



132nd MAINE LEGISLATURE

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Legislative Document

No. 383

S.P. 149

In Senate, February 4, 2025

**An Act to Facilitate the Consolidation of the Department of
Environmental Protection and the Maine Land Use Planning
Commission into a Single Combined Entity**

Reference to the Committee on Housing and Economic Development suggested and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant".

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MARTIN of Oxford.
Cosponsored by Representative MORRIS of Turner and
Senator: CYRWAY of Kennebec, Representatives: HENDERSON of Rumford, LANCE of
Paris, SOBOLESKI of Phillips, WOOD of Norway.

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

2 **Sec. 1. 5 MRSA §935, sub-§1, ¶E**, as enacted by PL 1983, c. 729, §4 and amended
3 by PL 2011, c. 682, §38, is repealed.

4 **Sec. 2. 5 MRSA §938, sub-§1-A, ¶H**, as amended by PL 2015, c. 267, Pt. III, §3,
5 is further amended to read:

6 H. Director, Bureau of Water Quality; ~~and~~

7 **Sec. 3. 5 MRSA §938, sub-§1-A, ¶I**, as enacted by PL 2015, c. 267, Pt. III, §4, is
8 amended to read:

9 I. Director, Bureau of Land Resources; ~~and~~

10 **Sec. 4. 5 MRSA §938, sub-§1-A, ¶J** is enacted to read:

11 J. Executive Director, Maine Land Use Planning Commission.

12 **Sec. 5. 12 MRSA §683-A, first ¶**, as amended by PL 2013, c. 256, §3, is further
13 amended to read:

14 The Maine Land Use Planning Commission, as established by Title 5, section 12004-D,
15 subsection 1-A to carry out the purposes stated in section 681, is created within the
16 Department of ~~Agriculture, Conservation and Forestry~~ Environmental Protection and in
17 this chapter called "the commission." The commission is charged with implementing this
18 chapter. The commission consists of 9 members, appointed in accordance with subsections
19 1 and 2. All appointments under this section are subject to review by the joint standing
20 committee of the Legislature having jurisdiction over ~~conservation~~ environment and
21 natural resources matters and to confirmation by the Senate.

22 **Sec. 6. 12 MRSA §685, first ¶**, as amended by PL 2011, c. 657, Pt. W, §6 and c.
23 682, §9, is further amended to read:

24 The Commissioner of ~~Agriculture, Conservation and Forestry~~ Environmental
25 Protection shall prepare a biennial budget and shall submit to the Legislature requests for
26 appropriations sufficient to carry out its assigned tasks. The commission may accept
27 contributions of any type from any source to assist it in carrying out its assigned tasks, and
28 make such requirements in respect to the administration of such funds, not inconsistent
29 with this subchapter, as are required as conditions precedent to receiving such funds,
30 federal or otherwise. The commission shall give public notice of all contributions, in the
31 state paper, stating the source, the amount and the purpose of such contributions. The
32 commission may contract with municipal, county, state and federal governments or their
33 agencies to assist in the carrying out of any of its assigned tasks. The Commissioner of
34 ~~Agriculture, Conservation and Forestry~~ Environmental Protection, with the consent of a
35 majority of the commission, shall appoint a director who is the principal administrative,
36 operational and executive employee of the commission. The director shall attend all
37 meetings of the commission and is permitted to participate fully but is not a voting member
38 of the commission.

39 **Sec. 7. 12 MRSA §685-C, sub-§1, ¶A**, as amended by PL 2021, c. 676, Pt. A,
40 §§23 and 24, is further amended by amending subparagraph (2) to read:

1 (2) Submitting the tentative plan to the Department of ~~Agriculture, Conservation~~
2 ~~and Forestry, Bureau of Resource Information and Land Use Planning, as~~
3 ~~described in Title 7-A, section 206, subsection 4, or its successor~~ Environmental
4 Protection, which shall forward its comments and recommendations, if any, to the
5 commission within 30 days;

6 **Sec. 8. 12 MRSA §685-C, sub-§1, ¶A**, as amended by PL 2021, c. 676, Pt. A,
7 §§23 and 24, is further amended by amending subparagraph (4) to read:

8 (4) Submitting the tentative plan to the joint standing committee of the Legislature
9 having jurisdiction over ~~conservation~~ environment and natural resources matters
10 and the committee reviewing the plan at a public meeting. The commission shall
11 brief the committee on any anticipated changes to land use districts and subdistricts
12 based on revisions in the comprehensive land use plan and a projected timetable
13 for rulemaking to adopt these changes.

14 **Sec. 9. 12 MRSA §685-C, sub-§1, ¶B-1**, as enacted by PL 2013, c. 405, Pt. B, §2,
15 is amended to read:

16 B-1. After the commission has finalized a plan or a portion of a plan, but prior to
17 adoption, the commission shall provide a copy to the Commissioner of ~~Agriculture,~~
18 ~~Conservation and Forestry~~ Environmental Protection, who shall submit the finalized
19 plan or a portion of the plan to the Governor for comments. The commissioner shall
20 submit the finalized plan or a portion of the plan including the Governor's comments
21 to the Legislature within 30 days after the convening of the next regular session for
22 approval. The Legislature shall, by act or resolve, approve, disapprove or require
23 changes to the plan or any portion of the plan prior to adjournment. If the plan or a
24 portion of the plan is approved or the Legislature fails to act on the plan or a portion of
25 the plan before adjournment, the plan or a portion of the plan may be finally adopted
26 by the commission. If the plan or a portion of the plan is disapproved or revisions are
27 required, the plan or a portion of the plan must be revised by the commission and
28 resubmitted to the Legislature for approval by act or resolve. The joint standing
29 committee of the Legislature having jurisdiction over ~~conservation~~ environment and
30 natural resources matters may submit legislation to implement the provisions of this
31 paragraph.

32 **Sec. 10. 12 MRSA §685-G, sub-§3**, as amended by PL 2009, c. 213, Pt. HHHH,
33 §1, is further amended to read:

34 **3. Report.** By January 15, 2009 and annually thereafter, the commission shall report
35 to the joint standing committees of the Legislature having jurisdiction over ~~conservation~~
36 environment and natural resources matters and taxation matters regarding commission
37 funding and other financial matters. The report must cover the 5 previous fiscal years and
38 must identify General Fund appropriations and other resources, amounts assessed and
39 collected from the assessments required under this section and former section 685-E and
40 amounts assessed and collected from other fees and penalties assessed under this chapter.
41 Beginning in January 2010, the report must include an accounting of the permitting fees
42 and administrative penalties collected that segregates the amounts collected from the
43 unorganized territories from the amounts collected from the towns and plantations and must
44 include recommendations to adjust the fees for the unorganized territories and for towns
45 and plantations based on the amounts collected for permitting fees and administrative

1 penalties from each of these entities. The joint standing committees of the Legislature
2 having jurisdiction over ~~conservation~~ environment and natural resources matters and
3 taxation matters shall jointly review the distribution of funding and other assessments
4 among the General Fund, unorganized territories and towns and plantations under the
5 commission's jurisdiction and may submit legislation considered necessary as a result of
6 the commission's report to the First Regular Session of the 124th Legislature.

7 **Sec. 11. 12 MRSA §685-H, sub-§1**, as enacted by PL 2011, c. 682, §24, is amended
8 to read:

9 **1. Report due.** By January 15, 2013 and by January 15th annually thereafter, the
10 commission shall report to the joint standing committee of the Legislature having
11 jurisdiction over ~~conservation~~ environment and natural resources matters regarding the
12 commission's performance under this subchapter for the previous year and goals for the
13 coming year.

14 **Sec. 12. 12 MRSA §685-H, sub-§3**, as enacted by PL 2011, c. 682, §24, is amended
15 to read:

16 **3. Public meeting.** The chair of the commission shall present the annual performance
17 report to the joint standing committee of the Legislature having jurisdiction over
18 ~~conservation~~ environment and natural resources matters at a meeting of that committee.
19 The committee shall give the public an opportunity to comment on the performance report
20 at this meeting.

21 **Sec. 13. 12 MRSA §5011, sub-§4**, as amended by PL 1993, c. 685, Pt. B, §1, is
22 further amended to read:

23 **4. Mining bureau.** Maine Mining Bureau; and

24 **Sec. 14. 12 MRSA §5011, sub-§6**, as amended by PL 1993, c. 685, Pt. B, §1, is
25 further amended to read:

26 **6. Allagash waterway.** Allagash Wilderness Waterway; ~~and~~

27 **Sec. 15. 12 MRSA §5011, sub-§7**, as amended by PL 1993, c. 685, Pt. B, §1 and
28 PL 2011, c. 682, §38, is repealed.

29 **Sec. 16. 12 MRSA §5012, 3rd ¶**, as amended by PL 2009, c. 213, Pt. L, §3 and PL
30 2011, c. 657, Pt. W, §7 and c. 682, §38, is further amended to read:

31 The deputy commissioner and division heads serve at the pleasure of the commissioner;
32 ~~except that dismissal of the Executive Director of the Maine Land Use Planning~~
33 ~~Commission requires the consent of a majority of the members of that commission.~~

34 **Sec. 17. 12 MRSA §5013, first ¶**, as enacted by PL 1973, c. 460, §16 and amended
35 by PL 2011, c. 657, Pt. W, §§5 and 7 and c. 682, §38, is further amended to read:

36 The Department of Agriculture, Conservation and Forestry ~~shall be~~ is composed of ~~the~~
37 ~~Maine Land Use Planning Commission~~ and the following divisions:

38 **Sec. 18. 12 MRSA §5013, sub-§1**, as amended by PL 1983, c. 812, §80 and PL
39 2011, c. 682, §38, is repealed.

40 **Sec. 19. 38 MRSA §342, sub-§4, ¶C** is enacted to read:

1 C. The Maine Land Use Planning Commission as established by Title 5, chapter 379
2 is incorporated into the department under the direction and supervision of a director
3 who must be qualified by experience in land use planning and administration. The
4 director must be appointed by the commissioner, with the consent of a majority of the
5 members of the commission, for a term coterminous with the commissioner, subject to
6 removal for cause by the commissioner with the approval of the Governor and the
7 consent of a majority of the members of the commission.

8 **Sec. 20. 38 MRSA §480-Q, sub-§5-A, ¶G,** as amended by PL 2013, c. 536, §2,
9 is further amended by amending subparagraph (1) to read:

10 (1) Waters closed to motorized recreational gold prospecting in the unorganized
11 territories identified in rules adopted by the ~~Department of Agriculture,~~
12 ~~Conservation and Forestry,~~ Maine Land Use Planning Commission;

13 **Sec. 21. Transition provisions.** The following provisions govern the transition of
14 the Maine Land Use Planning Commission from the Department of Agriculture,
15 Conservation and Forestry to the Department of Environmental Protection.

16 1. The members of the Maine Land Use Planning Commission serving on the effective
17 date of this Act continue as members of the Maine Land Use Planning Commission until
18 the expiration of their terms under the Maine Revised Statutes, Title 12, section 683-A,
19 subsection 4.

20 2. All existing rules, regulations and procedures in effect, in operation or adopted in
21 or by the Maine Land Use Planning Commission or any of its administrative units or
22 officers and all permits, approvals and decisions of the Maine Land Use Planning
23 Commission are hereby declared in effect and continue in effect until rescinded, revised or
24 amended by the proper authority.

25 3. All existing contracts, agreements and compacts currently in effect involving the
26 Maine Land Use Planning Commission continue in effect.

27 4. Any positions authorized and allocated subject to the personnel laws of the Maine
28 Land Use Planning Commission may continue to be authorized.

29 5. All records, property and equipment previously belonging to or allocated for the use
30 of the Maine Land Use Planning Commission remain the records, property and equipment
31 of the Maine Land Use Planning Commission.

32 6. All existing forms, licenses, permits, letterheads and similar items bearing the name
33 of or referring to the "Maine Land Use Planning Commission" may continue to be used by
34 the Maine Land Use Planning Commission.

35 **Sec. 22. Department of Environmental Protection; recommendations**
36 **regarding consolidation with Maine Land Use Planning Commission.** In
37 consultation with the Maine Land Use Planning Commission, referred to in this section as
38 "the commission," and the Department of Agriculture, Conservation and Forestry, the
39 Department of Environmental Protection, referred to in this section as "the department,"
40 shall evaluate and develop recommendations regarding the consolidation of the department
41 and the commission into a single combined entity, to be known as the Maine Environmental
42 and Land Use Commission and referred to in this section as "the combined entity." The
43 evaluation and recommendations must include but are not limited to the following.

1 1. A timeline for completion of the consolidation process, designed to ensure
2 consolidation of the department and the commission into the combined entity not later than
3 July 1, 2028;

4 2. Evaluation of the short-term and long-term costs and savings anticipated as a result
5 of the consolidation process and identification of other fiscal considerations associated with
6 consolidation;

7 3. Methods for ensuring that the combined entity is designed to prioritize landowner
8 rights, ensuring that private landowners are empowered to make use of their property
9 subject to reasonable, well-established rules for the protection of the environment. The
10 activities of the combined entity and its adopted rules must ensure sustainable land use
11 development practices and not unduly or arbitrarily restrict landowner property use except
12 as necessary to protect public health, safety and the environment;

13 4. Methods for ensuring the routine review of existing rules to identify and remove
14 outdated, overly complex and unnecessary provisions that are determined by the combined
15 entity to impede reasonable land use;

16 5. Provisions for establishing a landowner rights advisory board within the combined
17 entity to ensure that the operation of the combined entity and the rules adopted and enforced
18 by the combined entity are designed to uphold and protect the rights of landowners. The
19 advisory board must conduct an annual review of the combined entity to ensure that it is
20 meeting its goals of reducing regulatory burdens while protecting landowner rights and
21 environmental integrity;

22 6. Provisions for ensuring that all applications for licenses, permits or other approvals
23 required for construction or land use activities are processed and a determination issued by
24 the combined entity within 6 months from the date the application is deemed complete for
25 processing, with a streamlined 2-week approval process for certain activities with minimal
26 environmental impact. The combined entity must implement a transparent application and
27 approval tracking system, accessible by applicants and the public, by which information
28 regarding all applications, licenses, permits and other approvals may be accessed. Any
29 denial of approval for an applied-for license, permit or other approval must be based on
30 objective environmental or safety concerns, and a final decision regarding an appeal of a
31 denial by the applicant must be issued by the combined entity within 30 days of the date
32 the appeal is filed;

33 7. Provisions for ensuring that any rule, decision or other action by the combined entity
34 does not constitute an unfunded state mandate. The combined entity must consult with the
35 Department of Administrative and Financial Services, Bureau of the Budget prior to
36 adopting any rule or making any decision or action that can reasonably be expected to
37 impose financial burdens on landowners or businesses to identify appropriate funding to
38 address or develop an implementation plan to reduce those financial burdens. The
39 combined entity may not impose a new fee or increase an existing fee without the approval
40 of the Legislature. For any rule that unreasonably burdens a landowner's property use and
41 results in direct financial harm to the landowner, the combined entity must compensate the
42 landowner for that financial loss. The combined entity must establish and provide funding
43 for a property rights compensation fund to ensure landowner compensation for such losses;

44 8. Provisions for requiring any proposed new rule of the combined entity to undergo a
45 cost-benefit analysis to assess financial impacts on landowners, local government and

1 businesses. Any new rule adopted by the combined entity must include provisions for
2 ensuring that the rule is subject to review every 5 years, during which time the combined
3 entity must decide to renew, amend or repeal the rule based on the assessed economic
4 burden of the rule and its impact on landowner rights. All rules adopted or amended by the
5 combined entity must be designated as major substantive rules as defined in the Maine
6 Revised Statutes, Title 5, chapter 375, subchapter 2-A; and

7 9. Identification of all statutory, administrative, technical and other changes or actions
8 necessary to ensure the timely transition of the department and the commission into the
9 combined entity. The department shall include in the report required by this section all
10 draft legislation necessary to accomplish this transition and establish the combined entity.

11 On or before January 1, 2026, the department shall submit to the Joint Standing
12 Committee on Environment and Natural Resources a report outlining its recommendations,
13 including necessary draft legislation, regarding the consolidation of the department and the
14 commission into the combined entity as outlined in this section. After reviewing the report,
15 the committee may report out a bill relating to the report to the Second Regular Session of
16 the 132nd Legislature.

17 **SUMMARY**

18 This bill implements statutory changes and other provisions necessary to transition the
19 Maine Land Use Planning Commission from the Department of Agriculture, Conservation
20 and Forestry to the Department of Environmental Protection.

21 The bill also requires the Department of Environmental Protection, on or before
22 January 1, 2026, to submit to the Joint Standing Committee on Environment and Natural
23 Resources a report outlining recommendations, including necessary draft legislation, for
24 the consolidation, by July 1, 2028, of the Department of Environmental Protection and the
25 Maine Land Use Planning Commission into a single combined entity, to be known as the
26 Maine Environmental and Land Use Commission. The new Maine Environmental and
27 Land Use Commission must be designed to prioritize landowner rights, ensuring that
28 private landowners are empowered to make use of their property subject to reasonable,
29 well-established rules for the protection of the environment, and its activities and adopted
30 rules must ensure sustainable land use development practices and not unduly or arbitrarily
31 restrict landowner property use except as necessary to protect public health, safety and the
32 environment. After reviewing the report, the committee may report out a bill relating to
33 the report to the Second Regular Session of the 132nd Legislature.