



Natural Resources Council of Maine

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Testimony in Support of LD 870
An Act Regarding the Membership of the Maine Land Use Planning Commission
By Pete Didisheim, Advocacy Director
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Senator Talbot Ross, Representative Pluecker, and distinguished members of the Committee on Agriculture, Conservation, and Forestry. My name is Pete Didisheim. I am the Advocacy Director for the Natural Resources Council of Maine, and I appreciate the opportunity to testify in support of An Act Regarding the Membership of the Maine Land Use Planning Commission (LD 870).

This bill updates the appointment process and qualifications for members of the Land Use Planning Commission (LUPC) in a fashion that will enhance the Commission's ability to provide planning and stewardship of Maine's Unorganized Territories (UT) on behalf of all the people of Maine.

The UT is a critically important landscape with economic, natural resource, and outdoor recreation values of local, statewide, national, and even international significance.

Given the importance of the UT to Maine's economy and to the people of Maine, we believe it's appropriate for Maine's Chief Executive to be responsible for more than just one appointment to the Commission. We support expanding the Commission to 13 members, of which five would be made by the Governor.

We also support expanding the qualifications of appointees to include forestry, land use planning, conservation, fisheries, wildlife, outdoor recreation, and natural resource-based businesses that operate in the Commission's jurisdiction. These qualifications have not been updated since 1974, despite how much has changed in the UT over the past 50 years.

We support the continued requirement that 8 of the 13 commissioners be appointed by the counties, and that these appointees "must reside or work in the commission's jurisdiction, be a former resident of the commission's jurisdiction, or have significant professional experience working within the commission's jurisdiction."

LD 870 is fully consistent with the 2011 Land Use Planning Reform Commission:

“The retention of a statewide land-use planning, zoning, and permitting board for the unorganized territory, with significant representation on the board selected by county governments to assure local/regional input.” (emphasis added) that

“That the membership of the board be increased from seven (7) to nine (9) members: including (1) county commissioner or a designed from each of the six (6) counties with the largest acreage of unorganized territory, appointed by the county commissioners of each respective county; and three (3) at-large members appointed by the Governor.”

By any measure, 8 out of 13 commissioners (60%) meets the test of “significant representation,” and, in fact, is closer to the Reform Commission’s recommendation of 6 out of 9 than is the ratio of 8 out of 9 enacted in 2012.

That said, we believe the number of commissioners with local and regional connections with the UT will remain higher than 60%, as demonstrated by past appointments.

Over the past 56 years, 80% of the 77 individuals appointed to serve on LURC or the LUPC have lived in the 8 counties with the most acreage in the UT. Only one person has been appointed from Portland, in 1974. No Commissioners have been appointed from York or Sagadahoc Counties, and only a few from Cumberland, Androscoggin, Kennebec, Lincoln, or Waldo County.

Current law does not require that the Governor appoint someone who lives or works in the UT; it simply requires consideration of such candidates. Despite that flexibility, Governor Mills appointed and then reappointed Perry Ellis of Strong, who worked at International Paper and as Town Manager for Rangeley.

History shows that the overwhelming majority of appointees to LURC and the LUPC have lived in or near the UT. We believe that tradition will continue with the language in LD 870 which requires the Governor to seek candidates with “the broadest possible interest and experience” relevant to the Commission’s jurisdiction.

LD 870 also requires the Governor to seek candidates with scientific and technical qualifications in the areas that are most important for the LUPC’s mission.

The Legislature has amended the appointment process for the Commission 12 times since 1969 (see attached). The time has come to do so again, with passage of LD 870.

I appreciate this opportunity to testify and would be glad to answer any questions you may have.

**Changes to the Appointments and Qualifications
for Maine's Land Use Regulation Commission and Land Use Planning Commission
(1969-2011)**

1969 – An Act to Create the Maine Land Use Regulation Commission and to Regulate Realty Subdivisions. Chapter 494 created the Land Use Regulation Commission. Initial commission included 3 permanent members (Director of Parks and Recreation, Forest Commissioner, and the State Planning Officer) and 4 members appointed by the Governor that respectively represent the public, conservation interests, forest products industry interests and general landowner interests.

1971 – An Act to Revise the Maine Land Use Regulation Commission Law. Chapter 619 added that the 3 permanent members (The Director of the Bureau of Parks and Rec, the Director of the Bureau of Forestry, the State Planning Director) could be replaced by “their designated alternates.”

1973 – An Act to Create a Department of Conservation. Chapter 460, increased the number of permanent members from 3 to 4, adding the Commissioner of the Department of Conservation. The other 4 members remained unchanged.

1973 – An Act to Amend the Land Use Regulation Commission Law. Chapter 569 specified how the 4 non-permanent members would be chosen. Instead of having the positions open to anyone, this amendment added that there should be “two members representing the public, one member representing conservation interest and one member representing industry interests.”

1974 – An Act to Revise the Membership of the Land Use Regulation Commission. Chapter 698 replaced the 1969 Act and previous amendments. The new commission consisted of the Commissioner of the Department of Conservation, ex officio, and 6 public members (not state employees) appointed by the Governor. Four of the 6 public members must be knowledgeable in at least one of each of the following areas: Commerce and industry; fisheries and wildlife; forestry; and conservation.

1975 – An Act to Remove the Commissioner of the Department of Conservation from the Maine Land Use Regulation Commission. Chapter 616 removed the Commissioner of the Department of Conservation from LURC and replaced that position with a seventh member of the public.

1985 – An Act to Restructure the Duties and Funding of the Maine Land Use Regulation Commission. Chapter 345 required at least one member of the commission be a resident of the commission's jurisdiction.

1987 – An Act to Restructure the Method of Appointment of Members of the Maine Land Use Regulation Commission. Chapter 132 increased from 1 to 2 the number of public members appointed by the governor who must reside within the commission's jurisdiction.

1997 – An Act to Amend the Membership of the Maine Land Use Regulation Commission. Chapter 549 Removed the requirement that four members be knowledgeable in at least one of four specified areas. Instead, it required the Governor to actively seek and give consideration to persons who are knowledgeable in commerce and industry, fisheries and wildlife, forestry, and conservation. In addition the Governor shall actively seek and give consideration to persons residing in or near the unorganized areas of the State and to persons residing on unorganized coastal islands. Further required that by December 31, 1999, four members of the Commission are residents in the jurisdiction.

1997 – An Act to Allow Certain County and Municipal Officials to Serve on the Maine Land Use Regulation Commission and the Board of Environmental Protection. Chapter 346, authorized county commissioners, county employers, municipal officials and municipal employees to

serve on LURC or the Board of Environmental Protection while also holding local office without violating the common law doctrine of incompatibility of offices.

1999 -- An Act to Improve the Efficiency of Environmental Regulation in the Unorganized and Deorganized Areas of the State Chapter 333 Required that all appointees must be familiar with the needs and issues affecting the commission's jurisdiction, and must reside in the commission's jurisdiction; work in the commission's jurisdiction; be a former resident or be retired after working within the commission's jurisdiction for a minimum of 5 years; or have expertise in commerce and industry, fisheries and wildlife, forestry, or conservation issues as they affect the commission's jurisdiction. At least 2 members must be residents within the commission's jurisdiction.

2009 -- An Act to Increase the Number of Members of the Maine Land Use Regulation Commission Who Reside in the Commission's Jurisdiction. Chapter 328 increased the number of members of the Commission who must reside in the commission's jurisdiction from 2 to 3.

2011 – An Act To Reform Land Use Planning in the Unorganized Territory, Chapter 683, Created 9 member Maine Land Use Planning Commission consisting of 1 appointee by the Governor. Governor shall actively seek and give consideration to persons residing in or near the unorganized and deorganized areas of the State and to persons residing on unorganized coastal islands. A nominee under this subsection must be familiar with the needs and issues affecting the commission's jurisdiction and must: A) Reside in the commission's jurisdiction; B) Work in the commission's jurisdiction; C) Be a former resident or be retired after having worked for a minimum of 5 years within the commission's jurisdiction; or D) Have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they relate to the commission's jurisdiction.

One member must be appointed by each of the 8 counties with the most acreage in the unorganized or deorganized areas subject to the jurisdiction of the commission. The board of county commissioners for each of the counties shall appoint by majority vote a resident of that county to serve as a member of the commission. A county commissioner who is a candidate for appointment to serve on the commission may not vote on that appointment. In making the appointment, the board of county commissioners shall actively seek and give consideration to persons residing in or near the unorganized or deorganized areas within the county. An appointee under this subsection must have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they relate to the commission's jurisdiction and must: A) Reside in the commission's jurisdiction; B) Work in the commission's jurisdiction; or C) Be a former resident or be retired after having worked for a minimum of 5 years within the commission's jurisdiction.