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No. 1579

S.P. 509

In Senate, May 24, 2011

An Act To Amend the Lobster Promotion Council

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

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator SNOWE-MELLO of Androscoggin. (GOVERNOR'S BILL)

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

2 **Sec. 1. 12 MRSA §6455, sub-§1**, as enacted by PL 1991, c. 523, §2, is repealed
3 and the following enacted in its place:

4 **1. Council established; purpose.** The Lobster Promotion Council, established in
5 Title 5, section 12004-H, subsection 14 and referred to in this subchapter as "the council,"
6 is created to promote and market actively Maine lobsters in state, regional, national and
7 international markets. The council shall draw upon the expertise of the Maine lobster
8 industry; state, regional, national and international seafood organizations; established
9 private marketing and promotional organizations; and persons experienced in marketing,
10 promotion or international trade to identify market areas and pursue initiatives that will
11 provide the greatest return on the investments made by lobster license and permit holders
12 and undertake those media, marketing, promotional or other efforts, including market-
13 opening initiatives, that represent the most cost-effective use of a limited promotional
14 budget. The council shall remain responsive to the Maine lobster industry, conduct its
15 business in a public manner and undertake marketing, promotional and associated efforts
16 that promote the quality and full utilization of the product and the unique character of the
17 coastal Maine lobster fishery.

18 The council consists of 9 voting members appointed as follows:

19 A. At least 2 district members, appointed as follows:

20 (1) At least one member representing the western district of the State, consisting
21 of all lands located between the Piscataqua River and the Penobscot River,
22 meeting the qualifications in subsection 2, paragraph A;

23 (2) At least one member representing the eastern district of the State, consisting
24 of all lands located between the Penobscot River and the St. Croix River, meeting
25 the qualifications in subsection 2, paragraph A; and

26 B. Up to 7 public members meeting the qualifications in subsection 2, paragraph D.

27 All members are appointed by the commissioner for terms of 3 years. A person
28 appointed pursuant to paragraph A may not serve more than 2 consecutive 3-year terms
29 as a member of the council. By majority vote, the council shall annually elect a chair
30 from among its members. The commissioner serves as an ex officio member and may
31 vote only to break a tie.

32 **Sec. 2. 12 MRSA §6455, sub-§2**, as amended by PL 1993, c. 545, §2, is repealed
33 and the following enacted in its place:

34 **2. Qualifications of members.** Members must meet the following criteria:

35 A. At least one member appointed pursuant to subsection 1, paragraph A,
36 subparagraph (1) and at least one member appointed pursuant to subsection 1,
37 paragraph A, subparagraph (2) must be a person who is a commercial lobster
38 harvester and who holds a valid lobster and crab fishing license or a person who
39 holds or is the manager of, or an officer in, a business entity in the State that holds a
40 valid wholesale shellfish license, a lobster transport license or a wholesale seafood

1 license with lobster permits or who is a representative of an organization of any such
2 license holders; and

3 D. Up to 7 members must be persons who have professional knowledge or
4 experience in the food industry; the trade, promotional or marketing fields on a state,
5 national or international level, including in international trade and bilateral and
6 multilateral trading rules and agreements; or other disciplines as the commissioner
7 determines may assist in the advancement of the council's objectives and initiatives.

8 **Sec. 3. 12 MRSA §6455, sub-§3**, as amended by PL 1993, c. 545, §2, is further
9 amended to read:

10 **3. Meetings.** The council shall meet at least quarterly. A quorum of 5 members is
11 required to conduct the business of the council. Additional meetings may be called by the
12 chair. If 3 or more members of the council submit to the chair a written request for a
13 meeting, the chair shall call a meeting to be held no sooner than 14 days after receipt of
14 the written request. The commissioner may remove ~~any a~~ member ~~with unexcused~~
15 ~~absences~~ for cause, in the event of a member's violation of any marine resources law or
16 department rule or for absence from 2 or more consecutive meetings of the council.

17 **Sec. 4. 12 MRSA §6455, sub-§3-A**, as amended by PL 1997, c. 211, §1, is
18 further amended to read:

19 **3-A. Employees.** The council shall hire ~~a full-time~~ an executive director and may
20 hire staff as needed to perform its duties. Employees of the Lobster Promotion Council
21 serve at the pleasure of the council. The salary and benefits for employees of the council
22 are determined by the council.

23 **Sec. 5. 12 MRSA §6455, sub-§4**, as amended by PL 1997, c. 211, §2, is further
24 amended to read:

25 **4. Powers and duties.** The council may:

26 A. Undertake promotional marketing programs in cooperation with the lobster
27 industry;

28 B. ~~Promote~~ Identify, promote and pursue national and international markets ~~for~~ and
29 market-opening initiatives for and the removal of impediments to the sale, marketing
30 or promotion of lobsters harvested or processed in the State;

31 C. Provide material and technical assistance to persons seeking to market lobsters
32 harvested or processed in the State;

33 D. Conduct other efforts as determined necessary and prudent to increase the sales of
34 lobsters harvested or processed in the State;

35 D-1. Market and sell goods directly related to the functions of the council and
36 deposit all proceeds in the Lobster Promotion Fund;

37 E. Make expenditures from the Lobster Promotion Fund to carry out the purposes of
38 this subchapter. Money in the fund may be used only for the following purposes:

1 (1) Promotion, advertising and marketing development. The council may
2 implement programs and activities to promote, advertise and develop markets for
3 lobster and make or enter into contracts with any local, state, federal or private
4 agency, department, firm, corporation, entity or person for those purposes; ~~and~~

5 (2) The hiring of staff and the payment of compensation for employees, payment
6 of per diem and reimbursement of expenses for members pursuant to Title 5,
7 section 12004-H and payment of administrative and overhead costs associated
8 with the business of the council; and

9 (3) Identification, promotion and pursuit of market-opening initiatives and
10 initiatives designed to remove impediments to the sale, marketing or promotion
11 of lobsters harvested in the State, including cooperation with state and federal
12 government trade and trade promotion agencies; and

13 F. Accept and deposit in the fund additional funding from any source, public or
14 private.

15 **Sec. 6. 12 MRSA §6455, sub-§6**, as enacted by PL 1991, c. 523, §2, is amended
16 to read:

17 **6. Report.** By February 15th of each year, the council shall report to the joint
18 standing committees of the Legislature having jurisdiction over financial affairs and
19 marine resource matters and to the Lobster Advisory Council on the programs undertaken
20 pursuant to this subchapter, expenditures from the fund and balances in all accounts in the
21 fund.

22 **Sec. 7. Members; appointment; staggered terms.** Notwithstanding the Maine
23 Revised Statutes, Title 12, section 6455, subsection 1, for the initial appointments to the
24 Lobster Promotion Council pursuant to this Act, the Commissioner of Marine Resources
25 shall, following consultation with persons in the Maine lobster industry and assessment of
26 council's short-term and long-term objectives, appoint one member in either the western
27 district or the eastern district and 2 other members for an initial term of one year, one
28 member in either the western district or the eastern district and 2 other members for an
29 initial term of 2 years and 3 members for an initial term of 3 years. The terms of the
30 members of the council that are in effect on the effective date of this Act expire on the
31 effective date of this Act. The Commissioner of Marine Resources shall appoint 9
32 members to the council within 90 days after the effective date of this Act.

33 SUMMARY

34 This bill revises the structure of the Lobster Promotion Council.

35 1. Current law requires that the council consist of 3 members from each of the
36 defined districts of the State: the western district, the midcoast district and the eastern
37 district. Current law also requires 3 members to be full-time lobster harvesters who have
38 held valid lobster and crab fishing licenses, 3 members to be lobster dealers or pound
39 operators and 3 members to be public members. This bill instead requires the
40 appointment of at least one member who represents the western district of the State, at
41 least one member who represents the eastern district of the State and up to 7 public

1 members who have professional knowledge or experience in trade, promotion or
2 marketing or other disciplines that the Commissioner of Marine Resources determines
3 would assist in the advancement of the council's objectives. This bill also revises the area
4 that is defined as the western district.

5 2. It authorizes the commissioner to remove a member for cause or for the violation
6 of a marine resources law or Department of Marine Resources rule.

7 3. It authorizes the commissioner to vote in case of a tie vote on the council.

8 4. It requires the council to draw upon the expertise of industries, organizations and
9 persons experienced in marketing and promotion and expands the council's purposes to
10 specifically include identification and promotion of initiatives for the marketing and
11 promotion of lobsters harvested or processed in the State.

12 5. It provides that the terms of the members currently serving on the Lobster
13 Promotion Council expire and directs the commissioner to appoint 9 members to the
14 council within 90 days after the effective date of this bill.