

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1809

H. P. 1233

House of Representatives, March 27, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Smith of Dover-Foxcroft.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Establishing the Office of Resource Conservation and Development.

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

Sec. 1. 2 MRSA § 6, sub-§ 6, as last amended by PL 1973, c. 770, § 1, is further amended by adding at the end the following:

Director of the Office of Resource Conservation and Development.

Sec. 2. 5 MRSA c. 343 is enacted to read:

CHAPTER 343

MAINE RESOURCE CONSERVATION AND DEVELOPMENT ACT

§ 5401. Title

This chapter shall be known and may be cited as the "Maine Resource Conservation and Development Act."

§ 5402. Findings, policy and purposes

The Legislature finds that a profound relationship exists between the people, their activities, and the natural resources of this State, such that the economic and social well-being of the people and the enhancement and protection of the environment depend on a wise and balanced allocation of the natural resources of the State.

The Legislature further finds that the ability of the State to provide for the well-being and happiness of its citizens, now and in the future, is intimately tied to the judicious allocation of its natural resources among and for economic development and exploitation purposes and for natural conservation and preservation purposes.

The Legislature further finds that lands and resources which possess significant natural, cultural, historic and scenic values are being lost, damaged or destroyed by a lack of initiated or accelerated conservation activities and by ill-planned development that threatens these values.

The Legislature further finds that there exists serious conditions of unemployment, underemployment, and resource underutilization within this State, which cause substantial hardships to many individuals and families, impede the economic and physical development of various regions of the State, and adversely affect the general welfare and prosperity of the State.

The Legislature further finds that neither conservation nor development activities in Maine are taking place in an efficient, coordinated and well planned manner, causing waste, irreparable damage, and loss of valuable natural resources and economic opportunities to our State.

The Legislature further finds that there exists throughout the State a need for additional assistance in planning, initiating, financing and coordinating appropriate industrial, manufacturing, commercial, recreational, and conservational activities, in a manner compatible with the natural values of the land and other environmental resources.

The Legislature further finds that State Government lacks the adequate means for achieving coordination, through an overall conservation and development strategy, of publicly-funded and assisted capital development projects undertaken by or for municipal, state and federal authorities, which further contributes to damage or loss of natural resources and the diminution or loss of employment opportunities.

The Legislature further finds that there are unique opportunities for the use of public reserved lands and the use of the income generated from such lands to promote sound economic and social growth as well as conservation of natural resources in this State.

Therefore, the Legislature declares that there is a profound and intimate connection between the goal of sound economic growth and the goal of natural resource conservation such that the public interest is best served when each goal is pursued in a manner that is informed by, supportive of and complementary to the other.

The Legislature further declares it to be in the public interest, for the public benefit, and the policy of the state:

1. To promote a vigorous and growing economy, to prevent economic stagnation, and to encourage the creation of new job opportunities;
2. To promote the sound economic growth of the State by planning, initiating, financing, and coordinating industrial, manufacturing, commercial, recreational and conservational activities, in a manner which is compatible with the natural values of the land and environmental resources;
3. To undertake and sustain a vigorous program of natural resource con-

ervation which will assure, where possible, an undiminished future supply of nonrenewable resources, and enhance the quantity and quality of renewable resources;

4. To guide and encourage appropriate economic and resource development and appropriate natural resources conservation through increased coordination of public capital development projects undertaken by municipal, state and federal governments and their instrumentalities; and

5. To utilize the public reserved lands and a portion of the income generated from such lands to further the aforesaid policies.

The Legislature further declares that public reserved lands are a critical natural resource to be used for the benefit of the people of Maine, and accordingly, such lands and a portion of the income derived from them, as provided under Title 30, section 4163, subsection 2, may be used to encourage the development of sound economic development and conservation projects in a manner consistent with maximum feasible preservation and enhancement of the natural environment.

§ 5403. Definitions

As used in this chapter, unless the context otherwise requires, the following words shall have the following meanings.

1. Income. "Income" shall mean:

A. Funds received from any source and deposited with the Treasurer of State for capitalization of a Resource Conservation and Development Fund, as provided in section 5407;

B. Funds generated from the management and disposition of public reserved lands under control of the Department of Conservation and deposited with the Treasurer of State for capitalization of such Resource Conservation and Development Fund;

C. All fees, charges, revenues, and interest generated by the Office of Resource Conservation and Development from financial arrangements and agreements made with local development corporations, as provided in section 1008, which income shall be deposited with the Treasurer of State for capitalization of such Resource Conservation and Development Fund,

2. Local development corporation. "Local development corporation" shall mean any organization, incorporated under Title 13, chapter 81, for the purpose of fostering, encouraging or assisting in the physical location and economic development of industrial, commercial, manufacturing or recreational enterprises, or conservation projects, within designated critical resource areas of the State, and pursuant to the overall resource conservation and development strategy, and to whose members no profit shall inure.

3. Resource conservation and development strategy. "Resource conservation and development strategy" shall mean a plan which includes, but is not limited to, consideration of the desirable relation among the following elements:

- A. Topography, natural resources, and use of land, soil and water ;
- B. Location and distribution of population ;
- C. Quality of the natural and man-made environment ;
- D. Economic analysis of the economy and of such resource conservation and development activities of the State of Maine as agriculture, forestry, recreation, fishing, mining, trade and industry, ports, highway, airways and every form of transportation, travel, communication, water supply, and disposal of sewage, and public services of every description, whether publicly or privately supported.

Such strategy may include the criteria for selection of areas or regions of critical resource concern, and the designation of such areas or regions. Such criteria may include, but are not limited to, unemployment and underemployment rates, rate of population outflow, physical deterioration of structures within the area or region, environmental quality and scenic beauty, degree of existing or potential threat to land and other environmental resources, and degree of promise as a location for significant conservation or development activity.

4. Project. "Project" shall mean any activity or undertaking whether for conservation or development purposes, pursued by a state agency, a local development corporation or other not-for-profit organization, and with the assistance of the Office of Resource Conservation and Development, and any land or interest therein, any building or structure thereon, and any real or personal properties used in industrial, manufacturing, commercial, recreational, and conservational activities, including, but not limited to, machinery and equipment, or environmental control apparatus, deemed necessary in connection therewith, whether or not now in existence or under construction.

5. Project plan. "Project plan" shall mean a plan which assesses the feasibility of undertaking a project in terms of the costs and benefits to the residents of the affected locality, region, and the State, and in terms of other factors such as economic conditions, labor availability, skills and wage rates, transportation facilities and needs, demands on government services and infra-structure requirements, environmental quality and those other factors that will tend to avoid waste of the human, financial and physical resources of the State.

6. Public capital project. "Public capital project" shall mean any large scale project requiring or utilizing public funds or guarantees, as provided in section 5406, which project involves the physical alteration, removal, or construction of, to or on real property or the physical structures thereon, and is implemented by a public entity instrumentality, or is implemented by a private entity or instrumentality with governmental assistance.

§ 5404. Creation of Office of Resource Conservation and Development

There is established, to assist in carrying out the purposes of this chapter, an Office of Resource Conservation and Development in the Executive Department, which shall assume the responsibilities of State Government re-

lating to the formulation and implementation of an overall resource conservation and development strategy, as specified in section 5406.

§ 5405. State Resource Director

1. Director. The executive head of the Office of Resource Conservation and Development shall be the director, who shall be referred to as the State Resource Director, and shall be appointed by the Governor to serve a term coterminous with the Governor, subject to removal for cause. The director shall be paid a salary fixed by the Governor and Council.

2. Qualifications. The director shall be qualified by education, training, and experience in planning, business or public administration with at least a master's degree in one of these or a related field.

3. Powers and duties. The director shall exercise the powers of the Office of Resource Conservation and Development and shall be responsible for the execution of its duties. The director shall:

A. Administer the office and adopt such methods of administration not inconsistent with the law as he may determine necessary to render the office effective and efficient;

B. Appoint and remove members of the staff of the office and prescribe their duties as may be necessary to implement the purposes of this chapter. Professional employees shall be hired as unclassified employees. All other employees shall be subject to those civil service and personnel policies established for state employees generally;

C. Manage the Resource Conservation and Development Fund, a special fund to be used for financial assistance to state and municipal instrumentalities, local development corporations, and other not-for-profit organizations as provided in section 5407, in order to stimulate resource conservation and development projects, and to render a full accounting thereon as part of an annual report to the Governor, the Legislature, and the public-at-large;

D. Keep the Governor and commissioners informed of project developments and to solicit interagency cooperation, collaboration and support for coordinated efforts, and to mobilize all available resources for such project developments;

E. Appoint, at his discretion, advisory committees composed of representatives from state agencies and departments, and private citizens, who can contribute to the initiation and development of specific projects or to the achievement of general agency objectives;

F. Request such reports, data, and other information from other departments, agencies, authorities, boards, commissions and instrumentalities of State Government as are necessary for carrying out his functions. Such agencies are authorized to cooperate in the obtaining and furnishing of requested information;

G. Prepare and submit for executive and legislative action thereon, an overall resource conservation and development strategy, project plans, annual reports, and the budget for the office.

§ 5406. Office of Resource Conservation and Development

1. Powers and duties. The Office of Resource Conservation and Development shall:

A. Prepare an overall resource conservation and development strategy. Prepare and revise from time to time, and present for the approval of the Governor and the Legislature, resource conservation and development strategy. Such strategy shall not be inconsistent with any Maine Comprehensive Plan as prepared by the State Planning Office and as specified under chapter 311, section 3305-B. An overall resource conservation and development strategy, with any accompanying maps, plates, charts and descriptive matter, shall be designed with the general purpose of guiding and carrying forth a coordinated, effective, selective growth strategy for the State, with due regard for its human and natural resources, and its present needs and future possibilities, as will best promote the health, welfare, and prosperity of the people.

Among other things, such overall strategy shall influence the kind, size and location of economic growth projects by establishing priorities for resource conservation and development; by identifying areas or regions of critical resource concern; by proposing opportunities for the economic development and conservation of resources, both human and natural, within such areas or regions; and by preparing specific project plans which will facilitate resource conservation and development activities, and which will tend to avoid waste of the human, financial, and physical resources of the State and to promote the above purposes through guidance of and assistance to private activities and public programs at all levels of government.

B. Develop project plans. Develop and present for the approval of the Governor and the Legislature, project plans, which will describe in technical and financial detail, among other things, the following elements:

(1) The nature and description of the project opportunity and its requirements for technical and financial assistance from the Office of Resource Conservation and Development;

(2) Evidence of the feasibility of the proposed project in such terms as economic viability, environmental protection, overall costs, prospects for additional financing, and capability of the project sponsors; and

(3) The projected costs and benefits of the project when completed for people in the affected local area, region and the State in terms of the policies and purposes stated above in this chapter.

C. Maintain liaison. In the planning, implementation and execution of all projects, and in the preparation of an overall strategy and the designation of areas or regions of critical resource concern, the Office of Resource Conservation and Development shall maintain a close cooperation and liai-

son with the State Planning Office and the Department of Commerce and Industry, including the provision and receipt of staff assistance, where feasible, in economic, legal, financial, engineering, environmental, planning and other technical fields.

D. Provision of financial incentives. Where the State Resource Director deems it necessary and feasible to provide direct financial support, in the form of a grant or a loan or both, for a project in order to achieve the goals of a project plan, and where such plan has detailed the reasons for direct financial support for a project and the amount and form of such support, the State Resource Director may authorize a grant or a loan from the assets of the Resource Conservation and Development Capital Fund, under the terms and conditions specified in the project plan, to the state or municipal agency, local development corporation, or other not-for-profit organization, which is sponsoring the project, provided that:

- (1) Such project plan has been submitted to, and has received the approval of the Governor and the Legislature; or
- (2) Such project plan has been submitted to, and has received the approval of, the Governor and the Council, where the total amount of funds required in any form from the Resource Conservation and Development Capital Fund in any one project shall not exceed \$50,000, or the total amount of funds required to conduct feasibility and other such preliminary business and economic analysis studies from the Resource Conservation and Development Fund for any one project shall not exceed \$10,000.

E. Use, sale and exchange of public lands. The director of this office shall collaborate and cooperate with the Commissioner of Conservation before the submission of any project plan for approval by the Governor and Legislature in order to determine the potential impact of a completed project on the State's land and environmental resources, and the feasibility of using specified public lands as part of the direct financial support by the State of a potential project. Such use, sale, or exchange of public lands shall be specified in a project plan, and shall require the approval of the Governor and Legislature before execution.

F. Approve or disapprove projects. It shall be the policy of the Office of Resource Conservation and Development to be guided by the following criteria in granting approval or disapproval to projects for state financial or technical assistance or support from the Resource Conservation and Development Fund:

- (1) The compatibility of the project with the overall resource conservation and development strategy, and the assessment of the office as to whether a project will make a significant contribution to the social and economic well-being of the residents of the area where the project will be located, and to the natural resource base of the State;
- (2) The project has received and secured all applicable licenses, or is capable of receiving such licenses, if any is required, from the Depart-

ment of Environmental Protection and Land Use Regulation Commission; and

(3) The feasibility of the project in terms of financial requirements, use of land and environmental resources, demands on office technical and financial resources, use of existing, local manpower supply, and conformity with local and regional land use plans which have been adopted by local, state or federal agencies.

G. Provide information and advice. Provide information and advice to the Governor, the Legislature, and other state agencies, in the identification of long-range resource conservation and development opportunities and of methods and instrumentalities, existing and potential, available or needed to realize such opportunities for the State of Maine.

H. Provide project development assistance. Provide planning and technical assistance to public and private groups which seek to develop projects located within areas or regions of critical resource concern, and where necessary, if no local development corporation exists to accomplish the goals of the overall resources strategy, to stimulate the formulation of such a local development corporation which is capable of effectuating such goals.

I. Review large scale public capital projects. The Office of Resource Conservation and Development shall review on an ongoing basis those public capital projects, both in progress and proposed, which require direct state funding or loan guarantees in an amount equal to \$100,000 or more in any one year. Funds specifically allocated for personnel, costs of operation or maintenance of facilities shall not be included in any calculation of the financial requirements of public capital projects for review purposes. Based on such ongoing review, the office shall report to and advise agency officials and the Governor concerning the nature of the actual and projected economic, physical, social and environmental impacts of such public capital projects on the resource conservation and development strategy and on any proposed or approved project plan.

J. Annual reports. The Office of Resource Conservation and Development shall annually submit to the Governor, the Commissioner of Finance and Administration, all state cabinet officials, and the members of the State Legislature, within 90 days after the end of its fiscal year, a complete and detailed report setting forth:

- (1) Its operations and accomplishments, including its resource conservation and development strategy and any revisions thereto, and any proposed or approved project plans;
- (2) Its receipts and expenditures during such fiscal year in accordance with the categories and classifications set forth for its operations by the Department of Finance and Administration; and
- (3) Its receipts and expenditures from the assets of the Resource Conservation and Development Fund, including a schedule of the fund's assets and liabilities and any loan and financing commitments outstanding.

2. Administrative powers and duties.

A. Consultant services. The Office of Resource Conservation and Development, within the limits of funds available and consistent with the powers and duties of the office, may employ such expert and professional consultants, and may contract for such research and development work and activities as it deems necessary.

B. Acceptance of funds. The office may apply for and accept on behalf of the State any gifts, or other funds from any source whatever, including the Federal Government, as will promote the objectives of this chapter.

C. Agreements. The office is authorized and empowered to enter into such agreements with the Federal Government and other state and local agencies and private organizations as will promote the objectives of this chapter.

§ 5407. Establishment of Resource Conservation and Development Fund

1. To accomplish the purposes of section 5406, there is established by the Treasurer of State a Resource Conservation and Development Fund. Moneys credited to the Resource Conservation and Development Fund shall be available for expenditure by the Director of the Office of Resource Conservation and Development for the purposes set forth in section 5406 without limitation as to fiscal year.

2. The Treasurer of State shall credit to the Resource Development Fund, funds received from the following sources.

A. A portion of the income from the public reserved lands, as provided in Title 30, section 4163.

B. All project income received by the Director of the Office of Resource Conservation and Development shall be deposited with the Treasurer of State.

C. Any funds from any other source which may become available for the purposes of the Office of Resource Conservation and Development shall be deposited with the Treasurer of State.

3. The State Resource Director shall maintain a close liaison with the Director of the Maine Guarantee Authority, and shall notify that agency of the potential or actual use of any funds from the Resource Conservation and Development Fund. The director shall be authorized to negotiate with the Maine Guarantee Authority to obtain loan guarantees for physical plant and equipment required by such project sponsors, pursuant to approved project plans.

4. The State Resource Director shall, where such technical assistance is requested by a project sponsor, assist in the negotiations with private banks and commercial lending and investment institutions to secure long and short term financing for approved projects. Whenever possible and feasible, the director shall assist local development corporations or other not-for-profit

organizations to secure private financing for projects before preparing a project request for approval of funding from the Resource Conservation and Development Fund; and whenever possible and feasible, financing shall be secured from financial and commercial institutions located in the local area or region for which the project is proposed.

§ 5408. Local development corporations and not-for-profit organizations

1. The Office of Resource Conservation and Development is hereby authorized to enter into agreements with local development corporations and not-for-profit organizations, pursuant to criteria specified in its overall resource conservation and development strategy, and in furtherance of the purposes and policy of this chapter, and to issue rules and regulations governing the conduct of such organizations, with which it may enter into such agreements.

2. The Office of Resource Conservation and development may from time to time, make, amend and repeal rules and regulations prescribing standards and stating principles governing the planning, construction, maintenance and operation of projects by local development corporations and not-for-profit organizations. Compliance with Title 13, Chapter 81, with this chapter and with the rules and regulations adopted hereunder by the Office of Resource Conservation and Development, and with the terms of any agreement reached hereunder, may be enforced by a proceeding in the Superior Court of the county wherein the local development corporation is located or in Kennebec County. Any causes arising hereunder may be prosecuted by the Attorney General, acting for, and in behalf of, the Office of Resource Conservation and Development.

3. Each local development corporation, whether publicly or privately sponsored, which received assistance from the Office of Resource Conservation and Development, shall keep an accurate account of all activities and of all its receipts and expenditures and shall annually, at the time specified in its agreement with the Office of Resource Conservation and Development, make a report thereof to such office, to the State Auditor and to the local elected officials in the area within which such local development corporation is organized. Such reports shall be in a form prescribed by the Office of Resource Conservation and Development with the written approval of the State Auditor.

4. The Office of Resource Conservation and Development and the State Auditor, each pursuant to their statutory powers and duties, may investigate the affairs of such local development corporations and their dealings, transactions, and relationships. They shall each have the power to examine into the properties and records of such local development corporations and to prescribe methods of accounting and the rendering of periodic reports in relation to projects undertaken by such corporations.

Sec. 3. **Appropriation.** There is appropriated from the General Fund to the Executive Department, Maine Office of Resource Conservation and Development for the fiscal years ending June 30, 1976 and June 30, 1977, the sum of \$250,000 to carry out the purposes of this Act. The breakdown shall be as follows:

	1975-76	1976-77
EXECUTIVE DEPARTMENT		
Maine Office of Resource Conservation and Development		
Personal Services	\$60,000	\$130,000
All Other	10,000	35,000
Capital Expenditures	5,000	10,000
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	\$75,000	\$175,000

STATEMENT OF FACT

The purpose of this bill is to establish the Office of Resource Conservation and Development.