

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

CHAPTER 794

S.P. 855 - L.D. 2167

**AN ACT to Enhance the Sound Use and
Management of Maine's Coastal
Resources.**

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

PART A

Sec. 1. 5 MRSa §3315 is enacted to read:

§3315. List of Heritage Coastal Areas

The State Planning Office shall develop and maintain the official list of Heritage Coastal Areas.

1. Definition. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Heritage Coastal Areas" means areas containing an assemblage of geological, botanical, zoological, historical or scenic features of exceptional state or national significance.

2. Guidelines for identifying Heritage Coastal Areas. The State Planning Office, in consultation with the Maine Historic Preservation Commission, shall review existing reports and documents on coastal natural, historical and scenic areas in order to document Heritage Coastal Areas. The State Planning Office shall also undertake the necessary studies and inventories to document the scenic and natural values of candidate areas.

When evaluating candidate Heritage Coastal Areas, the following guidelines shall be considered:

A. Areas eligible for or listed on the Register of Critical Areas; and

B. Areas eligible for or listed on the National Register of Historic Places.

Nomination forms for each Heritage Coastal Area shall contain a description of the area and its significance, its size and location and the names of the landowners of the features within the area.

3. Municipal and landowner consultation. No area may be included on the list of Heritage Coastal Areas until the State Planning Office notifies the landowner of the features and officials of the municipality where the area is located at least 60 days prior to designation.

4. Designation of Heritage Coastal Areas. The Director of the State Planning Office, with the advice and approval of the Critical Areas Advisory Board, shall designate Heritage Coastal Areas subject to review by the joint standing committee of the Legislature having jurisdiction over energy and natural resources.

The designation of Heritage Coastal Areas officially identifies and documents assemblages of exceptional natural, historical or scenic areas on the coast that merit special attention for conservation.

5. Protection of features within Heritage Coastal Areas. The features identified within Heritage Coastal Areas shall be protected on a voluntary basis. Government agencies at all levels shall consider the importance of protecting the character of Heritage Coastal Areas in land use control and other actions which they take.

Sec. 2. 30 MRSA §4956, sub-§3, as amended by PL 1983, c. 458, §12, is further amended to read:

3. Guidelines. When promulgating any subdivision regulations and when reviewing any subdivision for approval, the planning board, agency or office, or the municipal officers, shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

A. Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations;

B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;

C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;

F. Will provide for adequate sewage waste disposal;

G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage, if municipal services are to be utilized;

I. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

J. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any; ~~and~~

K. The subdivider has adequate financial and technical capacity to meet the above stated standards; _i

L. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Furthermore, when lots in a subdivision have frontage on an outstanding river segment, as defined in subsection 1-A, the proposed subdivision plan shall require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore. These frontage and set-back provisions shall not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 12, sec-

tion 4813, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed shall be based on a finding that, as of the effective date of this Act, existing development meets the requirements of subsection 1-;

M. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water-; and

N. The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plat approval requiring that principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

Sec. 3. 30 MRSA §4961, sub-§1, as amended by PL 1981, c. 598, §1, is repealed and the following enacted in its place:

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Comprehensive plan" means a compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the municipality with respect to its population, housing, economics, social patterns, land use, water resources and their use, transportation facilities and public facilities prepared by the municipal planning board, agency or office. The plan, being as much a process as a document capable of distribution, may at successive stages consist of data collected, preliminary plans, alternative action proposals and, finally, a comprehensive plan to be adopted. In its final stages, it may consist of a series of subsidiary but interrelated plans such as, but not limited to, a water and sewerage system plan, a land use plan, a shoreland management plan that considers functionally water-dependent uses and public access to and use of the shoreline, a com-

community facilities plan, a transportation plan, an urban renewal or rehabilitation plan, an air or water pollution control plan and a park and open space plan. The comprehensive plan shall include recommendations for plan execution and implementation such as, but not limited to, a capital improvements program, renewal and rehabilitation programs, land use control ordinances and building, safety and housing codes. The comprehensive plan shall include mechanisms which will ensure continual data collection, reevaluation in light of new alternatives and revision. The comprehensive plan may include planning techniques such as, but not limited to, planned unit development, site plan approval, transfer of development rights, open space zoning, clustered development, conditional zoning, contract zoning and zoning to protect access to direct sunlight for solar energy use.

B. "Functionally water-dependent uses" means those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which therefore cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, storage and retail and wholesale marketing facilities, dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to marine or tidal waters.

Sec. 4. 37-B MRSA §744, sub-§2, as enacted by PL 1983, c. 460, §3, is repealed.

Sec. 5. 37-B MRSA §744, sub-§2-A is enacted to read:

2-A. Assistance to local governmental units. Assistance to local governmental units shall be governed as follows.

A. Whenever the President of the United States declares that a major disaster exists in the State, the Governor may:

(1) Apply for a public assistance grant from the Federal Government under Public Law 93-288 on behalf of both the State and local governmental units for the purposes of repairing or replacing publicly owned facilities within the disaster area or relocating public facilities outside of the disaster area;

(2) Obligate state financial resources, as a condition for receiving such a federal grant, up to, but not in excess of, 25% of the total public assistance requested; and

(3) Enter into an agreement with the affected local governmental units to obligate local financial resources up to, but not in excess of, 10% of the total cost of damage to local public facilities, provided that the local share shall not exceed 10% of total local annual operating budget, exclusive of educational budgets.

B. If the President of the United States declares that a major disaster exists in the State, the Governor may:

(1) Apply for a loan from the Federal Government on behalf of a unit of local government if he determines that the unit will suffer a substantial loss of tax and other revenues as a result of a major disaster and has demonstrated a need for financial assistance to perform its governmental functions;

(2) Receive and disburse the proceeds of any approved loan to an applicant local government;

(3) Determine the amount needed by any applicant local government to restore or resume its governmental functions and certify the amount to the Federal Government, provided that no application amount may exceed 25% of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs; and

(4) Recommend to the Federal Government, based upon his review, the cancellation of all or any part of repayment when, after 3 full fiscal years following the major disaster, the revenues of the local government

are insufficient to meet its operating expenses, including additional municipal expenses related to the disaster.

Sec. 6. 38 MRSA §436, sub-§1, as reallocated by PL 1985, c. 481, Pt. A, §24, is repealed.

Sec. 7. 38 MRSA §436, sub-§§1-A to 1-F are enacted to read:

1-A. Commercial fishing activities. "Commercial fishing activities" includes activities directly related to commercial fishing and those commercial activities commonly associated with or supportive to commercial fishing, such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other electronic devices commonly used on boats.

1-B. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with a density of at least one principal structure per 2 acres.

1-C. Floodway. "Floodway" means the channel of a river or other water course and the adjacent land areas that must be reserved to allow for the discharge a 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood by more than one foot.

1-D. Functionally water-dependent uses. "Functionally water-dependent uses" means those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, storage and retail and wholesale marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site and uses which primarily provide general public access to marine or tidal waters.

1-E. Maritime activities. "Maritime activities" includes the construction, repair, storage, loading and unloading of boats, chancellery and other commercial activities designed and intended to facilitate maritime trade.

1-F. Pond. "Pond" means any inland body of water which has a surface area in excess of 10 acres, except where the body of water is man-made and in addition is completely surrounded by land held by a single owner, and except those privately owned ponds which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.

Sec. 8. 38 MRSA §440, as reallocated by PL 1985, c. 481, Pt. A, §28, is amended by adding at the end the following new paragraphs:

Zoning ordinances adopted or amended pursuant to this section shall designate as a resource protection zone or its equivalent, as defined in the guidelines adopted pursuant to section 442, all areas within the floodway of the 100-year flood plain along rivers and in the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps. This provision does not apply to areas zoned for general development or its equivalent, as defined in the guidelines adopted pursuant to section 442, as of the effective date of this paragraph, or within areas designated by ordinances as densely developed. The determination of which areas are densely developed shall be based on a finding that, as of the effective date of this paragraph, existing development meets the definition in section 436, subsection 1-B.

All communities shall designate floodway areas, as set out in this section, as resource protection zones as of the effective date of a community's entry into the regular program of the National Flood Insurance Program or July 1, 1987, whichever comes later.

In those areas that are within the floodway, as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, all proposed activities which are permitted within the shoreland area must be shown not to increase the 100-year flood elevation. In addition, all structures built in the floodway shall have their lowest floor, including the basement, one foot above the 100-year flood elevation.

Sec. 9. 38 MRSA §440-A is enacted to read:

§440-A. Public access

In addition to controls required in this chapter, municipalities may extend or adopt zoning and subdi-

vision controls to protect any public rights for physical and visual access to the shoreline.

Zoning ordinances adopted or extended pursuant to this section shall be pursuant to and consistent with a comprehensive plan.

Sec. 10. 38 MRSA §447 is enacted to read:

§447. Functionally water-dependent use zones

Municipalities are encouraged to give preference, when appropriate, to functionally water-dependent uses and may extend zoning controls to accomplish this.

A municipality may, within coastal shoreland areas, adopt zoning ordinances for functionally water-dependent uses. Municipalities may establish districts within these zones to give preference to commercial fishing and other maritime activities.

In creating such a zone, a municipality shall consider the demand for and availability of shorefront property for functionally water-dependent uses.

Zoning ordinances adopted or extended pursuant to this section shall be pursuant to and consistent with a comprehensive plan.

Sec. 11. 38 MRSA c.c. 19 and 21 are enacted to read:

CHAPTER 19

COASTAL MANAGEMENT POLICIES

§1801. Findings and declaration of coastal management policies

The Legislature finds that the Maine coast is an asset of immeasurable value to the people of the State and the nation, and there is a state interest in the conservation, beneficial use and effective management of the coast's resources; that development of the coastal area is increasing rapidly and that this development poses a significant threat to the resources of the coast and to the traditional livelihoods of its residents; that the United States Congress has recognized the importance of coastal resources through the passage of the United States Coastal Zone Management Act of 1972 and that in 1978

Maine initiated a coastal management program in accordance with this Act which continues to be of high priority; and that there are special needs in the conservation and development of the State's coastal resources that require a statement of legislative policy and intent with respect to state and local actions affecting the Maine coast.

The Legislature declares that the well-being of the citizens of this State depends on striking a carefully considered and well reasoned balance among the competing uses of the State's coastal area. The Legislature directs that state and local agencies and federal agencies as required by the United States Coastal Zone Management Act of 1972, PL 92-583, with responsibility for regulating, planning, developing or managing coastal resources, shall conduct their activities affecting the coastal area consistent with the following policies to:

1. Port and harbor development. Promote the maintenance, development and revitalization of the State's ports and harbors for fishing, transportation and recreation;

2. Marine resource management. Manage the marine environment and its related resources to preserve and improve the ecological integrity and diversity of marine communities and habitats, to expand our understanding of the productivity of the Gulf of Maine and coastal waters and to enhance the economic value of the State's renewable marine resources;

3. Shoreline management and access. Support shoreline management that gives preference to water-dependent uses over other uses, that promotes public access to the shoreline and that considers the cumulative effects of development on coastal resources;

4. Hazard area development. Discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides or sea-level rise, it is hazardous to human health and safety;

5. State and local cooperative management. Encourage and support cooperative state and municipal management of coastal resources;

6. Scenic and natural areas protection. Protect and manage critical habitat and natural areas of state and national significance and maintain the scenic beauty and character of the coast even in areas where development occurs;

7. Recreation and tourism. Expand the opportunities for outdoor recreation and encourage appropriate coastal tourist activities and development;

8. Water quality. Restore and maintain the quality of our fresh, marine and estuarine waters to allow for the broadest possible diversity of public and private uses; and

9. Air quality. Restore and maintain coastal air quality to protect the health of citizens and visitors and to protect enjoyment of the natural beauty and maritime characteristics of the Maine coast.

§1802. Definitions

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

1. Coastal area. The "coastal area" encompasses all coastal municipalities and unorganized townships on tidal waters and all coastal islands. The inland boundary of the coastal area is the inland line of coastal town lines and the seaward boundary is the outer limit of the United States territorial sea.

2. Coastal management. "Coastal management" means the planning, development, conservation and regulation of coastal resource use by Federal, state, regional and local governments.

3. Coastal resources. "Coastal resources" means the coastal waters of the State and adjacent shorelands, their natural resources and related marine and wildlife habitat that together form an integrated terrestrial, estuarine and marine ecosystem.

§1803. Report

The State Planning Office shall provide a report no later than December 1, 1988, to the Legislature detailing the status of policy accomplishments pursuant to this chapter. As a part of this report, the Department of Environmental Protection and the Department of Conservation shall prepare reports on implementation of this chapter for which they are responsible.

CHAPTER 21

COASTAL BARRIER RESOURCES SYSTEM

§1901. Findings and declaration of policy

The Legislature finds that Maine's coastal barriers and the adjacent wetlands, marshes, estuaries, inlets and nearshore waters contain resources of extraordinary scenic, scientific, recreational, natural, historic, archeological and economic importance that may be irretrievably damaged and lost due to development on and adjacent to those barriers; that Maine's coastal barriers provide habitats for migratory birds and other wildlife and habitats which are essential spawning, nursery, nesting and feeding areas for commercially and recreationally important species of finfish and shellfish, as well as other aquatic organisms; that Maine's coastal barriers serve as natural storm protective buffers and are generally unsuitable for development because they are vulnerable to hurricane and other storm damage and because natural shoreline recession and the movement of unstable sediments undermine manmade structures; and that the United States Congress has recognized the importance of coastal barriers through the United States Coastal Barrier Resources Act of 1982, United States Code, Title 16, Section 3509, established a detailed process to identify coastal barriers and prohibited the expenditure of federal funds that support activities incompatible with the ability of these fragile areas to accommodate those activities.

The Legislature declares that certain areas of the Maine coast, because of their fragile nature, valuable habitat and their storm buffering abilities should be protected and conserved in their natural state and that it is inappropriate to use state funds to encourage or support activities incompatible with the ability of these areas to sustain these activities.

§1902. Limitations on state expenditures affecting the system

Except as provided in section 1903, no state funds or state financial assistance may be expended for development activities within the coastal barrier resource system, including, but not limited to:

1. Structures. The construction or purchase of any structure, appurtenance, facility or related infrastructure;

2. Roads, airports, boat landings. The construction of any road, airport, boat-landing facility or other facility on or bridge or causeway to, any coastal barrier; and

3. Erosion. The carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline or inshore area.

§1903. Exception to state prohibition

1. Expenditure of state funds for coastal barriers for the following activities. State funds may be expended on coastal barriers for the following activities:

A. The maintenance, replacement, reconstruction or repair, but not the expansion, except where expansion is necessary in order to meet minimum design requirements, of state-owned or state-operated roads, structures or facilities; and

B. Any of the following actions or projects provided they are consistent with the purposes of this chapter:

(1) The study, management, protection or enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands and stabilization projects for fish and wildlife habitats;

(2) Recreational uses that do not involve an irretrievable commitment of natural resources;

(3) Scientific research, including, but not limited to, geologic, marine and fish and wildlife; and

(4) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance or restore natural stabilization systems.

2. Authorization of state expenditures. The Governor may, after consultation with the appropriate state agencies and the affected community, approve state expenditures or financial assistance available within the coastal barrier resources system for assistance for emergency actions essential to the saving of lives, the protection of property and the public health and safety.

§1904. Maine Coastal Barrier System

The Maine Coastal Barrier System shall include the following coastal barriers:

1. Carrying Place Cove. Carrying Place Cove; Town: Harrington;
2. Birch Point. Birch Point; Town: Perry;
3. Lubec Barriers. Lubec Barriers; Town: Lubec;
4. Baileys Mistake. Baileys Mistake; Town: Lubec and Trescott;
5. Grassy Point. Grassy Point; Town: Cutler;
6. Seal Cove. Seal Cove; Town: Cutler;
7. Sprague Neck. Sprague Neck; Town: Cutler;
8. Jasper. Jasper; Town: Machiasport;
9. Starboard. Starboard; Town: Machiasport;
10. Bare Cove. Bare Cove; Town: Roque Bluffs;
11. Roque Bluffs. Roque Bluffs; Town: Roque Bluffs;
12. Popplestone/Roque Island. Popplestone/Roque Island; Town: Jonesport;
13. Flake Point. Flake Point; Town: Steuben;
14. Over Point. Over Point; Town: Steuben;
15. Pond Island. Pond Island; Town: Deer Isle;
16. Thrumcap. Thrumcap; Town: Cranberry Isles;
17. Seven Hundred Acre Island. Seven Hundred Acre Island; Town: Isleboro;
18. Nash Point. Nash Point; Town: Owls Head;
19. Little River. Little River; Town: Georgetown;
20. Hunnewell Beach. Hunnewell Beach; Town: Phippsburg;
21. Small Point Beach. Small Point Beach; Town: Phippsburg;

22. Head Beach. Head Beach; Town: Phippsburg;

23. Stover Point. Stover Point; Town: Harpswell;

24. Jenks Landing/Waldo Point. Jenks Land-
ing/Waldo Point; Town: Cumberland;

25. Cape Elizabeth. Cape Elizabeth; Town: Cape
Elizabeth;

26. Crescent Beach. Crescent Beach; Town: Cape
Elizabeth;

27. Scarborough Beach. Scarborough Beach; Town:
Scarborough;

28. Etherington Pond. Etherington Pond; Town:
Biddeford;

29. Crescent Surf. Crescent Surf; Town:
Kennebunk;

30. Ogunquit Beach. Ogunquit Beach; Town:
Ogunquit;

31. Phillips Cove. Phillips Cove; Town: York;
and

32. Sea Point. Sea Point; Town: Kittery.

§1905. Maine Coastal Barrier Resources System Maps

1. Maps; coastal barriers identified. Maine's
coastal barriers are identified on maps, available
for public review, at the Department of Conservation,
Maine Geological Survey office in Augusta. They are
referred to as the Maine Coastal Barrier Resources
Systems and are numbered consistent with the United
States Coastal Barriers Resource Act.

2. Maps filed in county registry of deeds. As
soon as practicable after the enactment of this chap-
ter, the maps referred to in subsection 1, shall be
filed, in the appropriate county registry of deeds.

3. Copies of maps provided to agencies. As soon
as practicable after the date of enactment of this
chapter, the Commissioner of Conservation shall pro-
vide copies of the maps, referred to in subsection 1,
and a summary of this legislation to:

A. The chief elected official of each community
in which a system is located;

B. All state agencies responsible for planning and managing coastal resources;

C. State agencies responsible for administering state funding programs affected by the prohibitions of this chapter; and

D. Coastal regional planning agencies.

PART B

12 MRSA c. 431 is enacted to read:

CHAPTER 431

MAINE SHORELINE PUBLIC ACCESS PROTECTION PROGRAM

§5201. Findings and declaration of policy

The Legislature finds and declares that public access to the Maine coast is of great importance to people of the State who make their living in the marine and maritime industries and to those who enjoy the natural beauty of our coastal shorelines; that the State of Maine and coastal municipalities own less than 3% of Maine's shoreline, the lowest percentage of publicly owned shoreline of any coastal state in the United States; that the Maine coast is experiencing intense development pressure that is further limiting public access to the shore; and that the rising costs of coastal shorefront property, together with the diminishing opportunities for access to coastal shoreline, require the establishment of a state program to encourage and support the acquisition of shoreland areas for public uses.

§5202. Shoreline Access Protection Fund

1. Fund established. To accomplish the purposes of this chapter, there is established a nonlapsing Maine Shoreline Public Access Protection Fund, referred to in this chapter as the "fund." All income received by the Department of Conservation for the purposes of this chapter shall be recorded on the books of the State in a separate account and shall be deposited with the Treasurer of State to be credited to the fund. These funds shall be made available to the commissioner for the purpose of implementing the Maine Shoreline Public Access Protection Program, established under section 5202.

2. Expenditure of funds. All money credited to the fund shall be used to preserve and protect public

access to coastal shoreland areas in accordance with the guidelines established by the commissioner pursuant to section 5202. As provided in section 5202, not less than 50% of all revenue available from the fund shall be dispersed to municipalities located in the coastal area, as defined in Title 38, section 1802. No more than 10% of the revenues available in the fund may be used for the development of acquired access areas.

§5203. Program guidelines

1. Program established. There is established, within the Department of Conservation, the Shoreline Access Protection Program, referred to in this chapter as the "program" for the purposes of encouraging and supporting the acquisition and development of shoreland areas by the State Government and local governments. Any acquisition or development of shoreland areas supported by this program shall be undertaken solely to enhance, preserve or protect public access to coastal shoreland areas. The commissioner shall establish, amend or repeal rules of the department necessary to accomplish the purposes of this chapter.

2. Program guidelines. To accomplish the purposes of this chapter, the commissioner shall establish guidelines for the appropriate expenditure of money available in the fund. In establishing these guidelines, the commissioner shall consider, among other things:

A. Access to shoreline for shellfish and marine worm harvesters and for other economic purposes;

B. Public access to shoreline for scenic and recreational purposes;

C. The purchase of easements and property development rights;

D. The establishment and limited development of public access ways and areas; and

E. The ability of a municipality or state agency to manage shoreline access in a manner that is consistent with the natural carrying capacity of the area accessed and to provide adequate essential public services.

3. Coastal municipality participation. Notwithstanding any guidelines established pursuant to this

chapter, at least 50% of all revenue available from the fund shall be dispensed to municipalities located in the coastal area, as defined in Title 38, section 1802, for the acquisition or development of shoreline access areas. The amount granted to such a municipality pursuant to this section shall not exceed 50% of the total cost of the acquisition or development project.

4. Public access. All projects financed through this program shall be made equally open for use by all Maine citizens.

Effective July 16, 1986.

CHAPTER 795

H.P. 1680 - L.D. 2366

AN ACT Relating to Retirement Benefits for Confidential State Employees.

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

Sec. 1. PL 1981, c. 453, §12, sub-§7 is enacted to read:

7. A member, other than an elected or appointed official, who without choice was placed in confidential status with state-paid contributions to the retirement system and retiring after June 30, 1983, and before January 1, 1986, will receive a one-time permanent forward adjustment in retirement benefit as of January 1, 1986, to compensate for the difference in retirement benefits as a result of the pay differential which occurred at the time of change in status. This adjustment will be based upon the member's average final compensation at time of retirement. A member of this class retiring after January 1, 1986, may receive an adjustment in average final compensation based upon factors and a schedule approved by the board.

Sec. 2. Application. The June 30, 1983, to January 1, 1986, adjustment set out in section 1 shall be applied to average final compensation according to the following schedule: