

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

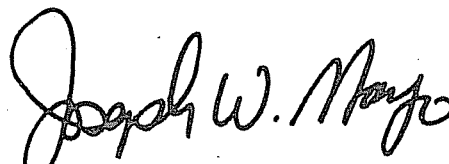
No. 1767

H.P. 1312

House of Representatives, January 24, 1994

An Act to Acquire Lake and Ocean Frontage to be Preserved for the Public.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Speaker MARTIN of Eagle Lake.
Cosponsored by Representatives: AHEARNE of Madawaska, CHONKO of Topsham, GOULD of Greenville, JACQUES of Waterville, MELENDY of Rockland, Senator: PEARSON of Penobscot.

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

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Sec. 1. 5 MRSA c. 353-A is enacted to read:

CHAPTER 353-A

LAKE AND OCEAN FRONTAGE ACQUISITION

§6251. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Appraised value. "Appraised value" means the fair market value of property without consideration of the effect, if any, of dedication or other preservation-related restrictions.

2. Cooperating entities. "Cooperating entities" means those private nonprofit organizations, municipal conservation commissions, local governments, federal agencies or other bodies that are designated by the Lake and Ocean Frontage Acquisition Board pursuant to section 6253 as able to assist the State in the acquisition or management of conservation lands.

3. Matching funds. "Matching funds" means public or private funds, or a combination of those funds used in conjunction with the Lake and Ocean Frontage Acquisition Fund for the purpose of this chapter, including, but not limited to: private contributions of cash or securities; money from municipal or other public agencies; money from a federal matching program, subject to the limitations of applicable federal and state laws, in an amount authorized by the federal program; contributions of real property or interest in real property that serves the acquisition needs of the State as determined by the Lake and Ocean Frontage Acquisition Board; in-kind contributions; or a combination of those funds. Contributions of land or interest in land are valued, for purposes of this section, in the amount of their appraised value.

4. Stewardship account. "Stewardship account" means an account held separate and apart from all other money, funds and accounts of a state agency for management of land owned in fee or less-than-fee simple that meets the criteria established in section 6258.

§6252. Lake and Ocean Frontage Acquisition Board

The Lake and Ocean Frontage Acquisition Board, as established in section 12004-G, subsection 29-B, is an Executive Department Board and is referred to in this chapter as the "board."

2 **§6253. Lake and Ocean Frontage Acquisition Fund**

4 1. Fund established. There is established a fund to be
6 known as the Lake and Ocean Frontage Acquisition Fund, called in
8 this chapter the "fund." The fund consists of the proceeds from
10 the sale of bonds authorized for the purposes of this chapter and
12 funds received as contributions from private and public sources.
14 The fund must be held separate and apart from all other money,
16 funds and accounts. Eligible investment earnings credited to the
18 assets of the fund become part of the fund assets. Any balance
20 remaining in the fund at the end of a fiscal year must be carried
22 forward for the next fiscal year.

24 2. Fund available. For the purposes identified in
26 subsection 3, the fund is available to state agencies and
28 designated cooperating entities upon authorization of the Lake
30 and Ocean Frontage Acquisition Board.

32 3. Fund proceeds. The proceeds of the fund may be applied
34 and expended to:

36 A. Acquire lake or ocean frontage property or an interest
38 in that property determined by the board to be of state
40 significance under the guidelines of this chapter; and

42 B. Provide minor capital improvements on acquired lands to
44 improve accessibility, as long as these improvements do not
46 exceed 5% of the appraised value of the acquired property.

48 **§6254. Board composition**

50 1. Composition. The board consists of 11 members, 6 who
2 are private citizens and 5 who are permanent members of the
4 board. The permanent members are the Commissioner of
6 Conservation; the Commissioner of Inland Fisheries and Wildlife;
8 the Commissioner of Marine Resources; the Commissioner of
10 Agriculture, Food and Rural Resources; and the Director of the
12 State Planning Office.

14 2. Appointments. The 6 private citizens are appointed by
16 the Governor, subject to review by the joint standing committee
18 of the Legislature having jurisdiction over natural resources
20 matters and to confirmation by the Legislature.

22 3. Qualifications. The 6 private citizens must be selected
24 for their knowledge of the State's natural resources and
26 landscape and their demonstrated commitment to land
28 conservation. Appointments must provide broad geographic
30 representation.

2 4. Terms; compensation. The appointed private citizens are
4 appointed to staggered 4-year terms. The terms of the initial
6 appointments are: 2 members for 2-year terms; 2 members for
8 3-year terms; and 2 members for 4-year terms. Appointed private
citizens may not serve more than 2 consecutive 4-year terms. The
appointed private citizens receive legislative per diem pursuant
to chapter 379.

10 5. Chair. The Governor shall appoint the chair of the Lake
and Ocean Frontage Acquisition Board.

12 6. Assistance. The Department of Conservation; the
14 Department of Inland Fisheries and Wildlife; the Department of
16 Transportation; the Department of Agriculture, Food and Rural
18 Resources; the State Planning Office; and all other state
20 agencies shall provide staff support and assistance as determined
22 necessary by the board to fulfill the objectives established by
this chapter. If agency assistance is not available, consultants
may be hired from the proceeds of the Lake and Ocean Frontage
Acquisition Fund.

24 **§6255. Board meetings; rules and administrative proceedings**

26 1. Meetings. The board shall meet at least 4 times a
year. The chair shall call the meetings.

28 2. Rules. Acting in accordance with chapter 375,
30 subchapter II, the board may adopt rules it considers necessary
for the conduct of its business.

32 3. Compensation. Appointed members may receive
34 compensation equal to legislative per diem and travel expenses as
allowed under section 12004-G, subsection 29-B incurred while
engaged in board activities.

36 4. Quorum. A quorum of the board for the transaction of
38 business is 7 members.

40 5. Personal bias. If a charge of bias or personal
42 financial interest, direct or indirect, is filed against a member
44 requesting that person to withdraw, the member shall determine
whether to withdraw and the determination must be made part of
the record of the proceeding.

46 **§6256. Board responsibilities**

48 1. Purpose. The board shall:

2 A. Conduct an assessment of the State's needs for
4 acquisition of land containing lake or ocean frontage and
6 develop a plan and guidelines, based on this assessment, for
8 use in allocating the proceeds of the Lake and Ocean
10 Frontage Acquisition Fund. The assessment and the
12 development of a plan and guidelines must be conducted with
14 opportunities for participation by the Maine Advisory
16 Commission on Outdoor Recreation, interested state agencies
18 and the public;

20 B. Report the board's findings, strategy and guidelines to
22 the joint standing committee of the Legislature having
24 jurisdiction over natural resources matters;

26 C. Receive and review funding requests from state agencies
28 and cooperating entities for acquisition of lake and ocean
30 frontage that meets state guidelines;

32 D. Authorize distribution of proceeds from the fund for
34 lake and ocean frontage acquisitions in accordance with the
36 approved plan; and

38 E. Report biennially to the joint standing committee of the
40 Legislature having jurisdiction over natural resources
42 matters on expenditure of the fund and revisions to the
44 plans and guidelines.

28 **§6257. Nominations**

30 Before designating land as negotiable for acquisition, the
32 board shall send by certified mail or otherwise deliver a notice
34 of intent to the owner or owners of land within the area proposed
36 for acquisition as the identity and address of each owner are
38 shown on the tax maps or other tax records of the municipality in
40 which the land is located. If the land is located within the
42 unorganized territory, notice must be sent to the owner or owners
44 as shown on the tax maps or other tax records of the State Tax
Assessor. After completing negotiations, the board shall publish
a notice of its intent to designate land for acquisition in a
newspaper or newspapers of general circulation that identifies
the land proposed by the board for acquisition and that notifies
the residents of the area that the board will accept public
comments on the proposed acquisition.

46 An owner of land that has been nominated for acquisition and
48 is subject to the notice requirements of this section may submit
a sworn affidavit to the board indicating that owner's
unwillingness to sell. Such an affidavit is notice to the board

2 that continued evaluation of that land is inappropriate and,
3 unless the board intends to acquire an interest in the land
4 through the use of eminent domain pursuant to section 6259, the
5 board may not consider that land for acquisition.

6 **§6258. Acquisition criteria**

8 1. Distribution of funds. The board shall authorize the
9 distribution of funds from the Lake and Ocean Frontage
10 Acquisition Fund to state agencies and cooperating entities as
11 set forth in section 6253, subsection 3 for the acquisition of
12 lake and ocean frontage that meets the criteria set forth in this
13 chapter.

14 2. Determination of state significance. In determining
15 whether a proposed acquisition may be funded in full or in part
16 by the Lake and Ocean Frontage Acquisition Fund, the board shall
17 consider whether the site is of state significance and:

18 A. Contains recreation lands, prime physical features of
19 the Maine landscape, areas of special scenic beauty,
20 undeveloped shorelines, wetlands or lands with other
21 conservation or recreation values;

22 B. Is habitat for plant or animal species or natural
23 communities considered rare, threatened or endangered in the
24 State; or

25 C. Provides public access to recreation opportunities or
26 those natural resources identified in this section.

27 3. Priorities. If possible, the fund must be used for land
28 acquisition projects when matching funds are available from
29 cooperating entities if the proposed acquisition meets all other
30 criteria set forth in this chapter. Priority must be given to
31 those projects that conserve lands with multiple outstanding
32 resource or recreation values or a single exceptional value;
33 provide geographic representation; and build upon or connect
34 existing holdings.

35 4. Nonqualifying expenditures. The board may not fund:

36 A. Facilities for organized recreational activities,
37 including, but not limited to, ballparks, tennis courts or
38 playgrounds;

39 B. Capital improvements on publicly owned facilities,
40 except necessary access improvements on lands acquired with
41 fund money and then only up to a maximum of 5% of the
42 particular property's appraised value; and

2 C. The acquisition of forest land if that land is primarily
4 valuable for commercial harvesting.

6 **§6259. Use of eminent domain**

8 The board may expend funds to acquire an interest in land
10 obtained by the use of eminent domain only if the expenditure or
12 acquisition has been approved by the Legislature or is with the
14 consent of the owner or owners of that land as the identity and
16 address of each owner are shown on the tax maps or other tax
 records of the municipality in which that land is located. If
 the land is located within the unorganized territory, the
 identity of the owner or owners is as shown on the tax maps or
 other tax records of the State Tax Assessor.

18 **§6260. Municipal approval**

20 1. Approval. Approval by the elected municipal officers is
22 required when more than 1% of a municipality's state valuation is
 considered for acquisition from the proceeds of bonds.

24 2. Transactions. An acquisition by eminent domain funded
26 by the board, when the land exceeds either 50 acres or \$100,000
28 in assessed value, is subject to the approval of the municipality
30 in which the land is located. The approval may be obtained
 either from the elected municipal officers or, if those officers
 do not approve, by vote of the town meeting or by referendum of
 the electorate. If the land involved is located within the
 unorganized territory, this requirement does not apply.

32 **§6261. Ownership; title; management**

34 1. Fund; uses. The fund may be used for the acquisition of
36 real property in both fee and less-than-fee simple interest,
38 including, but not limited to, conservation easements, access
40 easements, scenic easements, other permanent interests in land
 and long-term leases of at least 99 years if those acquisitions
 are primarily natural lands that meet the criteria set forth in
 this chapter.

42 2. Title. Title to all lands acquired pursuant to this
44 chapter must be vested solely in the State. Management
46 responsibilities for the acquired lands may be contracted by the
48 land-owning state agency to cooperating entities, subject to
 appropriate lease arrangements, upon both the recommendation of
 the agency's commissioner and the approval of the board.

50 3. Matching funds. When matching funds for a project
 include cash not derived from a bond request, an allocation of

2 the amount of cash or up to 20% of the appraised value of the
3 acquired land, whichever is less, may be put into the stewardship
4 account of the state agency holding title to the land.

5 4. Payments. Payments from the fund may be made to
6 cooperating entities for qualifying lands acquired on behalf of
7 the State if a state agency has issued to the cooperating entity
8 a letter of intent requesting assistance in the acquisition.
9 Upon submission to the state agency of a cooperating entity's
10 direct expenses for acquisition and related costs of an
11 authorized acquisition, the board shall authorize payment of
12 those expenses if the total of all expenses does not exceed the
13 appraised value of the acquired property. Expenses must be paid
14 at intervals during the acquisition process, as determined by the
15 board.

16 5. Land evaluated. All lands acquired with fund money must
17 be evaluated for rare, threatened or endangered species of plants
18 and animals, exemplary natural communities, features of historic
19 significance and other high priority natural features and
20 ecologic functions as determined by the board, with reference to
21 the best inventory data available to the State. Subsequent
22 management by state agencies holding properties found to have
23 important natural features and ecologic functions must reflect
24 the objective of maintaining and protecting those features and
25 functions.

26 6. Legislative approval. Lands acquired under this chapter
27 may not be sold or used for purposes other than those stated in
28 this chapter unless approved by a 2/3 majority of the Legislature.

29 **§6262. Data sharing**

30 If the board transfers in writing to a local or federal
31 agency any written information acquired by the board under this
32 chapter concerning land, the board, upon transfer, shall notify
33 the landowner of the transfer by certified mail.

34 **Sec. 2. 5 MRSA §12004-G, sub-§29-B is enacted to read:**

35	<u>29-B. Natural Lake and</u>	<u>Legislative 5 MRSA</u>
36	<u>Resources Ocean</u>	<u>Per Diem \$6252</u>
37	<u>Frontage</u>	<u>and Expenses</u>
38	<u>Acquisition</u>	<u>for Appointed</u>
39	<u>Board</u>	<u>Members</u>
40		<u>Only</u>

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STATEMENT OF FACT

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6 This bill creates the Lake and Ocean Frontage Acquisition
8 Board to acquire lake and ocean frontage property to be held by
10 the State for the purposes of conservation, recreation and
12 protection of wildlife and plant habitat. The board is composed
14 of 6 appointed private citizens and 5 permanent members who are
16 executive agency heads. The board operates in a manner similar
18 to the Land for Maine's Future Board.

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 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.