

Maine Revised Statute Title 36, Chapter 371: MINING EXCISE TAX

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36 §2851. PREAMBLE

It is the Legislature's belief that mining for metallic minerals is an acceptable and necessary activity in the State. Mining results in economic benefits to the locality where it occurs, as well as to the entire State and the Nation. Those who conduct mining do so by their own initiative and by investing their capital. When mining is conducted, investments of the State are also made to provide public facilities and services. Aesthetic costs and the permanent loss of valuable assets also result from mining. It is the Legislature's intent that the mining excise tax be fairly related to the services provided by the State and its subdivisions, as well as account for the costs of mining and the permanent loss of valuable assets. [1981, c. 711, §10 (NEW).]

SECTION HISTORY

1981, c. 711, §10 (NEW).

36 §2852. FINDINGS

The Legislature makes the following findings. [1981, c. 711, §10 (NEW).]

1. Mineral resources fundamental. Mineral resources are fundamental to modern civilization.

[1981, c. 711, §10 (NEW) .]

2. Mineral resources as economic wealth. Mineral resources have historically been a primary source of economic wealth, are valuable and, once removed, are forever lost as an economic asset to the State.

[1981, c. 711, §10 (NEW) .]

3. Development of mineral resources. Development of this country's mineral resources has involved only a small portion of its land area and may be expected to involve a similarly small portion of the land area of Maine.

[1981, c. 711, §10 (NEW) .]

4. Excise tax. The tax established by this chapter is not a property tax. It is an excise tax imposed on those engaged in and enjoying the privilege of conducting mining in the State.

[1981, c. 711, §10 (NEW) .]

5. Creation of additional costs to government by mining. The activity of mining may create additional costs to the State and its political subdivisions for government services, such as environmental monitoring and education and for highways, sewers, schools and other improvements which are necessary to accommodate the development of a mining industry.

[1981, c. 711, §10 (NEW) .]

6. Effect of mining on environment and other qualities. The activity of mining may have permanent and often damaging effects on the environment and recreational and aesthetic qualities of the State. These effects constitute a cost to the State.

[1981, c. 711, §10 (NEW) .]

7. Quality of life. The activity of mining may significantly alter the quality of life in communities affected by mining.

[1981, c. 711, §10 (NEW) .]

8. Size of mining operation. As the size of a mining operation increases, the cost to the State and its political subdivisions may increase, as do the effects on the environment. As the size of a mining operation increases, the mining company benefits from economies of scale in the mining operation.

[1981, c. 711, §10 (NEW) .]

9. Long-term and short-term economic costs. The State and its political subdivisions incur long-term and short-term economic costs as a result of mining. A fund, in which is deposited a portion of the excise tax revenues, assures that money will be available for long-term and short-term costs associated with social, educational, environmental and economic impacts of mining.

[1981, c. 711, §10 (NEW) .]

10. Impact of mining tax laws on mining industry. Mining tax laws may have a significant impact on the profitability of mining and the industry's ability to enter into and sustain production.

[1981, c. 711, §10 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW).

36 §2853. PURPOSE

It is the policy of the State to encourage the sound and orderly development of Maine's mineral resources. The object of this policy is to assure that the actions associated with development of these resources will: [1981, c. 711, §10 (NEW).]

1. Expansion and diversification of economy. Encourage expansion and diversification of the state's economy and create new employment opportunities for the state's people;

[1981, c. 711, §10 (NEW) .]

2. Land use; environmental, safety and health regulations. Adhere to sound and effective land use, environmental, safety and health regulations administered through appropriate public agencies;

[1981, c. 711, §10 (NEW) .]

3. Assistance to municipalities and counties. Provide planning and development assistance to municipalities, counties and the unorganized territory if significantly affected by mineral resource development; and

[1981, c. 711, §10 (NEW) .]

4. Scheme of taxation. Establish a practical scheme of taxation on mining companies which will:

A. Permit these companies to profitably operate mines within the State; [1981, c. 711, §10 (NEW) .]

B. Encourage the economically efficient extraction of minerals; [1981, c. 711, §10 (NEW) .]

C. Permit the State to derive a benefit from the extraction of a nonrenewable resource; and [1981, c. 711, §10 (NEW) .]

D. Compensate the State and its political subdivisions for present and future costs incurred or to be incurred as a result of the mining activity. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW).

36 §2854. EXCISE TAX IN LIEU OF PROPERTY TAXES

1. Annual excise tax. A mining company shall pay to the State Tax Assessor, for the use set forth in this chapter, an annual excise tax for the privilege of conducting mining within the State.

[1981, c. 711, §10 (NEW) .]

2. Property tax exemption. The excise tax imposed by this chapter shall be in lieu of all property taxes on or with respect to mining property, except for the real property taxes on the following:

A. Buildings, excluding fixtures and equipment; and [1981, c. 711, §10 (NEW).]

B. Land, excluding the value of minerals or mineral rights. [1981, c. 711, §10 (NEW).]

SECTION HISTORY

1981, c. 711, §10 (NEW).

36 §2855. DEFINITIONS

For the purposes of this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 711, §10 (NEW).]

1. The code.

[1987, c. 504, §3 (RP) .]

2. Commencement of mining. "Commencement of mining" means when the mine is opened and in the process of development, and shall be deemed to occur when whichever of the following first occurs:

A. The surface soil is broken in order to facilitate or accomplish the extraction or removal, within 12 successive calendar months, of more than 1,000 cubic yards from the earth of a mineral, top soil or other solid matter or material naturally lying over the minerals, except in connection with exploratory activity; or [1981, c. 711, §10 (NEW).]

B. Construction or reconstruction is commenced on fixtures, buildings or surface improvements, to be used in connection with mining. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

3. Exploratory activity. "Exploratory activity" means all activities undertaken by the owner or any other person for the purpose of determining the existence of minerals or the quantity, quality or character of the minerals or feasibility of mining those minerals. These activities may include, without limitation: Testing and evaluation of the land and subsurface; taking soil and stream sediment samples; drilling on the land including, without limitation, bulk sample drilling; bulk sample excavation; performance of geophysical tests; and activities incidental to the foregoing; notwithstanding that the activity may involve the use of equipment

on the land, may alter the character and appearance of the land or may result in disturbance of the land, including, without limitation, the creation of trails or roads, removal of trees, the planting of new vegetation or the taking of other measures to prevent soil erosion, or the marking of sample holes.

[1981, c. 711, §10 (NEW) .]

4. Facilities and equipment. "Facilities and equipment" means all mining property, excluding land and mineral products.

[1981, c. 711, §10 (NEW) .]

5. Gross proceeds. "Gross proceeds" means a mining company's federal gross income from mining with respect to a mine site, as defined in Section 613 of the code.

[1981, c. 711, §10 (NEW) .]

6. Land. "Land" means all real estate and all natural resources and any interest in or right involving that real estate or natural resources including, without limitation, minerals, mineral rights, timber, timber rights, water and water rights. "Land" does not include improvements constructed, placed or located within a mine site, such as buildings, structures, fixtures, fences, bridges, dikes, canals, dams, roads or other improvements within a mine site.

[1981, c. 711, §10 (NEW) .]

7. Mine site. "Mine site" means the entire contiguous area owned, leased or otherwise subject to the possessory control of a mining company within which mining or activities incidental thereto, occur or may reasonably be expected to occur.

A. The mine site includes, without limitation, the contiguous area in which are located or reasonably may be expected to be located: The excavation; tailings, waste rock or overburden storage areas; mills; conveyors; concentrators; crushers; screens; pipes; canals; dams; ponds; lagoons; ditches; roads; access roads; utility facilities or equipment; pollution control facilities; railroad tracks or sidings; administrative or other buildings; or improvements, structures, rights-of-way or easements appurtenant or related to any of the foregoing. [1981, c. 711, §10 (NEW).]

B. The mine site shall be determined according to section 2865. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

8. Mineral products. "Mineral products" means all unextracted and extracted minerals and all products derived therefrom by mining.

[1983, c. 776, §4 (AMD) .]

9. Minerals. "Minerals" means all naturally-occurring metallic minerals.

[1981, c. 711, §10 (NEW) .]

10. Mining. The term "mining" has the following meanings.

A. "Mining" means:

- (1) The extraction of minerals from the ground; or
- (2) Processes used in the separation or extraction of the mineral or minerals from other material from the mine or other natural deposit, including, but not limited to: Crushing; grinding; beneficiation by concentration (gravity, flotation, amalgamation, electrostatic or magnetic);

cyanidation; leaching; crystallization; or precipitation or processes substantially equivalent to or necessary or incidental to any of the foregoing; but not including electrolytic deposition; roasting; thermal or electric smelting; or refining. [1981, c. 711, §10 (NEW).]

B. Mining does not include exploratory activity. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

11. Mining company. "Mining company" means a person who engages in mining in the State.

[1981, c. 711, §10 (NEW) .]

12. Mining property. "Mining property" means:

A. All real estate on, under, within or comprising a mine site; and [1981, c. 711, §10 (NEW) .]

B. All tangible personal property on, under or within a mine site, or on route to or from a mine site, or being transported to or from or destined to or from a mine site, and which is owned, leased or otherwise subject to possessory control by a mining company. [1981, c. 711, §10 (NEW) .]

C. Mining property does not include:

(1) All property which is not mineral products and is not primarily used or held for use in connection with mining or the business of mining at a mine site, or any activity necessary or incidental to or in support of mining or the business of mining engaged in at a mine site; or

(2) Those vehicles upon which state excise taxes are paid for the current registration period pursuant to chapter 111. [1983, c. 776, §5 (AMD) .]

[1983, c. 776, §5 (AMD) .]

13. Municipality. "Municipality" means a city, town or plantation.

[1981, c. 711, §10 (NEW) .]

14. Net proceeds. "Net proceeds" means a mining company's federal taxable income from the property with respect to a mine site (computed without allowance for depletion as defined in Section 613 of the code) adjusted as follows.

A. The following deductions are allowed in addition to those allowed in computing taxable income from the property under the code:

(1) Cost depletion as would be allowed under Section 611 of the code without regard to percentage depletion;

(2) Exploration and development costs as defined in Sections 616 and 617 of the code. Exploration and development costs incurred prior to the commencement of mining must be recovered proportionately over the life of the mine in the same manner as that provided in Section 611 of the code with respect to cost depletion. Exploration and development costs incurred after the commencement of mining must be recovered in the year incurred;

(3) Net operating loss deductions as defined in Section 172 of the code, but not including the exclusions under paragraph B; and

(4) Reasonable accruals for all reclamation, restoration and shut-down costs required by state or federal laws, regulations or permits. These accruals must be made on a proportionate basis over the accrual period. [1993, c. 395, §18 (AMD) .]

B. The following may not be allowed as deductions:

(1) Property taxes paid that are allowed as a credit against the tax provided by this chapter;

(2) The tax provided by this chapter; and

(3) Percentage depletion as allowed under Section 613 of the code. [1993, c. 395, §18 (AMD).]

[1993, c. 395, §18 (AMD) .]

15. Tax year. "Tax year" means an annual accounting period ending on the last day of the month of the period used by the mining company as its taxable year for federal income tax purposes.

[1981, c. 711, §10 (NEW) .]

16. Termination of mining. "Termination of mining" means, and shall be deemed to occur on March 31st of any year if:

A. The mining company has permanently abandoned mining during the previous 12 months; or [1981, c. 711, §10 (NEW).]

B. During the previous 2 years, there has been:

(1) Extraction or removal from the earth or sale of less than 1,000 cubic yards of minerals, top soil, other solid matter or material naturally lying over the minerals; and

(2) No construction or reconstruction of fixtures, buildings or surface improvements which are mining property. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

17. Value of facilities and equipment. "Value of facilities and equipment" means the basis to the owner as defined in Section 1012 of the code for all facilities and equipment:

A. With a useful life beyond one year at the date of acquisition; and [1981, c. 711, §10 (NEW).]

B. Which are, on the last day of the tax year:

(1) On, under or within a mine site; or

(2) Within the State and on route to or from a mine site, or being transported to or from or destined to or from a mine site. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1983, c. 776, §§4,5 (AMD). 1985, c. 535, §5 (AMD). 1987, c. 504, §3 (AMD). 1993, c. 395, §18 (AMD).

36 §2856. AMOUNT OF TAX

The amount of the annual excise tax on a mining company shall be the sum of the excise taxes due on each mine site. The excise tax due on each mine site shall be the greater of the following: [1981, c. 711, §10 (NEW).]

1. Tax on facilities and equipment. The value of facilities and equipment multiplied by 0.005; or

[1981, c. 711, §10 (NEW) .]

2. Tax on gross proceeds. The gross proceeds multiplied by:

A. If net proceeds is greater than zero, the greater of the following:

(1) 0.009; or

(2) A number determined by subtracting from 0.045 the quotient obtained by dividing:

(a) Gross proceeds, by

(b) Net proceeds multiplied by 100. [1981, c. 711, §10 (NEW).]

B. If net proceeds is equal to or less than zero, then 0.009. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW).

36 §2857. RETURNS

1. Annual return. A mining company shall file, on or before the date the mining company's state income tax return is due to be filed, an annual return on a form specified by the State Tax Assessor for each tax year.

[1981, c. 711, §10 (NEW) .]

2. Form and contents. The return shall indicate:

A. The tax due; [1981, c. 711, §10 (NEW).]

B. The estimated tax payments made; [1981, c. 711, §10 (NEW).]

C. Credits provided under section 2858; and [1981, c. 711, §10 (NEW).]

D. Information relating to the value of facilities and equipment, gross proceeds, net proceeds or other relevant information as the State Tax Assessor may by rule require. [1981, c. 711, §10 (NEW).]

3. Payments. A mining company shall pay the tax due, less estimated tax payments and credits, at the time its annual return is due without extensions.

[1981, c. 711, §10 (NEW) .]

4. Extensions. The State Tax Assessor may grant a reasonable extension of time for filing a return, declaration, statement or other document or payment of tax or estimated tax required by this chapter on such terms and conditions as he may require. The extension may not exceed 8 months.

[1981, c. 711, §10 (NEW) .]

5. Computation. In computing a mining company's tax, gross proceeds and net proceeds shall be computed as if each mine site were a separate taxpayer. The State Tax Assessor may distribute, apportion or allocate on a reasonable basis gross proceeds, deductions, credits or allowances between or among mining companies or mine sites, if such distribution, apportionment or allocation is necessary to prevent evasion of taxes imposed by this chapter, or to reflect clearly the gross or net proceeds of any mining company or mine site.

[1981, c. 711, §10 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW).

36 §2858. CREDITS, REFUNDS AND AMENDMENTS

Credits, refunds and amendments shall be computed and applied separately for each mine site. The following provisions shall apply. [1981, c. 711, §10 (NEW).]

1. Credit for property tax prior to commencement of mining. A credit shall be allowed for property taxes paid by a mining company or any other person on property which becomes exempt during the year under section 2854, subsection 2. The amount of the credit shall be computed as follows: The number of days remaining in the property tax year beginning with the date mining commences and the next March 31st, inclusive, shall be divided by 365; the percentage thus arrived at shall be multiplied by the property taxes paid during that property tax year against such property. The credit may be used in the tax year in which the property tax was paid or in any tax years thereafter.

[1981, c. 711, §10 (NEW) .]

2. Credit for property tax paid on land and buildings. A credit shall be allowed for property taxes paid by a mining company or any other person on land and buildings that are mining property. The credit may be used in the tax year in which the property tax was paid or in any tax years thereafter.

[1981, c. 711, §10 (NEW) .]

3. Credits for prepayment of taxes. The following provisions apply to prepayment of taxes other than estimated tax payments.

A. A person may prepay to the State Tax Assessor at any time prior to the end of the 5 years following the commencement of mining, a portion of the taxes due under this chapter not to exceed \$250,000 in one year or \$500,000 for a mine site. [1981, c. 711, §10 (NEW).]

B. If a person (whether or not it was a mining company at the time of the prepayment) prepays a portion of the taxes due under this chapter, it may take that prepayment as a credit against the taxes due under this chapter in any tax years following prepayment. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

4. Credit for penalty payments.

[1987, c. 772, §26 (RP) .]

4-A. Credits for municipal reimbursement paid.

[1983, c. 776, §6 (RP) .]

5. Refunds. Tax refunds and abatements shall be made in accordance with section 2011, except if estimated tax payments exceed the tax due for the tax year, the State Tax Assessor shall refund the excess, unless the mining company requests otherwise.

[1981, c. 711, §10 (NEW) .]

6. Amendment for unexpended accruals. If accruals taken as deductions under section 2855, subsection 14, are not actually expended for the purposes for which they were accrued, then the mining company shall amend its returns for the tax years the deductions were taken to reduce those deductions to actual expenditures.

[1981, c. 711, §10 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1983, c. 555, §4 (AMD). 1983, c. 776, §6 (AMD). 1987, c. 772, §26 (AMD).

36 §2859. ESTIMATED TAX REQUIREMENTS

A mining company shall make payments of estimated tax pursuant to section 5228, except that the estimated tax liability is to be based on liability for the mining excise tax rather than the income tax. [1985, c. 691, §§ 27, 48 (RPR).]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1985, c. 691, §§27,48 (RPR).

36 §2860. ENFORCEMENT

The following provisions shall apply to enforcement of this chapter. [1981, c. 711, §10 (NEW).]

1. General enforcement provisions. The provisions of chapters 1 to 7 and chapter 835 shall apply with like effect to collecting the tax and enforcing the provisions of this chapter.

[1981, c. 711, §10 (NEW) .]

2. Lien. The tax, if unpaid when due, may become a lien on the mining property or any other property of the mining company, as provided under section 175-A.

[1989, c. 502, Pt. A, §132 (AMD) .]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1989, c. 502, §A132 (AMD).

36 §2861. MUNICIPAL REIMBURSEMENT

1. Reimbursement. Excise tax revenues shall be used first to reimburse municipalities for the tax exemptions established by this chapter.

[1981, c. 711, §10 (NEW) .]

2. Treasurer's duties. The Treasurer of State shall reimburse each municipality at least 50% and, if revenues from the Mining Excise Tax are available, up to 100% of the property tax revenue loss suffered by that municipality during the previous calendar year as a result of the exemptions established by this chapter.

[1991, c. 883, §3 (AMD) .]

3. Determination of amount. The property tax revenue loss shall be determined as follows.

A. The State Tax Assessor shall make the following determinations:

- (1) The total amount of property taxes levied by the municipality in the previous calendar year;
- (2) The municipal valuation which resulted in subparagraph (1); and
- (3) The valuation of the property which is exempt as a result of this chapter. [1981, c. 711, §10 (NEW) .]

B. The valuation of property which is exempt as a result of this chapter, shall be the total valuation of that property reduced by the valuation of that property which would be determined to be exempt under this Title as this Title existed on the day before the effective date of this Act. [1981, c. 711, §10 (NEW) .]

C. The State Tax Assessor shall add the valuation as determined in paragraph A, subparagraph (2), to the valuation as determined in paragraph A, subparagraph (3), and divide the sum into the figure determined in paragraph A, subparagraph (1). [1981, c. 711, §10 (NEW).]

D. The State Tax Assessor shall apply the rate calculated in paragraph C to the valuation of the exempt property to determine the amount of potential tax revenue loss. [1981, c. 711, §10 (NEW).]

E. The State Tax Assessor shall reduce the amount from paragraph D to reflect the additional school support provided by the State because of the change in valuation under paragraph B, which figure shall be the actual tax revenue loss. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

4. Payment. The Treasurer of State shall use the excise tax revenues to pay to each municipality at least 50% and, if revenues are available, up to 100% of the actual tax revenue loss as determined by subsection 3, paragraph E. The Treasurer of State shall set aside an amount from these revenues sufficient to meet this obligation. The Treasurer of State shall pay the money due to the municipality by February 1st of the year following the year in which property tax revenue was lost by the municipality.

[1991, c. 883, §3 (AMD) .]

5. Unorganized territory. The unorganized territory shall be entitled to reimbursement under this section in the same manner provided by this section for municipalities. The amount of reimbursement due shall be paid into the Unorganized Territory Education and Services Fund established in chapter 115.

[1985, c. 459, Pt. B, §5 (NEW) .]

6. Corrective action. The Treasurer of State, following the payment of excise tax revenues to municipalities pursuant to subsection 4, shall annually set aside 25% of the remaining revenues from mining operations in municipalities not under the jurisdiction of the Maine Land Use Regulation Commission to be deposited in the Mining Corrective Action Fund. Money in this fund is available to municipalities to fund corrective action as defined by rule by the Department of Environmental Protection in relation to metallic mineral exploration.

[1991, c. 883, §4 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1985, c. 459, §B5 (AMD). 1991, c. 883, §§3,4 (AMD).

36 §2862. DISTRIBUTION OF REMAINING REVENUES

Excise tax revenues remaining after municipal reimbursement and payments into the Mining Corrective Action Fund under section 2861 must be used as follows. [1991, c. 883, §5 (AMD).]

1. First year. In the first year following the commencement of mining, revenues shall be distributed as follows:

A. 20% to the General Fund; and [1981, c. 711, §10 (NEW).]

B. 80% to the Mining Impact Assistance Fund. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

2. Second year. In the 2nd year following the commencement of mining, revenues shall be distributed as follows:

A. 15% to the General Fund; [1981, c. 711, §10 (NEW).]

B. 10% to the Mining Excise Tax Trust Fund; and [1981, c. 711, §10 (NEW).]

C. 75% to the Mining Impact Assistance Fund. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

3. Third year. In the 3rd year following the commencement of mining, revenues shall be distributed as follows:

A. 20% to the General Fund; [1981, c. 711, §10 (NEW).]

B. 15% to the Mining Excise Tax Trust Fund; and [1981, c. 711, §10 (NEW).]

C. 65% to the Mining Impact Assistance Fund. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

4. Fourth year. In the 4th year following the commencement of mining, revenues shall be distributed as follows:

A. 25% to the General Fund; [1981, c. 711, §10 (NEW).]

B. 25% to the Mining Excise Tax Trust Fund; and [1981, c. 711, §10 (NEW).]

C. 50% to the Mining Impact Assistance Fund. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

5. Fifth year. In the 5th year following the commencement of mining, revenues shall be distributed as follows:

A. 25% to the General Fund; [1981, c. 711, §10 (NEW).]

B. 30% to the Mining Excise Tax Trust Fund; and [1981, c. 711, §10 (NEW).]

C. 45% to the Mining Impact Assistance Fund. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

6. Subsequent years. In the years following the 5th year after the commencement of mining, revenues shall be distributed as follows:

A. 30% to the General Fund; [1981, c. 711, §10 (NEW).]

B. 60% to the Mining Excise Tax Trust Fund; and [1981, c. 711, §10 (NEW).]

C. 10% to the Mining Impact Assistance Fund. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

7. Changes in mining activity. If, prior to the commencement of extraction of minerals for sale, a mining company ceases construction of a mine site, any taxes due during the period of construction cessation shall be distributed according to the most recently applicable provision of this section.

[1981, c. 711, §10 (NEW) .]

8. Adjustments to distribution formula. The distribution provisions of this section shall be altered as follows.

A. Amounts paid in accordance with section 2858, subsection 3, in each year shall be deposited in the Mining Impact Assistance Fund. [1981, c. 711, §10 (NEW).]

B. [1991, c. 883, §6 (RP).]

C. Funds allocated to the Mining Excise Tax Trust Fund which would raise the fund above its limit shall be redistributed as follows:

- (1) 33 1/3% to the Mining Impact Assistance Fund; and
- (2) 66 2/3% to the General Fund. [1981, c. 711, §10 (NEW).]

D. [1991, c. 883, §6 (RP).]

[1991, c. 883, §6 (AMD) .]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1991, c. 883, §§5,6 (AMD).

36 §2863. GRANTS FOR IMPACT ASSISTANCE

The Mining Impact Assistance Fund shall be used to provide impact assistance to municipalities, counties or the Unorganized Territory Education and Services Fund, as follows. [1981, c. 711, §10 (NEW).]

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commissioner" means the Commissioner of Administrative and Financial Services. [1997, c. 668, §25 (AMD).]

B. "Public facilities and services" means facilities and services provided by a municipality or county for public purposes, including, without limitation, education, public health, welfare or safety, sewage disposal, water treatment, road construction or maintenance, transportation, environmental protection, recreation or planning for those facilities and services. [1981, c. 711, §10 (NEW).]

C. "Related to mining" means directly related to mining or to the construction or reconstruction of a mine site. New or additional public facilities or services shall be deemed to be related to mining when they are provided to a mining company, to employees of the mining company or its contractors or subcontractors and their families, or when they are required because of an increase in population directly attributable to mining or to the construction or reconstruction of a mine site. [1981, c. 711, §10 (NEW).]

[1997, c. 668, §25 (AMD) .]

2. Fund established. There is created the Mining Impact Assistance Fund, which shall receive part of the revenues from the excise tax.

A. The fund shall not lapse. [1981, c. 711, §10 (NEW).]

B. Expenditures under subsection 5 may not be made except from funds appropriated from this fund by the Legislature. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

3. Maximum.

[1991, c. 883, §7 (RP) .]

4. Grants to municipalities in which a mine site is located. To the extent funds are available from the excise tax revenues attributable to a mine site located within a municipality, the commissioner shall make a grant to that municipality. The amount of that grant may not be greater than 50% of the amount calculated under section 2861, subsection 3, paragraph E.

[1981, c. 711, §10 (NEW) .]

5. Grants to municipalities, counties and unorganized territory. Prior to receiving the revenues, the Legislature shall make an annual appropriation of those revenues from the fund for grants. The commissioner may make grants from those appropriations to municipalities, counties or the Unorganized Territory Education and Services Fund for providing necessary new or additional public facilities and services related to mining. The commissioner shall award grants taking into account the applicant's:

A. Need for new or additional public facilities and services; [1981, c. 711, §10 (NEW).]

B. Severity of the impact of mining development; [1981, c. 711, §10 (NEW).]

C. Extent of local effort to meet anticipated needs; and [1981, c. 711, §10 (NEW).]

D. Availability of increased local revenues from other sources, including, without limitation, municipal reimbursement under subsection 4 or section 2861; changes in revenues from other state or federal programs and revenues from other public or private sources. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

6. Applications. At least annually, the commissioner shall request applications for grants. Applications shall include evidence of the need for public facilities and services related to mining.

[1981, c. 711, §10 (NEW) .]

7. Report. The commissioner shall prepare an annual report to be submitted to the Legislature. The report shall include all the activities relating to the fund in the preceding year. The report shall be submitted 30 days prior to the convening of the regular session of the Legislature.

[1981, c. 711, §10 (NEW) .]

8. Rules. The commissioner may adopt or amend rules to establish the procedure for applying for, reviewing and making grants under this section. Those rules shall include provisions for application deadlines, contents of applications, criteria for selecting or approving applications or allocating limited funds, and deadlines for approval or disapproval.

[1981, c. 711, §10 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1985, c. 785, §A112 (AMD). 1991, c. 883, §7 (AMD). 1997, c. 668, §25 (AMD).

36 §2864. JUST VALUE

(REPEALED)

SECTION HISTORY

1981, c. 711, §10 (NEW). 1987, c. 772, §27 (RP).

36 §2865. MINE SITE AND VALUATION DETERMINATIONS

1. Mine site. The State Tax Assessor shall determine the area of a mine site, taking into account all relevant information, including, but not limited to, plans or permits approved under the site location of development law, Title 38, chapter 3, subchapter 1, Article 6. The assessor shall give notice to the mining company and to the municipality in which the mine site is located of the determination. The assessor's determination is reviewable under section 151.

[2007, c. 627, §76 (AMD) .]

2. Valuation. If a mine site is located in a municipality, the assessor shall determine the valuation of mining property and the percentage of that valuation represented by land and buildings that are not exempt from property taxes. That valuation of land and buildings must be applied in determining the property taxes. The municipality in which the mine site is located may appeal that determination to the State Board of Property Tax Review as provided in chapter 101, subchapter 2-A.

[2007, c. 627, §76 (AMD) .]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1985, c. 764, §21 (AMD). 2007, c. 627, §76 (AMD).

36 §2866. MINING CORRECTIVE ACTION FUND

1. Creation of fund. The Mining Corrective Action Fund, referred to in this section as the "fund," is established as a nonlapsing fund administered by the Mining Excise Tax Trust Fund Board of Trustees, referred to in this section as the "board." The board shall oversee and authorize expenditures from the fund.

[1991, c. 883, §8 (NEW) .]

2. Investment. The Treasurer of State shall invest the money in the fund as authorized by Title 5, section 138.

[1991, c. 883, §8 (NEW) .]

3. Scope of corrective action. The fund may be used only for corrective action for mining operations located in municipalities.

[1991, c. 883, §8 (NEW) .]

4. Uses of fund. Money from the fund may be used only to fund corrective action as defined in the mining rules adopted by the Department of Environmental Protection and the Maine Land Use Regulation Commission. Corrective action includes, but is not limited to, remedial action related to:

- A. Contaminated ground water; [1991, c. 883, §8 (NEW).]
- B. Disposition of mining wastes; [1991, c. 883, §8 (NEW).]
- C. Reclamation defects on or surrounding the site; and [1991, c. 883, §8 (NEW).]
- D. Pollution control at the site. [1991, c. 883, §8 (NEW).]

[1991, c. 883, §8 (NEW) .]

5. Restrictions and liability. Money from the fund may be used only for corrective action necessary to address problems that occur at the site following termination of mining operations and closure of the mine. Corrective action necessary during the operation of a mine must be funded by the mining company. The existence of this fund does not relieve a mining company of any liability or responsibility arising from a corrective action following termination of its mining operation in a municipality.

[1991, c. 883, §8 (NEW) .]

6. Disposition of fund. When corrective action is necessary in accordance with this section, the board shall provide funds for remedial activities at the site on a pro rata basis to ensure that funds are available for any necessary corrective action at other sites. This determination is based on the amount of excise tax revenues generated at each site.

[1991, c. 883, §8 (NEW) .]

7. Depletion of fund. Following termination of mining operations, the mining company and, in the case of a mining company that is a subsidiary of a corporation, the parent company remain liable for any corrective action determined necessary by the board. If the contributions of the mining company to the fund are insufficient to fund corrective action, the mining company or its successor, if the company has been sold, remains liable for the costs of corrective action. If the mining company ceases to exist, the parent company, if any, is liable for any necessary corrective action. Any funds expended for corrective action as provided in this section must be reimbursed in full by the mining company, its successor or its parent corporation.

[1991, c. 883, §8 (NEW) .]

SECTION HISTORY

1991, c. 883, §8 (NEW) .

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