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THE MAINE SENATE
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Testimony in Support of LD 1985
An Act to Authorize Removal of Requirements of Forest Certification Systems from the State's Forest Management Plans

Presented to the Joint Standing Committee on Agriculture, Conservation and Forestry
April 3, 2024

Senator Ingwersen, Representative Pluecker and esteemed members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Troy Jackson. I have the honor of serving as President of the Maine Senate and proudly represent the good people of Aroostook County. I am here today to present LD 1985, "*An Act to Authorize Removal of Requirements of Forest Certification Systems from the State's Forest Management Plans.*"

This amendment replaces the bill and adds a fine for those who violate the wood harvesting payment law. The necessity for the bill came to my attention because the Bureau of Parks and Public Land (BPL) is not paying contractors according to current law. The law requires that when a person fulfills a contract to harvest wood and places it roadside to be hauled away for processing, payment must be made to the contractor within 30 days. Regrettably, BPL is only paying contractors 30 days after invoice. This lag in time is often critical for the person and their family. To ensure compliance to the law, the amendment allows the Attorney General's Office to investigate complaints or allegations of nonpayment.

Unfortunately, late payment is only one example of the Bureaus' dereliction of duty. Last year I brought forth LD 1874. I did so because of concerns brought forward to me regarding the lack of performance-based indicators in the forest certification program for state lands. During the process I once again verified that Sustainable Forestry Initiative (SFI) certification is run by the Maine Forest Products Council (MFPC), a group that lobbies this legislature and one that consistently has worked against forest workers' rights and indigenous rights. I also learned that in order for the Bureau to be (SFI) certified, the Bureau must pay MFPC dues. I have included the bylaws in a packet for the Committee to document this agreement between the two parties. It was recently disclosed to this committee that BPL, as part of their SFI certification, has been paying a membership fee to MFPC in the amount of \$7,500 a year for the last 20 years. I firmly oppose Maine taxpayer money being used to fund an organization that lobbies heavily and has a large influence over state policy.

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This raises a number of questions and concerns:

- What does MFPC use this money for? MFPC has lobbied against tribal sovereignty bills, workers' rights bills, and last session's service contractor payments. MFPC has lobbied against most, if not all, forestry bills I have put forth on behalf of my constituents. I can only assume that a good amount of taxpayer money paid by BPL over 20 years has gone a long way to fighting these bills - bills that would have benefited our many constituents.
- You may hear that SFI includes performance measures around workers and indigenous rights, but it simply requests a written statement that shows support for these topics. Those certified do not have to demonstrate any meaningful performance of such measures.
- Another argument I have heard is that BPL can't sell their wood without SFI certification. Yet there is no premium for the wood they sell and no small landowner in Maine has SFI certification. These same small landowners in Maine have no problem selling their wood to SFI certified mills. Also, BPL sells wood to a multitude of other mills that don't carry SFI certification. So my question is, if it doesn't matter to the mills, the small landowners, and there is no premium, then what does the State get in return for sending taxpayers dollars to MFPC?

To make matters worse, I discovered that Maine taxpayer money was also going to SFI and its initiatives through the Maine Forest Service (MFS). I learned that MFS shares information about loggers with SFI during ongoing investigations. The loggers are not aware of this breach and are not given their due process. This too raises a number of questions and concerns:

- Why would MFS share this information? Perhaps to leverage SFI mills in order to hurt the loggers financially by refusing to buy the loggers wood during an investigation to strong arm them into changing their behavior.
- Why would MFS provide sensitive information about Maine loggers to corporate interests, violating their constitutional rights? I believe it is because of the influence SFI/MFPC has over MFS.
- What interest would large corporations that rely on loggers for fiber have in this arrangement? The answer seems clear to me - money and control.

Finally, I have recently learned about a new initiative. It is called the ABC collaborative, which this committee had been led to believe began in December 2023. It was actually formed by SFI as a means to forcibly train and track the work of private loggers in Maine. The proof can be found on page 18 of the attached Concept Paper. You will see that it states that SFI created ABC in 2021 and that MFS took it over in 2023. Interestingly, MFS now shares a list of "trained"

individuals, who supposedly were given an option as to whether to be published on MFS's website. This too leads to many questions and concerns:

- If the program only began in December 2023, how did over 200 loggers get on that list? And, why is the ABC list the exact same list found on the Maine SFI website? Could it be that the Bureau is overly influenced by SFI/MFPC?
- I guess the deeper question is why is the State giving MFPC the authority to control loggers and their training? It is not the typical relationship between a State agency and an independent association or council. It is an infringement on the rights and privacy of the very loggers they profess to serve.

For these serious concerns and unanswered questions, the amendment before you requires better recordkeeping and transparency. It provides that records of the Bureau of Forestry found necessary to facilitate an investigation into a complaint or suspected violation are confidential during the investigation. They may be disclosed at the conclusion of an investigation, unless the records are otherwise classified as confidential by another provision of law. Furthermore, the amendment strikes the provision in current law that authorizes the Bureau to share information at the request of a nonprofit corporation that provides "educational services to forest landowners regarding sound forest management." Closing the flow of personal information from the Forest Service to SFI without permission from the very people whose information is being disclosed.

I ask you to join me in support of this bill. This type of outsider influence in State agency actions and oversight can lead to corruption and undue influence at the expense of ordinary Mainers. We really must put a stop to it.

Thank you for your consideration and I would be happy to answer any questions.

Amendment to LD 1985
An Act to Authorize Removal of Requirements of Forest Certification Systems from the
State's Forest Management Plans
Proposed by Senate President Jackson
March 21, 2024

Amend the bill by striking everything after the enacting clause and inserting in its place the following:

Sec. 1. 10 MRSA §1500-Q is amended to read:

§1500-Q. Payment for harvesting wood

An entity that contracts with a person to harvest wood and place the wood roadside so that the entity is able to have the wood hauled away for use or processing must pay the person within 30 days of the person's fulfilling the contract and placing the wood roadside. The Department of Agriculture, Conservation and Forestry, referred to in this chapter as "the department," or a person licensed to scale wood pursuant to section 2365-A under contract with the department shall conduct random inspections to ensure that entities are complying with the requirements of this section.

1. **Penalty.** An entity that violates this section commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

2. **Complaints of nonpayment.** The Attorney General's office shall investigate complaints or allegations of nonpayment. The Attorney General may require the state sealer under chapter 501, or the state sealer's designee, to assist the Attorney General's office with an investigation under this chapter. If sufficient evidence of nonpayment is uncovered, the evidence must be compiled by the Department of the Attorney General and, if applicable, presented the local district attorney's office for prosecution.

Sec. 2. 12 MRSA §8005 is amended to read:

§8005. Certain information confidential

1. Contact information. Social security numbers, addresses, telephone numbers and electronic mail addresses of landowners owning less than 1,000 acres of forest land statewide and collected by the bureau for the purposes of contacting landowners under section 8611, or received by the bureau in notifications filed under section 8883-B, or in reports received under Title 36, section 581-G are confidential and may be disclosed only in accordance with this section.

2. Forest management plan and information. Social security numbers, forest management plans and supporting documentation of forest management activities on private forest land and held by the bureau for the purposes of administering landowner assistance programs authorized under this chapter and chapter 805 are confidential and may be disclosed only in accordance with this section.

3. Disclosure. Except as provided in subsection 4, the director may disclose confidential information in accordance with this subsection. Confidential information disclosed pursuant to this subsection remains the property of the bureau. Recipients of the confidential information may not disclose this information or use this information except as authorized by the director.

A. The director may disclose information designated as confidential under this section to a governmental entity that, in the opinion of the director, requires this information, including but not limited to, when necessary to facilitate an investigation into a complaint or suspected violation of this part and to avoid imminent and serious harm.

~~B. The director shall provide names, addresses and electronic mail addresses upon request to a nonprofit corporation that provides educational services to forest landowners regarding sound forest management as long as the information disclosed is used to provide information about forest management.~~

4. Information designated as confidential by state or federal agency. The director may not disclose information furnished to the director that has been designated as confidential by a state or federal agency furnishing the information unless disclosure is authorized by the furnishing agency.

4-A. Records obtained during an investigation or through provision of services to the public. Records of the bureau obtained during an investigation into a complaint or suspected violation of this part or through the provision of services to the public are confidential. Records obtained during an investigation of a complaint or suspected violation of this part become public upon conclusion of an investigation unless the records are otherwise classified as confidential by any other provision of law. For purposes of this subsection, “conclusion of an investigation” means:

A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter 4 has been given to the public;

B. A consent agreement has been executed;

C. An enforcement proceeding has been filed in a court of competent jurisdiction; or

D. The investigation has been closed by the bureau.

5. Penalty. A person who receives confidential information pursuant to subsection 3, paragraph B and uses that information for a purpose other than that authorized by the director commits a civil violation punishable by a fine of not more than \$1,000.

Sec. 3. 12 MRSA §8867-G is amended to read:

§8867-G. Forest certification programs

1. Requirements for state land. ~~The~~ Except as provided under subsection 3, the Department of Agriculture, Conservation and Forestry, referred to in this section as “the department,” may obtain or maintain certification from a forest certification program for state land only if the program, in order to obtain certification under the program:

A. Contains performance-based indicators described in subsection 2 that protect forest workers, including logging and trucking contractors, that can be assessed and verified by a recognized certifying entity; and

B. Does not require payment to a trade association that is registered with the Commission on Governmental Ethics and Election Practices.

2. Performance-based indicators. Performance-based indicators required by subsection 1 include the following labor practices:

A. No use of child labor;

B. No use of forced labor;

C. No discrimination;

D. Freedom of association and collective bargaining;

E. Promotion of gender equality;

F. Implementation of legal occupational health and safety practices;

G. Payment of fair wages that meet or exceed the minimum wage;

H. Adequate and effective training; and

I. Grievance resolution and compensation for damages.

3. Prohibition. The department may not obtain or maintain certification from a voluntary, nonprofit and nonstock corporation organized under the District of Columbia Nonprofit Corporation Act.

Sec. 4. Forest certification; prohibition. In implementing the provisions of the Maine Revised Statutes, Title 12, section 8867-G, the Department of Agriculture, Conservation and Forestry is prohibited from obtaining or maintaining certification from a voluntary, nonprofit and nonstock corporation organized under the District of Columbia Nonprofit Corporation Act, including, but not limited to, the Sustainable Forestry Initiative, Inc.

SUMMARY

This amendment strikes and replaces the bill. Current law requires an entity that contracts with a person to harvest wood and place the wood roadside so the entity is able to have the wood hauled away for use or processing to pay the person within 30 days of the person's fulfilling the contract and placing the wood roadside. The amendment provides that an entity that violates this

requirement commits a civil violation for which a fine of not more than \$1,000 may be adjudged. The amendment also requires the Attorney General's office to investigate complaints or allegations of nonpayment. The amendment provides that the Attorney General may require the Department of Agriculture, Conservation and Forestry's State Sealer of Weights and Measures, or the state sealer's designee, to assist the Attorney General's office with an investigation.

The amendment also provides that records of the Department of Agriculture, Conservation and Forestry, Bureau of Forestry obtained during an investigation into a complaint or suspected violation of the Maine Revised Statutes, Title 12, Part 11 or through provision of services to the public are confidential and that these records become public upon conclusion of an investigation. The amendment provides that records of the bureau obtained during an investigation or through provision of services to the public may be disclosed under certain circumstances.

The amendment strikes the provision in current law that authorized the director of the bureau to provide names, addresses and electronic mail addresses upon request to a nonprofit corporation that provides educational services to forest landowners regarding sound forest management as long as the information disclosed is used to provide information about forest management.

The amendment also prohibits the department is from obtaining or maintaining certification from a voluntary, nonprofit and nonstock corporation organized under the District of Columbia Nonprofit Corporation Act, including, but not limited to, the Sustainable Forestry Initiative, Inc.