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Legislative Document

No. 565

H.P. 389

House of Representatives, February 26, 2015

An Act To Authorize Municipalities To Impose Service Charges on Tax-exempt Property Owned by Certain Nonprofit Organizations

Reference to the Committee on Taxation suggested and ordered printed.

ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative LOCKMAN of Amherst. Cosponsored by Senator GRATWICK of Penobscot and

Representatives: EDGECOMB of Fort Fairfield, GILLWAY of Searsport, GOODE of Bangor, GUERIN of Glenburn, PICCHIOTTI of Fairfield, TUELL of East Machias, Senators: BRAKEY of Androscoggin, VOLK of Cumberland.

1	Be it enacted by the People of the State of Maine as follows:
2 3	Sec. 1. 36 MRSA §508, sub-§1, as enacted by PL 2007, c. 627, §12, is repealed and the following enacted in its place:
4 5 6 7	1. Imposition. By referendum vote conducted in accordance with the provisions of the municipality's charter or Title 30-A, section 2528 or 2532, even if the municipality has not accepted the provisions of section 2528, a municipality may adopt an ordinance as provided in this subsection that imposes service charges on:
8 9	A. Residential property, other than student housing or parsonages, that is totally exempt from taxation under section 652 and that is used to provide rental income; or
10 11 12	B. Subject to the limitations of subsection 1-A, real and personal property that is totally exempt from taxation under section 652, subsection 1, paragraph A, B, F, H or J, excluding:
13 14 15 16 17 18	(1) Nonprofit nursing homes exempt under paragraph A and licensed by the Department of Health and Human Services pursuant to Title 22, chapter 405 nonprofit residential care facilities licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663 and nonprofit community mental health service facilities licensed by the Commissioner of Health and Human Services pursuant to Title 34-B, section 1203-A; and
19 20 21	(2) Property exempt under section 652, subsection 1, paragraph J that is partly owned or used by an entity exempt under section 652, subsection 1, paragraph E or G.
22	Sec. 2. 36 MRSA §508, sub-§1-A is enacted to read:
23 24	1-A. Conditions. A municipal ordinance adopted under subsection 1 must provide the following:
25 26 27 28 29	A. Service charges may be imposed on property only if the owner of that property owns property in the municipality that is totally exempt from taxation under section 652, subsection 1, paragraph A, B, F, H or J and the total assessed value of that property would be at least \$1,000,000 if the property was assessed for property tax purposes;
30 31 32 33 34 35 36	B. Service charges may be imposed only on property owned by, rented to or otherwise occupied by, in whole or in part, a person or entity that provides any employee or independent contractor engaged to provide professional management services with compensation, exclusive of health benefits, in excess of 4 times the median household income as most recently established by the United States Department of Commerce, Bureau of the Census for the county where the property is located;

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costs of those services;

C. Service charges must be calculated according to the actual cost of providing municipal services to that real property and to the persons who use that property, and

revenues derived from the charges must be used to fund, to the extent possible, the

- D. Service charges must be reduced by the value of any financial contributions made, payments made or services provided to the municipality in lieu of taxes by the entity that owns or uses the tax-exempt property within the same fiscal year;
 - E. Service charges must be calculated based on the square footage of building space that is exempt from taxation unless the municipality determines that a different measure more accurately represents the cost of services for which service charges are imposed; and
 - F. If service charges are imposed on any property entitled to an exemption under section 652, subsection 1, paragraph A, B, F, H or J, service charges must be imposed on all properties entitled to an exemption under the same paragraph.
 - **Sec. 3. Preexisting ordinances not invalidated.** This Act does not void or otherwise invalidate any municipal ordinance adopted before the effective date of this Act pursuant to the Maine Revised Statutes, Title 36, section 508 or former section 652, subsection 1, paragraph L.

15 SUMMARY

Current law allows a municipality to impose service charges on the owner of residential property that is totally exempt from property taxes, except for student housing and parsonages, that is used to provide rental income.

This bill instead provides that a municipality may impose service charges on property that is exempt from taxation because it is owned or used by entities in the following categories: benevolent and charitable institutions; literary and scientific institutions; chambers of commerce and boards of trade; fraternal organizations operating under a lodge system; and property jointly owned or used by those entities. Service charges may not be imposed on property exempt as a house of worship or parsonage or a veterans' organization.

Service charges must meet the following conditions:

- 1. The property must be owned by an entity that owns exempt property in the municipality that would have a total assessed value of at least \$1,000,000 if assessed for property tax purposes and the property must be owned by, rented to or otherwise occupied by a person or entity that provides any employee or independent contractor engaged to provide professional management services with compensation, exclusive of health benefits, in excess of 4 times the median household income for the county in which the property is located;
- 2. The municipality must adopt an ordinance imposing service charges approved by the voters through a referendum process;
- 3. The municipality may not impose a service charge on individual properties without imposing service charges on all other property in that municipality that is within the same category of exempt property;

4. The calculation of service charges imposed by municipalities must be based on the square footage of building space that is exempt from taxation unless the municipality determines that a different measure more accurately represents the cost of services for which the service charges are imposed; and

 5. Service charges must be reduced by any payments made or services provided to the municipality by the exempt entity in lieu of taxes.

The bill provides that municipal ordinances adopted before the effective date of the legislation remain valid even if they do not comply with the new requirements. The bill retains the requirement in current law that service charges may not exceed 2% of the entity's gross annual revenue.