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AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 746, L.D. 1847, Bill, “An Act To Clarify Outcome-based Forestry”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 12 MRSA §8003, sub-§3, ¶Q, as amended by PL 2011, c. 488, §1, is further amended to read:

Q. The director, in cooperation with public and private landowners, shall actively pursue creating ~~experimental~~ areas on public and private land where the principles and applicability of outcome-based forest policy, as defined in section 8868, subsection 2-B, can be applied and tested. No more than 6 such areas may be designated. The director shall seek to designate areas ~~representing~~ of various sizes owned by different landowners. The designated areas must represent differing forest types and conditions and ~~from~~ different geographic regions of the State. Prior to entering into an outcome-based forestry agreement, the director and the panel of technical experts under section 8869, subsection 3-A shall conduct a comprehensive review of the proposed outcome-based forestry agreement. The term of initial agreements may not exceed 5 years. The director may renew an agreement if requirements under this section and section 8869, subsection 3-A are met. The term of a subsequent agreement may not exceed 5 years.

Sec. 2. 12 MRSA §8868, sub-§2-B, as amended by PL 2011, c. 488, §2, is further amended to read:

2-B. Outcome-based forest policy. "Outcome-based forest policy" means a science-based, voluntary process to achieve agreed-upon economic, environmental and social outcomes in the State's ~~forest~~ forests, as an alternative to prescriptive regulation, demonstrating measurable progress towards achieving statewide sustainability goals and allowing landowners to use creativity and flexibility to achieve objectives, while providing for the conservation of public trust resources and the public values of forests.

COMMITTEE AMENDMENT

1 **Sec. 3. 12 MRSA §8869, sub-§3-A**, as amended by PL 2011, c. 488, §3, is
2 further amended to read:

3 **3-A. Plans for outcome-based forestry areas.** Practices applied on an
4 ~~experimental~~ area created pursuant to section 8003, subsection 3, paragraph Q must
5 provide at least the equivalent forest and environmental protection as provided by
6 existing rules and any applicable local regulations. At a minimum, tests of outcome-
7 based forestry principles must address:

- 8 A. Soil productivity;
- 9 B. Water quality, wetlands and riparian zones;
- 10 C. Timber supply and quality;
- 11 D. Aesthetic impacts of timber harvesting;
- 12 E. Biological diversity; ~~and~~
- 13 F. Public accountability;
- 14 G. Economic considerations;
- 15 H. Social considerations; and
- 16 I. Forest health.

17 The Governor shall appoint a panel of at least 6 technical experts to work with the
18 director to implement, monitor and assess tests of outcome-based forestry principles. The
19 panel of technical experts must have expertise in all of the principles listed in paragraphs
20 A to I. In order to participate in ~~the an~~ outcome-based forestry ~~experiment~~ project, the
21 landowner, director and technical panel must develop agreed-upon desired outcomes for
22 the ~~experimental~~ outcome-based forestry area and develop a method for determining if
23 the outcomes have been attained and a system for reporting results to the public. The
24 technical panel shall assess whether the practices applied on the outcome-based forestry
25 area provide at least the equivalent forest and environmental protection as provided by
26 rules and regulations otherwise applicable to that outcome-based forestry area. The
27 technical panel may not delegate this assessment to any other person, except that the
28 technical panel may consider information provided by the bureau, the landowner or a
29 3rd-party forest certification program auditor.

30 **Sec. 4. 12 MRSA §8869, sub-§3-B** is enacted to read:

31 **3-B. Reporting and notification; outcome-based forestry projects.** The director,
32 in consultation with the technical panel under subsection 3-A, shall report to the joint
33 standing committee of the Legislature having jurisdiction over forestry matters as
34 follows.

- 35 A. Beginning March 1, 2015 and annually thereafter, the director shall submit a
36 report detailing the progress on each outcome-based forestry agreement under section
37 8003, subsection 3, paragraph Q. The report must include an assessment of the
38 landowner's progress toward attaining the outcomes under subsection 3-A. The
39 report must be presented to the joint standing committee of the Legislature having
40 jurisdiction over forestry matters at a public meeting no sooner than 30 days after
41 submission of the report to the committee.

1 B. When an initial outcome-based forestry agreement is approved by the director as
2 provided by section 8003, subsection 3, paragraph Q, the director shall notify the
3 joint standing committee of the Legislature having jurisdiction over forestry matters
4 within 15 days. In the notification, the director shall address how the proposed
5 agreement will provide at least the equivalent forest and environmental protection as
6 provided by rules and regulations that otherwise would apply to that outcome-based
7 forestry area.

8 C. When an outcome-based forestry agreement under this section is renewed as
9 provided by section 8003, subsection 3, paragraph Q, the director shall notify the
10 joint standing committee of the Legislature having jurisdiction over forestry matters
11 no later than 15 days after the agreement is renewed.

12 A report, notification or any information concerning outcome-based forestry projects
13 under this subsection must be placed on the Department of Agriculture, Conservation and
14 Forestry's publicly accessible website.

15 **Sec. 5. 12 MRSA §8869, sub-§7-A**, as amended by PL 2011, c. 488, §4, is
16 further amended to read:

17 **7-A. Exemption for outcome-based forestry areas.** ~~Outcome-based forest policy~~
18 ~~experimental areas~~ An outcome-based forestry area designated under section 8003,
19 subsection 3, paragraph Q ~~are~~ is exempt from the requirements of this ~~subchapter and~~
20 ~~rules adopted pursuant to this subchapter~~ section if specifically exempted in the
21 agreement establishing the outcome-based forestry area.

22 **Sec. 6. 12 MRSA §8869, sub-§13**, as amended by PL 2011, c. 488, §5 and c.
23 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

24 **13. Confidential information.** Information provided to the bureau voluntarily or to
25 fulfill reporting requirements for the purposes of establishing and monitoring outcome-
26 based ~~forest policy experimental~~ forestry areas, as created pursuant to section 8003,
27 subsection 3, paragraph Q, is public unless the person to whom the information belongs
28 or pertains requests that it be designated as confidential and the bureau has determined it
29 contains proprietary information. For the purposes of this subsection, "proprietary
30 information" means information that is a trade secret or production, commercial or
31 financial information the disclosure of which would impair the competitive position of
32 the person submitting the information and would make available information not
33 otherwise publicly available. The bureau, working with the landowner and the panel of
34 technical experts appointed under subsection 3-A, may publish reports as long as those
35 reports do not reveal confidential information.

36 **Sec. 7. 12 MRSA §8879, sub-§1**, as amended by PL 2011, c. 532, §2 and c. 657,
37 Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

38 **1. Content.** The report must describe the condition of the State's forests based on
39 historical information and information collected and analyzed by the bureau for the
40 5-year period. The report must provide an assessment at the state level of progress in
41 achieving the standards developed pursuant to section 8876-A, including ~~progress an~~
42 assessment of the designated outcome-based forestry ~~experiment projects~~ authorized
43 under section 8003, subsection 3, paragraph Q, including a recommendation to continue,
44 change or discontinue the outcome-based forestry projects. The director shall also

1 provide observations on differences in achieving standards by landowner class. The
2 report must summarize importing and exporting of forest products for foreign and
3 interstate activities. The director shall obtain public input during the preparation of the
4 report through appropriate methods.'

5 SUMMARY

6 This amendment replaces the term "experimental area" with "outcome-based forestry
7 area" in the laws governing forestry practices. The amendment requires the Director of
8 the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry
9 to seek to designate outcome-based forestry areas of various sizes owned by different
10 landowners. The amendment explicitly authorizes the director to renew an outcome-
11 based forestry agreement if all applicable requirements are met. The amendment
12 provides that the term of a subsequent outcome-based forestry agreement may not exceed
13 5 years.

14 The amendment provides that the panel of technical experts, when conducting an
15 assessment, may consider information provided by the Bureau of Forestry, the landowner
16 or a 3rd-party forest certification program auditor. The amendment strikes the
17 requirement as proposed in the bill that the panel of technical experts must include at
18 least one member representing the public.

19 The amendment adds forest health and economic and social considerations to the list
20 of outcome-based forestry principles.

21 The amendment makes changes to the reporting requirements as proposed in the bill.
22 The amendment requires the Director of the Bureau of Forestry, in consultation with the
23 technical panel, beginning March 1, 2015 and annually thereafter, to submit a report to
24 the joint standing committee of the Legislature having jurisdiction over forestry matters
25 detailing the progress on each outcome-based forestry agreement. The amendment also
26 provides that when an initial outcome-based forestry agreement is approved by the
27 Director of the Bureau of Forestry, the director is required to notify the joint standing
28 committee of the Legislature having jurisdiction over forestry matters within 15 days. In
29 the notification, the director is required to address how the proposed agreement will
30 provide at least the equivalent forest and environmental protection as provided by
31 applicable rules and regulations. The amendment provides that when an outcome-based
32 forestry agreement is renewed, the director is required to notify the joint standing
33 committee of the Legislature having jurisdiction over forestry matters within 15 days.
34 The amendment also requires that reports, notifications and other information relating to
35 outcome-based forestry projects must be placed on the Department of Agriculture,
36 Conservation and Forestry's publicly accessible website.

37 The amendment retains the provision in the bill that provides that the exemption for
38 outcome-based forestry projects pertains to clear-cutting requirements only.

39 The amendment also retains the provision in the bill that provides that the state of the
40 State's forests report include a recommendation to continue, change or discontinue
41 designated outcome-based forestry projects.