

MAINE STATE LEGISLATURE

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STATE OF MAINE
AUGUSTA, MAINE

124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1453

S.P. 539

In Senate, April 9, 2009

An Act To Reform Natural Resources Agencies and Establish the Department of Natural Resources

(EMERGENCY)

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GERZOFKY of Cumberland. (GOVERNOR'S BILL)
Cosponsored by Representative BOLAND of Sanford and
Senator: SIMPSON of Androscoggin, Representatives: BEAUDETTE of Biddeford,
BLANCHARD of Old Town, COTTA of China, HOGAN of Old Orchard Beach,
KAENRATH of South Portland, MARTIN of Eagle Lake, TUTTLE of Sanford.

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

Whereas, this legislation establishes the Department of Natural Resources, effective July 1, 2009; 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Sec. 1. 2 MRSA §6, sub-§1, as repealed and replaced by PL 2005, c. 397, Pt. A, §1, is amended to read:

1. Range 91. The salaries of the following state officials and employees are within salary range 91:

Commissioner of Natural Resources;

Commissioner of Transportation;

~~Commissioner of Conservation;~~

Commissioner of Administrative and Financial Services;

Commissioner of Education;

Commissioner of Environmental Protection;

Executive Director of Dirigo Health;

Commissioner of Public Safety;

Commissioner of Professional and Financial Regulation;

Commissioner of Labor;

~~Commissioner of Agriculture, Food and Rural Resources;~~

~~Commissioner of Inland Fisheries and Wildlife;~~

~~Commissioner of Marine Resources;~~

Commissioner of Corrections;

Commissioner of Economic and Community Development;

Commissioner of Defense, Veterans and Emergency Management; and

Executive Director, Workers' Compensation Board.

Sec. 2. 12 MRSA Pt. 14 is enacted to read:

PART 14

1 DEPARTMENT OF NATURAL RESOURCES

2 CHAPTER 951

3 DEPARTMENT ESTABLISHMENT AND OPERATION

4 SUBCHAPTER 1

5 GENERAL PROVISIONS

6 §14001. Definitions

7 As used in this Part, unless the context otherwise indicates, the following terms have
8 the following meanings.

9 1. Commissioner. "Commissioner" means the Commissioner of Natural Resources.

10 2. Department. "Department" means the Department of Natural Resources.

11 SUBCHAPTER 2

12 ORGANIZATION

13 §14101. Department of Natural Resources

14 The Department of Natural Resources is established to:

15 1. Agriculture. Improve agriculture and advance the interests of husbandry;
16 maintain and strengthen rural life and values; and promote prospering, stable rural
17 communities that contribute to the quality of life and the preservation of productive
18 farms, farmlands and open space;

19 2. Fisheries and wildlife. Preserve, protect and enhance the inland fisheries and
20 wildlife resources of the State; encourage the wise use of these resources; ensure
21 coordinated planning for the future use and preservation of these resources; and provide
22 for effective management of these resources;

23 3. Lands, forests and minerals. Preserve, protect and enhance the land resources
24 of the State; encourage the wise use of the scenic, mineral and forest resources of the
25 State and ensure that coordinated planning for the future allocation of lands for
26 recreational, forest production, mining and other public and private uses is effectively
27 accomplished; and provide for the effective management of public lands in the State; and

28 4. Marine. Conserve and develop marine and estuarine resources; conduct and
29 sponsor scientific research; promote and develop the State's coastal fishing industries; and
30 advise and cooperate with local, state and federal officials concerning activities in coastal
31 waters.

1 **§14102. Commissioner of Natural Resources**

2 The department is under the control and supervision of the Commissioner of Natural
3 Resources, who is appointed by the Governor and subject to review by the joint standing
4 committee of the Legislature having jurisdiction over natural resources matters and to
5 confirmation by the Senate. The commissioner serves at the pleasure of the Governor.

6 **§14103. Powers and duties of commissioner**

7 The commissioner has all of the powers and duties necessary to carry out the mission
8 and responsibilities of the department.

9 **1. Administration.** The commissioner shall administer the department in accordance
10 with the requirements of this Title and shall fulfill the duties prescribed to the
11 commissioner by state and federal law.

12 **2. Rulemaking.** The commissioner shall adopt rules to implement this Title. Rules
13 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
14 chapter 375, subchapter 2-A unless otherwise specified.

15 **3. Employees.** The commissioner may employ personnel as necessary to carry out
16 the work of the department. All personnel of the department are under the immediate
17 supervision, direction and control of the commissioner. Department personnel must be
18 employed subject to the Civil Service Law.

19 **Sec. 3. Transition.** The following provisions apply to the establishment of the
20 Department of Natural Resources.

21 1. Effective July 1, 2009, a new administrative unit must be established within the
22 Department of Administrative and Financial Services to permit financial and personnel
23 operation of the Department of Natural Resources. The former Department of
24 Agriculture, Food and Rural Resources, the former Department of Conservation, the
25 former Department of Inland Fisheries and Wildlife and the former Department of Marine
26 Resources become part of this administrative unit and bureaus within the Department of
27 Natural Resources.

28 2. The positions of the commissioners of the former Department of Agriculture,
29 Food and Rural Resources, the former Department of Conservation, the former
30 Department of Inland Fisheries and Wildlife and the former Department of Marine
31 Resources are eliminated. The Governor shall appoint an acting Commissioner of
32 Natural Resources by July 1, 2009. The acting commissioner serves at the pleasure of the
33 Governor. The acting commissioner is responsible for the operation of the Department of
34 Natural Resources until the implementing legislation for the department is adopted by the
35 Legislature and a Commissioner of Natural Resources is duly appointed by the Governor
36 and confirmed by the Legislature.

37 3. The acting commissioner shall develop and submit a plan for organization of the
38 Department of Natural Resources and implementing legislation to the Second Regular
39 Session of the 124th Legislature by January 1, 2010. Under the plan, the Department of
40 Natural Resources administration must include a deputy commissioner of resource

1 development and promotion, a deputy commissioner of resource management and a
2 director of operations and customer services. The plan must be designed to achieve, at a
3 minimum, savings of \$1,500,000 during fiscal year 2009-10 and \$1,500,000 during fiscal
4 year 2010-11.

5 4. In developing the organization plan for the Department of Natural Resources, the
6 acting commissioner shall:

7 A. Seek to implement recommendations 1 to 8 of the 2008 report of the Natural
8 Resource Agency Task Force appointed by the Governor to implement Public Law
9 2007, chapter 539, Part YY, section 2. These include recommendations concerning
10 marketing Maine's natural resources; reviewing business processes involved in
11 natural resource agency ministerial licenses to create a system that serves all clients;
12 consolidating management of state boat launch facilities; colocating natural resource
13 agency staff in regional offices; aligning natural resource agency districts;
14 establishing a single entity to manage public lands and public access consistent with
15 management goals; prioritizing natural resource programs and services to focus on
16 critical needs not low priorities; and reviewing natural resource advisory boards and
17 committees regarding effectiveness;

18 B. Seek reorganization ideas from Legislators, members of the public, businesses,
19 outside experts and others served by the departments being reorganized; accept
20 information; and address concerns. The acting commissioner shall consult widely
21 among these interest groups;

22 C. Cooperate with other entities of State Government;

23 D. Consult with the Executive Director of the Maine Land Use Regulation
24 Commission, Commissioner of Environmental Protection, Director of the State
25 Planning Office within the Executive Department and other interested parties
26 regarding the functions, management and best organization of the Maine Land Use
27 Regulation Commission and the Board of Environmental Protection;

28 E. Enhance services provided to natural resource-based businesses and industries,
29 outdoor recreation, natural resource management and environmental protection;

30 F. Integrate research, scientific, land management, enforcement and outreach,
31 promotion and education functions;

32 G. Utilize advances in science and technology and plan for trends in natural
33 resources, recreation activity, environmental management and business sector needs;

34 H. Maximize natural resource, environmental and economic benefits;

35 I. Coordinate and streamline functions, services and activities;

36 J. Eliminate duplication of services and administrative activities; and

37 K. Otherwise create efficiencies and cost-savings in the provision of services.

38 5. Savings created in this Act must be reinvested for the purposes set forth in the
39 Maine Revised Statutes, Title 12, section 14101.

1 6. Notwithstanding the Maine Revised Statutes, Title 7 and Title 12, the following
2 provisions apply to the reassignment of the duties and responsibilities of the Department
3 of Agriculture, Food and Rural Resources, Department of Conservation, Department of
4 Inland Fisheries and Wildlife and Department of Marine Resources.

5 A. The Department of Agriculture, Food and Rural Resources, Department of
6 Conservation, Department of Inland Fisheries and Wildlife and Department of
7 Marine Resources as heretofore created and established by law are incorporated into
8 the Department of Natural Resources. All references to, responsibilities of and
9 authority conferred upon the Department of Agriculture, Food and Rural Resources,
10 Department of Conservation, Department of Inland Fisheries and Wildlife and
11 Department of Marine Resources, and those departments' predecessors, throughout
12 the Maine Revised Statutes are deemed to refer to and vest in the Department of
13 Natural Resources created by this Act, as the successor department. The Department
14 of Natural Resources is the successor in every way to the powers, duties and
15 functions as assigned in Title 7 to the Department of Agriculture, Food and Rural
16 Resources and Title 12 to the Department of Conservation, Department of Inland
17 Fisheries and Wildlife and Department of Marine Resources.

18 B. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all
19 accrued expenditures, assets, liabilities, balances of appropriations, allocations,
20 transfers, revenues or other available funds in an account or subdivision of an account
21 of the Department of Agriculture, Food and Rural Resources, Department of
22 Conservation, Department of Inland Fisheries and Wildlife and Department of
23 Marine Resources as set forth in this Act must be transferred to the proper accounts
24 of the Department of Natural Resources by the State Controller or by financial order
25 upon the request of the State Budget Officer and with the approval of the Governor.

26 C. All rules of the Department of Agriculture, Food and Rural Resources,
27 Department of Conservation, Department of Inland Fisheries and Wildlife and
28 Department of Marine Resources, as they pertain to the duties of the Department of
29 Natural Resources as set forth in this Act, that are in effect on the effective date of
30 this Act remain in effect until rescinded, revised or amended.

31 D. All contracts, agreements and compacts of the Department of Agriculture, Food
32 and Rural Resources, Department of Conservation, Department of Inland Fisheries
33 and Wildlife and Department of Marine Resources, as they pertain to the duties set
34 forth in this Act, that are in effect on the effective date of this Act remain in effect
35 until they expire or are altered by the parties involved in the contracts or agreements.
36 The Department of Natural Resources is the successor agency for all federal
37 programs, grants and contracts.

38 E. All records of the Department of Agriculture, Food and Rural Resources,
39 Department of Conservation, Department of Inland Fisheries and Wildlife and
40 Department of Marine Resources, as they pertain to the duties set forth in this Act,
41 must be transferred to the Department of Natural Resources as necessary to
42 implement this Act.

43 F. All property and equipment of any bureau, division or program of the
44 Department of Agriculture, Food and Rural Resources, Department of Conservation,
45 Department of Inland Fisheries and Wildlife and Department of Marine Resources

1 pertaining to the duties transferred pursuant to this Act are transferred to the
2 Department of Natural Resources as necessary to implement this Act.

3 G. Employees of the Department of Natural Resources who were employees of the
4 Department of Agriculture, Food and Rural Resources, Department of Conservation,
5 Department of Inland Fisheries and Wildlife and Department of Marine Resources
6 immediately prior to the effective date of this Act retain all their employee rights,
7 privileges and benefits, including sick leave, vacation and seniority, provided under
8 the Civil Service Law or collective bargaining agreements. The Department of
9 Administrative and Financial Services, Bureau of Human Resources shall provide
10 assistance to the affected departments and shall assist with the orderly
11 implementation of this paragraph.

12 H. The State Budget Officer shall transfer position counts and available balances by
13 financial order upon approval of the Governor in order to achieve the savings
14 identified in subsection 3. These transfers are considered adjustments to authorized
15 position count, appropriations and allocations in fiscal years 2009-10 and 2010-11.
16 The State Budget Officer shall provide the joint standing committee of the
17 Legislature having jurisdiction over appropriations and financial affairs a report of
18 the transferred amounts no later than January 15, 2010.

19 7. If the acting commissioner finds a conflict or inconsistency between provisions in
20 the Maine Revised Statutes, Title 7 and Title 12 or rules adopted under those Titles, the
21 acting commissioner shall attempt to resolve that conflict or inconsistency by interpreting
22 the laws or rules together to give effect to the intent of the Legislature or agency, as the
23 case may be. If the acting commissioner determines rulemaking is required to resolve a
24 conflict or inconsistency, the commissioner may adopt rules as authorized under Title 12,
25 section 14103. In adopting rules under section 14103, the acting commissioner has sole
26 discretion to determine whether a conflict or inconsistency exists. The acting
27 commissioner shall notify the joint standing committee of the Legislature having
28 jurisdiction over natural resources matters prior to adopting any emergency rule under
29 this subsection.

30 8. Wherever in the Maine Revised Statutes the words "Department of Agriculture,
31 Food and Rural Resources," "Department of Conservation," "Department of Inland
32 Fisheries and Wildlife" or "Department of Marine Resources" appear or reference is made
33 to any of those departments with reference to the duties transferred to the Department of
34 Natural Resources as set forth in this Act, they are amended to read or mean, as
35 appropriate, "Department of Natural Resources," and the Revisor of Statutes shall
36 implement this revision when updating, publishing or republishing the statutes.

37 9. Wherever in the Maine Revised Statutes the words "Commissioner of Agriculture,
38 Food and Rural Resources," "Commissioner of Conservation," "Commissioner of Inland
39 Fisheries and Wildlife" or "Commissioner of Marine Resources" appear or reference is
40 made to any of these positions with reference to the duties transferred to the
41 Commissioner of Natural Resources as set forth in this Act, they are amended to read or
42 mean, as appropriate, "Commissioner of Natural Resources," and the Revisor of Statutes
43 shall implement this revision when updating, publishing or republishing the statutes.

10. The Department of Administrative and Financial Services, Bureau of the Budget shall work with the employees of the Department of Agriculture, Food and Rural Resources, Department of Conservation, Department of Inland Fisheries and Wildlife and Department of Marine Resources with regard to the duties transferred to the Department of Natural Resources as set forth in this Act to develop the budget for the Department of Natural Resources.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF
Executive Branch Departments and Independent Agencies - Statewide 0017

Initiative: Reduces funding from savings to be realized through reorganization and creation of the Department of Natural Resources.

GENERAL FUND	2009-10	2010-11
Unallocated	(\$1,500,000)	(\$1,500,000)
GENERAL FUND TOTAL	(\$1,500,000)	(\$1,500,000)

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2009.

SUMMARY

The purpose of this bill is to reorganize the current Department of Agriculture, Food and Rural Resources, Department of Inland Fisheries and Wildlife, Department of Conservation and Department of Marine Resources into one Department of Natural Resources, effective July 1, 2009, and provide for the transition. The Department of Natural Resources is established to improve agriculture and strengthen rural life; enhance inland fisheries and wildlife resources; enhance the land resources of the State, including through coordinated planning for the future allocation of lands for recreational, forest production, mining and other public and private uses; and conserve and develop marine and estuarine resources, including for coastal fishing industries. The department must include administration of resource development and promotion, resource management and operations and customer service. The bill authorizes the appointment of an acting Commissioner of Natural Resources and directs the acting commissioner to develop a plan for the organization of the new department and implementing legislation. The acting commissioner is also directed as part of the reorganization to implement recommendations 1 to 8 of the 2008 report of the Natural Resource Agency Task Force appointed by the Governor to implement Public Law 2007, chapter 539, Part YY, section 2.

The acting Commissioner of Natural Resources shall report implementing legislation for the reorganization to the Legislature by January 1, 2010. Savings from the reorganization must be reinvested in the Department of Natural Resources.