

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 987

S.P. 332

In Senate, March 12, 2013

An Act To Make Technical Changes to the Agriculture, Conservation and Forestry Laws

Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

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

A handwritten signature in black ink, appearing to read "D M Grant".

DAREK M. GRANT
Secretary of the Senate

Presented by Senator SHERMAN of Aroostook.
Cosponsored by Representative GIFFORD of Lincoln.

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

2 **Sec. 1. 7 MRSA §320, sub-§6**, as enacted by PL 2007, c. 660, §8, is amended to
3 read:

4 **6. Reporting.** The commissioner shall submit an annual report on or before March
5 1st of each year to the joint standing committee of the Legislature having jurisdiction
6 over agricultural matters. The report must include a summary of grants made under
7 section 319 during the previous ~~calendar~~ fiscal year. The report must address the
8 effectiveness of the program. Effectiveness measures may include, but are not limited to,
9 evaluation of the number of companies retained, expanded or created; the increase in the
10 number of jobs created or retained; any increased business revenues and new capital
11 raised; improved wages paid to employees; and any new capital investment and increase
12 in profitability.

13 **Sec. 2. 7 MRSA §435, sub-§5**, as amended by PL 2007, c. 660, §14, is further
14 amended to read:

15 **5. Report.** The commissioner shall submit an annual report on or before March 1st
16 of each year to the joint standing committee of the Legislature having jurisdiction over
17 agricultural matters. The report must include a summary of loans made under this section
18 during the previous ~~calendar~~ fiscal year and loans outstanding categorized by the types of
19 agricultural enterprises receiving the loans. The report must address the effectiveness of
20 the program. Effectiveness measures may include, but are not limited to, evaluation of
21 the number of companies retained, expanded or created; the increase in the number of
22 jobs created or retained; any increased business revenues and new capital raised;
23 improved wages paid to employees; and any new capital investment and increase in
24 profitability.

25 **Sec. 3. 12 MRSA §683-A**, as enacted by PL 2011, c. 682, §7 and amended by c.
26 657, Pt. W, §5, is further amended to read:

27 **§683-A. Creation of Maine Land Use Planning Commission**

28 The Maine Land Use Planning Commission, as established by Title 5, section
29 12004-D, subsection 1-A to carry out the purposes stated in section 681, is created within
30 the Department of Agriculture, Conservation and Forestry and in this chapter called "the
31 commission." The commission is charged with implementing this chapter. The
32 commission consists of 9 members, ~~nominated~~ appointed in accordance with subsections
33 1 and 2. All ~~nominations~~ appointments under this section are subject to review by the
34 joint standing committee of the Legislature having jurisdiction over conservation matters
35 and to confirmation by the Senate.

36 **1. Appointment by the Governor.** Except as provided in subsection 2, the
37 Governor shall ~~nominate~~ appoint one member to the commission. In selecting ~~a nominee~~
38 an appointee, the Governor shall actively seek and give consideration to persons residing
39 in or near the unorganized and deorganized areas of the State and to persons residing on
40 unorganized coastal islands. ~~A nominee~~ An appointee under this subsection must be
41 familiar with the needs and issues affecting the commission's jurisdiction and must:

- 1 A. Reside in the commission's jurisdiction;
2 B. Work in the commission's jurisdiction;
3 C. Be a former resident or be retired after having worked for a minimum of 5 years
4 within the commission's jurisdiction; or
5 D. Have expertise in commerce and industry, fisheries and wildlife, forestry or
6 conservation issues as they relate to the commission's jurisdiction.

7 **2. Appointment of members representing a county.** One member must be
8 ~~nominated~~ appointed by each of the 8 counties with the most acreage in the unorganized
9 or deorganized areas subject to the jurisdiction of the commission. The board of county
10 commissioners ~~of~~ for each of the counties shall ~~nominate~~ appoint by majority vote a
11 resident of that county to serve as a member of the commission. A county commissioner
12 ~~nominated who is a candidate for appointment~~ to serve on the commission may not vote
13 on that ~~nomination~~ appointment. In making ~~nominations~~ the appointment, the board of
14 county commissioners shall actively seek and give consideration to persons residing in or
15 near the unorganized or deorganized areas within the county.

16 ~~A nominee~~ An appointee under this subsection must have expertise in commerce and
17 industry, fisheries and wildlife, forestry or conservation issues as they relate to the
18 commission's jurisdiction and must:

- 19 A. Reside in the commission's jurisdiction;
20 B. Work in the commission's jurisdiction; or
21 C. Be a former resident or be retired after having worked for a minimum of 5 years
22 within the commission's jurisdiction.

23 If a board of county commissioners fails to ~~nominate~~ appoint a member to the
24 commission under this subsection within 90 business days of a vacancy on the
25 commission to be filled by that county, the Governor shall ~~nominate~~ appoint a resident of
26 that county meeting the criteria in subsection 1 to fill the vacancy.

27 For any county appointee, the board of county commissioners shall provide to the
28 President of the Senate and the Speaker of the House of Representatives the name and
29 address of the appointee, together with information concerning that person's background
30 and qualifications, in the same manner required of the Governor for nominations made
31 pursuant to Title 3, section 154. A board of county commissioners has the same authority
32 as the Governor, pursuant to Title 3, section 154, to withdraw the name of an appointee at
33 any time before the Senate votes. The provisions of Title 3, sections 155 to 158 apply to
34 the process of legislative review and confirmation of all county appointees to the
35 commission.

36 **3. Eligibility.** A state employee may not be appointed to or serve as a member of the
37 commission. A county commissioner, county employee, municipal official or municipal
38 employee is not considered to hold an incompatible office for purposes of simultaneous
39 service on the commission. If a county or municipality is a participant in an adjudicatory
40 proceeding before the commission, a commissioner, official or employee from that
41 county or municipality may not participate in that proceeding as a member of the
42 commission.

1 **4. Terms.** All members are appointed to 4-year terms. Any member who has not
2 been ~~renominated~~ reappointed by the Governor or ~~the~~ a board of county commissioners
3 prior to the expiration of that member's term may not continue to serve on the
4 commission, unless the Governor notifies the Legislature in writing prior to the expiration
5 of that member's term that extension of that member's term is required to ensure fair
6 consideration of specific major applications pending before the commission. That
7 member's term ends upon final commission decisions on the specific applications
8 identified in the Governor's communication. Any member ~~renominated~~ reappointed by
9 the Governor or a board of county commissioners prior to the expiration of that member's
10 term ~~shall continue~~ continues to serve on the commission until the ~~nomination~~
11 appointment is acted upon by the Legislature. A vacancy during an unexpired term is
12 filled as provided in this section, but only for the unexpired portion of the term.

13 **5. Rules.** Unless otherwise provided in this chapter, rules adopted by the
14 commission under this chapter are routine technical rules as defined in Title 5, chapter
15 375, subchapter 2-A.

16 **Sec. 4. 12 MRSA §685-A, sub-§14,** as enacted by PL 2011, c. 599, §2 and
17 amended by c. 657, Pt. W, §§5 and 7, is further amended to read:

18 **14. Land management roads, gravel pits and water crossings.** Beginning
19 November 1, 2012, the Director of the Division of Forestry within the Department of
20 Agriculture, Conservation and Forestry shall administer and enforce the regulation of
21 construction, maintenance and repair of land management roads, water crossings by land
22 management roads and gravel pits of less than 5 acres in protection districts and
23 management districts in accordance with rules adopted under section 8867-E. For the
24 purposes of this subsection, "land management road" has the same meaning as under
25 section 8868, subsection 7.

26 **Sec. 5. 12 MRSA §1839, sub-§1, ¶A,** as enacted by PL 1997, c. 678, §13, is
27 amended to read:

28 A. A complete account of the income and expenditures pertaining to nonreserved
29 public lands during the preceding ~~calendar~~ fiscal year;

30 **Sec. 6. 12 MRSA §1839, sub-§1, ¶B,** as enacted by PL 1997, c. 678, §13 and
31 amended by PL 2011, c. 657, Pt. W, §7, is further amended to read:

32 B. A summary of the division's management activities during the preceding ~~calendar~~
33 fiscal year regarding timber, recreation, wildlife and other subjects as appropriate;

34 **Sec. 7. 12 MRSA §1853, sub-§1, ¶A,** as enacted by PL 1997, c. 678, §13, is
35 amended to read:

36 A. A complete account of the income and expenditures pertaining to public reserved
37 lands during the preceding ~~calendar~~ fiscal year;

38 **Sec. 8. 12 MRSA §1853, sub-§1, ¶B,** as enacted by PL 1997, c. 678, §13 and
39 amended by PL 2011, c. 657, Pt. W, §7, is further amended to read:

1 B. A summary of the division's management activities during the preceding ~~calendar~~
2 fiscal year regarding timber, recreation, wildlife and other subjects as appropriate;

3 **Sec. 9. 12 MRSA §1862, sub-§12, ¶A**, as enacted by PL 1997, c. 678, §13, is
4 amended to read:

5 A. A complete account of the income and expenditures pertaining to submerged
6 lands during the preceding ~~calendar~~ fiscal year;

7 **Sec. 10. 12 MRSA §1862, sub-§12, ¶B**, as enacted by PL 1997, c. 678, §13 and
8 amended by PL 2011, c. 657, Pt. W, §7, is further amended to read:

9 B. A summary of the division's management activities during the preceding ~~calendar~~
10 fiscal year regarding leases, easements and other appropriate subjects;

11 **Sec. 11. 12 MRSA §8867-E, sub-§1**, as enacted by PL 2011, c. 599, §5 and
12 amended by c. 657, Pt. W, §7, is further amended to read:

13 **1. Regulation.** In accordance with section 685-A, subsection 14, beginning
14 November 1, 2012, the director of the division shall administer and enforce the regulation
15 of construction, maintenance and repair of land management roads, water crossings by
16 land management roads and gravel pits of less than 5 acres in areas designated as
17 protection districts and management districts by the commission.

18 **Sec. 12. P&SL 1989, c. 108, §4**, as amended by P&SL 2003, c. 11, §1, is further
19 amended to read:

20 **Sec. 4. Location of the reserve.** The reserve is located is located in the Town of
21 Wells and includes lands between the Little River to the north and the Ogunquit River to
22 the south. The boundary to the east parallels the shoreline, excluding the shoreline
23 development, and to the west includes lands adjacent to the Wells coastal wetlands and
24 within the drainage basins of their tributary streams. Specifically, the reserve contains:

25 1. Lands in the Rachel Carson National Wildlife Refuge managed by the United
26 States Fish and Wildlife Service;

27 2. Land purchased or acquired for a state park managed by the Department of
28 Agriculture, Conservation and Forestry;

29 3. Submerged tidal lands managed by the Department of Agriculture, Conservation
30 and Forestry;

31 4. Land purchased by the Town of Wells or the State;

32 5. Land donated by the Town of Wells to the Department of Agriculture,
33 Conservation and Forestry as a conservation easement; and

34 6. Other lands or interests in land in the location described in this section acquired by
35 the reserve from willing sellers or added to the reserve by agreement for the purpose of
36 furthering the reserve's conservation, research or educational programs.

Sec. 13. P&SL 1989, c. 108, §6, sub-§5, as amended by P&SL 2003, c. 11, §2, is further amended to read:

5. Within 120 days after the close of its fiscal year, the authority shall provide a copy of its annual financial report certified by an independent certified public accountant selected by the authority to the Commissioner of Conservation, ~~the Director of the State Planning Office~~ Agriculture, Conservation and Forestry, the Treasurer of State, the State Auditor and the joint standing committee of the Legislature having jurisdiction over conservation matters. The financial report must comply with federal Office of Management and Budget requirements.

Sec. 14. P&SL 1989, c. 108, §7, sub-§1 is amended to read:

1. The Commissioner of Agriculture, Conservation and Forestry, or the commissioner's designee;

Sec. 15. P&SL 1989, c. 108, §7, sub-§5, ¶A is amended to read:

A. The Director of the ~~State Planning Office or the director's designee~~ Maine Coastal Program; and

Sec. 16. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 12, section 683-A, subsection 4, members initially appointed to the Maine Land Use Planning Commission after January 2013 are appointed to staggered terms. The member initially appointed by the Governor serves a term of one year. The members initially appointed by the boards of county commissioners serve as follows: the member initially appointed by the board of county commissioners of the county with the highest acreage of unorganized and deorganized areas serves a term of one year; the member initially appointed by the board of county commissioners of the county with the 2nd-highest acreage of unorganized and deorganized areas serves a term of one year; the member initially appointed by the board of county commissioners of the county with the 3rd-highest acreage of unorganized and deorganized areas serves a term of 2 years; the member initially appointed by the board of county commissioners of the county with the 4th-highest acreage of unorganized and deorganized areas serves a term of 2 years; the member initially appointed by the board of county commissioners of the county with the 5th-highest acreage of unorganized and deorganized areas serves a term of 3 years; the member initially appointed by the board of county commissioners of the county with the 6th-highest acreage of unorganized and deorganized areas serves a term of 3 years; the member initially appointed by the board of county commissioners of the county with the 7th-highest acreage of unorganized and deorganized areas serves a term of 4 years; the member initially appointed by the board of county commissioners of the county with the least acreage of unorganized and deorganized areas serves a term of 4 years.

SUMMARY

This bill:

- 1 1. Requires that certain information in annual reports to the Legislature be compiled
2 from data from the previous fiscal year rather than from the previous calendar year,
3 consistent with the State's budgeting process;
- 4 2. Clarifies that the Department of Agriculture, Conservation and Forestry, Division
5 of Forestry regulates water crossings by land management roads in those portions of
6 unorganized and deorganized areas of the State zoned by the Maine Land Use Planning
7 Commission as protection districts and management districts;
- 8 3. Makes references to boards of county commissioners consistent in provisions
9 regarding the Maine Land Use Planning Commission;
- 10 4. Clarifies that appointments made by the boards of county commissioners will be
11 reviewed according to the same process as applies to gubernatorial appointments and
12 changes language regarding appointments made by the county commissioners and
13 Governor to comport with language in the Constitution of Maine;
- 14 5. Adds unallocated language indicating that the terms of the members of the Maine
15 Land Use Planning Commission appointed after January 2013 must be staggered; and
- 16 6. Makes corrections by updating the name of the Department of Agriculture,
17 Conservation and Forestry to the enabling legislation of the Wells National Estuarine
18 Research Reserve Management Authority and replacing the director of the former State
19 Planning Office with the Director of the Maine Coastal Program as an ex officio
20 nonvoting member of the board of directors.