

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
105TH LEGISLATURE
FIRST SPECIAL SESSION

SENATE AMENDMENT " A " to S. P. 709, L. D. 1890, Bill,
"AN ACT to Revise the Maine Land Use Regulation Commission Law."

Amend said Bill by inserting after the enacting clause the following:

'Sec. 1. R. S., T. 12, § 683, amended. The 3rd, 4th and 5th sentences of section 683 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969 and as amended, are further amended to read as follows:

~~The commission shall consist of 3 permanent members:--The Director of Parks and Recreation, the Forest Commissioner and the State Planning Director, and 4 members serving staggered 4-year terms to be appointed by the Governor with the advice and consent of the Council.--The latter 4 members shall respectively represent the public, conservation interests, forest products industry interests and general landowner interests~~ 2 permanent ex officio nonvoting members: The Commissioner of the Department of Natural Resources and the State Planning Director and the Commissioner of the Department of Environmental Protection, who shall be a permanent ex officio voting member and 6 members serving staggered 4-year terms to be appointed by the Governor with the advice and consent of the Council. The latter 6 members shall respectively represent the following interests: 2 members representing the public at large, 2 members representing conservation interests, one member representing forest products industry interests, and one member representing general landowner interests. The initial appointee

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appointees to the commission representing the public shall be appointed for a one-year period; the initial appointee appointees representing conservation interests shall be appointed for a 2-year period; the initial appointee representing the forest products industry interests shall be appointed for a 3-year period; and the initial appointee representing general landowner interests shall be appointed for a 4-year period.'

Further amend said Bill by inserting after section 2 the following:

'Sec. 4. R. S., T. 12, § 685-A, sub-§ 7, amended. The 2nd sentence of the 6th paragraph of subsection 7 of section 685-A of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971, is amended to read as follows:

A complete verbatim transcript recording shall be made of all hearings held pursuant to this section.

Sec. 5. R. S., T. 12, § 685-A, sub-§ 10, amended. The last paragraph of subsection 10 of section 685-A of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 and as repealed and replaced by section 28-E of chapter 544, both of the public laws of 1971, is repealed and the following enacted in place thereof:

The commission may conduct a hearing within 45 days from the receipt of the petition and shall notify such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.'

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Further amend said Bill by inserting at the end before the Statement of Fact the following:

'Sec. 7. R. S., T. 12, § 685-B, sub-§ 3, amended. The 2nd paragraph of subsection 3 of section 685-B of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971, is amended to read as follows:

The commission shall adopt, and may amend and repeal rules of conduct of hearings and shall make a complete verbatim transcript recording of all hearings held pursuant to this section.'

Further amend said Bill by renumbering sections 1 and 2 to be sections 2 and 3.

Further amend said Bill by renumbering section 3 to be section 6.

Statement of Fact

This amendment would allow for the revision of the permanent state agency membership, consistent with reorganization possibilities, and for the addition of 2 lay public members, making the commission more responsive to the needs and desires of the public.

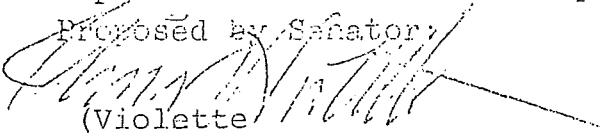
Applications for "special exceptions" in many, if not in most, cases will involve matters of such small importance that hearing would waste a great deal of time and money of both the State and the applicant. This amendment would make hearings discretionary rather than mandatory in dealing with applications for special exception.

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The present statute provides that hearings must be conducted in accordance with subsection 7 of section 685-A which subsection applies more to legislative-type hearings rather than to the judicial-type hearings contemplated in the case of applications for special exceptions, particularly with regard to the provision allowing any party to submit written statements to the commission up to 15 days after the close of the hearing. It is the commission's view that in judicial-type hearings all testimony should be submitted prior to the close of hearings because of possible due process difficulties if testimony is submitted after the close of the hearing and thus not subject to rebuttal or cross-examination. This amendment would allow the commission to draft hearing rules more reflective of the type of hearings conducted for special exception applications.

These amendments would allow the Maine Land Use Regulation Commission to conduct hearings without being required to undergo the expense of a verbatim transcript of such hearings. While there will be need of verbatim transcripts in many instances, such as where the applicant requests one or there is a court appeal, it is anticipated that there will be no need of an expensive verbatim transcript for most hearings.

Proposed by Senator:


(Violette)

NAME:

COUNTY: Aroostock

Reproduced and distributed pursuant to Senate Rule No. 11A.

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March 1, 1972