

MAINE STATE LEGISLATURE

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DATE: 3-24-98

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "D" to H.P. 1657, L.D. 2286, Bill, "An Act to Implement the Recommendations of the Majority of the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Enhancing Forest Resource Assessment"

Amend the bill by inserting after section 8 the following:

'Sec. 9. 12 MRSA c. 805, sub-c. III-B is enacted to read:

SUBCHAPTER III-B

SUSTAINABLE FOREST MANAGEMENT PROGRAM

§8870-A. Sustainable Forest Management Program

1. Findings. The Legislature finds that:

A. The forests of this State are critical for the economic and ecological health and quality of life in this State;

B. The forests of this State must be managed in a manner that ensures their sustainable ecological and economic health; and

C. Forests must be managed in a sustainable manner to meet the needs of current and future generations.

2. Program established; objectives. The Sustainable Forest Management Program, referred to in this subchapter as the "program," is established within the Department of Conservation to ensure continuous improvement in forest management and to optimize both the long-term ecological and the economic health of forests in this State. Two objectives guide the program:

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2 A. The maintenance and enhancement of timber sustainability
4 and the economic viability of forest management; and

6 B. The maintenance and enhancement of the biodiversity of
8 forests in this State, including viable populations of
 native species and viable representatives of native forest
 communities well distributed across their native ranges.

10 **§8870-B. Application**

12 After January 1, 2001, any landowner or affiliated interest
14 who own 100,000 or more acres of forest lands in the State must
 participate in the program.

16 **§8870-C. Program administration**

18 1. Board established; membership; termination. The
20 Sustainable Forest Management Program Board, referred to in this
22 subchapter as the "board," is established within the Department
24 of Conservation to develop the program and oversee its
 implementation by the bureau. The bureau shall provide staff
 assistance to the board within existing budgeted resources.
 Meetings of the board are public meetings.

26 The board consists of the following 10 members:

28 A. The director, who serves as a nonvoting member; the
30 resource manager for the Specific Forest Management Area in
32 Baxter State Park; and a forester in the Bureau of Parks and
34 Lands appointed by the director of that bureau. Each member
 under this paragraph serves a term coincident with that
 person's employment in that position; and

36 B. The following 7 persons appointed by the Governor,
38 subject to review by the joint standing committee of the
40 Legislature having jurisdiction over forestry matters and to
42 confirmation by the Senate: one person with demonstrated
44 expertise in silviculture; one person with demonstrated
46 expertise in freshwater ecology; one person with
48 demonstrated expertise in soil science; one person with
 demonstrated expertise in forest ecology; one person with
 demonstrated expertise in conservation or wildlife biology;
 one person with demonstrated expertise in low-impact
 forestry; and one person with demonstrated expertise in
 forest-based recreation. The term of persons appointed
 under this paragraph is 3 years, except that, of the initial
 appointees, 3 serve one-year terms, 2 serve 2-year terms and
 2 serve 3-year terms.

2 The board shall annually select a chair from among its members.
4 A vacancy on the board must be filled as provided in this
4 subsection.

6 2. Decision-making process. The board shall reach its
8 decisions by the majority vote of all members. The board shall
10 provide ample opportunities for public input and discussion and
10 may convene working groups to assist it in areas requiring
10 particular expertise or perspectives.

12 3. Duties of the board. The board shall:

14 A. By January 1, 2000, through a public process and using
14 the best scientific information and expertise available:

16 (1) Establish specific, credible and practical
18 benchmarks to achieve the objectives set forth in
20 section 8870-A. The benchmarks must be developed in
22 the categories set forth in section 8870-D. In
24 establishing the benchmarks, the board shall consider
26 and incorporate, as appropriate, the work of past
28 collaborative forest policy efforts, including the
30 findings and recommendations set forth in the final
30 report of the Maine Council on Sustainable Forest
30 Management. In addition, the benchmarks established
30 must be sufficiently flexible to allow successful
30 participation in the program by landowners representing
30 a range of ownership sizes and must ensure continuous
30 improvement of the process;

32 (2) Establish the methodology for reviewing the forest
34 management of landowners participating in the program;

36 (3) Establish a process for certifying independent 3rd
38 parties to perform review and certification of
40 landowners in the program. Once established, the
42 review and certification process must be administered
44 by the bureau;

46 (4) Recommend to the commissioner incentives to
48 encourage participation in the program by landowners.
50 The incentives may include, but are not limited to,
50 marketing opportunities, tax treatment and regulatory
50 flexibility;

50 (5) Recommend to the commissioner disincentives for
50 failure to meet program benchmarks;

50 (6) Develop and maintain a register of accredited

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3rd-party review and certification parties that, in the board's judgment, employ benchmarks and criteria that are substantially equivalent to those employed under this section and develop a process to add new qualifying 3rd-party review and certification parties. In developing the register, the board's criteria for registering review and certification parties must be sufficiently flexible to allow registration of existing 3rd-party review and certification parties that certify for sustainable forest practices, ecological health, socio-economic health and marketing of forest products in order to ensure continuity for landowners using such programs and minimize duplication of effort; and

(7) Adopt rules establishing a procedure for a landowner to demonstrate compliance with the provisions of the program through submission to the board of proof of review and certification by a review and certification party on the register. At the time of the adoption of rules, the board shall review any a review and certification party considered in compliance with the program benchmarks and criteria and shall authorize the continuation of this recognized status if the board determines that the review and certification party continues to employ benchmarks and criteria that are substantially equivalent to those employed under this section.

4. Responsibility for program administration. The bureau shall administer the program, including benchmarks, methodologies and processes developed by the board.

5. Third party review and certification program. The following provisions govern the 3rd party review and certification program.

A. A landowner who participates in the program shall first register with the director and then select a reviewer certified by the bureau who does not have a direct and substantial financial or other relationship with that landowner that may preclude the reviewer's ability to conduct an independent, objective review.

B. Upon selection of a reviewer, a participating landowner shall submit to the bureau a timetable for conducting a review of the management of the landowner's forest lands in the State and identification of the reviewer selected. The reviewer and the participating landowner shall ensure that the review is conducted within 18 months after submission of the timetable. The review must be conducted in accordance with the benchmarks and criteria established by the board.

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2 C. Upon completion of a review, the reviewer shall submit a
4 written report to the director and the board that includes:

6 (1) A statement that the landowner either passed or
 failed the review;

8 (2) The grade received in each area;

10 (3) An explanation of the factual and analytical basis
12 for the conclusions in the report; and

14 (4) Any conditions required to meet the benchmarks.

16 D. A review of the management of forest lands of a
18 participating landowner must be conducted at least every 5
 years.

20 6. Program report; confidentiality. Once submitted to the
22 director or the board, the report of the reviewer required under
24 subsection 5, paragraph C is a public record. For purposes of
26 Title 1, section 402, a reviewer certified by the bureau is not
 an agency or public official of the State and materials held by
 the reviewer in the course of a review are not public records by
 virtue of being in the possession or custody of the reviewer.

28 §8870-D. Program benchmarks

30 The board shall develop specific, credible and practical
 benchmarks in the following areas.

32 1. Sustained yield. The benchmarks must include measures
34 to ensure sustained yield. These measures may include growth,
36 harvest levels, rotation length, inventory levels, mix of species
38 and landowners' forest management objectives, if these objectives
 are compatible with the objectives of the program. The
 benchmarks must include appropriate flexibility for year-to-year
 variation.

40 2. Management according to silvicultural guidelines. The
42 benchmarks must include appropriate use of established
 silvicultural guidelines, including:

44 A. Standards to achieve improvement of the overall quality
46 of the timber resource as a foundation for more value-added
 opportunities;

48 B. Stocking standards to ensure productivity and
 windfirmness in stands where the overstory is manageable; and

2 of 8

2 C. A description of the circumstances in which there are no
4 viable options for managing the overstory.

6 3. Landscape goals. In the area of landscape goals, the
8 benchmarks must include a requirement to gather and analyze data
10 and to develop and implement a plan age classes for distribution
12 over landscape planning units of approximately 25,000 acres, or
14 other reasonable size proposed by the landowner and acceptable to
16 the board, of age classes, including late successional age
18 classes; species; habitats; and structures. The landscape
20 planning units must also include mature and 2 or more layered
 stands. The benchmarks must include a definition of and
 benchmarks for "naturalistic forest management" to be applied on
 landscapes of high ecological, recreational or scenic value.
 Benchmarks must ensure that a significant percentage of each
 landscape planning unit is in mature well-stocked condition at
 all times. Benchmarks must reflect the limitations and
 opportunities inherent in existing forest conditions and may need
 to achieve a desired result over a period of time.

22 4. Plantations. The benchmarks must discourage the
24 simplification, fragmentation and conversion of forests and
26 ensure that plantations, if established, are established only on
28 appropriate sites and in a manner that does not significantly
 alter the ecological integrity of the forest at the landscape
 scale.

30 5. Visual impact. In the area of visual impact, the
32 benchmarks must include actions at both the landing and landscape
34 levels to minimize the potential adverse impact of forest
 management within a landowner's total statewide land area
 ownership, including the impact on views with significant public
 use.

36 6. Wildlife and fisheries habitat. The benchmarks must
38 include forest management that promotes wildlife and fisheries
40 habitat diversity and conserves viable plant and animal
 populations.

42 7. Fragile or rare ecological sites. The benchmarks must
44 include screening for and protection of fragile or rare
 ecological sites and threatened or endangered species.

46 8. Insecticides and herbicides. The benchmarks must
48 include avoidance of activities that lead to an increased
 likelihood of severe insect, disease or brush problems and ensure
 the use of integrated pest management techniques to minimize the
 use of chemical insecticides and herbicides.

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2 9. Water quality. The benchmarks must ensure the
4 protection and integrity of freshwater ecosystems by determining
6 width of buffers by water body size, stocking requirements within
8 those buffers and placement of roads and other openings.

10 10. Soil productivity. The benchmarks must include
12 measures for adequate ecological rotations based on stand and
14 soil types, to allow recovery of soil nutrient and organic matter
16 and recovery of late successional habitats.

18 11. Impact of harvesting activities. The benchmarks must
20 establish maximum allowable levels of residual stand damage to
22 soils and residual trees; address the size and distribution of
24 roads, trails and yards to minimize soil damage, windthrow,
26 habitat fragmentation and loss of productivity; and address the
28 management of harvest residues to ensure that nutrients and
30 organic matter are returned to forest soils in a well-distributed
32 manner.

34 The board may develop other benchmarks that it identifies as
36 necessary to achieve the purposes of this subchapter.

38 **§8870-E. Rulemaking**

40 The Commissioner of Conservation and the Sustainable Forest
42 Management Program Board shall provisionally adopt all rules
44 required by this subchapter in accordance with the Maine Revised
46 Statutes, Title 5, chapter 375. All rules adopted to implement
48 this subchapter are major substantive rules as defined in Title
50 5, chapter 375, subchapter II-A and initially must be
52 provisionally adopted and submitted to the Legislature no later
54 than January 1, 1999. Prior to provisionally adopting these
56 rules, the commissioner shall consult with the Commissioner of
58 Environmental Protection and the Commissioner of Inland Fisheries
60 and Wildlife and shall ensure that these rules are consistent
62 with wildlife habitat and environmental protection laws, rules
64 and policies administered by those departments.'

66 Further amend the bill by striking out all of section 10.

68 Further amend the bill by inserting after section 19 the
70 following:

72 '**Sec. 20. Appropriation.** The following funds are appropriated
74 from the General Fund to carry out the purposes of this Act.

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1998-99

**CONSERVATION, DEPARTMENT OF
Forest Practices**

All Other \$5,000

Provides funds to develop benchmarks and a database necessary for the establishment of a forestry audit program for large landowners.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

FISCAL NOTE

1998-99

APPROPRIATIONS/ALLOCATIONS

General Fund \$5,000

The Department of Conservation will require additional General Fund appropriations of \$5,000 annually in fiscal years 1998-99 and 1999-2000 for the costs of developing required benchmarks and a database needed to implement a forest audit program for large landowners. The costs beginning in fiscal year 2000-01 will be reduced such that these costs can be absorbed by the department using budgeted resources.

SUMMARY

The amendment proposes changes relating to sustainable certification through a review program.

With respect to certification requirements, the amendment establishes a 10-member Sustainable Forest Management Program Board to develop benchmarks for a review program that, after January 1, 2000, is required for large landowners. Members of

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2 the board who are not ex officio members are appointed by the
Governor and are subject to confirmation by the Joint Standing
Committee on Agriculture, Conservation and Forestry.

4 This amendment also adds an appropriation section.

6
8 SPONSORED BY: Sinda Rogers McKee
10 (Representative McKEE)

12 TOWN: Wayne

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