

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-968)
109TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "8" to H.P. 2003, L.D. 2025, Bill,
"AN ACT Adjusting Appropriations and Allocations for the
Expenditures of State Government and Changing Certain Provisions
of the Law Necessary to the Proper Operations of State Government
for the Fiscal Years Ending June 30, 1980, and June 30, 1981."

Amend the Bill in Part B under the caption "AGRICULTURE,
DEPARTMENT OF" under the heading "Office of the Commissioner"
by striking out all of the first blocked paragraph and inserting
in its place the following:

'Notwithstanding the Revised Statutes, Title 5,
section 1585, funds appropriated under this
section may be transferred to implement the
following reorganization.'

Further amend the Bill by inserting before the Emergency
clause the following:

'PART J

Sec. 1. 5 MRSA §711, sub-§2, ¶A, sub-¶(1-A) is enacted
to read:

(1-A) Department of Agriculture, Food and Rural Resources:

- (a) Deputy commissioners;
- (b) Associate Commissioner for Policy Development;
- (c) Director, Bureau of Agricultural Production;
- (d) Director, Bureau of Agricultural Marketing;
- (e) Director, Bureau of Agricultural and Rural
Resources; and
- (f) Director, Bureau of Public Services.

Sec. 2. 7 MRSA §1, first sentence, as repealed and replaced
by PL 1975, c. 771, §96, is amended to read:

The Department of Agriculture, Food and Rural Resources, as heretofore established and hereinafter in this Title called the "department," shall be maintained for the improvement of agriculture and the advancement of the interests of husbandry, and shall consist of the Commissioner of Agriculture, Food and Rural Resources, hereafter in this Title called the "commissioner," and the following as heretofore created and established: The Board of Pesticide Control, the Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Maine Potato Commission, the Seed Potato Board, Milk-Tax-Committee, the Soil and Water Conservation Commission, the Harness Racing Commission and the Board of Veterinary Examiners Medicine.

Sec. 3. 7 MRSA §1, last 2 sentences, as repealed and replaced
by PL 1975, c. 771, §96, are repealed.

Sec. 4. 7 MRSA § 1-A is enacted to read:

§1-A. Legislative intent

The Legislature finds agriculture to be a major industry in the State, contributing substantially to the State's overall economy, essential to the maintenance and strengthening of rural life and values and necessary to the preservation of the health, and safety/welfare of all of the people of this State.

The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper,

while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy.

For this ^{purpose} there is established the Department of Agriculture, Food and Rural Resources.

Sec. 5. 7 MRSA §2, first sentence, as amended by PL 1973, c. 598, §1, is further amended to read:

The commissioner is the chief executive charged with the enforcement of ~~this Title and Title 17, chapter 43~~ all statutes delegating responsibility to him or the department and shall be vigilant in discovering violations thereof and making complaint to the proper authorities.

Sec. 6. 7 MRSA §2, last paragraph, as last amended by PL 1975, c. 477, §2, is further amended to read:

The commissioner does not have authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority shall be exclusively within the specific board, bureau, agency, commission, committee or other governmental unit: The Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Seed Potato Board, the Harness Racing Commission, ~~Milk Tax Committee~~, the Maine Potato Commission, the Soil and Water Conservation Commission, ~~and~~ the Board of Veterinary Medicine and the Board of Pesticide Control.

Sec. 7. 7 MRSA §2, as last amended by PL 1975, c. 584, is further amended by adding at the end the following new paragraph

to read:

In addition, the commissioner shall be concerned with the quality of life of Maine farmers and rural communities. The commissioner shall promote: farm financing and rural development proposals; conservation and preservation of agricultural lands; increased and improved production of beef, poultry, sheep, dairy beef and other livestock; expanded and improved production of potatoes, fruits and other vegetables and horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural products; and, in conjunction with the University, crop development and integrated pest management. To accomplish these objectives, the commissioner is authorized for, or on behalf of, Maine's farmers and rural community: to engage in research and educational programs; to participate directly or indirectly in programs to encourage and enable individuals to enter agricultural or other rural enterprises; to institute litigation or upon request to represent farmers or other members of the rural community in litigation where he determines that such litigation may be beneficial to agricultural industry as a whole; and to exercise all other powers of an agency of State Government. The commissioner may study such issues and, consistent with statute, take such actions either individually, for, or on behalf of, the state's farmers or rural residents, or jointly with such other persons, agencies or organizations as he determines may benefit the state's farmers and rural communities.

Sec. 8. 7 MRSA §3, as repealed and replaced by PL 1973, c. 598, §2, is repealed and the following enacted in its place:

§3. Bureaus and divisions

The commissioner may establish and organize such bureaus and divisions in the department as he deems necessary and may incorporate within these bureaus and divisions. the commissions, boards and committees of the department / The commissioner may issue such administrative orders as he deems necessary to carry out the functions of the department.

Sec. 9. 7 MRSA §5, as amended by PL 1975, c. 771, §97, is further amended to read:

§5. Deputies; associates; directors

The commissioner may, ~~with the approval of the Governor,~~ appoint and fix the compensation of ~~a chief-deputy and such other~~ deputies, associates and bureau directors as in his judgment are required to assist him, and to enable him to carry out all laws, the execution of which is entrusted to him. ~~The chief-deputy~~ These deputies, associates and directors shall hold office ~~during-good-behavior-and-such-other-deputies~~ during the pleasure of the commissioner. ~~Their-compensation and-expenses-shall-be-paid-from-any-funds-appropriated-for the-use-of-the-commissioner-in-the-execution-of-said-laws.~~

Sec. 10. 7 MRSA c. 9 is enacted to read:

CHAPTER 9FARM FINANCING§301. Farm Financing Advisory Council

1. Membership. The commissioner shall appoint a Farm Financing Advisory Council, hereinafter called the "council," composed of 9 members as follows:

- A. Two officers of financial institutions of the state;
- B. One dairy farmer;
- C. One farmer engaged in growing horticultural products other than potatoes;
- D. One potato farmer;
- E. One poultry farmer;
- F. One agricultural economist;
- G. One representative of the cooperative extension service; and
- H. One public representative.

2. Meetings; terms and compensation. The term of office of the members of the advisory council shall be 4 years, except that of those first appointed; 3 shall be appointed for one year; 2 shall be appointed for 2 years; 2 shall be appointed for 3 years; and 2 shall be appointed for 4 years, as determined by the commissioner.

Members of the council shall serve until their successors are appointed and qualified. Any vacancy in the council shall be filled by appointment for the unexpired term. Members of the council shall each be allowed the sum of \$50 per day and their necessary expenses for actual attendance at meetings of the council.

The presence at any meeting of at least 5 members of the council shall be necessary to constitute a quorum.

3. Chairman. The members shall annually elect a chairman and such other officers as they deem necessary.

§302. Duties

The duties of the Farm Financing Advisory Council shall be as follows.

1. Review of programs. The council shall annually review the various state and federal programs and mechanisms for farm financing. The council shall, prior to December 31st of each year, report to the commissioner regarding any changes or additions to state policies or programs needed to foster and promote the economic health and vitality of Maine farms and agricultural enterprises.

2. Procedures for reviewing loan applications. The Council shall review all farm financing applications made to the Maine Guarantee Authority. Any information received by the council regarding individual loan applications from the Maine Guarantee Authority shall be kept confidential.

3. Business practices recommended. The council shall recommend to the Maine Guarantee Authority consistent with Title 10, section 753-A, business practices to be followed to avoid default on farm financing obligations.

4. Management programs. The council shall, as it deems appropriate, recommend management programs to be followed by applicants for farm financing whose loan is guaranteed by the Maine Guarantee Authority.

§303. Basis for recommendations

In reviewing applications for farm financing, the Council shall consider whether:

1. Resident. The applicant is a resident of the state;

2. Education, training or experience. The applicant has sufficient education, training or experience in the type of farming for which he wishes the loan and has agreed to participate in such farm management program as the council may prescribe;

3. Utilization of farm land. The applicant intends to obtain or utilize farm land for agricultural purposes and whether the land is suitable for that purpose; and

4. Credit worthiness. The applicant is credit worthy according to its standards and those established by the Maine Guarantee Authority, pursuant to Title 10, section 752, subsection 11, or by any other financial institution to which the application for farm financing was made.

§304. Staff; services

The commissioner shall provide the council with necessary staff, office space and administrative services. The commissioner may, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt such rules and regulations as may be necessary to implement this chapter.

§305. Farm and agricultural enterprises defined

For purposes of this chapter and related provisions of Title 10, chapters 103 and 104, the term "farm" includes all land in the State

that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, fruit or other horticultural products.
The term "farm financing" includes obtaining funds from whatever source for the purchase and operation of farms. the term "agricultural enterprise" includes all activities which the commissioner determines to be related to farms and farm financing.

Sec. 11. 7 MRSA §956, first ¶, 3rd sentence, as amended by PL 1965, c. 219, §7, is further amended to read:

He may also, in person, or by duly authorized representative, open any container and may, ~~upon tendering market price,~~ take samples therefrom.

Sec. 12. 7 MRSA §956, first ¶, as last amended by PL 1977, c. 696, §80, is further amended by adding after the 3rd sentence a new sentence to read:

He shall, upon written request therefor, pay the packer the fair market value of any sample retained or destroyed by him.

Sec. 13. 7 MRSA §958 is enacted to read:

§958. Law enforcement officers

In enforcing this Article, the commissioner or any other duly authorized representative shall be considered law enforcement officers only for purposes of service of process consistent with Title 17-A, section 17, subsection 1.

Sec. 14. 7 MRSA §2301, as last amended by PL 1977, c.

694, §135, is further amended to read:

§ 2301. Authority

The commissioner, when he shall find that there exists within the State, or in any other state, territory, district or part thereof any dangerous plant disease or insect infestation with reference to which the Secretary of Agriculture of the United States has not determined that a quarantine is necessary and has not established such quarantine, is authorized to promulgate and to enforce by appropriate rules and regulations, adopted in a manner consistent with the Maine Administrative Procedure Act, a quarantine prohibiting or restricting the transportation within, into or through the State, or any portion thereof, from such other state, foreign country, territory or district, of any class of nursery stock, plant, fruit, seed or other article of any character whatsoever, capable of carrying such plant disease or insect infestation. The commissioner is authorized to make, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for the seizure, inspection, disinfection, destruction or other disposition of any nursery stock, plant, fruit, seed or other article of any character whatsoever, capable of carrying any other plant disease or insect infestation, a quarantine with respect to which shall have been established by the Secretary of Agriculture of the United States or the commissioner, and which exists within, or has been transported to, into or through this State in violation of such quarantine.

Sec. 15. 10 MRSA §703, sub-§3, ¶A, as amended by PL 1977,

c. 82, §2, is further amended to read:

A. Any lands, buildings, real estate improvements, including community industrial buildings constructed under chapter 102, or machinery and equipment, with auxiliary real and personal property, used by an industrial, manufacturing, fishing or agricultural enterprise for the manufacturing, processing, assembling or preparing for market of raw materials or other products, ~~not-including-farm--machinery-or-machinery-used-on-a-farm,~~ including, but not limited to, an industry constructing sea-going ships and vessels, or for the purposes of research and development for such enterprises;

Sec. 16. 10 MRSA §703, sub-§3, ¶D, as amended by PL 1979, c. 228, §1, is further amended to read:

D. Any fishing vessel documented or to be documented as a fishing vessel under the laws of the United States, or any fishing vessel registered or to be registered under State of Maine law which is designed to be used for catching, processing or transporting fish or any vessel outfitted for such activity; and

Sec. 17. 10 MRSA §703, sub-§3, ¶E, as enacted by PL 1977, c. 489, §1, is amended to read:

E. Any land designed for and proposed to be used as an industrial park or site for location of industrial enterprise, provided the municipality in which the proposed park is to be located has agreed to provide or assure the provision of support facilities, including utilities, access, site preparation, marketing efforts, and financial support as may be determined by the authority to be necessary and appropriate, and further provided that reasonable assurance is given to the authority that the project can gain approval for environmental permits and licenses and that the land shall be deeded to a local development corporation as defined in this section; and

Sec. 18. 10 MRSA §703, sub-§3, ¶F is enacted to read:

F. Any land to be used as farm land which is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, fruit or other horticultural products, providing that the Farm Financing Advisory Council created pursuant to Title 7, chapter 9, has reviewed and recommended approval of the specific project and provided that reasonable assurance is given to the authority that the project can gain approval for any environmental or other permits necessary for using the land for the purposes stated in this paragraph.

Sec. 19. 10 MRSA §751, 2nd sentence, as amended by PL 1979, c. 533, §7, is further amended to read:

The authority shall consist of ~~10~~ 11 members, including the Treasurer of State or his designee, ex officio, as a nonvoting member, the Commissioner of Agriculture, Food and Rural Resources, or his designee, and the Director of the State Development Office and 8 members at large appointed by the Governor, subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature, for a period of 4 years, provided that of the members first appointed, 2 shall be appointed for a term of one year, 2 for a term of 2 years, 2 for a term of 3 years and 2 for a term of 4 years.

Sec. 20. 10 MRSA §752, sub-§9, as amended by PL 1975,
c. 566, §7, is further amended to read:

9. Advisability of eligible project. In connection with the insuring of payments of any mortgage of industrial or agricultural or recreational real estate, to require for its guidance a finding of the planning board of the municipality, or if there is no planning board, a finding of the municipal officers of the municipality in which the eligible project is proposed to be located, or of the regional planning board of which such municipality is a member, as to the expediency and advisability of such project; and, in connection with insuring of payments of any eligible farm financing project as defined in section 703, subsection 3, paragraph F, to require for its guidance a recommendation by the Farm Financing Advisory Council that the applicant should receive assistance from the Maine Guarantee Authority;

Sec. 21. 10 MRSA §803, 2nd ¶, 2nd sentence, as enacted by
PL 1977, c. 489, §10, is amended to read:

Loan Guarantees pursuant to section 703, subsection 3, paragraph paragraphs E and F shall not be greater than 95% of the first mortgage loan and in no event shall the guarantees exceed 100% of the market value of the undeveloped land involved.

Sec. 22. 10 MRSA §852, last ¶, as enacted by PL 1969,
c. 584, §1, is amended to read:

Nothing in this section shall be construed to prohibit the disclosure of information from records or files of the authority or the production of records or files of the authority to a special interim legislative investigating committee, or its agent, upon written demand from the chairman of the committee or any member of the committee designated by him or to the Farm Financing Advisory Council for purposes consistent with Title 7, chapter 9. Such information, records or files may be used only for the lawful purposes of the council or the committee and in any actions arising out of investigations conducted by it.

Sec. 23. 32 MRSA §4152, as amended by PL 1979, c. 26, §1 is repealed and the following enacted in its place:

§4152. Maine Sardine Council

The Maine Sardine Council, as established by Title 36, section 4693, shall meet with the commissioner at regular intervals to be determined by it and more often if called by the commissioner.

The Maine Sardine Council shall advise the commissioner and the commissioner shall consult with the council on matters of general interest to the sardine industry within the jurisdiction of the commissioner.

Sec. 24. 32 MRSA §4156, 2nd sentence, as repealed and replaced by PL 1979, c. 62, §3, is amended to read:

The inspection fee provided for may be increased by the Commissioner of Agriculture, Food and Rural Resources, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, after consultation with the Maine Sardine Industry-Advisory Board Council to an amount not to exceed 12¢ per case, in the event the fee of 8¢ per case is not adequate to cover the cost of the inspection, but the increased fee shall be reasonable and shall cover as nearly as may be possible the cost of the inspection.

Sec. 25. 36 MRSA §4693, last ¶, as repealed and replaced by PL 1979, c. 26, §5 and c. 541, Pt. B, §49, is amended by adding after the 2nd sentence, a new sentence to read:

The council is authorized to consult with the Commissioner of Agriculture, Food and Rural Resources consistent with Title 32, chapter 61.

Sec. 26. Transition; Department of Agriculture, Food and Rural Resources. The Department of Agriculture, as heretofore created, shall be known as the Department of Agriculture, Food and Rural Resources. Any references to the Department of Agriculture shall be deemed to be a reference to the Department of Agriculture, Food and Rural Resources and all obligations and responsibilities having accrued to the Department of Agriculture, shall be deemed to have accrued to the Department of Agriculture, Food and Rural Resources. The commissioner is authorized to transfer positions, lines, programs or accounts between bureaus and appropriations in order to carry out the intent of this Act.

Sec. 27. Revision clause. Wherever in the Revised Statutes the words "Department of Agriculture" appears or reference is made to that name, they shall be amended to read and mean the "Department of Agriculture, Food and Rural Resources."

Statement of Fact

← Generally, the amended sections: Redefine the powers and duties of the commissioner; eliminate gubernatorial approval for certain specified appointees of the commissioner; and restrict the Farm Financing Advisory Council actions to loans for which the lender has sought guarantee from the Maine Guarantee Authority. Other amendments are technical making other sections of ~~Agriculture~~ ~~Department~~ laws consistent with the changes herein. The sections of the bill reorganizing laws relating to dams are deleted.

Sections 1 to 9 provide that the department is restructured to consolidate like functions into 4 bureaus: Agricultural production, consisting of functions directly related to the development and maintenance of the state's food and fiber production capabilities; agricultural marketing, consisting of functions directly related to the development and implementation of the ~~state's~~ role in the promotion and marketing of food and fiber products; agricultural and rural resources consisting of functions directly related to the wise and economic development of the state's resource base; and

public service, consisting of functions directly related to the department's current regulatory and consumer protection responsibilities. The restructuring will also limit to a more manageable number the subordinates who report to the commissioner by designating directors of each of the above bureaus. In addition to the bureau directors, the proposal also provides for staff and program resources which are not now available in the department.

Section 10 provides that a Farm Financing Advisory Council with broad financial and farming experience shall review farm financing mechanisms, and report to ^{the} commissioner annually and review loan applications when a lender seeks guarantee by the Maine Guarantee Authority.

Section 11 deletes the requirement to tender market price prior to taking samples from a container of potatoes to inspect them.

Section 12 requires the commissioner to pay the fair market price for any sample retained or destroyed.

Section 13 will permit authorized representatives of the commissioner to serve citations for alleged violations of law.

Section 14 permits diseased plants found within the state to be quarantined as is now permitted for imported diseased plants.

Sections 15 to 22 make amendments necessary to permit the Maine Guarantee Authority to guarantee farm loans.

Section 23 provides for increased communication between the Maine Sardine Council and the commissioner.

Sections 24 and 25 contain technical changes for consistency between titles of law.

Sections 26 and 27 contain necessary transition and reference changes.