

MAINE STATE LEGISLATURE

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S. O. R.

STATE OF MAINE
SENATE
105TH LEGISLATURE
FIRST SPECIAL SESSION

SENATE AMENDMENT " B " 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. Section 683 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969 and amended by section 3 of chapter 457 of the public laws of 1971, if further amended as follows:

§ 683. Creation of Maine Land Use Regulation Commission

To carry out the purposes stated in section 681 there is created the Maine Land Use Regulation Commission, hereinafter in this chapter called the "commission." The commission is charged with implementing this chapter in all of the unorganized and deorganized areas of the State. The commission shall consist of 3 permanent members: The Director of Parks and Recreation, the Forest Commissioner and the State Planning Director; or their designated alternates and 4 6 members serving staggered 4-year terms to be appointed by the Governor with the advice and consent of the Council. The latter 4 6 members shall respectively represent the following interests: 3 members representing the public, one member representing conservation interests, one member representing forest products industry interests and one member representing the general landowner interests. The initial appointee to the commission representing the public shall be appointed for a one-year period; the initial appointee 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

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the initial appointee representing general landowner interests shall be appointed for a 4-year period. Thereafter said appointees shall be appointed to serve 4-year terms.'

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.'

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.'

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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 commission membership, by adding 2 additional lay public members, making the commission more responsive to the needs and desires of the public and to better enable the assembly of a quorum for conducting commission business.

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.

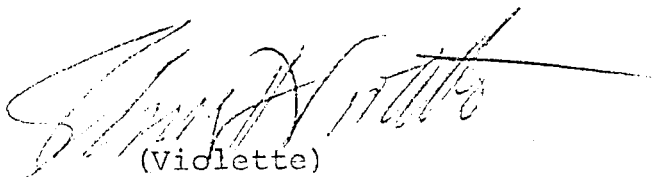
The present statute provides that hearings must be conducted in accordance with subsection 7 of section 685-A, which subsection applies more to legislative-type hearings rather than to the judicial-type hearings contemplated in the case of applications for special exceptions, particularly with regard 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

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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: Aroostook

and filed and distributed pursuant to Senate Rule 11A.

(Filing No. S-334)