

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1521

S. P. 465

In Senate, March 19, 1973

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Sewall of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Create a Department of Conservation.

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

Sec. 1. R. S., T. 12, § 501, repealed and replaced. Section 501 of Title 12 of the Revised Statutes, as repealed and replaced by section 20 of chapter 513 of the public laws of 1965 and as amended, is repealed and the following enacted in place thereof:

§ 501. Director of Bureau of Forestry

The Director of the Bureau of Forestry within the Department of Conservation 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.

The Director of the Bureau of Forestry shall possess all of the powers, duties, rights, responsibilities, liabilities and functions formerly possessed by the Forest Commissioner, which are not in conflict with the powers, duties, rights, responsibilities, liabilities or functions of the Commissioner of the Department of Conservation.

Sec. 2. R. S., T. 12, § 501-A, sub-§ 7, repealed. Subsection 7 of section 501-A of Title 12 of the Revised Statutes, as enacted by section 3 of chapter 226 of the public laws of 1965, is repealed.

Sec. 3. R. S., T. 12, § 531, amended. The first paragraph of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, is amended to read as follows:

The ~~Division of Science, Technology and Mineral Resources~~ **Bureau of Geology** shall be established in the Department of Conservation to adminis-

ter the programs of the Maine Geological Survey and other natural resource functions of the State as directed by law; and to provide administrative and fiscal assistance to the Maine Mining Bureau.

Sec. 4. R. S., T. 12, § 531, amended. The first and last sentences of the 2nd paragraph of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, are amended to read as follows:

The ~~commissioner~~ **Commissioner of the Department of Conservation** may employ a director of the ~~division~~ **bureau** and an assistant director.

The director may employ, with the approval of the commissioner and subject to the Personnel Law, such employees as may be necessary to carry out the duties of the ~~division~~ **bureau**.

Sec. 5. R. S., T. 12, § 531, amended. The 3rd paragraph of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, is amended to read as follows:

The ~~division~~ **bureau** is empowered to:

Sec. 6. R. S., T. 12, § 531, sub-§ 3, amended. The last sentence of subsection 3 of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, is amended to read as follows:

Members of the ~~division~~ **bureau** staff may visit the executive offices of mining companies from time to time in order to maintain the interest of company executives in mineral development within the State;

Sec. 7. R. S., T. 12, § 531, sub-§ 6, amended. The first 2 sentences of subsection 6 of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, are amended to read as follows:

There is established within the ~~division~~ **bureau** a revolving fund for the use of the ~~division~~ **bureau** to cover printing and distribution costs for geological and related technical literature. The commissioner is authorized to fix the price at which publications of the ~~division~~ **bureau** may be sold and delivered.

Sec. 8. R. S., T. 12, § 602, amended. The first paragraph of section 602 of Title 12 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 537 of the public laws of 1971, is amended to read as follows:

The Parks and Recreation ~~Department~~ **Bureau within the Department of Conservation**, 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 Conservation** shall consist of a ~~Commissioner~~ **Director of Parks and Recreation**, hereinafter called the "~~commissioner~~" "**director**," and such official and clerical staff as are provided for. The Maine State Park and Recreation Commission is hereby abolished and all the pow-

ers, duties, rights, responsibilities, liabilities and functions of any kind or nature, which have been, until the effective date of this Act January 1, 1972 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

Sec. 9. R. S., T. 12, § 602, amended. The first and last sentences of the 2nd paragraph of section 602 of Title 12 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 537 of the public laws of 1971, are amended to read as follows:

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.

Said ~~department~~ bureau shall have and exercise the following powers and authority:

Sec. 10. R. S., T. 12, § 604, amended. Section 604 of Title 12 of the Revised Statutes is amended to read as follows:

§ 604. Restrictions

The powers and duties of the commission as set forth in this chapter shall not be so construed as to interfere or conflict in any way with the powers and duties of the United States and its national park areas under national control, Baxter State Park, Department of Inland Fisheries and Game or the Forestry Department and their duly appointed wardens and the enforcement of the inland fisheries and game and forestry laws in respect to state parks or to the State generally.

Sec. 11. R. S., T. 12, § 633, amended. The first and 2nd sentences of the first paragraph and the 2nd paragraph of section 633 of Title 12 of the Revised Statutes, as enacted by chapter 312 of the public laws of 1965, are amended to read as follows:

The ~~Governor~~ Commissioner of the Department of Conservation shall appoint a Keep Maine Scenic Committee to advise and consult with the ~~commission~~ bureau in carrying out the administration of this chapter. The committee shall consist of 11 members and the chairman shall be appointed by the ~~Governor~~ commissioner.

The ~~commission~~ bureau may promulgate rules and regulations to carry out this chapter in accordance with Title 5, chapter 303. Such rules and regulations shall not be in conflict with existing laws, rules and regulations setting forth the responsibilities and duties of existing state departments.

Sec. 12. R. S., T. 12, § 662, sub-§ 2, repealed and replaced. Subsection 2 of section 662 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 496 of the public laws of 1965, is repealed and the following enacted in place thereof:

2. **Bureau.** "Bureau" means the Bureau of Parks and Recreation.

Sec. 13. R. S., T. 12, § 683, amended. The first sentence, as enacted by chapter 494 of the public laws of 1969, and the 3rd sentence, as enacted by chapter 494 of the public laws of 1969 and as amended by section 1 of chapter 619 of the public laws of 1971 of section 683 of Title 12 of the Revised Statutes, are amended to read as follows:

To carry out the purposes stated in section 681, there is created, **within the Department of Conservation**, the Maine Land Use Regulation Commission, hereafter in this chapter called the "commission."

The commission shall consist of ~~3~~ 4 permanent members: The Director of the Bureau of Parks and Recreation, the Director of the Bureau of Forestry, ~~Forest Commissioner~~ and the State Planning Director, and the Commissioner of the Department of Conservation, or their designated alternates and 4 members serving staggered 4-year terms to be appointed by the Governor with the advice and consent of the Council.

Sec. 14. R. S., T. 12, § 684, amended. The first sentence of section 684 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is amended to read as follows:

The commission shall elect annually, from its own membership, a ~~chairman~~ and secretary and such other officers it deems necessary. **The Commissioner of the Department of Conservation shall be chairman of the commission.**

Sec. 15. R. S., T. 12, § 685, amended. The first, 4th and last sentences of section 685 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, are amended to read as follows:

The commission shall prepare a biennial budget **and after approval of the budget by the Commissioner of the Department of Conservation**, and it shall submit to the Legislature requests for appropriations sufficient to carry out its assigned tasks.

The **Commissioner of the Department of Conservation**, with the approval of the commission, is authorized to hire an executive director who shall be the principal administrative, operational and executive employee of the commission.

The executive director with the approval of the ~~commission~~ **Commissioner of the Department of Conservation** may hire whatever competent professional personnel and other staff he deems necessary and he may obtain office space, goods and services as required.

Sec. 16. R. S., T. 12, c. 428, additional. Title 12 of the Revised Statutes is amended by adding a new chapter 428 to read as follows:

CHAPTER 428

DEPARTMENT OF CONSERVATION

§ 5011. Department; commissioner

There is created and established the Department of Conservation to preserve, protect and enhance the land resources of the State of Maine; to en-

courage the wise use of the scenic, mineral and forest resources of the State of Maine, and to ensure that coordinated planning for the future allocation of lands for recreational, forest production, mining and other public and private uses is effectively accomplished; and to provide for the effective management of public lands in the State of Maine. The Department of Conservation shall consist of a Commissioner of Conservation appointed by the Governor with the advice and consent of the Council to serve a term coterminous with the Governor and until his successor is appointed and qualified, and subject to removal for cause by the Governor and Council; and the following as heretofore created and established are incorporated into the Department of Conservation:

1. Forestry Department;
2. Parks and Recreation Department;
3. Maine Forest Authority;
4. Maine Mining Bureau;
5. Keep Maine Scenic Committee;
6. Allagash Wilderness Waterway;
7. Land Use Regulation Commission.

§ 5012. Duties of commissioner

The commissioner is the chief executive officer of the Department of Conservation. He shall coordinate and supervise the activities and programs of the bureaus and agencies which are part of the department; undertake comprehensive planning and analysis with respect to the functions and responsibilities of the department; and develop and implement, whenever necessary, procedures and practices to promote economy, efficiency and coordination in and between the various agencies and bureaus of the department. From time to time he shall recommend to the Governor and Legislature such changes in the laws relating to the organization, functions, services or procedures of the agencies and bureaus of the department as he shall deem desirable. The commissioner shall prepare a budget for the department; and shall organize and maintain within the department an administrative services division to which he may assign personnel from the agencies and bureaus of the department.

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, corporation or government, including the Government of the United States. 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 Conservation.

§ 5013. Department organization

The Department of Conservation shall be composed of the following bureaus:

1. 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 approval of the Governor, from an eligible list supplied by the Personnel Department to serve for a term coterminous with the commissioner, subject to removal for cause by the commissioner with the approval of the Governor.

2. Bureau of Parks and Recreation. The Bureau of Parks and Recreation, which shall be under the direction and supervision of a director. The director shall be appointed by the commissioner, with the approval of the Governor, from an eligible list supplied by the Personnel Department, to serve for a term coterminous with the commissioner, subject to removal for cause by the commissioner with the approval of the Governor.

3. Bureau of Public Lands. The Bureau of Public Lands, which shall be under the direction and supervision of a director. The director shall be appointed by the commissioner, with the approval of the Governor, from an eligible list supplied by the Personnel Department, to serve for a term coterminous with the commissioner, subject to removal for cause by the commissioner with the approval of the Governor.

4. Bureau of Geology. The Bureau of Geology shall consist of the Maine Mining Bureau as established by Title 10, section 2101 and the Division of Science, Technology and Mineral Resources as established by Title 12, section 531.

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 classified 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.

§ 5014. Delegation of Public Lands Authority

The Commissioner of the Department of Conservation may from time to time delegate to the Director of the Bureau of Public Lands or the Director

of the Bureau of Forestry any of the powers, duties, rights, responsibilities, liabilities and functions possessed by the Commissioner of the Department of Conservation pursuant to Title 30, chapter 233 and Title 12, sections 502, 504, 508, 514 and 515.

Sec. 17. Amendatory clause. Wherever in the Revised Statutes, Title 12, chapter 206, as enacted by section 1 of chapter 496 of the public laws of 1965, the word "department" appears, it shall mean "bureau."

Sec. 18. Amendatory clause. Wherever in the Revised Statutes the words "Forest Commissioner" appear, they shall mean the "Director of the Bureau of Forestry" and wherever the words "Forestry Department" appear, they shall mean "Bureau of Forestry."

Sec. 19. Amendatory clause. Wherever in the Revised Statutes the words "Commissioner of Parks and Recreation" appear, they shall mean "Director of the Bureau of Parks and Recreation", and wherever the words, "Parks and Recreation Department" appear, they shall mean "Bureau of Parks and Recreation."

Sec. 20. Amendatory clause. Wherever in the Revised Statutes, Title 30, chapter 233 and in Title 12, sections 502, 504, 508, 514 and 515 the words "Forest Commissioner" or "commissioner" appear, they shall mean "Commissioner of the Department of Conservation."

Sec. 21. 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.

2. **Legislative intent.** On the effective date of this Act, the Governor shall appoint a person Commissioner of the Department of Conservation 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 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. 22. 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 Conservation by incorporating into one department the following: The Forestry Department, the Department of Parks and Recreation, the Maine Mining Bureau, the Land Use Regulation Commission, Allagash Wilderness Waterway, Maine Forest Authority and the Keep Maine Scenic Committee.

The bill also gives the Department of Conservation responsibility for administering all statutes relating to public lands.

The Commissioner of the Department of Conservation is appointed by the Governor, with the advice and consent of the Council, for a term coterminous with the Governor. There are 4 bureaus within the department. They are the Bureau of Forestry, Bureau of Parks and Recreation, Bureau of Geology and Bureau of Public Lands. The 4 bureau directors are appointed by the commissioner, with the approval of the Governor, from an eligible list to be supplied by the Personnel Department. Each bureau director is to serve a term coterminous with the commissioner, subject to removal by the commissioner with the approval of the Governor.

The duties and responsibilities of the Commissioner of the Department of Conservation are detailed in section 16 of this bill (Title 12, § 5012).

Essentially, the commissioner is superimposed upon the existing bureaus for the purpose of providing administrative services and coordinating among the bureaus an efficient management and planning program. The commissioner also coordinates and approves the departmental budget.

The Land Use Regulation Commission is transferred intact to the Department of Conservation for administrative purposes. The Commissioner of the Department of Conservation becomes an additional member of the Land Use Regulation Commission, and the commissioner selects the Executive Director of the Land Use Regulation Commission with the approval of the commission members. The Commissioner of the Department of Conservation serves as the permanent chairman of the Land Use Regulation Commission.