

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

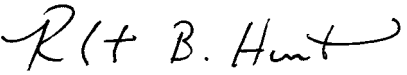
No. 487

H.P. 304

House of Representatives, February 7, 2023

An Act to Establish Coastal Waters and Submerged Lands Regional Planning Commissions

Reference to the Committee on Marine Resources suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative WILLIAMS of Bar Harbor.
Cosponsored by Representatives: DODGE of Belfast, GRAHAM of North Yarmouth,
MILLIKEN of Blue Hill, WARREN of Scarborough.

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

2 Sec. 1. 38 MRSA c. 3, sub-c. 1, art. 2-C is enacted to read:

3 ARTICLE 2-C

4 COASTAL WATERS AND SUBMERGED LANDS REGIONAL PLANNING
5 COMMISSIONS

6 §450-A. Definitions

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

9 1. Coastal waters and submerged lands. "Coastal waters and submerged lands"
10 means the waters and lands described in Title 1, sections 2 and 3.

11 2. Member. "Member" means a person representing a municipality or nonmunicipal
12 entity on a regional commission.

13 3. Regional commission. "Regional commission" means a coastal waters and
14 submerged lands regional planning commission formed under this article.

15 §450-B. Regional commissions established

16 A municipality in the areas surrounding the large bays and other coastal regions in this
17 State, as determined by rules adopted by the department, shall cooperate with the other
18 municipalities in the same area or region to form regional commissions to govern
19 development affecting coastal waters and submerged lands. The participating
20 municipalities shall establish by mutual consent the boundaries of each regional
21 commission.

22 1. Formation of regional commissions. The municipalities in the areas surrounding
23 the large bays and other coastal regions in this State shall form regional commissions
24 according to the economic, geographic, ecological and social characteristics of the large
25 bays and other coastal regions, taking into account the interests relevant to the bay and the
26 region, the uses and future needs of the coastal waters and submerged lands in the bay and
27 the region and organizations already participating in management of the resources of the
28 bay and the region.

29 2. Participation in regional commissions by nonmunicipal entities. The
30 municipalities that form regional commissions shall allow participation by nonmunicipal
31 entities that the municipalities agree by majority consent represent interests relevant to the
32 areas surrounding the large bays and other coastal regions in this State covered by the
33 regional commissions, including interests related to economic activity and development,
34 land use management, conservation and preservation.

35 §450-C. Members

36 A municipality that forms a regional commission and each nonmunicipal entity
37 participating in a regional commission shall appoint or elect one member to serve on the
38 regional commission. A member serving on the regional commission has one vote,
39 regardless of whether the member represents a municipality or a nonmunicipal entity.

1 **1. Terms.** Members serve staggered terms of 3 years.

2 **2. Meetings.** A regional commission shall meet at least 8 times per year and in addition
3 shall meet at the call of the chair of the commission or a majority of the members.

4 **3. Alternate members.** A municipality that forms a regional commission and each
5 nonmunicipal entity that participates in a regional commission may have one alternate
6 member appointed or elected in the same manner as the primary member. The alternate
7 member may participate in the proceedings of the regional commission, but may not vote
8 on a matter before the regional commission unless the primary member is not in attendance
9 at the meeting at which the vote is taken.

10 **4. Reimbursement.** A regional commission shall determine the rates of
11 reimbursement for costs incurred by members and alternate members. The municipalities
12 that form a regional commission shall share the costs of reimbursements under this
13 subsection equally or pro rata by population or size of municipal budget as determined by
14 mutual agreement.

15 **§450-D. Staff; officers**

16 A regional commission may employ staff to assist in administrative, operational,
17 executive and enforcement tasks. The members of the regional commission shall elect a
18 chair, secretary, treasurer and any other officers that the members determine are necessary
19 for the operation of the regional commission.

20 **§450-E. Financing; budget**

21 The financial operations of a regional commission are governed by this section.

22 **1. Municipal contribution.** A municipality that forms a regional commission shall
23 contribute money to the operation of the regional commission as agreed upon by the
24 municipalities that form the regional commission.

25 **2. Gifts and grants.** A regional commission may accept gifts and grants from any
26 source.

27 **3. Fees.** A regional commission may charge a fee for services provided by the regional
28 commission.

29 **4. Account.** A regional commission shall establish an account for collecting municipal
30 contributions, gifts, grants and the proceeds from fees.

31 **5. Budget.** A regional commission shall prepare an annual budget and submit the
32 budget to the governing body of each municipality that forms the regional commission.

33 **§450-F. Powers and duties**

34 The powers and duties of a regional commission are as follows.

35 **1. Duties.** A regional commission shall:

36 A. Develop and update a long-term water use plan for the areas surrounding the large
37 bay or other coastal region represented by the regional commission. The plan must
38 include a map of the large bay or coastal region and descriptions, including size, scope
39 and nature, of all water uses that the regional commission determines are appropriate
40 to the large bay or coastal region;

1 B. Develop and update a planning ordinance based on and at least as stringent as the
2 model planning ordinance adopted under section 450-G. The planning ordinance must
3 describe what usage in the large bay or coastal region is allowed with a permit, allowed
4 without a permit and not allowed. The planning ordinance must enumerate usage
5 categories, which may include:

6 (1) Resource protection;

7 (2) Residential;

8 (3) Maritime activities;

9 (4) Fisheries;

10 (5) Small, medium and industrial commercial; and

11 (6) Other development;

12 C. Support research necessary to the administration or work of the regional
13 commission; and

14 D. Monitor and enforce the provisions of the planning ordinance adopted under section
15 450-G.

16 **2. Powers.** A regional commission may:

17 A. Seek consultation and advice regarding matters under the jurisdiction of the regional
18 commission; and

19 B. Appoint an advisory board to advise on specific matters under the jurisdiction of the
20 regional commission.

21 **§450-G. Minimum standards; model planning ordinance**

22 The department shall adopt minimum standards for coastal water use planning
23 applicable to regional commissions and a model planning ordinance for use by regional
24 commissions.

25 If a regional commission fails to adopt a planning ordinance as required by section
26 450-F, the department shall adopt a planning ordinance for use in the areas surrounding the
27 large bays and other coastal regions.

28 Rules adopted under this section are major substantive rules pursuant to Title 5, chapter
29 375, subchapter 2-A.

30 **§450-H. Report**

31 A regional commission shall submit an annual report regarding the activities of the
32 regional commission to the joint standing committee of the Legislature having jurisdiction
33 over conservation matters.

34 **§450-I. Enforcement**

35 If an activity requires a permit according to rules adopted by a regional commission or
36 the department as required by section 450-G, a person may not engage in that activity
37 within the area surrounding the large bay or other coastal region covered by the regional
38 commission without acquiring and maintaining the relevant permit.

39 **§450-J. Rules**

1 After notice and public hearing, a regional commission shall adopt rules governing
2 procedures as the regional commission finds necessary to carry out the purposes of this
3 article.

4 **1. Types of rules.** Rules adopted under this section may cover but are not limited to:

5 A. The form and content of applications;

6 B. The conduct of meetings and hearings;

7 C. The determination of parties to hearings;

8 D. The provision, form and content of both public notice and notice to individuals,
9 groups and property owners affected by proposed actions of the regional commission;

10 E. The issuance and revocation of permits and certificates of compliance;

11 F. The issuance of decisions and findings of facts;

12 G. The adoption, amendment and interpretation of boundaries of each regional
13 commission;

14 H. The adoption and amendment of a schedule of fees; and

15 I. The granting or denial of variances.

16 **2. Considerations.** In adopting rules under this section, a regional commission shall
17 consider, in addition to the other requirements set forth in this article, the following factors:

18 A. Expense and facility of administration;

19 B. Convenience to landowners and individuals affected;

20 C. Encouragement of public participation; and

21 D. Cooperation with municipal and state officials.

22 Rules adopted under this section are major substantive rules pursuant to Title 5, chapter
23 375, subchapter 2-A.

24 **Sec. 2. Implementation.** No later than July 1, 2024, the Department of
25 Environmental Protection shall adopt rules as required by the Maine Revised Statutes, Title
26 38, chapter 3, subchapter 1, article 2-C in consultation with persons representing interests
27 relevant to the areas surrounding the large bays and other coastal regions, including
28 interests related to economic activity and development, land use management, conservation
29 and preservation. Not later than one year after the adoption of rules by the department as
30 required by Title 38, chapter 3, subchapter 1, article 2-C, each municipality in the areas
31 surrounding the large bays and other coastal regions, as determined by rules adopted by the
32 department, shall cooperate with the other municipalities in the same area or region to form
33 a coastal waters and submerged lands regional commission as required by Title 38, section
34 450-B. Not later than one year after formation, a regional commission as described by Title
35 38, chapter 3, subchapter 1, article 2-C shall adopt a water use plan and a planning
36 ordinance. If a regional commission as described by Title 38, chapter 3, subchapter 1,
37 article 2-C fails to adopt a planning ordinance as required by this section, the department
38 shall adopt a planning ordinance for use in that region.

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SUMMARY

This bill requires the establishment of coastal waters and submerged lands regional planning commissions to develop long-term water use plans and planning ordinances for the areas surrounding the large bays and other coastal regions.