

OFFICE OF FISCAL AND PROGRAM REVIEW

Date: February 14, 2013

To: Members, Joint Standing Committee on Taxation

From: Elizabeth Cooper, Legislative Analyst

LD 107, RESOLUTION, Proposing an Amendment to the Constitution of Maine To Permit the Legislature To Provide a One-year Period of Penalty Relief for Withdrawal of Forest Land from Current Use Valuation

Summary: This resolution proposes to amend the Constitution of Maine to permit the Legislature to provide a one-year period of relief from the penalty for withdrawal of forest land from current use valuation if the forest land has been taxed at current use valuation for at least 5 years and the owner is withdrawing at least 50% of the owner's forest land. The availability of the relief period would be limited to no more than once every 5 years.

Public Hearing:

Proponents

- Sponsor presented the bill and provided written testimony.
- *Major points:* helpful to land owners who want to remove land from TG but penalty is prohibitive and to municipalities as they would gain just value for future years.

Opposed

- Those testifying in opposition to the bill included representatives from: Maine Municipal Association, Maine Audubon and Natural Resources Council of Maine.
- *Major points:* lower taxes are in exchange for a public benefit of a sustainable forest resource; penalty provides enforcement and compensation for lost taxes.

NFNA

- The Small Woodland Owners of Maine testified “neither for nor against” the bill.
- *Information provided:* changes made to TG every year; study conducted by Maine Forest Service is due in 2014; encourage waiting for results before more changes.

Additional information:

1. Cost of forest plan preparation - An income tax credit is available for plan preparation costs of up to \$200.

§5219-C. Forest management planning income credits

Once every 10 years, an individual is allowed a credit against the tax otherwise due under this Part for the lesser of \$200 or the individual's cost for having a forest management and harvest plan developed by a licensed professional forester for a parcel of forest land in this State greater than 10 acres. The licensed professional forester may not be in the regular employ of the individual. This credit may not reduce the tax otherwise due under this Part to less than zero. An individual claiming this credit must attach a statement from the forester supporting the claim and swear that the credit has not been claimed by the individual in the previous 10 years. An individual claiming this credit who deducts the cost of the forest management and harvest plan as an expense under the Code must increase federal adjusted gross income by the amount of that expense for purposes of the tax imposed by this Part.

Additional information (continued):

2. Disclosure - Tree Growth status is provided on real estate seller disclosure and real estate transfer tax declaration of value.
3. Calculation of penalty - the penalty will be an amount equal to 30% of the difference between the 100% Tree Growth valuation (of the classified land on the assessment date immediately preceding withdrawal) and the just value of the property on the date of withdrawal. If the land has been classified for more than 10 years, the following percentages shall apply:

10 years or less = 30%	16 years = 24%
11 years = 29%	17 years = 23%
12 years = 28%	18 years = 22%
13 years = 27%	19 years = 21%
14 years = 26%	20 years or more = 20%
15 years = 25%	

Pursuant to the Constitution of Maine, Article IX, section 8, the withdrawal penalty imposed may not be less than “the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest.”

(For penalty amounts by municipality and county, see section 4 of the 2011 Municipal Valuation Return Statistical Summary published by Maine Revenue Services.)

4. Study - PL 2011, c. 619 requires the Maine Forest Service to conduct a study with random sampling of TG land to assess overall compliance with the TG program and the differences in compliance based on property location (waterfront versus other). It requires a report to the Taxation Committee by March 1, 2014, and the law authorizing the random sampling is repealed in December 2013.

Fiscal Information: The preliminary fiscal impact statement was not available at the time this analysis was completed.