



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 987

S.P. 332

In Senate, March 12, 2013

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### **An Act To Make Technical Changes to the Agriculture, Conservation and Forestry Laws**

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Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry 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 SHERMAN of Aroostook.  
Cosponsored by Representative GIFFORD of Lincoln.

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

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

4 **6. Reporting.** The commissioner shall submit an annual report on or before March  
5 1st of each year to the joint standing committee of the Legislature having jurisdiction  
6 over agricultural matters. The report must include a summary of grants made under  
7 section 319 during the previous ~~calendar~~ fiscal year. The report must address the  
8 effectiveness of the program. Effectiveness measures may include, but are not limited to,  
9 evaluation of the number of companies retained, expanded or created; the increase in the  
10 number of jobs created or retained; any increased business revenues and new capital  
11 raised; improved wages paid to employees; and any new capital investment and increase  
12 in profitability.

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

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

25 **Sec. 3. 12 MRSA §683-A**, as enacted by PL 2011, c. 682, §7 and amended by c.  
26 657, Pt. W, §5, is further amended to read:

27 **§683-A. Creation of Maine Land Use Planning Commission**

28 The Maine Land Use Planning Commission, as established by Title 5, section  
29 12004-D, subsection 1-A to carry out the purposes stated in section 681, is created within  
30 the Department of Agriculture, Conservation and Forestry and in this chapter called "the  
31 commission." The commission is charged with implementing this chapter. The  
32 commission consists of 9 members, ~~nominated~~ appointed in accordance with subsections  
33 1 and 2. All ~~nominations~~ appointments under this section are subject to review by the  
34 joint standing committee of the Legislature having jurisdiction over conservation matters  
35 and to confirmation by the Senate.

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

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

7 **2. Appointment of members representing a county.** One member must be  
8 ~~nominated~~ appointed by each of the 8 counties with the most acreage in the unorganized  
9 or deorganized areas subject to the jurisdiction of the commission. The board of county  
10 commissioners ~~of~~ for each of the counties shall ~~nominate~~ appoint by majority vote  
11 a resident of that county to serve as a member of the commission. A county commissioner  
12 ~~nominated~~ who is a candidate for appointment to serve on the commission may not vote  
13 on that ~~nomination~~ appointment. In making ~~nominations~~ the appointment, the board of  
14 county commissioners shall actively seek and give consideration to persons residing in or  
15 near the unorganized or deorganized areas within the county.

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

- 19 A. Reside in the commission's jurisdiction;
- 20 B. Work in the commission's jurisdiction; or
- 21 C. Be a former resident or be retired after having worked for a minimum of 5 years
- 22 within the commission's jurisdiction.

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

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

36 **3. Eligibility.** A state employee may not be appointed to or serve as a member of the  
37 commission. A county commissioner, county employee, municipal official or municipal  
38 employee is not considered to hold an incompatible office for purposes of simultaneous  
39 service on the commission. If a county or municipality is a participant in an adjudicatory  
40 proceeding before the commission, a commissioner, official or employee from that  
41 county or municipality may not participate in that proceeding as a member of the  
42 commission.

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

13           **5. Rules.** Unless otherwise provided in this chapter, rules adopted by the  
14 commission under this chapter are routine technical rules as defined in Title 5, chapter  
15 375, subchapter 2-A.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **1. Regulation.** In accordance with section 685-A, subsection 14, beginning  
14 November 1, 2012, the director of the division shall administer and enforce the regulation  
15 of construction, maintenance and repair of land management roads, water crossings by  
16 land management roads and gravel pits of less than 5 acres in areas designated as  
17 protection districts and management districts by the commission.

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

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

25 1. Lands in the Rachel Carson National Wildlife Refuge managed by the United  
26 States Fish and Wildlife Service;

27 2. Land purchased or acquired for a state park managed by the Department of  
28 Agriculture, Conservation and Forestry;

29 3. Submerged tidal lands managed by the Department of Agriculture, Conservation  
30 and Forestry;

31 4. Land purchased by the Town of Wells or the State;

32 5. Land donated by the Town of Wells to the Department of Agriculture,  
33 Conservation and Forestry as a conservation easement; and

34 6. Other lands or interests in land in the location described in this section acquired by  
35 the reserve from willing sellers or added to the reserve by agreement for the purpose of  
36 furthering the reserve's conservation, research or educational programs.



1           1. Requires that certain information in annual reports to the Legislature be compiled  
2 from data from the previous fiscal year rather than from the previous calendar year,  
3 consistent with the State's budgeting process;

4           2. Clarifies that the Department of Agriculture, Conservation and Forestry, Division  
5 of Forestry regulates water crossings by land management roads in those portions of  
6 unorganized and deorganized areas of the State zoned by the Maine Land Use Planning  
7 Commission as protection districts and management districts;

8           3. Makes references to boards of county commissioners consistent in provisions  
9 regarding the Maine Land Use Planning Commission;

10          4. Clarifies that appointments made by the boards of county commissioners will be  
11 reviewed according to the same process as applies to gubernatorial appointments and  
12 changes language regarding appointments made by the county commissioners and  
13 Governor to comport with language in the Constitution of Maine;

14          5. Adds unallocated language indicating that the terms of the members of the Maine  
15 Land Use Planning Commission appointed after January 2013 must be staggered; and

16          6. Makes corrections by updating the name of the Department of Agriculture,  
17 Conservation and Forestry to the enabling legislation of the Wells National Estuarine  
18 Research Reserve Management Authority and replacing the director of the former State  
19 Planning Office with the Director of the Maine Coastal Program as an ex officio  
20 nonvoting member of the board of directors.