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Resolve, To Temporarily Suspend the Rate-setting Procedures for the Forest Products Industry

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Maine is dependent on its natural resources-based economy; and

Whereas, the Legislature recognizes that fuel costs and other economic forces have a devastating impact on the Maine economy, especially with regards to loggers and truckers carrying forest products; and

Whereas, it is in the public interest to ensure a reasonable rate of compensation for wood harvesting and hauling services in all regions of the State and to assess the impact of the Maine Revised Statutes, Title 26, chapter 18 on those services; and

Whereas, ensuring a reasonable rate of compensation for wood harvesting and hauling services is achievable via a statewide market power study of the forest products industry; and

Whereas, fairness dictates that the provisions of the Maine Revised Statutes, Title 26, chapter 18, except certain portions of Title 26, section 1354, be suspended pending completion of such a study and enactment of legislation pursuant to that study; and

Whereas, a majority of the providers of wood harvesting and hauling services subject to the Maine Revised Statutes, Title 26, chapter 18 have voted to support the suspension of those statutory provisions until June 1, 2009; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Rates of compensation for forest products harvesting and hauling services termination. Resolved: That the operation of the Maine Revised Statutes, Title 26, chapter 18 is suspended until June 1, 2009, except that forest products harvesters and haulers may continue to join together and form an association to meet, confer and share information as provided in Title 26, section 1354. The Legislature may consider terminating the suspension described in this section on or after January 7, 2009 by resolve. The Governor may terminate the suspension described in this section at any time that the Legislature is not in session. The Governor shall make the termination in writing. The termination does not become effective until 60 days following the written notice; and be it further

Sec. 2 Department of the Attorney General to study the statewide market for forest products harvesting and hauling services. Resolved: That the Department of the Attorney General, referred to in this section as "the department," shall conduct a study of the statewide market for forest products harvesting and hauling services. The department shall examine competition

within the industry and determine what, if any, changes are necessary to ensure fair competition throughout the State. The department shall consider the relevance of and study at a minimum the following on a statewide basis:

1. Issues of market concentration and horizontal market power;
2. Issues of vertical market power arising from integrated ownership or control of hauling, harvesting and other related assets;
3. The existence of barriers to entry into the harvesting and hauling industry, including required capitalization;
4. The extent to which imbalances of supply and demand create opportunities for the unreasonable exercise of market power;
5. The advantages and disadvantages of altering the current market system in the harvesting and hauling of forest products;
6. The approaches taken in other states to address similar issues; and
7. The statewide market for such services.

In conducting the study, the department shall consult with the Executive Department, State Planning Office; the Department of Labor; forest landowners; industry representatives; and other parties as determined appropriate by the department.

The department shall use the services of the State Economist and may retain an independent expert as it determines necessary in order to conduct the study.

The department shall make available a draft interim report for public comment not later than December 1, 2008. The final report of its findings and recommendations must be submitted no later than January 15, 2009 to the joint standing committee of the Legislature having jurisdiction over forest products harvesting and hauling services. The interim and final reports must include any legislation necessary to implement the recommendations of the department. If the department requires an extension of time to make its reports, it may apply to the Legislative Council, which may grant the extension. Any legislation or recommendation of the department pursuant to the study must apply to all landowners in the State; and be it further

Sec. 3 Legislation. Resolved: That the joint standing committee of the Legislature having jurisdiction over forest products harvesting and hauling services may submit a bill related to the study to the First Regular Session of the 124th Legislature.

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

SUMMARY

This resolve provides for the immediate suspension until June 1, 2009 of the requirements of the Maine Revised Statutes, Title 26, chapter 18, which regulates rates of compensation for forest products harvesting and hauling services, except for the section of that chapter that allows harvesters or haulers to

form an association for rate determination proceedings. The suspension may be lifted by the Governor prior to June 1, 2009 if the Legislature is not in session.

This resolve also requires the Department of the Attorney General to conduct a study of the statewide market for forest products harvesting and hauling services and to submit legislation implementing the department's recommendations. The final report must be submitted by January 15, 2009.