

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1575

H. P. 1184

House of Representatives, March 19, 1973

Referred to the Committee on Natural Resources. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Susi of Pittsfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Provide for a Maine Scenic and Wild Rivers System.

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

Sec. 1. R. S., T. 38, c. 4-A, additional. Title 38 of the Revised Statutes is amended by adding a new chapter 4-A, to read as follows:

CHAPTER 4-A

MAINE SCENIC AND WILD RIVERS ACT

§ 598. Title

This chapter shall be known as the "Maine Scenic and Wild Rivers Act of 1973."

§ 599. Purpose

The Legislature finds that certain rivers of Maine possess outstanding scenic, recreational, geological, fish and wildlife, botanical, historical, archaeological and other scientific and cultural values of great present and future benefit to the people. The Legislature further finds that the policy that has resulted in dam and other construction on many of the rivers in Maine needs to be complemented by a policy that would conserve other valuable selected rivers or sections thereof in their free-flowing natural or scenic condition and protect their water quality and adjacent lands. It is the policy of the Legislature to preserve and, if necessary, reclaim for the benefit of the people selected parts of Maine's diminishing resources of free-flowing rivers. It is the policy of the Legislature to maintain a proper balance between reservoirs and free-flowing rivers, to provide, thereby, a desirable variety of scenic, recreational, scientific and other values. For esthetic as well as ecological and other scien-

tific reasons, priority and especial emphasis shall be given to the preservation of natural, unspoiled, undeveloped river areas. The Legislature affirms that it must not deny the people of this generation and their descendants the opportunity to refresh their spirits with the infinite beauties of the unspoiled stream. To implement these policies, it is the purpose of this chapter to establish a State Scenic and Wild Rivers System by designating certain scenic and wild river areas for inclusion in the system and by prescribing the procedures and criteria for protecting and administering the system and for adding new components to it. It is not the intent of this chapter to require or to authorize acquisition of all lands within the exterior boundaries of scenic river areas but to assure conservation of the scenic, ecological and other values and to provide proper management of the recreational, wildlife and other land and water resources. It is the intention of the Legislature that in all planning for the use and development of water and related land resources, consideration shall be given by all local, state and federal agencies involved to potential scenic and wild river areas, and all river basin and project plan reports should discuss any such potential.

§ 600. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. Free-flowing. "Free-flowing" means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping or other modification of the waterway. The existence of low dams, diversion works and other minor structures at the time any river is proposed for inclusion in the State Scenic and Wild Rivers System shall not automatically bar its consideration for such inclusion, provided that this shall not be construed to authorize, intend or encourage future construction of such structures within components of the State Scenic and Wild Rivers System.

2. River. "River" means a flowing body of water or a section, portion or tributary thereof, including rivers, streams, creeks, branches, small lakes or estuarine tidal areas.

3. Road. "Road" means highway, hard-surface road, improved and unimproved dirt road. The existence of unimproved roads at the time any river is proposed for inclusion in the State Scenic and Wild Rivers System shall not automatically bar its consideration for such inclusion, provided that this shall not be construed to authorize, intend or encourage future construction of such roads where this would be contrary to this chapter.

4. Scenic easement. "Scenic easement" means a perpetual easement in land which is held for the benefit of the people of Maine, is specifically enforceable by its holder or beneficiary, and limits or obligates the holder of the servient estate, his heirs and assigns with respect to their use and management of the land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it. This is not to necessarily limit timber harvesting.

§ 601. Eligibility

The following types of rivers are eligible for inclusion in the State Scenic and Wild Rivers System in which they will be administered in general accord with the criteria hereinafter set forth in this chapter:

Classes of Scenic and Wild River Areas

| | |
|-----------|---------------------------------|
| Class I | Natural River Areas |
| Class II | Pastoral River Areas |
| Class III | Partially Developed River Areas |

1. Class I—Natural River Areas. Those free-flowing rivers or sections of rivers with shorelines and scenic vistas unchanged, or essentially unchanged, by man, with no extensive paralleling roads closer than $\frac{1}{2}$ mile, and with only a limited number of crossing roads or spur roads existing at the time of designation as a state scenic river. Additional access would be limited to trails. Waters would be kept unpolluted. Lands adjacent to these rivers that are not already in state or other public ownership should subsequently be protected by acquisition of fee title or by conservation easements to the full extent necessary to conserve the natural environment. These river areas should be managed in accordance with the concepts embodied in the National Wilderness Act, 78 Stat. 890; 16 U.S.C. ch. 23, and would represent samples of natural America saved unspoiled for this and future generations to enjoy as previous pieces of our natural heritage.

2. Class II—Pastoral River Areas. Those free-flowing rivers or sections of rivers, the lands adjacent to which are partially or predominantly used for agriculture and other dispersed human activities which do not substantially interfere with public use and enjoyment of the rivers and their shores. Waters would be kept unpolluted. Lands adjacent to any such river would remain primarily in the type of use existing at the time of designation as a state scenic and wild river or else be allowed to revert to natural conditions. Scenic values should be preserved by acquisition of conservation easements, shoreline or Land Use Regulation Commission zoning, zoning and similar means, and by acquisition of fee title of areas set aside for access, camping and recreation. Acquisition of fee title of other areas would not be precluded, particularly where the cost of alternative methods of land use control is comparable to the cost of acquiring the fee with lease-back or other similar arrangements.

3. Class III—Partially Developed River Areas. Those rivers or sections of rivers in areas affected by the works of man, but which still possess actual or potential scenic values. Included would be rivers with some housing or other building developments near their shorelines, rivers with parallel roads or railroads, and rivers with some impoundments. These rivers would be managed to prevent further loss of scenic values, to improve the scenic aspects of their surroundings, and to restore the quality of their waters. A polluted river section in an otherwise natural area could be improved to the point where it would be upgraded to Class I or II. Lands adjacent to any such river, and the use thereof, should be subject to public control by shoreline zoning, Title 12, chapter 424, tax incentives, Title 36, chapter 105, acquisition

of easements or fee title and other means sufficient to realize the purposes for which such river is designated a State Scenic and Wild River.

§ 602. Committee

The selection and designation of scenic and wild rivers shall be made by the Scenic and Wild Rivers Committee comprised of the Commissioners of Inland Fisheries and Game, Parks and Recreation, Forestry, Environmental Protection, Transportation, the Chairman of the Land Use Regulation Commission, the Director of State Planning, or their designated alternates, with 4 representatives of the public at large, one each knowledgeable in the area of primitive recreation, conservation, environmental law, and forest management. The committee shall designate appropriate agency staff to assist the committee staff in drawing up recommendations. The selected joint staff shall present their findings to the committee for its approval. The committee shall then recommend areas for inclusion in the Scenic and Wild Rivers System to the Governor and Legislature for approval.

§ 603. Duties

The Scenic and Wild Rivers Committee shall study and from time to time submit to the Governor and to the Legislature proposals for the addition to the State Scenic and Wild Rivers System, of rivers and sections of rivers which, in its judgment, fall within one or more of the categories set out in section 600. Each proposal shall specify the category of the proposed addition and shall be accompanied by a detailed report on the factors which, in the judgment of the committee, make the area a worthy addition to the system. The intention of this requirement is to ensure that such studies will be made. It is not intended to preclude or discourage studies and proposals by other agencies or by citizen groups working independently or with the committee.

§ 604. Administration

The Scenic and Wild Rivers System shall be administered by the Department of Parks and Recreation and according to the policies and criteria set forth in this chapter. The Commissioner of Parks and Recreation is authorized to enforce existing regulations necessary for the conservation and enhancement of the scenic and other values of the river areas and for the control of recreational, educational, scientific and other uses of these areas in a manner that shall not impair them. In such administration, primary emphasis shall be given to protecting important wildlife areas, esthetic, scenic, historic, archaeologic and scientific features of the area. Management plans for protection may differ in intensity within a given class of river area, based on special attributes of the different localities, but should not depart from the following criteria:

1. Class I. Class I Scenic and Wild River Areas should be managed in accordance with the concepts embodied in the National Wilderness Act, 78 Stat. 890; 16 U.S.C. ch. 23.
2. Class II. The management of Class II areas should be in general accordance with that of state parks, with uses similarly restricted, but with the

further provisions that no buildings for accommodation, administration or similar purposes shall be constructed within view of the river or its banks, and that any automobile parking lots, camp grounds and similar facilities shall be located only in areas adequately screened from the river.

3. Class III. Management policy for Class III areas should depend on the nature of the area and the plans for its future. For example, a polluted section of a river that can be upgraded to Class I, may require only pollution control. As another example, a Class III river section with parallel road and some urban development might have a spoiled piece of shoreline that could be scenically enhanced by zoning approval for a county or city park, picnic area, swimming beach or other large recreation development.

§ 605. Classification

Whenever in the judgment of the Commissioner of Parks and Recreation, a scenic and wild river area previously administered as Class II or Class III has been sufficiently restored and enhanced in its natural scenic and recreational qualities, such area may be classified to a higher status, Class II raised to Class I, or Class III raised to Class II or Class I, and thereafter administered accordingly. No scenic area shall be managed in a manner that would result in the area falling into a lower class.

§ 606. Boundaries

The Commissioner of Parks and Recreation shall, within one year after a river or segment of river has been made part of the State Scenic and Wild Rivers System, determine generally the boundaries of the scenic river area associated with that river or river segment. Establishment of these boundaries shall be determined by the river classification as follows:

1. Class I. For a Class I river area, the boundary shall be established in such a way that it includes at least the entire scenic vista from the river and its banks, and shall be at least 600 feet but not more than 3,000 feet from the center of the river on each side.

2. Class II or III. For Class II or Class III river areas, the boundary shall include the vista from the river and shall be at least 50 feet but not more than 450 feet from the usual banks of the river on each side.

§ 607. Acquisition of land

Within the exterior boundaries of a scenic river area, the Commissioner of Parks and Recreation may acquire on behalf of the State of Maine lands in fee title or, preferably, interest in land in the form of scenic easements, as defined in section 600. Acquisition of land or of interest therein, scenic easements, may be by donation, purchase with donated or appropriated funds, exchange or otherwise. The commissioner may not exercise authority to acquire lands or interest in lands located within any municipality or county when such entities have in force a duly adopted, valid ordinance or plan for the management, zoning and protection of such lands that is satisfactory to the commissioner and equivalent to the protection specified within this chapter.

§ 608. Land uses

Land uses to be allowed within the exterior boundaries of a scenic river area shall depend upon the classification of such an area, as follows:

1. Class I. In Class I scenic and wild river areas, no new roads or buildings shall be constructed, and there shall be no mining. The cutting of timber shall be allowed pursuant to reasonable regulations issued by the commissioner, which regulations shall be consistent with commonly accepted tree farming practices.

2. Class II and III. In Class II and Class III scenic and wild river areas, the continuation of present agricultural practices, such as grazing and the propagation of crops, shall be permitted. The construction of farm-use buildings shall be permitted, provided that it is found to be compatible with the maintenance of scenic vistas from the stream and its banks. There shall be no construction of roads paralleling the river. Public access through new road construction, as well as landings and other structures related to recreational use of these scenic and wild river areas shall be allowed.

§ 609. Application

Any component of the State Scenic and Wild Rivers System that is or shall become a part of any state park, wildlife refuge or similar area shall be subject to this chapter and the laws under which the other areas may be administered, and in the case of conflict between these laws, the more restrictive provisions shall apply.

§ 610. Duties of state agencies

All state agencies shall promptly, after the effective date of this Act, inform the commissioner of any proceedings, studies or other activities within their jurisdiction, and regardless of by whom requested, which are now in progress and which affect or may affect any of the rivers specified in section 601. They shall likewise inform him of any such proceedings, studies or other activities which are hereafter commenced or resumed before they are commenced or resumed. Nothing in this chapter shall affect the jurisdiction or responsibilities of other state agencies under other provisions of law with respect to fish and wildlife.

§ 610-A. National system

Nothing in this chapter shall preclude a component of the State Scenic and Wild Rivers System from becoming a part of any National Scenic and Wild Rivers System. The commissioner is directed to encourage and assist any federal studies for inclusion of Maine rivers in a National Scenic and Wild Rivers System. The commissioner may enter into written cooperative agreements for joint federal-state administration of a Maine component of any National Scenic or Wild Rivers System, provided such agreements for the administration of water and land uses are not less restrictive than those set forth in this chapter.

§ 610-B. Assistance

The commissioner may seek financial assistance for the State Scenic and Wild Rivers System from the Land and Water Conservation Fund and other

federal and local government sources. In the administration and study of the system and in studies of potential additions to the system, he may seek technical assistance from the Bureau of Outdoor Recreation and other federal and local government agencies.

§ 610-C. Incentives

Any lands within designated scenic and wild river areas shall qualify for the farm and open space assessment, Title 36, chapter 105.

§ 610-D. Cooperation

The commissioner shall cooperate with the appropriate federal and state water pollution control agencies and environmental management agencies, including forestry, for the purpose of eliminating or diminishing the pollution of waters within scenic and wild river areas, providing such cooperation furthers the objectives of preserving natural stream flow and natural ecological conditions.

Sec. 2. Appropriation. There is appropriated to the Scenic and Wild Rivers Committee from the General Fund the sum of \$41,000 to carry out the purposes of this Act. The breakdown shall be as follows:

| | 1973-74 | 1974-75 |
|---|----------------|----------------|
| SCENIC AND WILD RIVERS COMMITTEE | | |
| Personal Services | (2) \$13,750 | (2) \$17,000 |
| All Other | 6,250 | 3,000 |
| Capital Expenditures | 1,000 | — |
| | <hr/> \$21,000 | <hr/> \$20,000 |

Extensive use of work-study programs will complement the full-time staff and provide much of the needed inventory and background material.

STATEMENT OF FACT

The Legislature finds that certain rivers of the State of Maine are among the most valuable and beautiful of its natural resources. The purpose of this chapter is to designate and give priority to the important rivers or sections thereof within the State.

In addition, this bill is to provide a means whereby state, local officials and private citizens may take action to protect the important river systems of the State in such a manner as will best conserve the present and future needs of all citizens in a manner consistent with the maintenance and conservation of these designated river systems. This bill would enable local citizen and municipal groups to organize under the organizational framework supplied within this bill to conserve areas that are of importance to their towns and communities.

The Legislature further finds that continued destruction of these irreplaceable natural systems will be detrimental to the sports fishing and hunting, general recreation and boating, and to the overall economy and welfare of the State.

It provides for a State of Maine Scenic and Wild Rivers System; to prescribe the types of rivers eligible for the system; to designate rivers or sections of rivers for inclusion in the system; to provide a procedure for protecting the lands and waters in the system; to prescribe the powers and duties of the Commissioner of Parks and Recreation in connection with the administration of the system; to provide criteria for the management of the system; to prescribe the methods and standards for adding new components to the system; to provide for cooperative agreements with other agencies and to authorize the appropriation of funds.