

## STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND THIRTEEN

## S.P. 332 - L.D. 987

**An Act To Amend the Procedures Used To Identify and Select Appointees to the Maine Land Use Planning Commission and To Make Other Technical Changes to the Agriculture, Conservation and Forestry Laws**

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

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

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

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

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

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

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

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

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

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

**2. Appointment of members representing a county.** One member must be ~~nominated~~ appointed by each of the 8 counties with the most acreage in the unorganized or deorganized areas subject to the jurisdiction of the commission. The board of county commissioners of ~~of~~ for each of the counties shall ~~nominate~~ appoint by majority vote a resident of that county to serve as a member of the commission. A county commissioner ~~nominated~~ who is a candidate for appointment to serve on the commission may not vote on that ~~nomination~~ appointment. In making ~~nominations~~ the appointment, the board of county commissioners shall actively seek and give consideration to persons residing in or near the unorganized or deorganized areas within the county. The board of county commissioners shall advertise the position in the same manner as the county advertises personnel positions. The board of county commissioners shall accept written or electronic applications from candidates, conduct interviews with candidates as determined by the board and select from among those candidates an appointee.

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

- A. Reside in the commission's jurisdiction;
- B. Work in the commission's jurisdiction; or

C. Be a former resident or be retired after having worked for a minimum of 5 years within the commission's jurisdiction.

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

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

**3. Eligibility.** A state employee may not be appointed to or serve as a member of the commission. A ~~county commissioner~~, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the commission. If a county or municipality is a participant in an adjudicatory proceeding before the commission, ~~a commissioner~~, an official or employee from that county or municipality may not participate in that proceeding as a member of the commission. An incumbent county commissioner appointed to serve on the commission may not serve simultaneously as a county commissioner and a member of the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**1. Regulation.** In accordance with section 685-A, subsection 14, beginning November 1, 2012, the director of the division shall administer and enforce the regulation of construction, maintenance and repair of land management roads, water crossings by

land management roads and gravel pits of less than 5 acres in areas designated as protection districts and management districts by the commission.

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

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

1. Lands in the Rachel Carson National Wildlife Refuge managed by the United States Fish and Wildlife Service;
2. Land purchased or acquired for a state park managed by the Department of Agriculture, Conservation and Forestry;
3. Submerged tidal lands managed by the Department of Agriculture, Conservation and Forestry;
4. Land purchased by the Town of Wells or the State;
5. Land donated by the Town of Wells to the Department of Agriculture, Conservation and Forestry as a conservation easement; and
6. Other lands or interests in land in the location described in this section acquired by the reserve from willing sellers or added to the reserve by agreement for the purpose of 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 repealed.

**Sec. 14. P&SL 1989, c. 108, §6, sub-§5-A** is enacted to read:

5-A. Within 6 months after the close of its fiscal year, the authority shall provide a copy of its financial statements, audited by an independent auditor selected by the authority, to the Commissioner of Agriculture, Conservation and Forestry and any other state agency that requests them. The audited financial statements must comply with federal Office of Management and Budget requirements.

**Sec. 15. 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. 16. 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. 17. 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.