

MAINE STATE LEGISLATURE

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STATE OF MAINE
 ONE HUNDRED AND SIXTEENTH LEGISLATURE
 COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

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January 26, 1994

Judy A. Paradis, Senate Chair
 Robert J. Tardy, House Chair
 Joint Standing Committee on Agriculture
 State House Station #115
 Augusta, Maine 04333

Dear Senator Paradis and Representative Tardy:

Public Laws of 1993, chapter 413, section 5, called for six of the "commodity" agencies of State Government to "... conduct studies of their respective organizations that examine alternative models of organizing their functions in a way so as to maximize services to the populations each organization serves." That legislation went on to require each of the six agencies to report to the Joint Standing Committee on Appropriations and Financial Affairs "... no later than January 4, 1994, with their findings and recommendations, including any draft legislation." A copy of PL 1993, c. 413 is enclosed for your review.

On January 20, 1994, the Appropriations Committee met with the six commodity agencies to review their reports and discuss whatever legislation might be needed. At the conclusion of that meeting, a motion was made, and accepted, that the reports and any proposed legislation, be referred to your committee for its review and action. The Appropriations Committee members believe committee recommendations to the Second Regular Session of the 116th Legislature are more properly the responsibility of the Joint Standing Committee on Agriculture.

Enclosed for your review are the reports from the Maine Blueberry Commission, the Maine Potato Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council. In the near future two bills will be printed that would implement the recommendations in those reports requesting legislative changes to their current enabling legislation. The first bill will involve minor changes requested by the Maine Potato Board. The second bill will involve the changes requested by both the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council. It is our understanding the Maine Blueberry Commission is not seeking legislative changes at this time.

We will work to ensure that these bills are referred to your Committee. In the meantime, please contact us if you have any questions concerning this request or need additional information. Thank you for your attention to this matter.

Sincerely,

Michael D. Pearson

Michael D. Pearson
Senate Chair

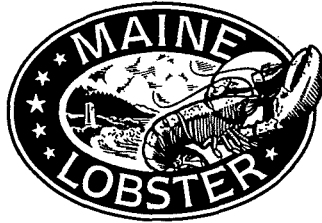
Lorraine N. Chonko

Lorraine N. Chonko
House Chair

Enclosure

cc: Members, Joint Standing Committee on Agriculture
Members, Joint Standing Committee on Appropriations and Financial Affairs
Edward J. McLaughlin, Executive Director, Maine Blueberry Commission
David R. Lavway, Executive Director, Maine Potato Board
Grace Additon, Director, Maine Dairy Promotion Board & Dairy & Nutrition Council
Deb Friedman, OPLA ✓

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THE WORLD'S
FINEST LOBSTER
COMES FROM MAINE™

MEMORANDUM

To: Joint Standing Committee on Appropriations) and Financial
Affairs
From: Susan Barber, Executive Director *Susan*
Date: January 4, 1994
Re: Commodity Task Force - Report of the Maine Lobster
Promotion Council

As directed by P.L. 93 Chapter 413, the Maine Lobster Promotion Council submits this report concerning organizational changes. The purpose of the proposed changes is to allow the Maine Lobster Promotion Council to operate more efficiently and effectively, and to maximize the services of the Maine Lobster Promotion Council to the lobster industry of Maine. The content of this report has been reviewed and approved by the members of the Maine Lobster Promotion Council. Recommended organizational changes are included within the report.

The Maine Lobster Promotion Council requests and recommends that it be designated as a public instrumentality of the State of Maine as of July 1, 1994. The designation "instrumentality" has existed in Maine State Government since 1969. Other agencies designated as instrumentalities include the Maine State Housing Authority, Maine Turnpike Authority, Maine Technical College System, Maine Veterans' Homes, the Finance Authority of Maine, and the Maine State Retirement System.

The Council is seeking ways to streamline its operations and maximize services to the lobster industry. As a dedicated revenue account, and with a limited budget, this status would provide the MLPC with greater flexibility in its operations. In some circumstances, the contractual requirements of the Maine State Government have proved more costly/time-consuming than private sector purchases would have been.

As an instrumentality of the State, the Council requests/recommends the authority to continue to access state services currently available to it and other instrumentalities such as the ability to:



MAINE LOBSTER PROMOTION COUNCIL

382 Harlow Street ★ Bangor, ME 04401 ★ (207) 947-2966 ★ FAX (207) 947-3191

- * purchase insurance from the Department of Administrative and Financial Services's Risk Management Division;
- * purchase telecommunications use by the Bureau of Information Service's Telecommunications Division;
- * lease or purchase office equipment, automobiles, and other items from state contracts;
- * utilize gasoline credit cards and vehicles from Central Fleet Management;
- * purchase State postal services for mass mailings

The Council also requests that the following elements be included in the statute that establishes the MLPC as an instrumentality:

* Carry an emergency preamble so that the Maine Lobster Promotion Council is provided with a transition period for the transfer of functions and property of the prior agency to the new instrumentality in order to complete the details of this law.

* The Council shall establish policies and make decisions on matters pertaining to the administration and operations of the MLPC as an instrumentality, including personnel and payroll, accounting and financial matters, acquisition and disposition of capital assets. The Council may delegate these duties and responsibilities as it considers appropriate.

* Clarify that the assessments on lobster licenses will continue to be collected by the Department of Marine Resources. The Council has already purchased the DMR licensing data base to accomodate the LPC fees.

* Clarify that the Lobster Promotion Council's dedicated tax revenue will be transferred to the Council on a monthly basis and that the Council's fund will continue to be a non-lapsing one. Any unexpended balance in the fund on July 1, 1994 must be transferred to the Council as an instrumentality. Interest earned on the Council funds are accrued to the fund. The Council should be authorized to receive, invest, and utilize this fund to carry out its duties. The Council's Executive Director should be required to utilize an independent private auditor to monitor the fund on an annual basis.

* Clarify that the Council may receive and accept from any source allocations, appropriations, loans, grants, and contributions of money or other things of value to be held, used or applied to carry out this chapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to , appropriations, allocations, loans, grants or gifts from any federal agency or governmental subdivision of the State or its agencies.

* Clarify that the Lobster Promotion Council is no longer subject to budget and purchasing laws of the state. Members of the Maine Lobster Promotion Council and its Executive Director (except in the case of the Executive Director's own employment) are authorized to make decisions affecting expenditures from the fund.

* Clarify that the Council shall retain its tax-exempt status.

* Clarify that Council appointments should remain the same to ensure objectivity in appointments, but change quorum from 5 to 4 members. Existing appointments are made by the Commissioner of Marine Resources, after nominations by industry's Lobster Advisory Council are submitted. No vacancy in the membership of the Council may impair the right of the quorum to exercise its powers and duties.

* Clarify that the Council will maintain an office at a place designated by it within the State of Maine. Operation of its administrative office must be consistent with the health and safety requirements of the Bureau of General Services.

* Clarify that the State Seal may be used for Council purposes such as promotion of the product.

* Clarify that the Council may hire private legal counsel.

* Clarify that under P.L. 93, Chapter 282, Council employees serve at the pleasure of the Council. They are not state employees and are not subject to the provisions of Title 5, chapters 71 and 372 or Title 5, Part 20. Salary and benefits for employees of the Council are determined by the Council. For the purposes of the Maine Tort Claims Act, the Council is a governmental entity and its employees are employees as those terms are defined in Title 14, Section 8102. Currently, the MLPC carries employee benefits purchased through the private sector. The Council retains the right to compare the cost of its benefit program to those of a "participating local district" to seek the most cost-effective benefits program. The Council could elect to become a PLD should we determine it is in the best interest of the Council.

* Clarify that the assets of the Council purchased by the Council as a state agency be transferred to the new public instrumentality. All of these purchases have been made solely from industry-derived dedicated revenue. Council members would be given the specific authority to disperse of these assets as they may direct.

* Carry an emergency preamble, putting this act into effect on July 1, 1994.

The fiscal impact of the proposed Maine Lobster Promotion Council legislative changes will amount to 2.9% loss of stacap to the general fund. However, since the Council will be responsible for carrying out its own administrative services, the State will no longer be responsible for these services. The impact of this change will result in a monthly loss of less than \$600 to the general fund.

Please feel free to call me if I can provide additional information regarding this report.

cc: Representative Jim Mitchell
Senator Harry Vose
Representative Bob Tardy
Jim Clair
Pat Norton
MLPC Members
Commodity Task Force Members