

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1440

S. P. 490

In Senate, March 17, 1971

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Violette of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to a Department of Natural Resources.

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

Sec. 1. R. S., T. 12, Part 7, additional. Title 12 of the Revised Statutes is amended by adding a new Part 7 to read as follows:

PART 7

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 427

DEPARTMENT OF NATURAL RESOURCES

§ 5011. Department of Natural Resources

There is created and established the Department of Natural Resources to consist of a Secretary of Natural Resources appointed by the Governor, with the advice and consent of the Council, who shall serve at the pleasure of the Governor and shall be the chief administrative officer of the department and the following as heretofore created and established: Department of Inland Fisheries and Game, the Forestry Department, the Maine State Park and Recreation Commission, the Department of Sea and Shore Fisheries and the State Soil and Water Conservation Commission.

The secretary shall have an office in Augusta and such staff as may be necessary to carry out his duties. He shall receive such compensation as may be set by the Governor and Council who shall allocate to the office of the secretary from the moneys appropriated or otherwise available to the agencies listed in the paragraph above sufficient moneys to cover the operational cost of same.

Sec. 2. R. S., T. 12, § 52, amended. Section 52 of Title 12 of the Revised Statutes, as amended by sections 1 and 2 of chapter 477 of the public laws of 1969, is further amended to read as follows:

§ 52. Legal services; executive director; delegation of powers

The commission (State Soil and Water Conservation Commission) may call upon the Attorney General for such legal services as it may require. ~~‡~~ The Department of Natural Resources shall employ an executive director and such other temporary or permanent employees as ~~‡~~ the commission's needs may require. ~~‡~~ The commission shall have authority to delegate to any of its members, or to any agent or employee of the department, such powers and duties as it may deem proper.

Sec. 3. R. S., T. 12, § 501, amended. The first sentence of section 501 of Title 12 of the Revised Statutes, as amended by section 2 of chapter 226 of the public laws of 1965, is further amended to read as follows:

A Forest Commissioner, ~~as heretofore appointed by the Governor with the advice and consent of the Council appointed by the Secretary of Natural Resources, subject to the Personnel Law, hereinafter in chapters 201 to 215 called the "commissioner,"~~ shall be a trained forester or a person of skill and experience in the care and preservation of forest lands ~~and shall hold office for a term of 4 years.~~

Sec. 4. Amendatory provision. Wherever in chapters 201 to 215 of Title 12 the word "department" appears it shall mean "bureau," to wit, the Bureau of Forestry of the Department of Natural Resources.

Sec. 5. R. S., T. 12, § 602, sub-§ 10, amended. Subsection 10 of section 602 of Title 12 of the Revised Statutes is amended to read as follows:

10. Gifts and bequests. ~~To fix the duties of and to employ permanent or part time such employees and other personnel, subject to the Personnel Law, as the commission may from time to time deem necessary in the discharge of its duties under this chapter; and to accept gifts and bequests of money or other personal property to be used in advancing the recreational and conservation interests in state parks.~~

Sec. 6. R. S., T. 12, § 609, additional. Title 12 of the Revised Statutes is amended by adding a new section 609 to read as follows:

§ 609. Bureau of State Parks and Recreation

There is established and created within the Department of Natural Resources the Bureau of State Parks and Recreation, the head of which shall be the Director of State Parks and Recreation who shall be appointed by the Secretary of Natural Resources.

The director shall fix the duties of and employ permanently or part time such employees and other personnel, subject to the Personnel Law, as may be necessary from time to time to discharge the duties of the bureau under this chapter.

Sec. 7. R. S., T. 12, § 1951, amended. The first sentence of Section 1951 of Title 12 of the Revised Statutes is amended to read as follows:

A Commissioner of Inland Fisheries and Game ~~as heretofore~~ shall be appointed by the Governor ~~with the advice and consent of the Council~~ Secretary of Natural Resources, subject to the Personnel Law, and in chapters 301 to 335 called the "commissioner," shall hold office for 3 years and shall serve until his successor is appointed and qualified.

Sec. 8. Amendatory provision. Wherever in chapters 301 to 335 of Title 12 the word "department" appears it shall mean "bureau," to wit, the Bureau of Inland Fisheries and Game of the Department of Natural Resources.

Sec. 9. R. S., T. 12, § 3401, sub-§ 2-A, additional. Section 3401 of Title 12 of the Revised Statutes is amended by adding a new subsection 2-A to read as follows:

2-A. Bureau. "Bureau" means Bureau of Sea and Shore Fisheries of the Department of Natural Resources.

Sec. 10. R. S., T. 12, § 3501, sub-§ 1, amended. Subsection 1 of section 3501 of Title 12 of the Revised Statutes is amended to read as follows:

1. Appointment. The Governor, with the advice and consent of the Council Secretary of Natural Resources, subject to the Personnel Law, shall appoint a Commissioner of Sea and Shore Fisheries.

Sec. 11. R. S., T. 12, § 3501, sub-§§ 2 and 3, repealed. Subsections 2 and 3 of section 3501 of Title 12 of the Revised Statutes are repealed as follows:

2. Term. ~~The commissioner, as heretofore appointed, shall serve for 4 years or during the pleasure of the Governor and Council. He shall serve until his successor is appointed and qualified~~

3. Vacancy. ~~The Governor, with the advice and consent of the Council, shall fill any vacancy in office by an appointment for a full 4 year term~~

Sec. 12. Amendatory provision. Wherever in chapters 401 to 417 of Title 12 the word "department" appears it shall mean "bureau," to wit, the Bureau of Sea and Shore Fisheries of the Department of Natural Resources.

Sec. 13. R. S., T. 1, § 25, amended. Section 25 of Title 1 of the Revised Statutes is amended to read as follows:

§ 25. Department of Natural Resources to have charge of topographic mapping

The ~~Public Utilities Commission~~ Department of Natural Resources shall have charge of topographic mapping on behalf of the State. Said ~~commission~~ department is authorized and directed to enter into such agreements with the director of the United States Geological Survey as will assure the progress of the work in an efficient and economical manner.

Sec. 14. R. S., T. 35, §§ 9 - 11, amended. Sections 9 to 11 of Title 35 of the Revised Statutes are amended to read as follows:

§ 9. Collection of water resources information

The ~~commission~~ Department of Natural Resources shall collect information relating to the water resources of the State, the flow of rivers and their drainage area, the location, nature and size of the lakes and ponds in the State and their respective value and capacity as storage reservoirs, underground storage reservoirs and such other hydrologic data as ~~they~~ it may deem of value in devising the best methods for the improvement of the natural storage basins of the State and the creation of new storage reservoirs, with a view to conserving and utilizing the water resources of the State.

§ 10. Conferences with United States Geological Survey

The ~~commission~~ Department of Natural Resources may confer with the director or the representative of the United States Geological Survey and ~~accepts~~ **accept** its cooperation in the prosecution of hydrologic and geological surveys, and the preparation of a contour topographic survey and map of the State.

§ 11. Plans for proposed dams

Every person, firm or corporation before commencing the erection of a dam for the purpose of developing any water power in this State, or the creation or improvement of a water storage basin or reservoir for the purpose of controlling the waters of any of the lakes or rivers of the State, shall file with ~~said commission for its information and use~~ the **Public Utilities Commission and the Department of Environmental Protection** copies of plans for the construction of any such dam or storage basin or reservoir, and a statement giving the location, height and nature of the proposed dam and appurtenant structures and the estimated power to be developed thereby. In case a dam is to be constructed solely for the purpose of water storage and not for the development of a water power at its site, plans and statements shall be filed with the ~~commission~~ **Public Utilities Commission and the Department of Environmental Protection** showing the extent of the land to be flowed, the estimated number of cubic feet of water that may be stored and the estimated effect upon the flow of the stream or streams to be affected thereby.

Sec. 15. R. S., T. 35, § 12, repealed. Section 12 of Title 35 of the Revised Statutes is repealed.

Sec. 16. R. S., T. 35, § 14, amended. Section 14 of Title 35 of the Revised Statutes is amended to read as follows :

§ 14. Removal of ice dams

Whenever, upon application of a municipality, county, state department or agency, private person or corporation, it appears to the satisfaction of the ~~commission~~ **Secretary of Natural Resources** that accumulations of ice or debris in the bed of any river or stream above tidewater threaten substantial damage to public or private property, highways or bridges, the ~~commission~~ **secretary** may grant to the applicant permission to abate the same under the direction of the ~~commission~~ **secretary**, and subject to such conditions as ~~he~~ **he** shall impose.

Sec. 17. R. S., T. 38, § 811, amended. Section 811 of Title 38 of the Revised Statutes is amended to read as follows:

§ 811. Appointment of engineer; duties

The ~~Governor with the advice and consent of the Council~~ Secretary of Natural Resources shall annually appoint a competent and practical engineer, a citizen of the State, who shall hold said office until his successor is appointed and qualified, and who shall, upon petition of 10 resident taxpayers of any town or several towns, the selectmen or assessors of any town or the county commissioners of any county, inspect any dam or reservoir located in such town or county erected for the saving of water for manufacturing or other uses, and after personal examination and hearing the testimony of witnesses summoned for the purpose, shall forthwith report to the Governor his opinion of the safety and sufficiency thereof.

Sec. 18. Transfer. On the effective date of sections 13, 14 and 15 of this Act all employees, equipment, maps, records and appropriations in support of same of the Water Resources Division of the Public Utilities Commission including but not limited to the records, maps and papers pertaining to the former State Water Storage Commission shall be transferred to the Department of Natural Resources.

Sec. 19. Effective date. This Act shall become effective July 1, 1973; however, the authority to appoint a secretary under section 1 of this Act shall be effective 91 days after the adjournment of the Legislature and he shall be responsible for budget planning, preparation and submission for the 1973-75 biennium.

Sec. 20. Present officers. The effective dates notwithstanding, the tenure in office of the present department heads appointed by the Governor with the advice and consent of the Council shall not be affected unless they shall resign or be removed by the Governor and Council before the expiration of their present appointed term of office.

STATEMENT OF FACT

This legislation is to bring together the personnel and programs of the present Departments of Forestry, Inland Fish and Game and Sea and Shore Fisheries, the State Soil and Water Conservation Commission, the Park and Recreation Commission, the Water Resources Division of the Public Utilities Commission and the State Inspector of Dams and Reservoirs through the creation of a Department of Natural Resources. It is anticipated that this will lead to more efficient and economical operating procedures designed to improve service to the public and reduce administrative expense and the overlapping of programs.

All employees of the new department including "commissioners" would be appointed subject to the Personnel Law and be classified employees.