

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 503

H.P. 378

House of Representatives, February 1, 2005

An Act To Make Changes to the Laws Governing the Maine Potato Board

(EMERGENCY)

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LUNDEEN of Mars Hill.
Cosponsored by Senator MARTIN of Aroostook and
Representatives: CHURCHILL of Washburn, FISCHER of Presque Isle, FISHER of Brewer,
GOLDMAN of Cape Elizabeth, TWOMEY of Biddeford, WHEELER of Kittery.

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

Whereas, this legislation makes changes to the laws governing the Maine Potato Board; and

Whereas, it is critical to the proper functioning of the Maine Potato Board that these changes be implemented immediately; 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. 36 MRSA §4602, sub-§4, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

4. Potatoes. "Potatoes" means and includes all potatoes, whether graded or ungraded, including all potatoes sold for processing into food, ~~but does not include potatoes sold for processing into starch, unless the potatoes are sold under a federal diversion program and paid for as grade potatoes or~~ animal feed.

Sec. 2. 36 MRSA §4603, sub-§5, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

5. Meetings of executive councils and assemblies. Executive councils shall annually elect officers, including a chairman chair, ~~vice-chairman~~ vice-chair and secretary. Each executive council shall hold meetings from time to time, no less than ~~4~~ 2 times a year, upon call of the executive council ~~chairman chair~~, a majority of the executive council or upon call of the board. Each assembly shall hold meetings from time to time, no less than once a year, upon call of a majority of its executive council or upon call of the board, provided that district assemblies of growers may hold these meetings jointly in statewide sessions or in concert with other assemblies or groups of assemblies. All meetings of assemblies and executive councils shall must be open to the public and otherwise in compliance with Title 1, chapter 13.

Sec. 3. 36 MRSA §4604, sub-§2, as amended by PL 1987, c. 99, §20, is further amended to read:

2. **Programs.** The board may make studies, ~~;~~ undertake research, development and investment in infrastructure, marketing and promotional programs, ~~;~~ publish and disseminate information; and implement other programs as--are in furtherance of its legislative purposes, provided that programs undertaken by the board ~~shall must~~ be designed to benefit the Maine potato industry at large or segments of the industry, but ~~shall may~~ not be designed to benefit exclusively any one person or entity involved in the industry. The board shall carry out the duties, as set out in Title 7, article 4 and known as the "Maine Bag Program," and shall use any funds granted by the department to the board or obtained by the board from any other source for the Maine Bag Program to promote the sale of tablestock potatoes, except that revenues from the potato tax under section 4605 may not be used to undertake promotional activities of the board. The board may use funds derived from sources other than the potato tax to carry out advertising and promotional programs in support of the industry.

Sec. 4. 36 MRSA §4604, sub-§5, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

5. Books and records; confidentiality. The board shall keep books, records and accounts of all its activities, which ~~shall must~~ be open to inspection and audit by the State at all times. The State Auditor ~~shall may~~ conduct an annual audit of the financial records of the board and shall report the results of the audit to the board, the Commissioner of Agriculture, Food and Rural Resources, the Treasurer of State and the Legislature. All books and records of the board ~~shall must~~ be open to public inspection in accordance with Title 1, chapter 13, provided except that records and meetings of the board may by vote be closed to the public where when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the Maine potato industry or segments of the industry.

Sec. 5. 36 MRSA §4606, first ¶, as amended by PL 1995, c. 702, §2 and affected by §4, is further amended to read:

Money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4605, must be transferred to the board in its capacity as an independent agency on a monthly basis and used for all activities of the board authorized under this chapter. The board shall pay a sum to the State Tax Assessor representing the actual cost incurred by the State in collecting the taxes, except that the sum paid to the State Tax Assessor for collecting taxes may not be greater than 5% of the total tax collected annually. Notwithstanding section 4603, subsection 1, money received by the Treasurer of

2 State under this chapter, including all receipts of taxes levied
under section 4605, must be allocated or appropriated to the
board by the Legislature.

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

8 SUMMARY

10 This bill makes the following changes to the laws governing
12 the Maine Potato Board.

14 1. It changes the definition of "potato" to include
potatoes sold for processing into starch, and potatoes sold for
16 processing into animal feed.

18 2. It changes the minimum number of executive council
meetings from 4 to 2 times a year.

20 3. It authorizes the Maine Potato Board to undertake
22 development and investment in infrastructure.

24 4. It prohibits using revenue from the potato tax to
undertake promotional activities of the Maine Potato Board.

26 5. It eliminates the requirement that the State Auditor
28 conduct an annual audit of the Maine Potato Board.

30 6. It specifies that the board must pay to the State Tax
Assessor a sum representing the actual cost incurred by the State
32 in collecting the taxes, except that the sum may not exceed 5% of
the total tax collected annually.