

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2301

S.P. 889 In Senate, February 19, 1988
Reported by Senator MATTHEWS of Kennebec for the
Commission on Outdoor Recreation pursuant to P&SL 1987, c. 68.
Reference to the Committee on Energy and Natural Resources
suggested and ordered printed pursuant to Joint Rule 18.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

AN ACT to Enhance Outdoor Recreation
Opportunities.

1
2
3

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

6 Sec. 1. 5 MRSA §6204, sub-§§1 to 3, as enacted
7 by PL 1987, c. 506, §§1 and 4, are amended to read:

8 1. Composition. The board shall consist of 9

1 11 members, 4 6 of whom shall be appointed private
2 citizens and 5 of whom shall be permanent members.
3 The permanent members shall be the Commissioner of
4 Conservation; the Commissioner of Inland Fisheries and
5 Wildlife; the Commissioner of Transportation; the
6 Commissioner of Agriculture, Food and Rural Resources;
7 and the Director of the State Planning Office.

8 2. Appointments. The 4 6 appointed private
9 citizen members shall be appointed by the Governor,
10 subject to review by the joint standing committee of
11 the Legislature having jurisdiction over natural
12 resources and to confirmation by the Legislature.

13 3. Qualifications. The 4 6 appointed members
14 shall be selected based on their knowledge of the
15 State's natural resources and landscape and their
16 demonstrated commitment to land conservation.
17 Appointments shall be made to provide broad geographic
18 representation. At least 2 of the private citizen
19 members shall reside north of the 45th parallel.

20 Sec. 2. 5 MRSAs §6204, sub-§4, as enacted by PL
21 1987, c. 506, §§ 1 and 4, is repealed and the
22 following enacted in its place:

23 4. Terms; compensation. The appointed private
24 citizen members shall be appointed to staggered 4-year
25 terms. The initial appointments shall be as follows:
26 Two members for 2-year terms; 2 members for 3-year
27 terms; and 2 members for 4-year terms. Appointed
28 private citizen members may serve no more than 2
29 consecutive 4-year terms. The appointed members shall
30 receive the legislative per diem pursuant to chapter
31 375.

32 Sec. 3. 5 MRSAs §6205, sub-§4, as enacted by PL
33 1987, c. 506, §§1 and 4, is amended to read:

34 4. Quorum. A quorum of the board for the
35 transaction of business shall be 6 7 members.

36 Sec. 4. 5 MRSAs §6206, as enacted by PL 1987, c.
37 506, §§1 and 4, is repealed and the following enacted
38 in its place:

1 §6206. Board responsibilities

2 1. Purpose. The purpose of the board is to:

3 A. By June 1988, complete an assessment of the
4 State's public land acquisition needs and develop
5 a strategy and guidelines, based on this
6 assessment, for use in allocating the proceeds of
7 the Land for Maine's Future Fund. Both the
8 assessment and the development of a strategy and
9 guidelines shall be conducted with opportunities
10 for participation by the Maine Advisory Commission
11 on Outdoor Recreation, interested state agencies
12 and the public;

13 B. By September 1988, report the board's
14 findings, strategy and guidelines to the joint
15 standing committee of the Legislature having
16 jurisdiction over natural resources;

17 C. Receive and review funding requests from state
18 agencies and cooperating entities for acquisition
19 projects meeting state guidelines;

20 D. Authorize distribution of proceeds from the
21 fund for land acquisitions in accordance with the
22 approved strategy; and

23 E. Report biennially to the joint standing
24 committee of the Legislature having jurisdiction
25 over natural resources on expenditure of the fund
26 and revisions to the strategies and guidelines.

27 Sec. 5. 5 MRSA §12004, sub-§11, ¶A, sub-¶(4-A)
28 is enacted to read:

29	<u>(4-A)</u>	<u>Environ-</u>	<u>Maine</u>	<u>Expenses</u>	<u>12 MRSA</u>
30		<u>ment</u>	<u>Advisory</u>	<u>Only</u>	<u>\$5251</u>
31			<u>Commission</u>		
32			<u>on Outdoor</u>		
33			<u>Recreation</u>		

34 Sec. 6. 12 MRSA c. 432 is enacted to read:

1 CHAPTER 432

2 MAINE ADVISORY COMMISSION ON OUTDOOR RECREATION

3 §5251. Board advisory function

4 Pursuant to Title 5, chapter 379, there is
5 established the Maine Advisory Commission on Outdoor
6 Recreation. The commission shall undertake a
7 continuing effort to assess and coordinate outdoor
8 recreation policy in the State. The commission shall
9 advise the Governor and the Legislature on all aspects
10 of that policy, as described in this section.

11 1. Composition. The commission shall consist of
12 15 members, representing a broad range of interests in
13 outdoor recreation. These members shall include 6
14 private citizens and 4 legislative members. In
15 addition, the Commissioner of Conservation, the
16 Commissioner of Inland Fisheries and Wildlife, the
17 Director of the Bureau of Public Lands, the Director
18 of the Bureau of Parks and Recreation and the Director
19 of the Maine Forest Service shall be permanent members.

20 2. Appointments. The private citizen members
21 shall be appointed by the Governor, subject to review
22 by the joint standing committee of the Legislature
23 having jurisdiction over natural resources and to
24 confirmation by the Legislature. The President of the
25 Senate shall appoint 2 legislative members and the
26 Speaker of the House shall appoint 2 legislative
27 members.

28 3. Qualifications. The appointed private citizen
29 members shall be selected based on their knowledge of
30 outdoor recreation issues. The membership shall be
31 selected to provide representation for a wide range of
32 outdoor recreation interests, including without
33 limitation, fishing and hunting clubs, forest
34 landowners, camp leaseholders, commercial sporting
35 camp operators, conservation groups and local
36 government. Three of the private citizen members
37 shall reside north of the 45th parallel and 3 shall
38 reside south of the 45th parallel.

1 4. Terms; compensation. The appointed private
2 citizen members shall be appointed to staggered 3-year
3 terms. The initial appointments shall be as follows:
4 Two members for one-year terms; 2 members for 2-year
5 terms; and 2 members for 3-year terms. Appointed
6 members may serve no more than 2 consecutive 3-year
7 terms. The appointed members shall receive no
8 compensation but shall be reimbursed for direct
9 expenses. Any member whose term has expired may serve
10 until a successor has been appointed and confirmed.

11 5. Quorum. A quorum of the commission for the
12 transaction of business shall be 9 members.

13 6. Meetings. The commission shall meet at least
14 4 times each year at the call of the chairman.

15 7. Chairman. The commission shall select a
16 chairman from among its membership.

17 8. Staff. The Department of Conservation shall
18 provide staff assistance as necessary to support the
19 activities of the commission. The Department of
20 Inland Fisheries and Wildlife and the State Planning
21 Office shall also provide assistance as required by
22 the commission.

23 9. Advisory goals. The commission, in its
24 advisory capacity, shall seek to:

25 A. Protect outstanding scenic values;

26 B. Maintain a diversity of recreation
27 opportunities;

28 C. Resolve conflicts between different outdoor
29 recreation uses and between outdoor recreation and
30 other uses for the State's natural resources; and

31 D. Protect the special character of specific
32 recreation experiences.

33 10. Responsibilities. The commission shall:

1 A. Review and assess the plans, programs,
2 policies and priorities of state agencies, local
3 government and those outside of government that
4 affect the quality and availability of outdoor
5 recreation resources on a continuing basis and
6 report its findings and any recommendations for
7 action to the Governor and the Legislature as
8 provided in this section;

9 B. Advise the Land for Maine's Future Board on
10 the assessment of outdoor recreation acquisition
11 needs and on the development and revision of
12 acquisition strategies and guidelines;

13 C. Serve as a high-level public forum for the
14 discussion of outdoor recreation issues and for
15 the resolution of conflict between competing
16 demands upon outdoor recreation resources;

17 D. Assess public opinion about the status of
18 outdoor recreation periodically and determine,
19 from a marketing perspective, the public's
20 changing tastes and demands for various outdoor
21 recreation pursuits;

22 E. Serve as a forum for State Government and
23 local government, private landowners, commercial
24 recreation providers and the public to discuss the
25 State's outdoor recreation promotional efforts,
26 advising the Office of Tourism, the Department of
27 Transportation, the Maine Publicity Bureau and
28 others on public information and education
29 policies;

30 F. Foster communication, coordination and
31 improved relationships among state agencies, State
32 Government and local government, landowners,
33 commercial recreation interests and the public
34 engaged in recreation;

35 G. Act as a clearinghouse for public education
36 and information regarding the use of outdoor
37 recreation resources; and

38 H. Serve as the chief advisory body to the Bureau

1 of Parks and Recreation in the preparation of the
2 State's comprehensive outdoor recreation plan.

3 11. Priority issues. The commission shall give
4 priority attention to measures that foster the
5 public's access to and use of outdoor recreation
6 opportunities either on private land or requiring
7 access across private land. Specifically, the
8 commission shall;

9 A. Conduct, in cooperation with the Commissioner
10 of Conservation and the Commissioner of Inland
11 Fisheries and Wildlife and with assistance from
12 the Attorney General, an assessment of the extent
13 and limitations of the public's legal rights of
14 access to and use of outdoor recreation resources
15 to clarify any ambiguities. The commission shall
16 report its findings with any recommendations to
17 the Governor and the Legislature by January 1,
18 1989;

19 B. Conduct, at the earliest possible date
20 following completion of the assessment conducted
21 under this section and periodically thereafter, a
22 public information campaign to educate the public
23 regarding their rights and responsibilities in
24 using these resources;

25 C. Develop, in association with hunters, anglers,
26 other recreationists and landowners, a statement
27 of "user ethics", establishing high standards of
28 courtesy and responsibility, and promote this user
29 ethic through a public information campaign;

30 D. Assess, with assistance from the Attorney
31 General, the Department of Conservation and the
32 Department of Inland Fisheries and Wildlife, the
33 adequacy of laws and enforcement measures designed
34 to control the abuse of public recreation rights
35 and privileges and report its findings and
36 recommendations to the Governor and the First
37 Regular Session of the 114th Legislature;

38 E. Serve as an ombudsman and advocate for the
39 public's rights to use outdoor recreation

1 resources and as a forum to resolve disputes
2 between recreationists and landowners; and

3 F. Work closely with private landowners to
4 address their legitimate concerns about the
5 problems and costs of public recreation use of
6 their lands, foster public acceptance of
7 reasonable user fees and other legitimate measures
8 to manage recreation and secure long-term
9 agreements wherever possible that assure public
10 recreation use under reasonable conditions.

11 12. Local cooperation. The commission shall work
12 closely with local governments to address special
13 concerns about public recreation use rights and
14 responsibilities on private land in cities and towns.
15 Specifically, the commission shall facilitate the
16 local public input into the development of management
17 plans for parcels of public land under the control of
18 the Bureau of Public Lands and the Bureau of Parks
19 and Recreation.

20 13. Annual report. The commission shall report
21 annually to the Governor and the joint standing
22 committee of the Legislature having jurisdiction over
23 natural resources with specific findings assessing the
24 overall quality of outdoor recreation and any
25 recommendations regarding policies and programs needed
26 to assure the continued quality of outdoor recreation
27 opportunities.

28 Sec. 7. 14 MRSa §159-A, sub-§6, as enacted by
29 PL 1985, c. 762, §25, is repealed and the following
30 enacted in its place:

31 6. Costs and fees. The court shall award any
32 direct legal costs, including reasonable attorneys'
33 fees, to an owner, lessee or occupant of premises:

34 A. Who is found not to be liable for injury to a
35 person or property pursuant to this section; or

36 B. Who is found not to be liable for injury to a
37 person or property in an action for negligence
38 that, excepting the limitation of subsection 4,

1 paragraph B, would have been governed by this
2 section.

3 STATEMENT OF FACT

4 The purpose of this bill is to implement the
5 recommendations of the Maine Commission on Outdoor
6 Recreation established pursuant to Private and Special
7 Law 1987, chapter 68.

8 Sections 1, 2 and 3 of the bill amend the
9 membership provisions of the Land for Maine's Future
10 Board to add 2 additional public members and adjust
11 other technical provisions to fit the increased size
12 of the board. The bill also adds a geographic
13 distributional requirement to ensure representation
14 from northern Maine and due attention to the land
15 conservation needs of northern Maine.

16 Section 4 improves the level of public input to
17 the Land for Maine's Future program.

18 Section 5 establishes the Maine Advisory
19 Commission on Outdoor Recreation with broad
20 responsibilities to assess and coordinate outdoor
21 recreation issues, needs and policies. The
22 responsibilities of the advisory commission are
23 described fully in its final report.

24 Finally, section 6 amends the limited liability
25 protection currently afforded to private landowners
26 who allow public recreational use of their land
27 without receiving compensation. This bill provides
28 that the court assess legal costs against the
29 unsuccessful plaintiff suing a landowner who charges
30 access fees. Currently, this provision applies only
31 in situations in which landowners receive no
32 compensation. The standard of liability is not
33 changed.

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