

MAINE STATE LEGISLATURE

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1 FIFTH SPECIAL SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 2155

6
7 H. P. 2428 House of Representatives, May 13, 1982
Submitted by the Joint Standing Committee on Taxation pursuant
to Joint Order S. P. 999.

Reported by Representative Post from the Committee on Taxation
pursuant to S. P. 999. Printed under Joint Rules No. 18.

8 EDWIN H. PERT, Clerk

9
10 STATE OF MAINE
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 AN ACT to Create an Excise Tax on
16 Mining Companies and Regulate Mining
17 Activities.
18

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

20 Sec. 1. 1 MRSA §2601, sub-§4 is enacted to read:

21 4. Review of grants for mining impact assistance. The
22 provisions for mining impact assistance contained in Title
23 36, section 2863, shall be reviewed by January 1, 1987, and
24 every 5 years thereafter.

25 Sec. 2. 5 MRSA c. 18 is enacted to read:

26 CHAPTER 18

27 MINING EXCISE TAX TRUST FUND

28 §451. Statement of purpose

1 A. The board may use income for the purposes of this
2 section.

3 B. The board may use the principal if approved by the
4 Legislature and the Governor.

5 2. Uses. Funds may be used as follows:

6 A. To purchase and develop land or other real property
7 interests for park and recreational uses;

8 B. To purchase wildlife habitats, marine habitats and
9 unique natural areas; or

10 C. To restore the quality of marine waters, lakes,
11 rivers and streams.

12 **Sec. 3. 36 MRSA §573, sub-§3, ¶¶C and D, as enacted by**
13 **PL 1981, c. 625, §1, are amended to read:**

14 C. Deed restrictions, restrictive covenants or orga-
15 nizational charters which prevent commercial harvesting
16 of trees or require a primary use of land other than
17 commercial harvesting and which were effective prior to
18 January 1, 1982; or

19 D. If the parcel is less than 100 acres, the sole use
20 of the land is harvesting trees for personal use; or

21 **Sec. 4. 36 MRSA §573, sub-§3, ¶E is enacted to read:**

22 E. Past or present multiple use for mineral explora-
23 tion.

24 **Sec. 5. 36 MRSA §581-C is enacted to read:**

25 §581-C. Mineral lands

26 Notwithstanding the provisions of section 581, on with-
27 drawal or change of use of land containing naturally occur-
28 ring metallic minerals, the penalty due with respect to the
29 portion of the just value attributable to those minerals
30 shall be the minimum penalty provided in the Maine Constitu-
31 tion, Article IX, section 8.

32 1. Just value. The portion of just value attributable
33 to the naturally occurring metallic minerals shall be the
34 just value of the minerals according to section 2864.

1 2. Additional penalty. The additional penalty for
2 failure to report a change of use under section 579 may not
3 apply to this penalty.

4 3. Interest. Interest shall be applied to this pen-
5 alty at a rate of 5% per year.

6 4. Supplemental assessments. When the penalty provi-
7 sions of this section apply to a change of use or with-
8 drawal, supplemental assessments under section 579, or
9 supplemental assessments under any other section, of the tax
10 that should have been paid may not be made on the portion of
11 the valuation of that land that is attributable to naturally
12 occurring metallic minerals.

13 5. Application. This section shall also apply to
14 changes in use occurring before the effective date of this
15 section.

16 6. Allocation of penalty. This penalty shall be
17 deposited in the Mining Impact Assistance Fund provided in
18 section 2863.

19 **Sec. 6. 36 MRSA §603, sub-§9 is amended to read:**

20 9. Certain corporations. The personal property of
21 manufacturing, mining, smelting, agricultural and stock
22 raising corporations, and corporations organized for the
23 purpose of buying, selling and leasing real estate shall be
24 taxed to the corporation or to the persons having possession
25 of such property in the place where situated, except as pro-
26 vided in subsection subsections 1 and 10.

27 **Sec. 7. 36 MRSA §603, sub-§10 is enacted to read:**

28 10. Tax situs. The tax situs of tangible personal
29 property shall be at the mine site if that property is:

30 A. Owned, leased or otherwise subject to possessory
31 control of a mining company; and

32 B. On route to or from, being transported to or from
33 or destined to or from a mine site.

34 For the purposes of this subsection, the definitions of
35 section 2855 shall apply.

36 **Sec. 8. 36 MRSA §656, sub-§1, ¶B is repealed and the**
37 **following enacted in its place:**

1

STATEMENT OF FACT

2 This bill is the result of a cooperative effort on the
3 part of representatives of the Executive Department, the
4 Legislature and companies which have an interest in mining
5 in the State of Maine. It is essentially a redraft of L.D.
6 1621 presented in the First Regular Session of the 110th
7 Legislature and L.D. 2043 presented in the Second Regular
8 Session of the 110th Legislature. Both bills were studied
9 extensively by the Joint Standing Committee on Taxation.

10 This bill establishes an excise tax on metallic mineral
11 mining in the State. This excise tax is in lieu of property
12 taxes on the mineral deposit and on the mining facilities
13 and equipment, after the commencement of mining. However,
14 the surface of the land and the buildings remain subject to
15 the property tax. The excise tax is the greater of a mini-
16 mum rate based on the value of facilities and equipment, or
17 an escalating tax rate applied to gross proceeds. The esca-
18 lating rate is based on the profitability of the mining
19 operation. The bill also provides for distribution of the
20 excise tax revenues between the General Fund, municipalities
21 affected by the mining activities and a trust fund. The
22 bill also contains provisions for constitutionally required
23 municipal reimbursement and for grants to affected munici-
24 palities.

25 Section 1 provides for legislative review of the opera-
26 tion of the Mining Impact Assistance Fund by January 1, 1987
27 and every 5 years thereafter.

28 Section 2 enacts the Mining Excise Tax Trust Fund.
29 This fund would receive a portion of revenue generated by
30 the excise tax. The trust fund, with a \$10,000,000 maximum,
31 will be administered by a board composed of 5 members (one
32 of whom resides in the unorganized territory) appointed by
33 the Governor and confirmed by the Legislature. Expenditures
34 of interest from the fund will be contained in a general
35 plan prepared by the board, which will be subject to legis-
36 lative approval. The funds may be used to purchase and
37 develop parks and recreational facilities, wildlife habitats
38 and marine habitats, unique natural areas, and to restore
39 the quality of marine waters, lakes, rivers and streams.

40 Sections 3 and 4 specify legislative intent that land
41 which is otherwise eligible for tree growth tax law classi-
42 fication shall not be excluded because of past or present
43 multiple use for mineral exploration.

1 Section 5 reduces the tree growth withdrawal penalty
2 that is due on the value of a mineral deposit to the consti-
3 tutional minimum penalty. The section also eliminates the
4 late reporting penalty for these deposits and sets the
5 interest rate at 5%. This section is retroactive.

6 Sections 6 and 7 establish the tax situs of certain
7 mining property, including concentrates, which are in tran-
8 sit as at the mine site.

9 Sections 8 and 18 establish a property tax exemption
10 effective March 1, 1983 for minerals. This is an expansion
11 of the current exemption for minerals which is for 10 years
12 after the opening of a mine. This broader exemption estab-
13 lishes that the just value of the real estate shall be
14 determined without regard to the presence of minerals.

15 Section 9 conforms the farm and open space penalty
16 provisions to the changes in the tree growth penalty in this
17 bill.

18 Section 10 establishes the Mining Excise Tax.

19 Section 2852. Findings. This section provides a gen-
20 eral, factual introduction for the bill.

21 Section 2853. Purpose. This section sets forth gen-
22 eral state policy toward metallic mining in Maine and serves
23 as the policy framework for the remainder of the bill.

24 Section 2854. Excise Tax. This section establishes a
25 mining excise tax which is intended to encourage the sound,
26 profitable and orderly development of metallic mineral
27 resources while permitting the State to derive a benefit
28 from the extraction of nonrenewable resources and to compen-
29 sate the State and its political subdivisions for costs
30 incurred as a result of mining activity.

31 The excise tax is imposed in lieu of all property tax
32 on mining property except for land, excluding minerals and
33 mineral rights, and buildings which remain subject to local
34 property taxation by the taxable jurisdiction in which the
35 mine site is located.

36 Section 2855. Definitions.

37 Section 2855

38 This section contains definitions for terms used in the
39 bill.