

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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

J.S. McCarthy Company
Augusta, Maine
1995

Governor is required to confer with the Joint Standing Committee on Natural Resources pursuant to the Maine Revised Statutes, Title 38, section 585-E, the Joint Standing Committee on Natural Resources is authorized to report out a committee bill relating to the requirement for the installation of Stage II vapor recovery systems, if a majority of the committee votes to report out a bill.

Sec. 21. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 38, section 413, subsection 2-G applies retroactively to October 13, 1993. That section of this Act that enacts Title 38, section 488, subsection 16 applies retroactively to September 14, 1993. Those sections of this Act that amend Title 38, section 488, subsection 10 and enact Title 38, section 488, subsection 17 apply retroactively to any residential subdivision or amendment or revision to any residential subdivision approved by the Environmental Improvement Commission, the Commissioner of Environmental Protection, the Board of Environmental Protection, the Department of Environmental Protection, the Maine Land Use Regulation Commission or any municipal planning board on or after May 9, 1970.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective July 3, 1995.

CHAPTER 494

I.P. 3 - L.D. 717

An Act to Establish the Maine Outdoor Heritage Fund

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

Sec. 1. 2 MRSA §6, sub-§10 is enacted to read:

10. Range 80. The salaries of the following state officials and employees are within salary range 80:

Executive Director, Maine Outdoor Heritage Fund Board.

Sec. 2. 5 MRSA §942-A is enacted to read:

§942-A. Maine Outdoor Heritage Fund Board

The position of Executive Director is a major policy-influencing position within the Maine Outdoor Heritage Fund Board. Notwithstanding any other

provision of law, this position and its successor position are subject to this chapter.

Sec. 3. 5 MRSA §12004-G, sub-§29-B is enacted to read:

<u>29-B.</u>	<u>Maine</u>	<u>Legislative</u>	<u>12</u>
<u>Natural</u>	<u>Outdoor</u>	<u>Per Diem</u>	<u>MRSA</u>
<u>Resources</u>	<u>Heritage</u>	<u>and Travel</u>	<u>§7788</u>
	<u>Fund Board</u>	<u>Expenses for</u>	
		<u>Appointed</u>	
		<u>Members</u>	

Sec. 4. 8 MRSA §374, sub-§5 is enacted to read:

5. Wildlife lottery game. No later than January 30, 1996, the Maine State Lottery Commission, in consultation with the Maine Outdoor Heritage Fund Board, shall develop and initiate a wildlife lottery game designed to raise funds for the Maine Outdoor Heritage Fund established pursuant to Title 12, chapter 714. The Maine State Lottery Commission shall provide the net proceeds of this wildlife lottery game to the Maine Outdoor Heritage Fund annually. The Maine State Lottery Commission shall change the wildlife game ticket periodically throughout the year.

Sec. 5. 8 MRSA §387, sub-§1, as enacted by PL 1987, c. 505, §2, is amended to read:

1. Appropriation. The money in the State Lottery Fund ~~shall~~ may be appropriated only:

A. For the payment of prizes to the holders of winning lottery tickets or shares;

B. For the expense of the division in its operation of the lottery; ~~and~~

C. For payment to the General Fund; and

D. For payment to the Maine Outdoor Heritage Fund pursuant to Title 12, section 7782.

Sec. 6. 12 MRSA c. 714 is enacted to read:

CHAPTER 714

MAINE OUTDOOR HERITAGE FUND

§7781. Definitions

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

1. Acquisition. "Acquisition" means fee ownership, easement, lease, right-of-way and other less-than-fee interests in land.

2. Board. "Board" means the Maine Outdoor Heritage Fund Board.

3. Coordinator of the Natural Areas Program. "Coordinator of the Natural Areas Program" means the person appointed by the Commissioner of the Department of Economic and Community Development to be responsible for coordinating the Natural Areas Program.

4. Fund. "Fund" means the Maine Outdoor Heritage Fund.

5. Matching funds. "Matching funds" means any combination of public and private funds used in conjunction with the Maine Outdoor Heritage Fund for the purpose of this chapter, including, but not limited to, private contributions of cash or securities, money from municipal or other public agencies, money from a federal matching program, in-kind contributions or any combination thereof.

6. Natural resources agencies. "Natural resources agencies" means state agencies, bureaus, boards, commissions or other instrumentalities having jurisdiction over the protection of the State's natural resources.

7. Public-private partnership. "Public-private partnership" means any partnership between federal agencies, state agencies or individuals or any combination of federal agencies, state agencies or individuals, including corporations and private persons or organizations, where at least 1/3 of the funding is contributed by a nongovernmental organization or individual.

8. Wildlife. "Wildlife" means wild organisms, including vertebrate, invertebrate and plant species.

§7782. Fund established

There is established the Maine Outdoor Heritage Fund. The fund consists of revenues received pursuant to Title 8, section 387 and any funds received as contributions from private and public sources. The fund, to be accounted within the Department of Inland Fisheries and Wildlife, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year.

§7783. Purpose of fund

The fund is for the sole purpose of maintaining, improving and expanding state and local natural resource conservation programs and associated compatible public uses in accordance with the

strategic plan provided for by section 7788, subsection 5, paragraph A.

§7784. Relation to other funding

The fund supplements sources and levels of funding appropriated and allocated by the Legislature to natural resources agencies. It is the intent of this legislation that a grant received from the fund not be considered a substitute for funds previously appropriated or allocated to a natural resources agency.

§7785. Fund availability

The fund must be available to natural resources agencies in accordance with section 7787. Natural resources agencies may contract with nongovernmental organizations and individuals for the purpose of carrying out projects funded by the fund.

§7786. Fund administration

The Maine Outdoor Heritage Fund Board shall administer the fund.

§7787. Expenditures from the fund; distribution

The board shall make grants, applications for which must be reviewed in accordance with section 7789, to natural resources agencies for projects found consistent with the criteria and the strategic plan adopted by the board pursuant to section 7788, subsection 5, paragraph A. Except as provided in this chapter, the board shall distribute annually available grant money as follows:

1. Fisheries and wildlife; habitat conservation. Thirty-five percent of the money in the fund for fisheries and wildlife and habitat conservation projects;

2. Public lands and access; outdoor recreation sites and facilities. Thirty-five percent of the money in the fund for acquisition and management of public lands, parks, wildlife conservation areas and public access and outdoor recreation sites and facilities;

3. Endangered and threatened species. Fifteen percent of the money in the fund for endangered and threatened species conservation projects;

4. Natural resources law enforcement. Fifteen percent of the money in the fund for natural resources law enforcement; and

5. Money to be carried forward. The board is authorized to carry forward money in any of the percentage categories of this section into a successive year in the same category in the event that this carry-over better serves the strategic plan or that no grant applications in a particular year adhere to the strategic plan for a particular percentage category.

§7788. Maine Outdoor Heritage Fund Board

The board must be organized within the Department of Inland Fisheries and Wildlife and shall carry out its duties in accordance with this section.

1. Members. The board consists of 7 members. The Commissioner of Conservation, the Commissioner of Inland Fisheries and Wildlife and the Coordinator of the Natural Areas Program are permanent members and their designees may represent them at board meetings. The Governor shall appoint the remaining 4 citizen members subject to the review of the joint standing committee of the Legislature having jurisdiction over natural resource matters and confirmation by the Senate. One of these members must be a representative of a state sportsman's organization, one must be a representative of a state wildlife conservation organization and one must work in a field related to natural resources.

2. Terms. The Governor shall appoint citizen members to staggered 4-year terms. The initial appointments must be made in December 1995. The initial appointments are as follows: two 4-year terms; one 3-year term; and one 2-year term. Appointed citizens may not serve more than 2 consecutive 4-year terms.

3. Chair. The Governor shall appoint a citizen member of the board to serve as chair. The chair may not serve more than 2 consecutive 4-year terms.

4. Board meetings, rules and administration. The board shall conduct its meetings as follows.

A. The board shall meet at least 3 times a year at the call of the chair.

B. The board, acting in accordance with the Maine Administrative Procedure Act, may adopt any rules necessary for the conduct of its business. The board shall adopt by rule, no later than May 30, 1996, a schedule for submission and action on grant proposals submitted pursuant to subsection 5, paragraph B.

C. Appointed citizen members receive compensation equal to legislative per diem and travel expenses under Title 5, section 12004-G, subsection 29-B, while engaged in board activities.

D. A quorum of the board for the transaction of business is 4 members.

E. Board members are governed by the conflict of interest provisions in Title 5, section 18.

5. Board duties. The board has the following duties.

A. No later than September 1996, the board, in accordance with the rulemaking provisions of the Maine Administrative Procedure Act and in consultation with natural resources agencies, shall adopt a strategic plan for each of the funding categories listed in section 7787. The board may cooperate with other state or federal agencies in developing the plan or carrying out other duties under this chapter. The strategic plan must identify the priority areas for funding for 6 years using the criteria listed in section 7789. The board may amend the strategic plan.

B. The board shall review and award annually funding requests for specific projects from natural resources agencies. The board may award grants only to proposals that conform to the strategic plan adopted pursuant to paragraph A. Grant proposals that establish a public-private partnership are encouraged. Grant proposals must include a stated purpose, timeline, potential outcomes, a budget and an explanation of need.

C. The board shall submit an annual report to the Governor and the joint standing committees of the Legislature having jurisdiction over energy and natural resource matters and inland fisheries and wildlife matters. In the annual report, the board shall detail expenditures made from the fund and the board's progress in implementing the strategic plan. The first report must be submitted in 1996.

D. Responsibility for administration of the board lies with the chair. The board shall hire an executive director no later than February 1996. The executive director may hire an additional staff person, if the board determines it necessary. The executive director shall direct the daily operations of the board. Staff positions may be part-time. The executive director position is unclassified and the executive director serves at the pleasure of the board. The board shall prepare and adopt an annual budget to be included with the report required under paragraph C. The board may obtain the services of consultants as necessary to carry out its duties under this chapter. The board may spend money to cover administrative costs. The board shall endeavor to keep the level of administrative expenses as low as practicable and include, in its annual report, discussion of efforts to minimize administrative expenses. State natural resources agencies shall provide staff support and assistance as determined necessary by the board.

§7789. Fund distribution criteria for strategic plan and grants

In developing the strategic plan provided for by section 7788, subsection 5, paragraph A and reviewing and awarding grant proposals submitted pursuant to section 7788, subsection 5, paragraph B, the board shall consider whether a project involves:

1. Fisheries and wildlife and habitat conservation. For the category of fisheries and wildlife and habitat conservation:

- A. A species or species group adversely affected due to lack of management or habitat loss;
- B. A species or species group that is adversely affected due to unusual vulnerability to man-made disturbances and requirements for a special or limited habitat type;
- C. Measurable benefits vital to the future welfare of a species or species group; and
- D. Available matching funds;

2. Acquisition and management of public lands, parks, wildlife conservation areas, and public access and outdoor recreation sites and facilities. For the category of acquisition and management of public lands, parks, wildlife conservation areas, and public access and outdoor recreation sites and facilities:

- A. Public recreation opportunities of statewide or regional significance;
- B. Fish or wildlife habitat of statewide or regional significance;
- C. Habitat of a threatened or endangered species listed under state or federal law;
- D. Rare or exemplary natural communities or ecosystems as determined by the State's Natural Areas Program database;
- E. Lands or areas providing for public recreation opportunities of statewide or regional significance;
- F. Rare or exemplary geological features;
- G. Areas with proximity to lands dedicated to conservation purposes or public recreation or with access to lands or waters with significant natural resource values; and
- H. Available matching funds;

3. Conservation of endangered and threatened species and their habitats. For the category of

conservation of endangered and threatened species and their habitats:

- A. A species or species group listed as endangered or threatened under state or federal law;
- B. The habitat of one or more species or groups under paragraph A;
- C. A species or species group not listed as threatened or endangered but, based on the best available scientific information, potentially warranting listing in the near future;
- D. A species, group of species, natural community or ecosystem that has been documented as being in decline or recognized as being at risk of extirpation from the State;
- E. Any species, group of species, natural community or ecosystem thought in the best professional judgment of biologists to be in decline or in danger of extirpation from the State but whose status is undetermined; and
- F. Available matching funds; and

4. Natural resources law enforcement. For the category of game wardens and other conservation law enforcement:

- A. A species or species group adversely affected due to lack of management or habitat loss;
- B. Public health or safety concerns of statewide or regional significance;
- C. Environmental education for the public or law enforcement personnel;
- D. Cross-training between natural resources state agencies; and
- E. Available matching funds.

The criteria in this section are not listed in order of priority. A grant applicant must indicate in the proposal the subsection under which the board should evaluate the proposals.

See title page for effective date.

CHAPTER 495

S.P. 304 - L.D. 843

**An Act to Amend the Loring
Development Authority Law**

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