

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1504

H.P. 1031

House of Representatives, April 11, 1991

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

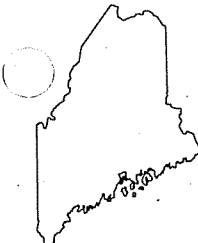
Presented by Representative LUTHER of Mexico.

Cosponsored by Senator MILLS of Oxford, Representative POWERS of Coplin Plantation and President PRAY of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Provide for Citizen Input to the Bureau of Public Lands.



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

2
3 Sec. 1. 12 MRSA §585, sub-§1, ¶¶B and C, as amended by PL 1989,
4 c. 104, Pt. C, §§8 and 10, are further amended to read:

6 B. It is in the public interest that the public reserved
7 lands be managed under the principles of multiple use to
8 produce a sustained yield of products and services and that
9 this management should be effected by the use of both
10 prudent business practices and the principles of sound
11 planning; and

12
13 C. It is in the public interest that the lands be managed
14 to demonstrate exemplary land management practices,
15 including silvicultural wildlife and recreational management
16 practices, as a demonstration of state policies governing
17 management of forested and related types of lands; and

18 Sec. 2. 12 MRSA §585, sub-§1, ¶D is enacted to read:

20 D. It is in the public interest that management decisions
21 for public lands be made cooperatively between the state
22 agencies responsible for those lands and representatives
23 appointed by municipalities concerned with the use of public
24 lands.

26
27 Sec. 3. 12 MRSA §585, sub-§3, as amended by PL 1989, c. 104,
28 Pt. C, §§8 and 10, is further amended to read:

30 3. **Responsibility.** The commissioner has the care, custody,
31 control and responsibility for the management of the public
32 reserved lands in the unincorporated areas of the State. The
33 commissioner shall prepare, revise from time to time and maintain
34 a comprehensive management plan for the management of the public
35 reserved lands in accordance with the guidelines in this
36 chapter. The management plan must provide for a flexible and
37 practical approach to the coordinated management of the public
38 reserved lands. In preparing, revising and maintaining this
39 management plan, the commissioner, to the extent practicable,
40 shall compile and maintain an adequate inventory of the public
41 reserved lands, including not only the timber on those lands but
42 also the other multiple use values for which the public reserved
43 lands are managed. In addition, the commissioner shall consider
44 all criteria listed in section 584 for the location of public
45 reserved lands in developing the management plan. The
46 commissioner is entitled to the full cooperation of the Maine
47 Geological Survey, Department of Inland Fisheries and Wildlife,
48 Bureau of Parks and Recreation, Maine Land Use Regulation
49 Commission and State Planning Office in compiling and maintaining
50 the inventory of the public reserved lands. The commissioner
51 shall consult with those agencies as well as other appropriate
52 state agencies in the preparation and maintenance of the

comprehensive management plan for the public reserved lands. This plan shall ~~shall~~ must provide for the demonstration of appropriate management practices that will enhance the timber, wildlife, recreation, economic and other values of the lands. When prepared, all management of the public reserved lands, to the extent practicable, shall ~~shall~~ must be in accordance with this management plan.

Within the context of the comprehensive management plan, the commissioner, ~~after adequate opportunity for public review and comment with the approval of the unit management boards authorized in section 585-B,~~ shall adopt specific action plans for each of the units of the public reserved lands system. Each action plan shall ~~shall~~ must include consideration of the related systems of silviculture and regeneration of forest resources and shall ~~shall~~ must provide for outdoor recreation, including remote, undeveloped areas, timber, watershed protection, wildlife and fish. The commissioner shall complete the action plans no later than December 31, 1989, and shall revise them from time to time as necessary or upon request of a unit management board. The commissioner shall provide adequate opportunity for public review and comment on any substantial revision of an action plan. Management of the public reserved lands before the action plans are completed must be in accordance with all other provisions of this section.

Sec. 4. 12 MRSA §585, sub-§4, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

4. Actions. The Director of the Bureau of Public Lands may take the following actions on the public reserved lands consistent with the management plans for those lands and upon such terms and conditions and for such consideration as the director ~~considers~~ and the management board, if any, for a particular unit consider reasonable:

A. Grant permits and enter into contracts to cut timber, harvest grass and wild foods, tap maple trees for sap and cultivate and harvest crops, provided that these permits and contract rights create revocable licenses to the permittee or party to the contract and do not create any real property interest in the public reserved lands or any other public lands;

B. Sell sand and gravel existing in the soil for the construction of public roads or for any other purposes which the director considers consistent with the purposes of this chapter;

C. Lease the right, for a term not exceeding 25 years, to:

- 2 (1) Set and maintain or use poles, electric power
transmission and telecommunication transmission
4 facilities, roads, bridges and landing strips;
- 6 (2) Lay and maintain or use pipelines and railroad
tracks; and
- 8 (3) Establish and maintain or use other rights-of-way;

10 D. Lease campsites, garages, depots, warehouses and other
structures, or sites for the same, for a term not exceeding
12 5 years, and also do the following:

- 14 (1) Grant options to renew these leases for a further
term not to exceed 15 years in the case of a commercial
16 use which in the opinion of the director requires the
option to secure adequate financing for the maintenance
18 or improvement of facilities located upon public
reserved land;
- 20 (2) In the case of leases acquired by the State on
lands exchanged for public reserved lands, the director
22 shall authorize, upon reasonable terms and conditions,
the transfer of leasehold interests from a lessee of a
24 residential campsite to another; and
- 26 (3) Sell storehouses and other structures and fixtures
28 that are surplus to the needs of the bureau;

30 E. Construct and maintain overnight campsites and other
camping and recreational facilities and charge reasonable
32 fees to defray the cost of constructing and maintaining
these facilities;

34 F. Grant the right to construct and maintain public roads;

36 G. With the consent of the Governor, lease mill privileges
and other rights in land for industrial and commercial
38 purposes, dam sites, dump sites, the rights to pen,
construct, put in, maintain and use ditches, tunnels,
40 conduits, flumes and other works for the drainage and
passage of water, flowage rights and other rights of value
42 in the public reserved lands for a term not exceeding 10
years;

46 H. With the consent of the Governor, lease to the Federal
Government the right to use public reserved lands;

48 I. Sell severed timber and other products, including, but
50 not limited to, wood and timber necessary to be used in the
operation of a mine, severed grass and other wild foods,
52 maple sap and syrup, crops and sand and gravel;

2 J. Lease the right to use parcels of land, except submerged
4 lands, to municipalities and other agencies or political
6 subdivisions of the State, and to private, nonprofit
8 organizations, for a period not exceeding 25 years, for
10 purposes of protecting, enhancing or developing the natural,
12 scenic or wilderness qualities or recreational, scientific
14 or educational uses of the lands under the care, custody and
16 control of the Bureau of Public Lands, provided that each
such lease contains a provision authorizing the State to
terminate the lease at any time when the State, in its sole
discretion, determines that termination is in the best
interests of the State. No adjustment or compensation may
be due to any lessee under this section on account of that
termination; and

18 K. Lease to incorporated towns the right to manage timber
20 on all or part of the public reserved lands within the
boundaries of the towns in accordance with multiple use
management plans, subject to the following conditions:

22 (1) Public reserved lands acquired through land
24 exchanges may not be leased under this paragraph;

26 (2) A management plan submitted to the director by a
28 town shall must be approved or disapproved by the
30 director within 60 days of submission or the plan is
32 deemed approved. The director shall conduct the same
interagency reviews and apply the same standards in
evaluating these management plans as are being applied
in formulating the bureau's own management plans as of
the date of submittal;

34 (3) The leases shall must be for a period not
36 exceeding 15 years and may be renewed if the director
38 determines that the management plans have been
professionally acceptable manner;

40 (4) The director may terminate the lease at any time,
42 without adjustment or compensation due any lessee, if
44 the termination is in the best interests of the State.
The director shall give 30 days' written notice before
46 termination. The director shall hold a public hearing,
48 if requested by the lessee within 30 days of that
notice. The director shall issue written notice of a
final decision within 30 days of the hearing. This
decision may be appealed to the Superior Court;

50 (5) Public access to lands leased under this paragraph
52 may not be unreasonably denied; and

2 (6) No lease may convey any interest in lands affected
other than those permitted by this section; and

4 L. Take all other actions necessary to regulate the
aesthetic appearance and recreational uses of a particular
6 unit.

8 **Sec. 5. 12 MRSA §585, sub-§5**, as amended by PL 1989, c. 104,
Pt. C, §§8 and 10, is further amended to read:

10 **5. Transfer of responsibility.** Whenever a particular
12 portion of the public reserved lands is to be used, under the
management plan, for a dominant use which is within the
14 particular expertise of another agency of the State, the
commissioner, with the consent of the Governor and the state
16 agency involved and the unit management board, if any, may
transfer to that other state agency the responsibility for the
18 management of that particular portion of the public reserved
lands.

20 **Sec. 6. 12 MRSA §585-B** is enacted to read:

22 **§585-B. Unit management boards**

24 **1. Unit management boards authorized; powers.** Each unit of
26 public reserved lands must have a unit management board
established, if a board is requested for a particular unit, in
28 accordance with subsection 2. When established, the unit
management board shares responsibility with the Director of the
30 Bureau of Public Lands for the actions enumerated in section 585,
subsection 4 if those actions affect those portions of the unit
32 in a riparian area or a general recreation area. In the event of
a dispute between the director and a unit management board, the
34 action finally approved by the unit management board governs.

36 **2. Creation; composition.** The commissioner shall notify
the municipal officers of every city, town and plantation and the
38 county commissioners of each county that includes unorganized
territory, together known as designating authorities, of the
40 right of the designating authority to designate a representative
to a unit management board for any unit of public reserved lands,
42 shall provide each designating authority with a list of all units
and shall notify each designating authority as additional units
44 are acquired.

46 The municipal officers of a municipality may appoint one member
to serve on a unit management board, for up to 3 unit management
48 boards and shall notify the commissioner of all appointments.
County commissioners may appoint up to 2 members who reside in
50 the unorganized territory within that county to serve on a unit
management board for a unit located wholly or partially within
52 that county and one member for a unit located in another county.

2 When the commissioner receives notice that 9 members have been
3 appointed to and have qualified for the unit management board for
4 a particular unit, the commissioner shall notify the Director of
5 the Bureau of Public Lands that a unit management board has been
6 established for that unit and shall convene the first meeting of
7 that unit management board. Once created, a unit management
8 board continues unless its membership falls below 5 members. A
9 unit management board may have as many members as are appointed
10 to it.

11 3. Members. The designating authority may appoint any
12 person to a unit management board who is a registered voter in
13 the municipality or county.

14 A. Members serve until their successors are appointed and
15 qualified. Members qualify by executing a form prescribed
16 by the commissioner, under oath, stating that the member:

17 (1) Is a registered voter in the appointing
18 municipality or in the unorganized territory within the
19 appointing county;

20 (2) Agrees to serve without compensation;

21 (3) Agrees to exercise the member's best judgment in
22 the interest of the people of the State;

23 (4) Has visited the unit governed by the unit
24 management board;

25 (5) Agrees to attend a majority of the unit management
26 board meetings; and

27 (6) Certifies that the member does not have a conflict
28 of interest as defined by Title 5, section 18,
29 subsection 2 with respect to the particular unit.

30 B. A member appointed and qualified is immune from any
31 civil liability, as are employees of governmental entities
32 under the Maine Tort Claims Act, Title 14, chapter 741 for
33 acts performed within the scope of the member's appointment.

34 4. Board actions. Five or more members of a unit
35 management board constitute a quorum, but any action approved by
36 a unit management board requires at least 7 affirmative votes.
37 Proceedings of unit management boards are governed by Roberts
38 Rules of Order. The unit management boards may not require or
39 authorize actions that would result in additional expenses beyond
40 amounts budgeted for the Bureau of Public Lands.

2 STATEMENT OF FACT

4 This bill establishes a mechanism for the creation of unit
6 management boards for units of land administered by the Bureau of
8 Public Lands. These management boards are created when at least
10 9 municipalities, or county commissioners for the unorganized
12 territories appoint a member to a particular unit management
14 board, and on appointment, manage the affairs of riparian and
16 general recreation areas of that unit in cooperation with the
Director of the Bureau of Public Lands. Unit management boards
do not come into operation until 9 designating authorities
appoint members, but membership of a particular board can be as
large as the number of towns and counties that appoint members.
Members serve without compensation and are prohibited from having
a conflict of interest with respect to the parcel of land with
which they are concerned.