

MAINE STATE LEGISLATURE

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R. 101 S.

L.D. 1147

(Filing No. H-350)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 842, L.D. 1147, Bill, "An Act to Amend the Laws Relating to the Lobster Promotion Council"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Lobster Promotion Council serves an important role in promoting Maine Lobster; and

Whereas, this Act must take effect on July 1, 1993; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §6455, sub-§3-A is enacted to read:

3-A. Employees. The council shall hire a full-time executive director and may hire clerical staff as needed to perform its duties. Employees of the Lobster Promotion Council serve at the pleasure of the council. Except as provided in this subsection, employees of the council are not state employees and are not subject to the provisions of Title 5, chapters 71 and 372 or Title 5, Part 20. The salary and benefits for employees of

COMMITTEE AMENDMENT

employees of the council are determined by the council. For the purposes of the Maine Tort Claims Act, the council is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102.

Sec. 2. 12 MRSA §6455, sub-§4, ¶D-1 is enacted to read:

D-1. Market and sell goods directly related to the functions of the council and deposit all proceeds in the Lobster Promotion Fund;

Sec. 3. 12 MRSA §6455, sub-§4, ¶E, as enacted by PL 1991, c. 523, §2, is amended to read:

E. Make expenditures from the Lobster Marketing Fund to carry out the purposes of this subchapter. Money in the fund may be used only for the following purposes:

(1) Promotion, advertising and marketing development. The council may implement programs and activities to promote, advertise and develop markets for lobster and make or enter into contracts with any local, state, federal or private agency, department, firm, corporation, entity or person for those purposes. At least 50% of the money expended from the fund annually must be expended for the purposes set forth in this subparagraph; and

(2) The hiring of staff and the payment of compensation for employees, payment of per diem and reimbursement of expenses for members pursuant to Title 5, section 12004-H and payment of administrative and overhead costs associated with the business of the council. ~~Any person hired by the council is a state employee, subject to the personnel laws of the State;~~ and

Sec. 4. 12 MRSA §6455, sub-§5, as enacted by PL 1991, c. 523, §2, is amended to read:

5. Fund established; license surcharge assessed. The Lobster Promotion Fund, referred to in this subchapter as the "fund," is established in the department to carry out the purposes of this subchapter. The council shall administer the fund and the department shall transfer to the fund all money appropriated or received by the department for the purposes of this subchapter. The fund is capitalized from the following annual surcharges assessed on the following licenses issued by the department for calendar years 1992 and, 1993, 1994, 1995, 1996 and 1997:

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COMMITTEE AMENDMENT "A" to H.P. 842, L.D. 1147

2 A. Class I crab and lobster licenses for persons 18 to 69
years of age, \$25;

4 B. Class II crab and lobster licenses, \$50;

6 C. Class III crab and lobster licenses, \$75;

8 D. Wholesale seafood licenses with lobster permits, \$200;
and

10 E. Lobster transportation licenses, \$200.

12 A person holding more than one of the licenses listed in this
14 subsection is assessed a surcharge only on the highest
surchargeable license held.

16 The Treasurer of State shall hold all surcharges assessed by this
18 subsection in the fund and invest all money in the fund until
20 disbursement is authorized by the council. Interest from
investments accrues to the fund.

22 All money in the fund is subject to allocation by the
Legislature. Unexpended balances in the fund at the end of the
24 fiscal year may not lapse but must be carried forward to be used
for the same purposes.

26 In addition to payment of the regular license fee and the
28 surcharge, a person purchasing a license subject to the
30 surcharges established in this subsection may make voluntary
32 contributions to the fund at the time the license is purchased.
Voluntary contributions received by the department from a
34 licensee pursuant to this subsection must be deposited in the
fund by the department and must be used by the council for the
purposes of this subchapter.

36 **Sec. 5. PL 1991, c. 523, §8 is repealed.**

38 **Sec. 6. Transition.** The Lobster Promotion Council shall act
expeditiously to set the compensation level and hire a full-time
40 executive director as required by the Maine Revised Statutes,
Title 12, section 6455, subsection 3-A.

42 **Sec. 7. Current allocations adjusted.** The following funds are
44 allocated from the Lobster Promotion Fund to carry out the
purposes of this Act.

46 1992-93

48 **LOBSTER PROMOTION COUNCIL**

50 **Lobster Promotion Fund**

2 Positions - Other Count (-1.5)

4 Provides for the elimination of a part-time
 6 Executive Director position and a full-time
 8 Clerk Typist II position by the removal of
 those positions from the State Civil Service
 System.

10 **Sec. 10. Allocation.** The following funds are allocated from
 the Lobster Promotion Fund to carry out the purposes of this Act.

| | 1993-94 | 1994-95 |
|-------------------------------------|------------|------------|
| 14 LOBSTER PROMOTION COUNCIL | | |
| 16 Lobster Promotion Fund | | |
| 18 Positions - Other Count | (-1.5) | (-1.5) |
| 20 Personal Services | (\$55,922) | (\$57,204) |
| 22 All Other | 106,326 | 103,379 |
| | <hr/> | <hr/> |
| 24 TOTAL | \$50,404 | \$46,175 |

24 Provides for the elimination of a part-time
 26 Executive Director position and a full-time
 28 Clerk Typist II position by the removal of
 those positions from the State Civil Service
 System. Provides for the transfer of funds
 from Personal Services to All Other to pay
 for employees and authorized expenses of the
 council.

32 **Emergency clause.** In view of the emergency cited in the
 34 preamble, this Act takes effect when approved.

36 **FISCAL NOTE**

| | 1993-94 | 1994-95 |
|--------------------------------------|----------|----------|
| 38 APPROPRIATIONS/ALLOCATIONS | | |
| 42 Other Funds | \$50,404 | \$46,175 |

44 This bill extends the ability of the Lobster Promotion
 46 Council to collect revenues through calender year 1997. The
 48 Governor's proposed current services budget already, but
 incorrectly, includes allocations and budget revenues for the
 Lobster Promotion Council in fiscal years 1993-94 and 1994-95.

2 This bill includes an allocation section that deauthorizes
the council's 1.5 positions and reallocates Personal Services
4 line category allocations to All Other and allocates an
additional amount to allow the council to hire a full-time
6 executive director on a contract basis. These allocations are
from existing dedicated revenues.

8 By being able to sell and market certain items, the Lobster
Promotion Council will generate additional dedicated revenues for
10 the Lobster Promotion Fund. The amounts can not be determined at
this time.'

12
14 **STATEMENT OF FACT**

16 This amendment replaces the bill and makes the bill an
emergency.

18 Existing law provides revenue to the Lobster Promotion Fund
20 from surcharges assessed on certain licenses sold for calendar
years 1992 and 1993. This amendment extends that revenue source
22 for 4 additional years by assessing those surcharges on licenses
sold for calendar years 1994, 1995, 1996 and 1997. The amendment
24 also privatizes employees of the Lobster Promotion Council by
removing all employees from the State Civil Service System,
26 eliminating all state position counts and allowing the council to
set the level of compensation for its employees. The amendment
28 allows the council to accept voluntary contributions from license
holders that are paid in addition to the surcharge assessed by
30 law.

32 The allocations in this amendment, when combined with
allocations in the Part I budget, will provide total allocations
34 for the council of \$400,000 in All Other funds in fiscal year
1993-94 and \$400,000 in All Other funds in fiscal year 1994-95.

36 The amendment adds a fiscal note to the bill.
38

Reported by the Majority of the Committee on Marine Resources
Reproduced and distributed under the direction of the Clerk of the
House

5/18/93

(Filing No. H-350)