

MAINE STATE LEGISLATURE

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SMC
R. O'S.

L.D. 1830

Date: 4-4-12

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1350,
L.D. 1830, Bill, "An Act To Establish the Department of Agriculture, Conservation and
Forestry"

Amend the amendment by inserting after the title the following:

'Amend the bill by striking out all of Part A and inserting the following:

'PART A

Sec. A-1. 7-A MRSA is enacted to read:

TITLE 7-A

AGRICULTURE, CONSERVATION AND FORESTRY

SUBTITLE 1

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

CHAPTER 1

DEPARTMENTAL ORGANIZATION AND OPERATION

SUBCHAPTER 1

GENERAL PROVISIONS

§101. Definitions

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

1. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.

2. Department. "Department" means the Department of Agriculture, Conservation and Forestry.

1 3. Seal. The department has an official seal, which must be judicially noticed.

2 **SUBCHAPTER 2**

3 **ORGANIZATION**

4 **§201. Department**

5 1. Establishment. The Department of Agriculture, Conservation and Forestry is
6 established as a cabinet-level department.

7 2. Divisions. The department consists of the divisions necessary to carry out the
8 work of the department.

9 **§202. Mission; guiding principles**

10 1. Mission. The mission of the department is to serve as the steward of Maine's
11 agricultural, forestry, water and land resources for the State.

12 2. Guiding principles. The following principles are adopted to guide the
13 department in the performance of its duties:

14 A. Forestry, farming, conservation, public lands and other natural resource-based
15 economic activity are important to the State's economy and quality of life; and

16 B. Strengthening farming, forestry, conservation, recreation, state parks, public lands
17 and public access to the State's natural resources is vital to enhancing the State's
18 natural resources economy.

19 **§203. Commissioner**

20 The department is under the control and supervision of the Commissioner of
21 Agriculture, Conservation and Forestry, who reports directly to the Governor.

22 1. Appointment. The Governor shall appoint the commissioner, subject to review
23 by the joint standing committee of the Legislature having jurisdiction over agriculture,
24 conservation and forestry matters and confirmation by the Senate. The commissioner
25 serves at the pleasure of the Governor.

26 2. Deputies; staff. The commissioner shall appoint 2 deputy commissioners, one of
27 whom assists the commissioner with operations and administration of the department and
28 one of whom assists the commissioner with agriculture, forestry and natural resources-
29 based economic development.

30 3. Vacancy; commissioner. A vacancy in the office of the commissioner must be
31 filled as follows.

32 A. A vacancy in the commissioner's position must be filled in accordance with Title
33 5, section 1.

34 B. The commissioner shall appoint one of the department's deputy commissioners to
35 perform the duties of the commissioner, in addition to the duties of that deputy
36 commissioner, during the commissioner's temporary absence or disability.

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§204. Powers and duties of commissioner

The commissioner has all of the powers and duties necessary to carry out the mission and responsibilities of the department. The commissioner has the power to distribute the functions and duties given to the commissioner under this Title, Title 7 and Title 12 among the various divisions of the department so as to integrate the work properly and to promote the most economical and efficient administration of the department. Powers and duties given to the commissioner or the department in this Title, Title 7 or Title 12 must be assumed and carried out by the divisions that the commissioner designates and may in turn be delegated to subordinates by division directors with the approval of the commissioner.

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

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

3. Employees. The commissioner may employ personnel as necessary to carry out the work of the department. Except as otherwise provided by law, all personnel of the department are under the immediate supervision, direction and control of the commissioner. Department personnel are subject to the Civil Service Law, except for positions subject to appointment by the commissioner under subsection 4 and as otherwise specified.

4. Appointments. The deputy commissioners and division directors of the department are appointed by the commissioner and serve at the pleasure of the commissioner, except as otherwise provided by law. Deputy commissioners and division directors appointed pursuant to this Title must have educational qualifications and professional experience directly related to the functions of and services provided by the relevant unit or division.

§205. Department organization; divisions

The department is composed of the following divisions, each of which is under the direction and supervision of a director:

1. Division of Agricultural Resource Development. The Division of Agricultural Resource Development, whose director must be qualified by training, experience and skill in agricultural management;

2. Division of Forestry. The Division of Forestry, also known as the Maine Forest Service, whose director must be qualified by training, experience and skill in forestry;

3. Division of Parks and Public Lands. The Division of Parks and Public Lands, whose director must be qualified by training, experience and skill in parks, public lands, outdoor recreation or natural resource management. The commissioner shall appoint a deputy director to assist the director. The deputy director serves at the pleasure of the commissioner;

1 **4. Division of Quality Assurance and Regulation.** The Division of Quality
2 Assurance and Regulation, whose director must be qualified by training, experience and
3 skill in food quality and regulatory inspections;

4 **5. Division of Animal and Plant Health.** The Division of Animal and Plant Health,
5 whose director must be qualified by training, experience and skill in scientific crop and
6 animal production;

7 **6. Division of Geology and Natural Areas.** The Division of Geology and Natural
8 Areas, whose director must be qualified by training, experience and skill in geology,
9 natural areas or applied natural sciences; and

10 **7. Division of Land Use Planning, Permitting and Compliance.** The Division of
11 Land Use Planning, Permitting and Compliance, whose director must be qualified by
12 experience in planning and administration. The director provides the principal
13 administrative, operational and executive support to the Maine Land Use Regulation
14 Commission. The director is subject to appointment and removal by the commissioner,
15 with the consent of a majority of members of the Maine Land Use Regulation
16 Commission.

17 **Sec. A-2. Legislative intent; contingent repeal.** It is the intent of the
18 Legislature that a bill submitted pursuant to Part B, section 4 that consolidates the Maine
19 Revised Statutes, Title 7 and portions of Title 12 in Title 7-A be enacted into law by the
20 126th Legislature. If a bill submitted pursuant to Part B, section 4 has not been enacted
21 into law by December 3, 2014, Title 7-A is repealed on that date.

22 **Sec. A-3. Contingent revision clause.** This section takes effect if the Maine
23 Revised Statutes, Title 7-A is repealed pursuant to section 2.

24 1. Wherever in the Maine Revised Statutes, Title 7, the words "Department of
25 Agriculture, Conservation and Forestry" appear or reference is made to that department,
26 they are amended to read or mean, as the case may be, "Department of Agriculture, Food
27 and Rural Resources." The Revisor of Statutes shall implement this revision when
28 updating, publishing or republishing the statutes.

29 2. Wherever in the Maine Revised Statutes, Title 12, the words "Department of
30 Agriculture, Conservation and Forestry" appear or reference is made to that department,
31 they are amended to read or mean, as the case may be, "Department of Conservation."
32 The Revisor of Statutes shall implement this revision when updating, publishing or
33 republishing the statutes.

34 3. Wherever in the Maine Revised Statutes, Title 7, the words "Commissioner of
35 Agriculture, Conservation and Forestry" appear or reference is made to that position, they
36 are amended to read or mean, as the case may be, "Commissioner of Agriculture, Food
37 and Rural Resources." The Revisor of Statutes shall implement this revision when
38 updating, publishing or republishing the statutes.

39 4. Wherever in the Maine Revised Statutes, Title 12, the words "Commissioner of
40 Agriculture, Conservation and Forestry" appear or reference is made to that position, they
41 are amended to read or mean, as the case may be, "Commissioner of Conservation." The
42 Revisor of Statutes shall implement this revision when updating, publishing or
43 republishing the statutes.'

1 Amend the bill in Part B in section 1 in subsection 7 in the first line (page 5, line 20
2 in L.D.) by striking out the following: "Title 12-A" and inserting the following: 'Title
3 7-A'

4 Amend the bill in Part B in section 2 in the 7th line (page 6, line 1 in L.D.) by striking
5 out the following: "Title 12-A" and inserting the following: 'Title 7-A'

6 Amend the amendment by striking out all of the 2nd paragraph after the title (page 1,
7 lines 15 to 18 in amendment) and inserting the following:

8 'Amend the bill in Part B by striking out all of section 4 (page 6, lines 16 to 23 in
9 L.D.) and inserting the following:

10 '**Sec. B-4. Legislation; review.** Following the development of a department
11 budget pursuant to section 9, the Department of Agriculture, Conservation and Forestry
12 shall review those parts of the Maine Revised Statutes governing the Department of
13 Agriculture, Conservation and Forestry, including but not limited to the Maine Revised
14 Statutes, Titles 7, 7-A and 12. Based upon the review, the department, working with the
15 joint standing committee of the Legislature having jurisdiction over agriculture,
16 conservation and forestry matters, shall develop and submit a bill for introduction to the
17 126th Legislature to consolidate existing law in Title 7-A, to update Title 7-A and to
18 correct any errors and inconsistencies in law that result from this Act.'

19 Amend the bill in Part B in section 11 in the 4th line (page 7, line 27 in L.D.) by
20 striking out the following: "Title 12-A" and inserting the following: 'Title 7-A'

21 **SUMMARY**

22 The bill establishes a consolidated Department of Agriculture, Conservation and
23 Forestry in a new Maine Revised Statutes, Title 12-A, and directs the commissioner of
24 the newly consolidated department to work with the Department of Administrative and
25 Financial Services, Bureau of the Budget to develop a budget for the new department and
26 to develop proposed legislation to submit to the 126th Legislature to consolidate existing
27 law in the new Title.

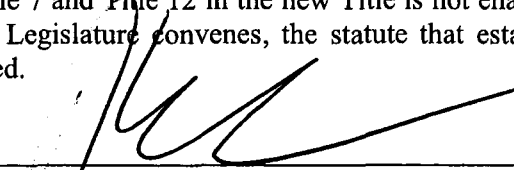
28 This amendment retains those provisions of the bill that establish the consolidated
29 department, but it makes the following changes:

30 1. It establishes the consolidated Department of Agriculture, Conservation and
31 Forestry in the Maine Revised Statutes, Title 7-A, rather than in Title 12-A as proposed in
32 the bill;

33 2. It enacts a provision expressing the intent of the Legislature that a bill to
34 consolidate relevant portions of the Maine Revised Statutes, Title 7 and Title 12 in the
35 new Title be enacted into law by the 126th Legislature; and

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1 3. It provides that if a bill that consolidates the relevant portions of the Maine
2 Revised Statutes, Title 7 and Title 12 in the new Title is not enacted into law by the date
3 on which the 127th Legislature convenes, the statute that establishes the consolidated
4 department is repealed.

5 **SPONSORED BY:** 

6 **(Representative FREDETTE)**

7 **TOWN: Newport**