



# Natural Resources Council of Maine

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## **Testimony in Support of LD 446, An Act To Reestablish the State Planning Office**

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Senator Baldacci, Representative Matlack, and members of the Committee on State and Local Government. My name is Pete Didisheim, I am the Advocacy Director for the Natural Resources Council of Maine, and I appreciate this opportunity to testify on LD 446, An Act to Reestablish the State Planning Office.

For nearly 45 years, from 1968 until 2012, the State Planning Office (SPO), served the state of Maine well. SPO identified and evaluated trends and challenges facing the state and our natural resources, coordinated economic and natural resource policy development and implementation across state agencies, and provided technical support to towns and regions to help preserve the character of Maine, among other duties.

A brief look at its reports to the Legislature shows that SPO was addressing key issues that matter to Maine people, including energy planning; strategies to increase Maine's knowledge-based economy and raise household incomes; market trends affecting housing and land use; incentives for keeping land in productive farming, fishing, and forestry; the costs of sprawl; waste management strategies; the status of old-growth forests and ecological diversity; and more.<sup>1</sup>

SPO was created as part of the Executive Branch to help build a sustainable future for Maine's communities, businesses, and residents, with a primary focus on resource assessment and planning. In a state where the health of our environment and economy are so tightly connected, SPO sat at the nexus of many critical issues affecting the character of our state. As its title announced, SPO was in the business of helping Maine plan for our future.

Planning is important work.

As Benjamin Franklin said: "If you fail to plan, you are planning to fail!"

But then, about a decade ago, "planning" suddenly and inexplicably became a dirty word for some. In 2011, a previous Administration and Legislature initiated a protracted two-year process to dismantle the State Planning Office, downsizing, dispersing, or simply terminating its functions. SPO's staff were reassigned to other agencies, or they left government, taking their talents and institutional knowledge with them.

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<sup>1</sup>[https://digitalmaine.com/spo\\_docs/#:~:text=The%20Maine%20State%20Planning%20Office%20%28SPO%29%20was%20created,natural%20resources%3B%20providing%20technical%20assistance%20to%20the%20](https://digitalmaine.com/spo_docs/#:~:text=The%20Maine%20State%20Planning%20Office%20%28SPO%29%20was%20created,natural%20resources%3B%20providing%20technical%20assistance%20to%20the%20)

NRCM opposed SPO's dismantlement and believes the entire process was a mistake, but we recognize that those staff and responsibilities will not be brought back together again.

In lending support for LD 446, NRCM is not suggesting that the SPO be re-created, although that is the title of the bill. Rather, we commend the bill's sponsors for reviving a conversation about critical functions of government that belong in the Executive Branch that were terminated or weakened when SPO was dismantled, and how some of those functions might be restored.

To further this conversation, it may be useful to amend LD 446 to initiate a study process that evaluates Maine's diminished capacity to evaluate key economic, natural resource, and land use trends since SPO's dismantlement. Perhaps a survey would be useful as part of such an analysis, soliciting input from municipalities, town planners, businesses, and nonprofit organizations.

Clearly, the establishment in 2019 of the Governor's Office of Policy Innovation and the Future (GOPIF) was a step in the right direction of rebuilding policy capacity in the Executive Branch. GOPIF is doing critical work in areas such as climate policy, the opioid epidemic, and workforce development. We support efforts to build GOPIF's capacity further, particularly in areas that were lost with SPO's dismantlement.

As an additional contribution to this discussion, I would like to bring attention to one of the many pieces of SPO that was eliminated in 2012 and could be worthy of resurrecting. It was called the Land and Water Resources Council, and it served as a valuable forum for discussion, coordination, planning, conflict resolution, and policy development across Maine's natural resource agencies, as well as the Departments of Transportation and Economic and Community Development.

The Land and Water Resources Council focused on significant policy areas, including:

- Developing a management strategy for Maine's ground water resources;
- Evaluating state policies for hydropower development;
- Improving computerized management of natural resource information;
- Evaluating management strategies of near-shore coastal resources;
- Creating an education strategy for public water supply protection;
- Evaluating the effectiveness of Maine's coastal plan in meeting the state's public access and working waterfront policy goals;
- Evaluating sources of mercury pollution in Maine and options for phasing out in-state mercury-containing products;
- Evaluating options for reducing coastal storm damage; and
- Creating an action plan for managing invasive aquatic species.

Each of these topics was useful to address through a multi-agency, multi-stakeholder approach, as was provided through the Land and Water Resources Council. In 2013, the Legislature came close to re-establishing the Land and Water Resources Council (although under a different name, the Resource and Development Coordinating Council) when it passed LD 1427. But that bill was vetoed and the Legislature fell a few votes short of overriding the governor's veto.

As someone who followed the SPO dismantlement process very closely, I can attest that there was never any open discussion about what would be lost through repeal of the Land and Water Resources Council. It was simply swept away with SPO's dismantlement. Attached to my testimony is both the statutory language of the Land and Water Resources Council, and the bill language of LD 1427 from the 126th Legislature, which may be of interest to the committee.

In closing, let me reiterate my appreciation to the sponsors of LD 446 for bringing these issues forward. Thank you for the opportunity to testify on the bill. I would be glad to answer any questions that you may have.

## 5 §3331. LAND AND WATER RESOURCES COUNCIL

**1. Council established; membership.** In order to facilitate more effective interagency coordination of the State's activities regarding natural resource and land use management, the Land and Water Resources Council, referred to in this chapter as the "council," is established. The chair of the council is appointed by and serves at the pleasure of the Governor. The membership of the council is as follows:

- A. The Commissioner of Agriculture, Food and Rural Resources; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- B. The Commissioner of Conservation; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- C. The Commissioner of Environmental Protection; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- D. The Commissioner of Health and Human Services; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF); 2003, c. 689, Pt. B, §7 (REV).]
- E. The Commissioner of Inland Fisheries and Wildlife; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- F. The Commissioner of Marine Resources; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- G. The Commissioner of Transportation; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- H. The Commissioner of Economic and Community Development or the commissioner's designee; and [1995, c. 688, §3 (AMD).]
- I. The Director of the State Planning Office. [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]

**2. Duties; responsibilities.** The council shall advise the Governor, the Legislature and state agencies in the formulation of policies for management of the State's land and water resources to achieve state environmental, economic and social goals pursuant to Title 30-A, section 4312. Any state, federal, regional or local agency or private organization may interact and cooperate with the council in fulfilling the goals.

Specifically, the council shall:

- A. Recommend coordinated state policy regarding major programs or proposals that affect the natural environment of the State and land use management issues and that involve the concerns of more than one state agency; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- B. Support the full implementation of an integrated program to provide a substantially improved land and water resources information base for planning purposes; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- C. Provide direction to the State's land and water use planning and management programs and encourage coordination of these efforts through review and comment on agency program plans, specific projects and legislative proposals that involve interagency concerns; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]
- D. Periodically evaluate, in consultation with affected interests, the State's environmental regulatory system and growth management program, including legislation, regulations and procedures, and

recommend appropriate action, if any is needed to improve service to applicants and municipalities; [1993, c. 721, Pt. C, §1 (NEW); 1993, c. 721, Pt. H, §1 (AFF).]

E. Study specific land and water resources management issues and problems of state-level significance in order to develop sound, coordinated policies; [1997, c. 519, Pt. A, §1 (AMD).]

F. Seek cooperation from federal agencies with responsibilities for land and water resources management to ensure that their programs and projects serve the best interests of the State; and [1997, c. 519, Pt. A, §1 (AMD).]

G. Administer the Lakes Heritage Trust Fund established in subsection 6. [1997, c. 519, Pt. A, §2 (NEW).]

### **3. Tasks for 1994.**

[ 1997, c. 587, §1 (RP) .]

**4. Quarterly meetings; biennial report.** The council shall meet at least quarterly. In addition, the council shall prepare a work program for each year establishing priorities among its efforts. Every 2 years beginning in 2009 and no later than January 15th, the council shall prepare and submit to the Governor and to the joint standing committee of the Legislature having jurisdiction over natural resource matters a report describing its activities during the previous 2 calendar years and an outline of anticipated activities for the current calendar year. Member agencies shall provide staff support.

**5. Reporting on the land use mediation program.** The council shall report by December 1, 1998, December 1, 2000, December 1, 2003 and every 2 years thereafter to the Governor, the Administrative Office of the Courts, the Executive Director of the Legislative Council and the Director of the Court Alternative Dispute Resolution Service on the operation and effectiveness of the land use mediation program established under subchapter II. The reports must list the number and type of mediation requests received, the number of mediation sessions conducted, the number of signed mediation agreements, a summary of the final disposition of mediation agreements, a narrative discussion of the effectiveness of the program as determined by the council, a summary of deposits and expenditures from the land use mediation fund created in Title 4, section 18-B, subsection 10 and any proposals by the council with respect to the operation, improvement or continuation of the mediation program.

**6. Lakes Heritage Trust Fund.** The Lakes Heritage Trust Fund is established in the Executive Department for the purpose of protecting, preserving and enhancing the quality and value of the State's lakes and great ponds. By majority vote of all members, the council may accept monetary contributions to the fund from any public or private source and may spend or disburse those funds in a manner consistent with law for the purposes stated in this subsection. The council shall include an accounting of all donations to and expenditures from the Lakes Heritage Trust Fund in its biennial report to the Legislature under subsection 4.

**7. Watershed protection.** The council may create, implement and administer a comprehensive watershed protection program in order to ensure the development and implementation of locally supported watershed management plans. In implementing the program, the council shall coordinate the activities of the agencies involved in watershed management to:

A. Develop and implement strategies designed to protect the State's surface waters from nonpoint source pollution; [1997, c. 519, Pt. A, §3 (NEW).]

B. Conduct scientific research and water quality surveys to establish baseline information about the condition of the State's surface waters and the relative risk to surface waters from nonpoint sources of pollution; [1997, c. 519, Pt. A, §3 (NEW).]

C. Implement regulatory and nonregulatory approaches to watershed protection, including public

education and technical assistance; [1997, c. 519, Pt. A, §3 (NEW) .]

D. Coordinate activities with local governments, other state agencies, federal agencies and other organizations that are involved in activities aimed at controlling nonpoint source pollution; and [1997, c. 519, Pt. A, §3 (NEW) .]

E. Establish priorities for the purpose of directing resources to the management of water bodies based on an assessment of their value, the degree of threat or impairment to water quality and aquatic habitat due to nonpoint source pollution, the likelihood of meeting watershed management objectives and the degree of public support in the watershed for watershed management. [1997, c. 519, Pt. A, §3 (NEW) .]

**8. Water Resources Planning Committee.** The council shall convene the Water Resources Planning Committee, referred to in this subsection as “the committee.”

A. The committee's membership must include, at a minimum:

(1) Personnel from:

- (a) The Department of Conservation, Maine Geological Survey;
- (b) The Department of Agriculture, Food and Rural Resources;
- (c) The Department of Environmental Protection;
- (d) The Maine Land Use Regulation Commission;
- (e) The drinking water program of the Department of Health and Human Services; and
- (f) The Executive Department, State Planning Office; and

(2) Members of the public with expertise in:

- (a) Agriculture;
- (b) Public water utilities;
- (c) Water bottling and the sale of bottled water;
- (d) The use of water by private domestic well owners;
- (e) The environment and conservation; and
- (f) The use of water by commercial entities. [2007, c. 399, §1 (NEW) .]

B. The committee shall meet at least quarterly and report annually to the council, beginning in August 2008. The committee shall plan for the sustainable use of water resources focusing on the following three phases.

(1) In the first phase, the committee shall focus on:

- (a) Collecting and reviewing information regarding water withdrawal activities;
- (b) Coordinating state water resources information; and
- (c) Identifying watersheds at risk by refining the watersheds-at-risk analysis previously performed by the Maine Geological Survey, including:
  - (i) Conducting appropriate water resource investigations in watersheds at risk;
  - (ii) Considering projected increased water use by population, agricultural irrigation, commercial users, industrial users and other users in refining the watersheds-at-risk analysis;
  - (iii) Considering seasonal use in refining the watersheds-at-risk analysis;
  - (iv) Considering potential effects of climate change when refining the watersheds-at-risk analysis;

(v) Considering the effects of anticipated future water quality classification changes on the availability of water for withdrawal when refining the watersheds-at-risk analysis;

(vi) In establishing priorities for such investigations, seeking input from the user community, from towns dealing with multimunicipal aquifers and from towns with significant local aquifers; and

(vii) Developing guidelines for consistency in investigations.

(2) In the 2nd phase, the committee shall focus on convening planning groups in watersheds at risk or regions encompassing multiple watersheds at risk to develop water use management plans for water withdrawals. Based on the needs of the individual watershed or region, planning group participants must be drawn from:

(a) Personnel from:

(i) The Department of Conservation, Maine Geological Survey;

(ii) The Department of Agriculture, Food and Rural Resources;

(iii) The Department of Environmental Protection;

(iv) The Maine Land Use Regulation Commission;

(v) The drinking water program of the Department of Health and Human Services;

(vi) The Executive Department, State Planning Office; and

(vii) The Department of Inland Fisheries and Wildlife; and

(b) Members of the public with expertise in:

(i) Agriculture;

(ii) Public water utilities;

(iii) Water bottling and the sale of bottled water;

(iv) The environment and conservation;

(v) Aquaculture;

(vi) Business and commerce;

(vii) Industrial water use; and

(viii) Municipal government.

(3) In the 3rd phase, if oversubscription of water use remains after the analysis conducted in the 2nd phase, the committee shall recommend a process to resolve issues. [2007, c. 399, §1 (NEW) .]

C. The committee shall conduct annual reviews of state policy with regard to:

(1) Conservation of water resources;

(2) The development of regional sources and solutions to water use issues;

(3) Incentives for stewardship of water resources; and

(4) Impacts of surface water quality improvements on water withdrawal opportunities. [2007, c. 399, §1 (NEW) .]

D. The committee shall provide guidance to municipalities and develop and disseminate educational materials on water resources and the regulatory regime. [2007, c. 399, §1 (NEW) .]

**LD 1427 – 126<sup>th</sup> Legislature**

**An Act To Establish a Resource and Development Coordinating Council**

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

**Sec. 1. 5 MRSA §12004-I, sub-§23-C** is enacted to read:

**23-C.**

**Sec. 2. 30-A MRSA §4312**, as amended by PL 2011, c. 655, Pt. JJ, §15 and affected by §41, is further amended to read:

**§ 4312.Statement of findings, purpose and goals; coordinating council**

**2. Legislative purpose.** The Legislature declares that it is the purpose of this Act to:

- A. Establish, in each municipality of the State, local comprehensive planning and land use management;
- B. Encourage municipalities to identify the tools and resources to effectively plan for and manage future development within their jurisdictions with a maximum of local initiative and flexibility;
- C. Encourage local land use ordinances, tools and policies based on local comprehensive plans;
- D. Incorporate regional considerations into local planning and decision making so as to ensure consideration of regional needs and the regional impact of development;
- F. Provide for continued direct state regulation of development proposals that occur in areas of statewide concern, that directly impact natural resources of statewide significance or that by their scale or nature otherwise affect vital state interests;
- G. Encourage the widest possible involvement by the citizens of each municipality in all aspects of the planning and implementation process, in order to ensure that the plans developed by municipalities have had the benefit of citizen input; and
- I. Encourage the development and implementation of multimunicipal growth management programs.

**3. State goals.** The Legislature hereby establishes a set of state goals to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use and development. The Legislature declares that, in order to promote and protect the health, safety and welfare of the citizens of the State, it is in the best interests of the State to achieve the following goals:

- A. To encourage orderly growth and development in appropriate areas of each community and region while protecting the State's rural character, making efficient use of public services and preventing development sprawl; [PL 2001, c. 578, § 9 (AMD).]



- B. To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development;
- C. To promote an economic climate which~~that~~ increases job opportunities and overall economic well-being;
- D. To encourage and promote affordable, decent housing opportunities for all Maine citizens;
- E. To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas;
- F. To protect the State's other critical natural resources, including, without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas;
- G. To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public;
- H. To safeguard the State's agricultural and forest resources from development which~~that~~ threatens those resources;
- I. To preserve the State's historic and archeological resources; and
- J. To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

**4. Limitation on state rule-making authority.** The department is authorized to adopt rules necessary to carry out the purposes of this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. This section may not be construed to grant any separate regulatory authority to any state agency beyond that necessary to implement this subchapter.

**5. Resource and Development Coordinating Council.** To promote interagency coordination of the State's activities regarding natural resource management, land use and development and to identify and coordinate the resolution of policy and program conflicts among agencies that affect the State's ability to achieve the goals in subsection 3, there is established the Resource and Development Coordinating Council, referred to in this subsection as "the council."

A. The membership of the council is as follows: the Commissioner of Agriculture, Conservation and Forestry; the Commissioner of Economic and Community Development; the Commissioner of Environmental Protection; the Commissioner of Inland Fisheries and Wildlife; the Commissioner of Marine Resources; the Commissioner of Transportation; the director of the division of environmental health within the Department of Health and Human Services; and the Director of the Maine Historic Preservation Commission; or their designees. The membership shall select a chair from among themselves.

B. The council shall advise the Governor, the Legislature and state agencies in the formulation of policies for growth, development and management of the State's land, water and energy resources to achieve the goals in subsection 3. Any state, federal, regional or local agency or

private organization may interact and cooperate with the council in fulfilling the goals. Specifically, the council shall:

(1) Recommend coordinated state policy regarding state programs or proposals that affect economic and energy development in the State, the natural environment of the State and land use management within the State's organized municipalities and that involve the concerns of more than one state agency;

(2) Support the implementation of an integrated program to provide a land and water resources information base for planning purposes;

(3) Recommend resolutions of conflicting legislative or state agency policies or programs that contribute to the achievement of one or more goals in subsection 3 with appropriate regard for achieving other goals in subsection 3 and without substantial detriment to achieving other goals in subsection 3, or that are likely to inhibit municipalities or regional councils from achieving an appropriate balance as they, through their comprehensive plans and related implementing actions, seek to achieve the goals in subsection 3;

(4) At the request of the Governor, the Legislature or one or more of the council's members, study specific resource management, land use or development issues of statewide significance in order to recommend sound, coordinated policies; and

(5) Seek cooperation from federal agencies with responsibilities for land and water resources management to ensure that their programs and projects serve the best interests of the State.

C. Each member of the council shall provide the council with staff support to carry out the council's duties and responsibilities.

D. The council shall meet at least quarterly. Every 2 years beginning in 2016 and no later than January 15th, the council shall prepare and submit to the Governor and to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report describing its activities during the previous 2 calendar years and an outline of anticipated activities for the current calendar year.

**Sec. 3. Initial meeting.** The Commissioner of Agriculture, Conservation and Forestry shall convene the initial meeting of the Resource and Development Coordinating Council established in the Maine Revised Statutes, Title 30-A, section 4312, subsection 5 no later than January 15, 2014.

## **SUMMARY**

This bill establishes the Resource and Development Coordinating Council to promote interagency coordination of the State's activities regarding natural resource management, land use and development and to identify and coordinate the resolution of policy and program conflicts among government agencies. The council submits a report every 2 years to the Governor and the joint standing committee of the Legislature having jurisdiction over natural resources matters.