

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 2005

S. P. 727

Committee on State Government suggested.

In Senate, January 24, 1972

HARRY N. STARBRANCH, Secretary

Presented by Senator Violette of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-TWO

**AN ACT Implementing the Reorganization of the Department
of Natural Resources.**

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

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

With the approval of the Commissioner of the Department of Natural Resources, ~~it~~ it shall employ an executive director and such other temporary or permanent employees as it may require.

Sec. 2. R. S., T. 12, § 501, repealed and replaced. Section 501 of Title 12 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 501. Director

The Director of the Bureau of Forestry within the Department of Natural Resources shall not when appointed nor while in office be directly or indirectly concerned in the purchase of state-owned lands, nor of timber or grass growing or cut thereon except in his official capacity.

On the effective date of this Act the Director of the Bureau of Forestry shall succeed to all the powers, duties, rights, responsibilities, liabilities and functions of any kind which have been until the effective date of this Act reposed in the Commissioner of Forestry by any public or private law or by any lease, grant or contract.

Sec. 3. R. S., T. 12, § 602, amended. The first 2 paragraphs of section 602 of Title 12 of the Revised Statutes, as repealed and replaced by section 1 of chapter 537 of the public laws of 1971, are amended to read as follows:

The Parks and Recreation ~~Department~~ **Bureau within the Department of Natural Resources**, hereinafter in this Title called the "~~department,~~" "**bureau,**" is hereby established and shall exercise such powers and perform such duties as are set forth in this Title. The Parks and Recreation ~~Department~~ **Bureau within the Department of Natural Resources** shall consist of a ~~Commissioner~~ **Director** of Parks and Recreation, hereinafter called the "~~commissioner,~~" "**director,**" and such official and clerical staff are provided for. The Maine State Park and Recreation Commission is hereby abolished and all the powers, duties, rights, responsibilities, liabilities and functions of any kind or nature, which have been, until the effective date of this Act, reposed in the Maine State Park and Recreation Commission by any public or private law or by any lease, grant, contract or other legal transaction, are hereby vested in the ~~commissioner~~ **director**. The Governor, with the advice and consent of the Council, shall appoint a commissioner of Parks and Recreation whenever a vacancy occurs. The ~~commissioner~~ shall hold office during the tenure of the Governor and shall serve until his successor is appointed and qualified.

The department **bureau** shall have jurisdiction, custody and control in, over and upon all state parks and memorials and national parks which are under control and management of the State, excepting Baxter State Park. Wilderness or natural areas, or both, shall be established and managed primarily to preserve the natural character and features of such areas, and any use or development which threatens such character and features shall be prohibited. It is not the intention of the Legislature to include under this chapter any national parks now existing or which may be hereafter created under national management or control. Said department **bureau** shall have and exercise the following powers and authority:

Sec. 4. R. S., T. 12, § 1951, amended. Section 1951 of Title 12 of the Revised Statutes, as amended, is further amended to read as follows:

§ 1951. Appointment, deputy director

A ~~Commissioner~~ of Inland Fisheries and Game, as heretofore appointed by the Governor with the advice and consent of the Council 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. The ~~commissioner~~ **director** of the Bureau of Inland Fisheries and Game within the Department of Natural Resources shall appoint, subject to the Personnel Law, a Deputy ~~Commissioner~~ **Director** of Inland Fisheries and Game. The ~~commissioner~~ **director** shall make a report to the ~~Governor~~ **Commissioner of the Department of Natural Resources** on or before the 31st day of December of each year for the year ending June 30th prior thereto.

The ~~commissioner~~ **director** shall receive all necessary traveling expenses

On the effective date of this Act the Director of the Bureau of Inland Fisheries and Game shall succeed to all the powers, duties, rights, responsi-

bilities, liabilities and functions of any kind, which have been, until the effective date of this Act, reposed in the Commissioner of Inland Fisheries and Game by any public or private law or by any lease, grant or contract.

Sec. 5. R. S., T. 12, § 3401, sub-§ 5, amended. Subsection 5 of section 3401 of Title 12 of the Revised Statutes is amended to read as follows:

5. Director. "~~Commissioner~~" "**Director**" means ~~Commissioner~~ **Director of the Bureau of Sea and Shore Fisheries within the Department of Natural Resources.**

Sec. 6. R. S., T. 12, § 3401, sub-§ 10, amended. Subsection 10 of section 3401 of Title 12 of the Revised Statutes is amended to read as follows:

10. Bureau. "~~Department~~" "**Bureau**" means ~~Department~~ **Bureau of Sea and Shore Fisheries within the Department of Natural Resources.**

Sec. 7. R. S., T. 12, § 3451, amended. Section 3451 of Title 12 of the Revised Statutes, as amended by section 2 of chapter 337 of the public laws of 1967, is further amended to read as follows:

§ 3451. Purpose; offices and personnel

The following provisions apply to the ~~Department~~ **Bureau of Sea and Shore Fisheries within the Department of Natural Resources:**

1. Purposes of bureau. The ~~department~~ bureau, as heretofore established, is for the purpose of conserving marine life, for the purpose of scientific research, promotion and development of the Maine coastal fishery industry and for the purpose of implementing, administering and enforcing the laws of this State relating to sea and shore fisheries.

2. Bureau head. The ~~department~~ bureau is headed by the ~~commissioner~~ **director.**

On the effective date of this Act the Director of Sea and Shore Fisheries shall succeed to all the powers, duties, rights, responsibilities, liabilities and functions of any kind which have been until the effective date of this Act reposed in the Commissioner of Sea and Shore Fisheries by any public or private law or by any lease, grant or contract.

3. Bureau composition. The ~~department~~ bureau consists of such offices, bodies and personnel as are provided in chapters 401 to 417.

Sec. 8. R. S., T. 12, § 3501, repealed. Section 3501 of Title 12 of the Revised Statutes, as amended by section 6 of chapter 490 of the public laws of 1967 and section 22 of chapter 504 of the public laws of 1969, is repealed.

Sec. 9. R. S., T. 12, § 5011, amended. Section 5011 of Title 12 of the Revised Statutes, as enacted by chapter 491 of the public laws of 1971, is amended to read as follows:

§ 5011. Department; commissioner

There is created and established the Department of Natural Resources to preserve, protect and enhance the vast and varied natural resources of the

State of Maine; to encourage the intelligent utilization and conservation of fish, game and other wildlife, forest, marine, mineral, and scenic resources, in order that such resources not only serve the immediate needs of the people of the State of Maine but continue to exist and provide benefit to future generations; to consist of a Commissioner of Natural Resources appointed by the Governor with the advice and consent of the Council to serve a term **co-terminous with that at the pleasure of the Governor subject to removal for cause and Council** and the following state agencies as heretofore created and established: the Department of Inland Fisheries and Game, the Forestry Department, the Maine Forest Authority, the **Department of Parks and Recreation Commission**, the Department of Sea and Shore Fisheries **and**, the Maine Mining Bureau **and Soil and Water Conservation Commission**. **The commissioner shall be a person qualified by training and experience to perform the duties of his office.**

Sec. 10. R. S., T. 12, § 5012, additional. Title 12 of the Revised Statutes is amended by adding a new section 5012 to read as follows:

§ 5012. Duties of commissioner

The commissioner shall act as the executive officer for accomplishing the purposes of the Department of Natural Resources. He shall conduct comprehensive planning with respect to the functions of said office and coordinate the activities and programs of the state agencies therein. He shall conduct studies of the operations of said agencies with a view to effecting improvements in administrative organization, procedures and practices, and to promoting economy, efficiency and avoiding useless labor and expenses in said agencies. He shall from time to time recommend to the Governor and Legislature such changes as he shall deem desirable in the laws relating to the organization, structure, efficiency or administrative functions, services, procedures and practices of any bureaus included within the department. He shall prepare a budget for the department. The commissioner shall have the authority to organize and maintain in the department an administrative service division and to assign to employment therein such personnel as the internal operations of the department shall require from the departments and bureaus incorporated herein.

The commissioner may, subject to the approval of the Governor and Council, apply for and accept on behalf of the State any funds, including grants, bequests, gifts or contributions, from any person. Such funds shall be deposited in a separate account with the Treasurer of State and received by him on behalf of the State. All such funds may, subject to the rules and regulations promulgated by the Governor and Council, be expended by the Commissioner of Natural Resources.

Sec. 11. R. S., T. 12, § 5013, additional. Title 12 of the Revised Statutes is amended by adding a new section 5013 to read as follows:

§ 5013. Department; organization

The Department of Natural Resources shall be composed of the following bureaus:

1. **Bureau of Inland Fisheries and Game.** The Bureau of Inland Fisheries and Game, which shall be under the direction and supervision of a director, who shall be qualified by training, experience and skill in the functions of the position. The bureau director shall be appointed by the commissioner, with the advice and consent of the Governor and Council, to serve for a term coterminous with the commissioner, subject to removal for cause by the Governor and Council.

2. **Bureau of Forestry.** The Bureau of Forestry, which shall be under the direction and supervision of a director, who shall be qualified by training, experience and skill in forestry. The director shall be appointed by the commissioner, with the advice and consent of the Governor and Council, to serve for a term coterminous with the commissioner, subject to removal for cause by the Governor and Council.

3. **Bureau of Parks and Recreation.** The Bureau of Parks and Recreation, which shall be under the direction and supervision of a director, who shall be qualified by training, experience and skill in the functions of the position. The director shall be appointed by the commissioner, with the advice and consent of the Governor and Council, to serve for a term coterminous with the commissioner, subject to removal for cause by the Governor and Council.

4. **Bureau of Sea and Shore Fisheries.** The Bureau of Sea and Shore Fisheries, which shall be under the direction and supervision of a director, who shall be qualified by training, experience and skill in the functions of the bureau. The director shall be appointed by the commissioner, with the advice and consent of the Governor and Council, to serve for a term coterminous with the commissioner, subject to removal for cause by the Governor and Council.

5. **Others.** The commissioner is authorized to set up such other divisions as he deems necessary to fulfill the functions of the department and to appoint persons to direct said divisions pursuant to the Personnel Law.

Every person appointed as a bureau director or in another supervisory capacity in the department shall have experience and skill in the field of the functions of such position. So far as is practicable in the judgment of the commissioner, appointments to such positions shall be made by promoting employees of the State serving in positions which are classified and in every instance when a person is promoted from a classified position upon termination of his service in such unclassified supervisory position, the employee shall, if he shall so request, be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade in the same state agency, without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled him, provided that if his service in such unclassified supervisory position shall have been terminated for cause, his right to be so restored shall be determined by the Personnel Board.

Sec. 12. Amendatory clause. Wherever in the Revised Statutes the words "Commissioner of Inland Fisheries and Game" appear, they shall mean

the "Director of the Bureau of Inland Fisheries and Game within the Department of Natural Resources," and wherever the words "Department of Inland Fisheries and Game" appear they shall mean the "Bureau of Inland Fisheries and Game within the Department of Natural Resources."

Sec. 13. Amendatory clause. Wherever in the Revised Statutes the words "Commissioner of Forestry" appear, they shall mean the "Director of Forestry within the Department of Natural Resources," and wherever the words "Department of Forestry" appear they shall mean the "Bureau of Forestry within the Department of Natural Resources."

Sec. 14. Amendatory clause. Wherever in the Revised Statutes the words "Commissioner of Sea and Shore Fisheries" appear, they shall mean the "Director of Sea and Shore Fisheries within the Department of Natural Resources," and wherever the words "Department of Sea and Shore Fisheries" appear they shall mean the "Bureau of Sea and Shore Fisheries within the Department of Natural Resources."

Sec. 15. Transitional provision.

1. **Dedicated revenue.** Nothing in this Act shall be construed to change the status of any dedicated revenue. Money now raised for specific purposes shall be expended only for the purposes raised and shall not be diverted. Nothing in this Act shall be construed as diminishing the powers and duties conferred by any provision of law upon the units of government incorporated, or as conferring any powers or imposing any duties upon the commissioner other than those specifically granted in this Act.

2. **Legislative intent.** On the effective date of this Act, the person serving as interim commissioner shall be terminated and the Governor shall appoint a person pursuant to this Act. Nothing in this Act shall be construed to prevent a person from serving as both a bureau director and commissioner.

3. **Rules, regulations and procedures.** All existing regulations currently in effect and operation in the Departments of Inland Fisheries and Game, Sea and Shore Fisheries, Forestry and Parks and Recreation or of any bureau, division, institution, administrative unit or officer thereof, shall continue in effect, unless in conflict with this Act, until rescinded, amended or changed.

"Regulation" shall include but is not limited to any regulation, rule, order, administrative procedure, policy, determination, directive, authorization, permit, license, privilege, requirement, designation or agreement.

Sec. 16. Funds and equipment transferred. Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another department strictly as a result of the reorganization effort, shall be transferred to the proper place in the new structure by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council.

STATEMENT OF FACT

This bill implements the reorganization of the Department of Natural Resources by incorporating into one department as follows: the Forestry Department, the Department of Inland Fisheries and Game, the Department of Sea and Shore Fisheries and the Department of Parks and Recreation.

The Commissioner of the Department of Natural Resources is appointed by the Governor, with the advice and consent of the Council, for a term coterminous with the Governor. The 4 bureau directors are appointed by the commissioner, with the advice and consent of the Governor and Council, to serve a term coterminous with the commissioner, subject to removal for cause by the Governor and Council. One reason for giving the bureau directors a coterminous term is that as director of Forestry, as director of Inland Fisheries and Game, as director of Sea and Shore Fisheries and as director of Parks and Recreation the persons serving in those positions are members of many boards and commissions by virtue of their office. In order to give the persons serving these positions the freedom to exercise their professional independent judgment it is felt that they should have a coterminous term.

The duties and power of the Commissioner of the Department of Natural Resources are specified in section 10 of this bill. He has no powers other than those specified.

There is nothing in this bill which in any way affects any revenue that is now dedicated.

The Maine Mining Bureau, which is presently part of the Forestry Department, is also transferred to the Department of Natural Resources. The Soil and Water Conservation Commission is transferred to the department. The Soil and Water Conservation Commission will hire its executive director and other employees, with the approval of the Commissioner of the Department of Natural Resources.