. a statement containing the municipality's potential liability in the event of a forest fire and plans for meeting that liability, and
 - f. any other information required by regulations promulgated by the Department of Conservation.

3. Review of plan. The withdrawal plan shall be submitted to the Department of Conservation. The Department shall, within 30 days, send to the municipality its comments on the

adequacy of the plan and may make recommendations for improvements.

4. Submission of plan to voters. Within 60 days of the receipt of the departments comments, the municipal officers shall call and hold a special election in the manner provided for the calling and holding of town meetings or city elections to vote on the withdrawal of the municipality from the Maine Forestry District. At least 10 days before the election a posted or otherwise advertised public hearing on the question of withdrawal shall be held by the municipal officers. The municipal officers shall make copies of the withdrawal plan and department comments available to members of the public prior to the hearing.

The question to be voted upon shall be in the following form: "Shall the municipality of _____ withdraw from the Maine Forestry District and assume initial responsibility for forest fires within municipal boundaries?" The question must be approved by secret ballot by a majority of the voters present and voting.

5. Notice of vote effective date. If the residents of a municipality vote favorably on the question of withdrawal, the municipal officers shall notify the Department of Conservation, the State Tax Assessor and the County Commissioners.

Sec. 2. 12 M.R.S.A. §1601, 4th ¶ is amended by adding after the first sentence, the following sentence.

The bill shall also provide for the withdrawal from the district of municipalities which have voted to withdraw following the procedures specified in Section 1204.

Sec. 3. 12 M.R.S.A. §1601-A, 1st sentence is repealed and the following enacted in its place:

The Maine Forestry District shall reimburse the member municipalities for 50% of the costs incurred each year for fire protection other than what the Maine Forestry District provides, up to a maximum of 50% of the contribution of the respective municipality to the Maine Forestry District in that year.

Sec. 4. 12 M.R.S.A. §9204 is repealed and the following enacted in its place:

§9204. Payment of costs; first 1% of state valuation

Municipalities, outside the limits of the Maine Forestry District, shall pay for all costs incurred by the forest fire warden in charge, including state services, for the control and extinguishing of forest fires. These municipalities shall also pay for state services provided for the control and extinguishing of all other types of fires. A town going to the aid of another with a forest fire, even to protect itself, shall be paid by the town aided if the total suppression cost of the town is not over 1% of its state valuation. In no event shall the town's total annual obligations for payment under this section exceed 1% of its state valuation.

Sec. 5. 12 M.R.S.A. §9205, 1st sentence is repealed and the following enacted in its place:

When the annual total of all forest fire suppression costs, including state services, and state services provided for the suppression of other types of fires exceeds 1% of a municipality's state valuation, the state shall pay the costs which exceed 1%. However, the state will not pay for the use or loss of municipally owned equipment within the town in which the fire occurred.

Sec. 6. 12 M.R.S.A. §9206, 3rd ¶, 1st sentence is repealed and the following enacted in its place:

All requests for state reimbursement shall be presented to the director within 60 days after total extinguishment of the forest fire or become void.

STATEMENT OF FACT

This bill is the result of a study by the Taxation Committee of problems relating to the Maine Forestry District Tax. In recent years several municipalities have requested permission to withdraw from the District, claiming that the benefits received were not worth the high cost of the tax. A few municipalities have been granted Legislative permission to withdraw resulting in increased taxes for those taxpayers who remain in the District.

Section 1 and 2 of this bill are intended to provide a procedure for withdrawal from the District which will assure that the municipality has fully considered the implications of withdrawal before Legislative action and is prepared to assume initial responsibility for forest fires within its boundaries.

Section 3 provides that member municipalities shall receive state reimbursement for only 50% of the costs they incur for other than forest fire protection rather than the current 100% reimbursement. The maximum limit for reimbursement remains at 50% of the municipality's annual forestry district tax.

Sections 4 and 5 double the potential liability of municipalities outside the Forestry District for forest fires from 1/2 of 1% to 1% of the municipality's state valuation. These sections also provide that the costs for which the municipality may be liable shall include Maine Forest Service assistance with both forest fires and non-forest fires.

Section 6 makes a technical change to provide consistency with Sections 4 and 5.