

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 775

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S. P. 232

In Senate, March 8, 1977

On motion of Senator Collins of Aroostook, referred to the Committee on State Government. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Collins of Aroostook.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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AN ACT to Improve the Management of the Department of Conservation.

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

Sec. 1. 12 MRSA § 522, as last amended by PL 1973, c. 460, § 18, is further amended by adding at the end the following new paragraph:

Whenever foresters mark timber for harvest, or assist with the administration of the sale of timber, the Bureau of Forestry may charge a fee for such services, such fee to be set by the director and to be charged to the owner of the land.

Sec. 2. 12 MRSA c. 201, sub-c. III, as amended, is repealed.

Sec. 3. 12 MRSA c. 201-A is enacted to read:

CHAPTER 201-A  
MINING AND MINERALS  
SUBCHAPTER I  
MAINE GEOLOGICAL SURVEY

§ 541. Maine Geological Survey established

There is established within the Department of Conservation to accomplish the purposes of this chapter a Maine Geological Survey, hereinafter referred to as the survey, to gather, analyze, interpret, publish and disseminate information relating to the geologic features of the State, and to administer mineral exploration and development activities on state-owned lands.

**§ 542. The survey; powers and duties**

1. **Information program.** The survey shall develop and administer a program to gather, interpret, publish and disseminate information relating to the geologic features of the State including, but not limited to, hydrogeologic, marine-estuarine, bedrock, surficial and economic geology.

2. **Information furnished agencies and public; environmental development applications.** To the extent of its available resources, the survey shall provide, as requested, geologic information to public agencies and the general public. The survey may review the geologic aspects of environmental and site development applications under consideration by state and federal regulatory agencies.

3. **Employees.** The survey may employ or retain such professional and other employees, subject to the Personnel Law, as are necessary to carry out the purposes of this chapter, within the limits of the funds available.

4. **Mineral resources development.** The survey is responsible for the orderly development of mineral resources on state-owned lands, including submerged lands and waters, both inland and tidal, acting in conjunction with the Bureau of Public Lands.

5. **Research projects.** The survey may initiate, contract for and manage research projects relating to the purposes of this chapter.

6. **Royalties, fees and rents.** The survey shall receive all royalties, fees and rents accruing to the State under this chapter, which shall be paid into a separate account to be established by the Treasurer of State to be used for salaries and other expenses incurred in the administration of this chapter, subject to, and to the extent permitted by, section 553, subsection 3, paragraph E. The account shall not lapse, but shall continue from year to year.

7. **Rules and regulations.** The survey may from time to time adopt, amend, repeal and enforce reasonable rules and regulations necessary to carry out the duties assigned to it.

8. **Printing fund.** There is established within the survey a revolving fund for the use of the survey to cover printing and distribution costs for geological and related technical literature. The director is authorized to fix the price at which publications of the survey may be sold and delivered. The survey shall retain without charge 10% of all such publications for complimentary distribution. The director is further authorized to fix the price at which the United States Geological Survey and other United States Government maps, charts and other publications may be sold and delivered, provided such publications are specifically authorized for resale by the originating agency and are specifically concerned with technical information on the State of Maine. Income from the sale of publications shall be credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the printing fund.

**§ 543. Director of the survey**

1. **Director.** The executive head of the survey shall be the director who shall also be the State Geologist. He shall personally attend to the duties of his office so far as practicable.

2. **Powers and duties.** The director shall exercise the powers of the office and shall be responsible for the execution of its duties.

A. The director shall administer the survey and adopt such methods of administration, not inconsistent with the law, as he may determine necessary to render the survey efficient.

B. The director shall appoint and remove the staff of the survey, subject to the Personnel Law, and prescribe their duties as may be necessary to implement the purposes of this chapter.

C. The director shall organize such administrative divisions within the survey as are necessary to carry out the purposes of this chapter including, but not limited to, hydrogeology, marine and physical geology.

D. The director shall prepare and submit to the Commissioner of Conservation the budget for the survey.

E. The director may, upon such terms and conditions as he deems reasonable, and with the approval of the Commissioner of Conservation, accept grants and funds from and enter into contracts with federal, state, local or other public entities to carry out the purposes of this chapter or to provide geological services, including mapping and inventory information. The proceeds of any such contract shall be paid into a separate account to be established by the Treasurer of State, which account shall not lapse, but shall continue from year to year and shall be available to carry out the purposes of this chapter.

F. The director shall not, when appointed or while in office, have any pecuniary interest in, directly or indirectly, any mining activity on land owned by the State, except in his official capacity.

**Sec. 4. Amendatory clause.** Wherever in the Revised Statutes the term "Bureau of Geology" appears, it shall mean the "Maine Geological Survey."

**Sec. 5.** 12 MRSA § 552, sub-§ 2, ¶ D, sub-¶¶ (6) and (7) are enacted to read:

(6) Rules and regulations adopted by the Bureau of Public Lands shall be enforced by any law enforcement officer.

(7) Whoever violates any of the rules or regulations promulgated in conformity with this section shall be punished by a fine of not more than \$100 and costs or by imprisonment for not more than 30 days, or by both.

**Sec. 6.** 12 MRSA § 602, sub-§ 3, last ¶, as last amended by PL 1973, c. 84, is repealed and the following enacted in its place:

Before promulgating or changing such rules and regulations, the bureau shall submit the rules or changes to the Attorney General, and if he shall certify that in his opinion they are in conformity with the law, they, or a summary

thereof, shall thereupon, together with section 606, be published once a week for 2 successive weeks in the state paper and posted in at least 3 conspicuous places in or about the park or parks whereupon they shall take effect, and a certificate of such publication and posting shall be executed by the director and filed with the Secretary of State, who shall record the same.

Sec. 7. 12 MRSA § 673, 2nd ¶, as last amended by PL 1973, c. 460, § 17, is repealed and the following enacted in its place:

Rules and regulations governing the Allagash Wilderness Waterway shall be adopted in accordance with section 602, subsection 3.

Sec. 8. 12 MRSA § 683, 3rd sentence, as repealed and replaced by PL 1975, c. 771, § 136, is repealed and the following enacted in its place:

The commission shall consist of the Director of the Land Use Regulation Commission, ex officio, who shall be a nonvoting member and serve as chairman and 7 public members, none of whom shall be state employees, who shall be appointed by the Governor, subject to review by the Joint Standing Committee on Natural Resources and to confirmation by the Legislature, for staggered 4-year terms.

Sec. 9. 12 MRSA § 683, last sentence, as enacted by PL 1975, c. 616, § 2, is repealed as follows:

~~One of the members shall be elected annually by the members as chairman~~

Sec. 10. 12 MRSA § 685, 2nd and 3rd sentences from the end, as last amended by PL 1975, c. 521, § 1, are repealed.

Sec. 11. 12 MRSA § 685-B, sub-§ 2, ¶ B, as enacted by PL 1971, c. 457, § 5, is repealed and the following enacted in its place:

B. The fee prescribed by the commission rules, such fee not to exceed 1/10 of 1% of the total construction costs nor be less than \$10.

Sec. 12. 12 MRSA § 5013, sub-§ 5, as enacted by PL 1973, c. 460, § 16, is repealed and the following enacted in its place:

5. Maine Geological Survey. The Maine Geological Survey, 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, to serve for a term coterminous with the commissioner, subject to removal for cause by the commissioner with the approval of the Governor.

Sec. 13. 30 MRSA § 4162, sub-§ 4, ¶ D, as last amended by PL 1975, c. 777, § 10, is further amended to read:

D. Lease campsites, garages, depots, warehouses and other structures, or sites for the same, for a term of years not exceeding 5; grant options to renew such leases for a further term of years not to exceed 5 in the case of a commercial ~~camp~~ use which in the opinion of the director requires such option to secure adequate financing for the maintenance or improvement of facilities located upon public reserved land; and in the case of leases acquired by the State on lands exchanged for public reserved lands, shall

authorize, upon reasonable terms and conditions, the transfer of leasehold interests from a lessee of a residential campsite to another; and sell storehouses and other structures and fixtures surplus to the needs of the bureau;

Sec. 14. 38 MRSA § 325, as last amended by PL 1975, c. 28, is further amended to read:

§ 325. Grants-in-aid

The Director of the Bureau of Parks and Recreation may make grants-in-aid to political subdivisions and others for the **acquisition**, construction and maintenance of boat facilities and supporting facilities, on such terms as he determines necessary. When such grants-in-aid are made to others, within the boundaries of an organized town, it shall be with concurrence of the municipal officers of the community.

The Director of the Bureau of Parks and Recreation shall determine where the facilities shall be located and which facilities shall be **acquired**, constructed and maintained by political subdivisions.

### STATEMENT OF FACT

This bill effects several efficiencies in the operation of the Department of Conservation.

Section 1 allows the Maine Forest Service to charge landowners a fee for timber marking when trees are being marked for commercial harvest. This is the first step in encouraging the further development of a private consulting forestry capability in Maine.

Sections 2, 3 and 4 establish the Maine Geological Survey, formerly the department's Bureau of Geology. During the past 10 years, the geological needs of the State have changed rapidly, and statutes governing the state's geologic agency have been amended accordingly. These amendments, however, have been piecemeal and stopgap in nature. These sections bring all of the individual changes into a cohesive, systematic statute which carefully defines the most efficient response to the state's present and future geologic needs. Specifically, the new statute:

1. Allows the director to establish, for the first time, the necessary organizational and programmatic structures of the survey as required by state needs for geologic services;
2. Consolidates within a single administrative agency all mineral activities in the State including those on public land; and
3. Clarifies the powers and duties of the agency and its director so that programs can be developed and administered more effectively.

Section 5 provides for the enforcement of, and a penalty for the violation of, regulations duly adopted by the Bureau of Public Lands.

Sections 6 and 7 repeal a reference to the abolished Parks and Recreation Commission and eliminate the requirement that Bureau of Parks and Recreation rules be published *in toto* each time a minor change is made. The present requirement is costly and acts as a deterrent against needed minor changes.

Sections 8, 9 and 10 clarify the role of the director of the Land Use Regulation Commission and make the director the nonvoting chairman of the commission. This change will not displace any present members of the commission and will allow the chairman to spend the time that is needed to insure the more efficient operation of the commission.

Section 11 establishes a \$10 minimum permit fee for the Land Use Regulation Commission. This will eliminate the receipt of small amounts submitted as a permit fee.

Section 12 provides that the Director of the Geological Survey is appointed in a manner consistent with the appointment of other bureau directors in the Department of Conservation.

The statutes presently allow a 5-year lease on structures under the jurisdiction of the Bureau of Public Lands, with the power to give a 5-year option in the case of a commercial camp in order to obtain financing. The bureau has had to turn down a request to give a 5-year option on a commercial barn, and thereby hurt the prospective tenant's ability to obtain financing for a project. Section 13 allows the bureau to give 5-year options in order to secure financing for all commercial uses, not just commercial camps.

Section 14 clarifies the authority of the Bureau of Parks and Recreation to continue its practice of providing funds for the purchase of lands to be used for boat facilities and for their maintenance.