

MAINE STATE LEGISLATURE

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D. O. F. R.

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L.D. 1600

(Filing No. S-136)

STATE OF MAINE
SENATE
112TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to S.P. 606, L.D. 1600, Bill, "AN ACT to Restructure the Duties and Funding of the Maine Land Use Regulation Commission."

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'Sec. 1. 12 MRSA §683, first ¶, as amended by PL 1983, c. 812, §75, is further amended to read:

The Maine Land Use Regulation Commission, as established by Title 5, section 12004, subsection 5, to carry out the purposes stated in section 681, is created within the Department of Conservation, and in this chapter called the "commission." The commission is charged with implementing this chapter in all of the unorganized and deorganized areas of the State. The commission shall consist of 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. Among the public members, there shall be 4 who shall be knowledgeable in at least one of each of the following areas: Commerce and industry; fisheries and wildlife; forestry; and conservation. Of the potential appointees to the commission, the Governor shall give consideration to persons residing in or near the unorganized areas of the State and at least one member shall be a resident of a town or plantation within the commission's jurisdiction.

Sec. 2. 12 MRSA §685-A, sub-§4, as amended by PL 1983, c. 862, §34, is further amended to read:

4. Land use standards considered as minimum re-

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1 quirements. Land use standards shall be interpreted
2 and applied by the commission as minimum require-
3 ments, adopted to reasonably and effectively promote
4 health, safety and general welfare and insure compli-
5 ance with state plans and policies.

6 If the commission adopts special land use standards
7 for implementation in shoreland areas as described in
8 section 4811, along segments of significant rivers
9 designated in section 4811-B, or along outstanding
10 rivers designated in Title 30, section 4956, subsec-
11 tion 1-A, which are more restrictive than the stan-
12 dards provided by those laws, the commission's stan-
13 dards must be approved by the voters of a town or
14 plantation at an election before those standards are
15 applied.

16 Whenever the requirements of the adopted land use
17 standards are at variance with the requirements of
18 any other lawfully adopted rules, regulations, stan-
19 dards, ordinances, deed restrictions or covenants,
20 the more protective of existing natural, recreation
21 and historic resources shall govern.

22 Any portion of a land use district which subsequently
23 becomes an organized municipality or part of an or-
24 ganized municipality or any plantation which adopts
25 planning, zoning and subdivision control as provided
26 in Title 30, section 5621, shall continue to be regu-
27 lated by the Maine Land Use Regulation Commission
28 pursuant to this chapter until such time as the mu-
29 nicipality or plantation of which the regulated dis-
30 trict is then a part, shall adopt land use plans and
31 regulations not less protective of the existing natu-
32 ral, recreational or historic resources than those
33 adopted by the commission.

34 Any municipality organized after September 23, 1971,
35 or any plantation which adopts planning, zoning and
36 subdivision control as provided in Title 30, section
37 5621, may submit to the commission and receive the
38 approval of the commission of the following:

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1 A. A comprehensive land use plan for such
2 plantation or proposed city or town;

3 B. Standards for determining land use district
4 boundaries and uses permitted within such dis-
5 tricts in such plantation or proposed city or
6 town;

7 C. A land use district boundary map for such
8 plantation or proposed city or town;

9 D. Such other proposed regulations or standards
10 as the commission deems to be necessary to
11 achieve the purpose, intent and provisions of
12 this chapter; and

13 E. Upon request of the municipality or
14 plantation, the commission shall prepare such
15 plans, maps, regulations and standards as it may
16 deem necessary to meet minimum planning and zon-
17 ing standards for its approval thereof.

18 Upon obtaining the foregoing approval, the
19 plantation, city or town shall thereafter adopt, ad-
20 minister and enforce such approved plans, maps, regu-
21 lations and standards.

22 From time to time, the commission may review the ad-
23 ministration and enforcement of local land use plans
24 and regulations by plantations and municipalities
25 which have adopted land use plans, maps, regulations
26 and standards approved by the commission. If, fol-
27 lowing the review, the commission finds that any of
28 the following have occurred, the commission may rees-
29 tablish its jurisdiction over that plantation or mu-
30 nicipality:

31 A. A plantation or municipality has repealed the
32 land use plan, maps, standards or regulations
33 necessary to satisfy the requirements of this
34 subsection or has substantially modified the land

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1 use plan, maps, standards or regulations so that
2 the resources of the plantation or municipality
3 are not reasonably protected;

4 B. A plantation or municipality has abolished or
5 does not have functioning the administrative
6 bodies and officers necessary to implement the
7 land use program as approved by the commission,
8 normally a planning board, board of appeals and
9 code enforcement officer are included, but this
10 may vary depending on the local program; or

11 C. A plantation or municipality has not adminis-
12 tered or enforced its land use plan, maps, stan-
13 dards or regulations in a manner which reasonably
14 protects the resources in the plantation or mu-
15 nicipality involved.

16 The action by the commission shall conform with the
17 provisions for rulemaking of the Maine Administrative
18 Procedure Act, Title 5, chapter 375.

19 Action taken by the commission to reestablish its ju-
20 risdiction over a plantation or municipality shall be
21 effective immediately, but shall be submitted to the
22 current or next regular session of the Legislature
23 for approval. If the Legislature fails to act, the
24 action shall continue in effect.'

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1 STATEMENT OF FACT

2 The purpose of this amendment is to require that
3 one of the 7 Maine Land Use Regulations Commissioners
4 be a resident of a plantation or town within the com-
5 mission's jurisdiction and to require that commission
6 land use standards for shoreland areas be no more re-
7 strictive than those provided by shoreland zoning and
8 municipal subdivision laws in organized territory.
9 Commission standards could be more restrictive if ap-
10 proved by the voters of the town, plantation or town-
11 ship.

12 3895052885

13 (Sen. McBreairty)
14 NAME: *James McBreairty*
15 COUNTY: Aroostook

Reproduced and Distributed Pursuant to Senate Rule 12.
(5/28/85) (Filing No. S-136)