

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1530, L.D. 2165)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2364

7
8 H.P. 1678

House of Representatives, April 10, 1986

9 Reported by Representative Cashman from the Committee on Taxation
10 and printed under Joint Rule 2. Original bill sponsored by Representative
11 Cashman of Old Town. Cosponsored by Speaker Martin of Eagle Lake,
12 Senator Emerson of Penobscot and Representative Ingraham of Houlton.

EDWIN H. PERT, Clerk

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT Concerning Property Tax Assessment and
19 Appeals.
20

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

23 Sec. 1. 3 MRSA §507, sub-§10, ¶B, as repealed
24 and replaced by PL 1983, c. 819, Pt. A, §4, is
25 amended to read:

26 B. Unless continued or modified by law, the fol-
27 lowing Group E-2 independent agencies shall ter-
28minate, not including the grace period, no later
29 than June 30, 1989. The Board of Emergency Munic-
30 ipal Finance, the Finance Authority of Maine and
31 the Maine Municipal Bond Bank shall not termi-
32nate, but shall be reviewed by the Legislature no
33 later than June 30, 1989:

34 (1) Board of Emergency Municipal Finance;

1 The State Tax Assessor shall maintain and period-
2 ically update a State assessment manual which shall
3 identify accepted and preferred methods of assessing
4 property.

5 Any municipality performing or contracting for
6 the performance of a revaluation after January 1,
7 1987, shall use or require the use of the state as-
8 essment manual or another professionally accepted
9 manual or procedure.

10 Sec. 11. 36 MRSA §486 as amended by PL 1983, c.
11 812, §§268 and 269, is repealed.

12 Sec. 12. 36 MRSA §583, as amended by PL 1979, c.
13 666, §19, is further amended to read:

14 §583. Abatement

15 Assessments made under this subchapter and deni-
16 als of applications for valuation under this subchap-
17 ter are subject to the abatement procedures provided
18 by section 841. Appeal from an abatement decision
19 rendered under section 841 shall be to the ~~Land Clas-~~
20 ~~sification Appeals Board~~ State Board of Property Tax
21 Review.

22 Sec. 13. 36 MRSA §701-A, as enacted by PL 1969,
23 c. 246, is amended to read:

24 §701-A. Just value defined

25 In the assessment of property, assessors in de-
26 termining just value are to define this term in a
27 manner which recognizes only that value arising from
28 presently possible land use alternatives to which the
29 particular parcel of land being valued may be put.
30 ~~Assessors~~ In determining just value, assessors must
31 consider all relevant factors, including without lim-
32 itation, the effect upon value of any enforceable res-
33 trictions to which the use of the land may be sub-
34 jected, current use, physical depreciation, function-
35 al obsolescence, and economic obsolescence. Restric-
36 tions shall include but are not limited to zoning re-
37 strictions limiting the use of land, subdivision re-
38 strictions and any recorded contractual provisions
39 limiting the use of lands. The just value of land is

1 deemed to arise from and is attributable to legally
2 permissible use or uses only.

3 Sec. 14. 36 MRSA §841-B, as repealed and re-
4 placed by PL 1985, c. 295, §54, is repealed.

5 Sec. 15. 36 MRSA §841-C, as amended by PL 1983,
6 c. 855, §5, is repealed.

7 Sec. 16. 36 MRSA §842, as amended by PL 1977, c.
8 509, §17, is further amended to read:

9 §842. Notice of decision

10 The assessors, municipal officers, chief assessor
11 or the State Tax Assessor, in the case of the unorga-
12 nized territory, shall give to any person applying to
13 them for an abatement of taxes notice in writing of
14 their decision upon ~~such~~ the application within 10
15 days after they take final action thereon. If the as-
16 sessor, municipal officers, chief assessor or State
17 Tax Assessor, before whom an application in writing
18 for the abatement of a tax is pending, fails to give
19 written notice of their decision within ~~90~~ 60 days
20 from the date of filing of ~~such~~ the application, the
21 application shall be deemed to have been denied, and
22 the applicant may appeal as provided, unless the ap-
23 plicant shall in writing have consented to further
24 delay.

25 Sec. 17. 36 MRSA §843, as amended by PL 1981, c.
26 698, §180, is further amended to read:

27 §843. Appeals

28 1. Municipalities. Where the municipality has
29 adopted a board of assessment review, if the asses-
30 sors or the municipal officers refuse to make the
31 abatement asked for, the applicant may apply in writ-
32 ing to the board of assessment review within 60 days
33 after notice of the decision from which the appeal is
34 being taken or after the application is deemed to
35 have been denied, and, if the board thinks he is
36 over-assessed, he shall be granted such reasonable
37 abatement as the board thinks proper. ~~Either~~ Except
38 with regard to nonresidential property with an equal-
39 ized municipal value of \$500,000 or greater, either

1 party may appeal from the decision of the board of
2 assessment review directly to the Superior Court, in
3 accordance with Rule 80B of the Maine Rules of Civil
4 Procedure. If the board of assessment review fails
5 to give written notice of their decision within 60
6 days of the date the application is filed, unless the
7 applicant agrees in writing to further delay, the ap-
8 plication shall be deemed denied and the applicant
9 may appeal to Superior Court as if there had been a
10 written denial or the applicant may appeal to the
11 State Board of Property Tax Review by following the
12 procedures specified in subsection 2.

13 1-A. Nonresidential property exceeding \$500,000.
14 With regard to nonresidential property with an equal-
15 ized municipal valuation of \$500,000 or greater, ei-
16 ther party may appeal the decision of the local board
17 of assessment review to the State Board of Property
18 Tax Review within 60 days after notice of the deci-
19 sion from which the appeal is taken or after the ap-
20 plication is deemed to be denied. The board shall
21 hold a hearing de novo. If the board thinks that the
22 owner is over assessed, it shall grant such reason-
23 able abatement as the board thinks proper.

24 2. Primary assessing areas. If the chief asses-
25 sor, municipal officer or the State Tax Assessor re-
26 fuses to make the abatement asked for, the applicant
27 may apply in writing to the State Board of Assessment
28 Review Property Tax Review within 60 days after no-
29 tice of the decision from which such the appeal is
30 being taken or after the application shall be deemed
31 to have been denied, and if the board thinks he is
32 over-assessed, he shall be granted such reasonable
33 abatement as the board thinks proper. The decision
34 of the State Board of Assessment Review Property Tax
35 Review shall be deemed final agency action by that
36 board under the Maine Administrative Procedure Act.
37 Appeals to the State Board of Assessment Review Prop-
38 erty Tax Review shall be directed to the Chairman of
39 the State Board of Assessment Review Property Tax
40 Review, who shall convene the board to hear the ap-
41 peal and shall notify all parties of the time and
42 place thereof.

43 Sec. 18. 36 MRSA §844, as amended by PL 1981, c.
44 364, §22, is repealed and the following enacted in
45 its place:

1 §844. Appeals to county commissioners

2 1. Municipalities without board of assessment
3 review. Except where the municipality has adopted a
4 board of assessment review or has been designated as
5 a primary assessing area, if the assessors or the mu-
6 nicipal officers refuse to make the abatement asked
7 for, the applicant may apply to the county commis-
8 sioners within 60 days after notice of the decisions
9 from which the appeal is being taken or within 60
10 days after the application is deemed to have been de-
11 denied. If the assessors think that the applicant is
12 overassessed, the applicant shall be granted such
13 reasonable abatement as the assessors think proper.
14 If the applicant has paid the tax, he shall be reim-
15 bursed out of the municipal treasury, with costs in
16 either case. If the applicant fails, the commission-
17 ers shall allow costs to the municipality, taxed as
18 in a civil action in the Superior Court, and issue
19 their warrant of distress against him for collection
20 of such amount as may be due the municipality. The
21 commissioners may require the assessors or municipal
22 clerk to produce the valuation by which the assess-
23 ment was made or a copy of it. Either party may ap-
24 peal from the decision of the county commissioners to
25 the Superior Court, in accordance with the Maine
26 Rules of Civil Procedure, Rule 80B. If the county
27 commissioners fail to give written notice of their
28 decision within 60 days of the date the application
29 is filed, unless the applicant agrees in writing to
30 further delay, the application shall be deemed denied
31 and the applicant may appeal to the Superior Court as
32 if there had been a written denial or the applicant
33 may appeal to the State Board of Property Tax Review
34 by following the procedures specified in section 843,
35 subsection 2.

36 2. Nonresidential property exceeding \$500,000.
37 Notwithstanding subsection 1, the owner of nonresi-
38 dential property with an equalized municipal valua-
39 tion of \$500,000 or greater may choose to appeal the
40 decision of the assessors or the municipal officials
41 with regard to a request for abatement to the State
42 Board of Property Tax Review within 60 days after no-
43 tice of the decision from which the appeal is taken
44 or after the application is deemed to be denied. If
45 the state board thinks that the owner is

1 overassessed, it shall grant such reasonable abate-
2 ment as the board thinks proper.

3 Sec. 19. 36 MRS §850 is enacted to read:

4 §850. Assessment of costs

5 When an applicant appeals to the State Board of
6 Property Tax Review because the local board of as-
7 essment review or county commissioners fail to make
8 a decision, the costs of the state board in deciding
9 the appeal shall be charged to the municipality or
10 county failing to make the decision.

11 Sec. 20. 36 MRS §1118, as repealed and replaced
12 by PL 1979, c. 666, §25, is amended to read:

13 §1118. Appeals and abatements

14 The denial of an application or an assessment
15 made under this subchapter is subject to the abate-
16 ment procedures provided by section 841. Appeal from
17 a decision rendered under section 841 or a recom-
18 mended current use value established under section
19 1106 shall be to the Land Classification Appeals
20 Board State Board of Property Tax Review.

21 Sec. 21. 36 MRS §2865, sub-§2, as enacted by PL
22 1981, c. 711, §10, is amended to read:

23 2. Valuation. If a mine site is located in a
24 municipality, he shall determine the valuation of
25 mining property and the percentage of that valuation
26 represented by land and buildings not exempt from
27 property taxes. That valuation of land and buildings
28 shall be applied in determining the property taxes.
29 A municipality in which a mine site is located may
30 appeal that determination to the Municipal Valuation
31 Appeals Board State Board of Property Tax Review as
32 provided under section 291 subchapter II-A.

33 Sec. 22. Appropriation. The following funds are
34 appropriated from the General Fund to carry out the
35 purposes of this Act.

36

1986-87

1 required that the State Tax Assessor approve alterna-
2 tive manuals and procedures.

3 The new draft makes a change in the language sug-
4 gested in the original bill relating to just value.
5 The new draft includes a listing of additional fac-
6 tors, such as current use and physical depreciation,
7 and specifies that all relevant factors must be con-
8 sidered by assessors. This provision is not intended
9 to change the constitutional requirement that all
10 property be valued at just value. This section is
11 intended to require assessors to consider all rele-
12 vant factors, including the ones specified, but it is
13 understood that the factors should not be applied if
14 that application does not result in a determination
15 of just value.

16 The new draft adds a provision requiring that
17 when an applicant for abatement appeals to the state
18 board because the local board or county commissioners
19 have failed to make a determination within the time
20 allowed, the costs of the state board in deciding the
21 appeal shall be charged to the municipality or county
22 failing to make the decision.

23 The new draft also adds a transitional provision
24 to provide for appeals that are in process on the ef-
25 fective date of this Act.

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