

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1550

7 H.P. 1069

House of Representatives, May 20, 1985

8 Reported by Representative McGowan from the Joint Select Committee
9 on Forest Practices pursuant to Resolve 1983, Chapter 85.

10 Reference to the Joint Standing Committee on Energy and Natural
Resources Suggested and printing ordered under Joint Rule 18.

EDWIN H. PERT, Clerk

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT Concerning the Forest Resources of
18 Maine.
19

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

22 Sec. 1. 5 MRSA §12004, sub-§10, ¶A, sub-¶(18-A)
23 is enacted to read:

24 (18-A) Environment Citizens' Forestry \$25/day 12 MRSA
25 Forestry Advisory Council §5101-B

26 Sec. 2. 12 MRSA §4812-C, sub-§3, ¶C, as enacted
27 by PL 1983, c. 796, §4, is amended to read:

28 C. Keep a complete record of all essential
29 transactions of the office, including applica-
30 tions submitted, permits granted or denied, vari-
31 ances granted or denied, revocation actions, rev-
32 ocation of permits, appeals, court actions, vio-
33 lations investigated, violations found and fees
34 collected. On an annual basis, a summary of this

1 record shall be submitted to the Director of the
2 Bureau of Land Quality Control and Department of
3 Environmental Protection; and

4 Sec. 3. 12 MRSA §4812-D is enacted to read:

5 §4812-D. Land use report to Legislature

6 The Commissioner of Environmental Protection
7 shall biannually report to the Legislature on the im-
8 plementation and impact of local land use laws. The
9 report shall include:

10 1. Department assistance. A description of the
11 assistance and supervision that the Department of En-
12 vironmental Protection has provided to the municipal-
13 ities in carrying out their land use control respon-
14 sibilities;

15 2. Summary of violations. A summary of the vio-
16 lations investigated by municipal code enforcement
17 officers and related court actions; and

18 3. Recommendations. Where appropriate, any rec-
19 ommendations for legislation relating to land use
20 control.

21 Sec. 4. 12 MRSA §5101, as enacted by PL 1979, c.
22 414, is repealed and the following enacted in its
23 place:

24 §5101. Maine's forests

25 The Legislature finds that the State's economy
26 and the well being of its citizens is founded on the
27 State's natural resources, especially its forests.
28 The forest resource, under proper management, pro-
29 vides a continuous stream of benefits enjoyed by the
30 people of the State, including, a supply of wood
31 products and fiber for industrial manufacturing, fuel
32 for domestic and commercial applications, habitat for
33 numerous species of game and nongame wildlife, recre-
34 ational opportunities for residents and out-of-state
35 tourists and supplies of high quality water for human
36 use and fisheries habitat.

1 The Legislature further finds that the forests of
2 Maine are subject to increased demand for all of its
3 products and that it has been subject to significant-
4 ly increased natural mortality losses in the past
5 decade.

6 The Legislature also finds that the vast majority
7 of the forest resource in Maine is under private own-
8 ership and that the State's role should be to serve
9 as a catalyst to encourage and promote sustained
10 yield management and use of the forest and its relat-
11 ed resources. This role is best realized if state ac-
12 tions in the forestry sector manifest a consistent
13 and comprehensive perspective of how the forest re-
14 sources can best serve the continuous need of the
15 people of Maine.

16 The Legislature further finds that the long-term
17 needs of the State and its citizens may be threatened
18 by uncoordinated and shortsighted decisions in the
19 public and private sectors, including economic devel-
20 opment, environmental protection, tax policy and oth-
21 er related items.

22 In view of these findings, it is essential that
23 the State have the capability to study changing
24 trends in supply and demand for forest resources in
25 Maine. The State must also establish clear goals for
26 the management of the forest resource and a stable,
27 comprehensive framework and implementation schedule
28 for state actions.

29 Sec. 5. 12 MRSA §5101-A is enacted to read:

30 §5101-A. Maine Forests for the Future Program

31 There is established in the Department of Conser-
32 vation a Maine Forests for the Future Program. The
33 purpose of this program shall be to:

34 1. Current status. Assess the current status of
35 forest resources, including, but not limited to, tim-
36 ber, fiber, recreation, water, wildlife and soil;

37 2. Future demand. Project future demand for
38 these resources based on a common economic forecast
39 developed by the State Planning Office;

1 3. Trends. Identify trends in resource utiliza-
2 tion and forecast supply available to meet the pro-
3 jected demand;

4 4. Potential shortfalls. Identify potential
5 shortfalls in forest resources and the management ac-
6 tions necessary in the public and private sector to
7 avoid shortfalls; and

8 5. Recommendations. Recommend to the Governor
9 and the Legislature the administrative and legisla-
10 tive policies or actions needed to refine or redirect
11 state agency programs and to stimulate or remove
12 obstacles to private sector action in a manner that
13 contributes to an adequate supply of natural re-
14 sources.

15 The Commissioner of Conservation shall establish and
16 consult with a technical working group composed of
17 members of the existing staff of the department and
18 other persons knowledgeable in the areas referenced
19 in subsection 1 and related fields to carry out the
20 purposes of this chapter. The working group shall
21 have expertise in forest management, forest utiliza-
22 tion, recreation management, land use regulation,
23 wildlife and fisheries management, watershed manage-
24 ment and other areas as appropriate.

25 The Commissioner of Conservation shall coordinate the
26 efforts of this program fully with ongoing departmen-
27 tal and federal forestry program planning efforts.

28 Sec. 6. 12 MRSA §5101-B is enacted to read:

29 §5101-B. Review and coordination

30 Review and coordination of the Maine Forests for
31 the Future Program shall be undertaken through the
32 following mechanisms.

33 1. Citizens' Forestry Advisory Council. The Cit-
34 izens' Forestry Advisory Council, as established by
35 Title 5, section 12004, subsection 10, and in this
36 chapter called the "council" shall advise the Commis-
37 sioner of Conservation on all aspects of the program
38 and shall review all interim and final products and
39 documents produced by the program.

1 A. The council shall consist of 7 members, ap-
2 pointed by the Governor, subject to review by the
3 joint standing committee of the Legislature hav-
4 ing jurisdiction over natural resources and to
5 confirmation by the Legislature. Members of the
6 council shall be chosen to represent the broadest
7 possible interest and experience which can be
8 brought to bear in the implementation of this
9 chapter.

10 B. The members shall be appointed for a term of
11 5 years and until their successors are appointed
12 and qualified, except that at the time of the
13 first appointments, 2 shall be appointed for a
14 term of 3 years, 2 for a term of 4 years and 3
15 for a term of 5 years. The council shall select
16 its chairman from its own members.

17 C. The council shall report annually to the Leg-
18 islature and the Governor on its activities, in-
19 cluding any comments it may have on the reports
20 issued under section 5103 and on any recommenda-
21 tions it may have for legislative actions needed
22 to achieve the purposes of this chapter.

23 D. The council shall meet at least twice per
24 year.

25 2. Coordination by State Planning Office. The
26 State Planning Office shall coordinate the review by
27 all appropriate agencies of any reports issued by the
28 Maine Forests for the Future Program under section
29 5103. The reviewing agencies shall adopt rules and
30 policies, subject to the provisions of the Maine Ad-
31 ministrative Procedure Act, Title 5, chapter 375,
32 which collectively comprise an intergrated approach
33 that fully addresses the needs indentified by the
34 program. The commissioner shall request the assist-
35 ance of all appropriate state agencies, including,
36 but not limited to, the State Planning Office, the
37 Department of Environmental Protection, the Depart-
38 ment of Inland Fisheries and Wildlife and the Depart-
39 ment of Agriculture, Food and Rural Resources in the
40 conduct of studies, analyses, surveys or other activ-
41 ities necessary to carry out the purposes of this
42 chapter.

1 Sec. 7. 12 MRSA §5103, as enacted by PL 1979, c.
2 414, is repealed and the following enacted in its
3 place:

4 §5103. Reports

5 The commissioner shall prepare a series of re-
6 ports which provide:

7 1. Current and projected needs. An assessment of
8 current and projected supply and demand for forest
9 and related resources in the State:

10 A. Based on these projections, the assessment
11 shall include goals for the supply of forest re-
12 sources, including, but not limited to, timber,
13 fiber, recreation, water and wildlife; and

14 B. The assessment shall be prepared on a 10-year
15 cycle with the first report due no later than
16 January 1, 1987, and subsequent reports to coin-
17 cide with the availability of inventory data from
18 the decennial United States Forest Service survey
19 of the State;

20 2. Recommendations. Recommendations for state
21 and private actions designed to address the needs
22 identified in the assessment:

23 A. State action recommendations shall be defined
24 in terms of necessary policies, programs, staff
25 and budgetary requirements to achieve specific
26 goals;

27 B. Recommendations for actions on privately held
28 forest lands shall be developed separately for
29 large, industrial ownerships and small, nonindus-
30 trial ownerships. These recommendations shall be
31 defined in terms of actions needed to achieve
32 specific goals; and

33 C. This report shall be prepared on a 5-year cy-
34 cle with the first report due no later than Janu-
35 ary 1, 1987; and

36 3. Annual progress report. An annual progress
37 report on implementation of the program and its rec-

1 ommendations along with recommendations for adminis-
2 trative or legislative actions needed during the cur-
3 rent 5-year cycle. The progress report shall be due
4 on January 1st.

5 The commissioner shall obtain meaningful public input
6 during the preparation of these reports by means of
7 public hearings and other methods as appropriate. All
8 reports prepared under this section shall be submit-
9 ted for review to the joint standing committee of the
10 Legislature having jurisdiction over natural re-
11 sources by the dates specified in this section.

12 Sec. 8. 12 MRSA §5104, as enacted by PL 1979, c.
13 414, is repealed.

14 Sec. 9. 12 MRSA §8604, first ¶, as enacted by PL
15 1979, c. 545, §3, is amended to read:

16 Any owner of forest land who sells stumpage dur-
17 ing a calendar year shall render an annual report to
18 the director during the month of January of the fol-
19 lowing year, stating the species, volume and stumpage
20 price per unit of measure for each transaction and
21 the municipality or township where the stumpage was
22 located. Any owner of forest land who cuts stumpage
23 for his own business use during a calendar year shall
24 render an annual report to the director during the
25 month of January of the following year, stating the
26 species and volume per unit of measure for each mu-
27 nicipality or township where the stumpage was lo-
28 cated. Any owner of forest land who has sold stumpage
29 or cut wood for his own business use within the past
30 5 years shall report on any thinning operations,
31 whether chemical or mechanical, planting, stand con-
32 version or other precommercial silvicultural activi-
33 ties not including road building. The director may,
34 by rule, prescribe definitions of the activities men-
35 tioned in this section and any others he deems neces-
36 sary to carry out the purposes of Title 5, chapter
37 429. Forms for this report shall be provided by the
38 director. Information contained in the reports shall
39 not be made public but shall except that summary re-
40 ports may be published that use aggregated data that
41 do not reveal the activities of an individual person
42 or firm. These forms shall be available for the use
43 of the State Tax Assessor pursuant to Title 36, chap-

ter 105, subchapter II-A, and chapter 803, subchapter IV.

The director shall, utilizing a sample of the forest landowner reports and any other appropriate survey methods, conduct a biannual survey of the methods of harvesting and the harvest practices employed. The information on harvesting shall include, but not be limited to, the silvicultural prescriptions employed, the estimated acreage of various harvest methods including clear cutting, and the extent of whole-tree harvesting of both solid and chipped wood.

Sec. 10. 30 MRSA §4162, sub-§3-A is enacted to read:

3-A. Framework for resource planning. Within one year of the enactment of this subsection, the State Director of Public Lands, in this chapter referred to as the "director," shall, in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, adopt rules that specify the process for the development and revision of public reserved land management plans and the guidelines and standards prescribed by this subsection. The rules shall include, but not be limited to:

A. Specifying guidelines which:

(1) Require the identification of the suitability of lands for resource management;

(2) Provide for obtaining inventory data on the various renewable resources and soil and water, including pertinent maps, graphic material and explanatory aids; and

(3) Provide for methods to identify special conditions or situations involving hazards to the various resources and their relationship to alternative activities; and

B. Specifying guidelines for land management plans developed which:

1 (1) Insure consideration of the economic
2 and environmental aspects of various systems
3 of renewable resource management, including
4 the related systems of silviculture and pro-
5 tection of forest resources, to provide for
6 outdoor recreation, including wilderness,
7 range, timber, watershed, wildlife and fish;

8 (2) Provide for diversity of plant and ani-
9 mal communities based on the suitability and
10 capability of the specific land area in or-
11 der to meet overall multiple-use objectives
12 and, within the multiple-use objectives of a
13 land management plan adopted pursuant to
14 this chapter, provide, to the degree practi-
15 cable, for steps to be taken to preserve the
16 diversity of tree species characteristic of
17 the region controlled by the plan;

18 (3) Insure research on and, based on con-
19 tinuous monitoring and assessment in the
20 field, evaluation of the effects of each
21 management system to the end that it will
22 not produce substantial and permanent im-
23 pairment of the productivity of the land;

24 (4) Insure that timber will be harvested
25 from public reserved lands only where:

26 (i) Soil, slope or other watershed
27 conditions will not be irreversibly
28 damaged;

29 (ii) Protection is provided for
30 streams, stream banks, shorelines,
31 lakes, wetlands and other bodies of wa-
32 ter from detrimental changes in water
33 temperatures, blockages of water
34 courses and deposits of sediment where
35 harvests are likely to seriously and
36 adversely affect water conditions or
37 fish habitat; and

38 (iii) The harvesting system to be used
39 is not selected primarily because it
40 will give the greatest dollar return or
41 the greatest unit output of timber; and

1 (5) Insure that clear cutting, seed tree
2 cutting, shelterwood cutting and other cuts
3 designed to regenerate an even-aged stand of
4 timber will be used as a cutting method on
5 public reserved lands only where:

6 (i) It is determined to be appropriate
7 to meet the objectives and requirements
8 of the relevant land management plan;

9 (ii) An interdisciplinary review as
10 determined by the director has been
11 completed and the potential environmen-
12 tal, biological, esthetic, engineering
13 and economic impacts on each management
14 unit have been assessed, as well as the
15 consistency of the harvest with the
16 multiple use of the general area;

17 (iii) Cut blocks, patches or strips
18 are shaped and blended to the extent
19 practicable with the natural terrain;

20 (iv) There are established according
21 to geographic areas, forest types or
22 other suitable classifications the max-
23 imum size limits for areas to be cut in
24 one harvest operation, including provi-
25 sion to exceed the established limits
26 after appropriate public notice and re-
27 view by the Commissioner of Conserva-
28 tion, provided that the limits shall
29 not apply to the size of areas har-
30 vested as a result of natural cata-
31 strophic conditions, such as fire, in-
32 sects and disease attack or windstorm;
33 and

34 (v) The cuts are carried out in a man-
35 ner consistent with the protection of
36 soil, watershed, fish, wildlife, recre-
37 ation and esthetic resources and the
38 regeneration of the timber resource.

39 In carrying out the purposes of this subsection,
40 the director shall appoint an advisory committee
41 of scientists who are not officers or employees

1 of the Bureau of Public Lands. The committee
2 shall provide scientific and technical advice on
3 proposed guidelines and procedures to assure that
4 an effective interdisciplinary approach is pro-
5 posed and adopted. The committee shall terminate
6 upon promulgation of the rules, but the director
7 may, from time to time, appoint similar commit-
8 tees when considering revisions of the regula-
9 tions. The views of the committees shall be in-
10 cluded in the public information supplied when
11 the regulations are proposed for adoption.

12 Sec. 11. 30 MRSA §4163, as amended by PL 1983, c.
13 819, Pt. A, §58 and c. 833, §2, is repealed and the
14 following enacted in its place:

15 §4163. Funds from public reserved lands

16 All income received by the State Director of Pub-
17 lic Lands from the public reserved lands, except in-
18 come provided for in section 4166, shall be deposited
19 with the Treasurer of State, to be credited to a Pub-
20 lic Reserved Lands Management Fund which is estab-
21 lished as a nonlapsing fund. Any interest earned on
22 this money shall also be credited to the Public Re-
23 served Lands Management Fund.

24 Expenditures from the Public Reserved Lands Man-
25 agement Fund are subject to legislative approval in
26 the same manner as appropriations from the General
27 Fund. No money may be expended without allocation by
28 the Legislature. The joint standing committee of the
29 Legislature having jurisdiction over appropriations
30 and financial affairs shall approve the allocation.

31 The State Director of Public Lands shall use 50%
32 of the net income derived from camp leases on the
33 public reserved lands under section 4162, subsection
34 4, for the construction and maintenance of public
35 overnight campsites and other camping and recreation-
36 al facilities.

1 STATEMENT OF FACT

2 The purpose of this bill is to implement the rec-
3 ommendations of the Select Committee on Forest Prac-
4 tices established by Resolves 1983, chapter 85. The
5 committee finds that the forest resource in Maine
6 suffers from a lack of clear and consistent direction
7 in the actions of State Government. In so far as the
8 forest resource constitutes the State's single most
9 important natural asset, the committee strongly rec-
10 ommends that a policy process be adopted which devel-
11 ops a coordinated and comprehensive framework for the
12 actions of State Government with respect to the for-
13 est resource. These state actions will affect both
14 public lands and, through the existing regulatory,
15 tax and other government programs, the privately-
16 owned forest lands. Only in this manner can the peo-
17 ple of the State be assured that a healthy forest
18 will continue to provide the numerous economic, so-
19 cial and ecological benefits upon which they rely.

20 The specific parts of the bill are described as
21 follows.

22 Section 1 of the bill specifies the compensation
23 provided for the Citizens' Forestry Advisory Council.

24 Sections 2 and 3 provide for the collection of
25 information on local shoreland zoning violations, in-
26 cluding forestry problems, by the Department of Envi-
27 ronmental Protection and for a biannual report to the
28 legislature.

29 Sections 4 to 7 establish the "Maine Forests for
30 the Future Program" within the Department of Conser-
31 vation and in cooperation with other state agencies.
32 This program is charged with developing state forest
33 policy on the basis of sound analysis coupled with
34 public and professional review and input. Specifical-
35 ly the Department of Conservation must:

36 1. Assess the forest resources of the State, in-
37 cluding timber, wildlife, recreation and other relat-
38 ed aspects of the resources;

39 2. Project trends in the expected utilization of
40 and demand for these resources; and

1 3. Combine these analyses to identify shortfalls
2 and to set goals for forest resource supply in the
3 areas of timber, wildlife, recreation and related
4 topics.

5 This is to be accomplished on a 10-year cycle. In
6 addition, the Department of Conservation must, on a
7 5-year cycle, develop action recommendations for leg-
8 islative and executive action. Legislative actions
9 will be submitted to the Legislature along with annu-
10 al progress reports and "fine tuning" recommenda-
11 tions. Executive recommendations will be adopted by
12 appropriate state agencies following interagency re-
13 view coordinated by the State Planning Office and
14 with public input.

15 The program will have involvement and review out-
16 side the Department of Conservation at 3 levels.

17 1. A Citizens' Forestry Advisory Council is cre-
18 ated to provide ongoing public input. Its 7 members
19 will appointed by the Governor and confirmed by the
20 Legislature. The members are expected to represent a
21 broad cross section of the citizens of the State.

22 2. An interagency cooperation and review mecha-
23 nism is called for with administrative support from
24 the State Planning Office along the lines of the ex-
25 isting Land and Water Resources Council.

26 3. General public review and comment on each ma-
27 jor policy document and rulemaking.

28 Section 8 repeals a redundant provision for coop-
29 eration which is now incorporated in section 5 of the
30 bill.

31 Section 9 provides for data collection on harvest
32 and management practices. This is a strong committee
33 recommendation given the relative absence of current
34 information in this area.

35 Section 10 provides specific guidance to the Bu-
36 reau of Public Lands on its planning and management
37 of the public reserved lands. This framework is de-
38 signed to be consistent with the bureau's responsi-
39 bilities as the trustee of the public interest in

1 450,000 acres of forest land in the State and as a
2 model of exemplary forest management.

3 This framework does not require or prohibit any
4 specific forest practices. Rather it outlines plan-
5 ning procedures for the Bureau of Public Lands and
6 identifies areas of particular concern, such as clear
7 cutting and the preservation of fish and game habi-
8 tat.

9 To a large extent, this section formalizes a pro-
10 cedure the bureau is adopting now and ensures its
11 continued use under subsequent administrations.

12 Section 11 rectifies a conflict created during
13 the Second Regular Session of the 111th Legislature
14 regarding the use of interest on the Public Reserved
15 Lands Management Fund and the allocation of funds
16 from this account.

17 3460050685