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Public Law
124th Legislature
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Chapter 356
S.P. 424 - L.D. 1133

**An Act To Implement the Recommendations of the
Commission To Study the Protection of Farms and Farmland**

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

PART A

Sec. A-1. 7 MRSA §162 is enacted to read:

§ 162. Designation of "Farming for Maine" farms

The commissioner shall establish a process for designating "Farming for Maine" farms. This designation provides farmers an opportunity to declare their commitment to commercial agriculture and to increase public awareness of farming in the State.

1. Application. An applicant for designation as a "Farming for Maine" farm shall submit a completed application that has been verified in accordance with subsection 3 to the clerk for the municipality in which the farm is located and a copy of the application to the department. If the land is within an area under the jurisdiction of the Maine Land Use Regulation Commission, the applicant shall submit the verified application to the executive director of the commission and a copy to the department. The department shall develop an application form and make the form available through the offices of the soil and water conservation districts and private organizations and public agencies that support or represent farmers in the State.

2. Eligibility. A farm is eligible for designation under this section if the following criteria are met:

A. The farm consists of land classified as prime farmland, land of statewide or local importance or unique farmland by the Natural Resources Conservation Service within the United States Department of Agriculture. In counties where land of local importance has not been identified, land that is actively farmed may be eligible as provided in rules adopted under subsection 4;

B. The land is used for the commercial production of agricultural products; and

C. Additional criteria established in rules adopted under subsection 4.

A farm that is farmed under a lease may be designated as long as the landowner and the lessee sign the application.

3. Verification of eligibility. An applicant for designation as a "Farming for Maine" farm shall submit a completed application form together with support materials as required in rules adopted under subsection 4 to a soil and water conservation district office. Upon receipt of an application, a district office shall verify the eligibility of the farm or notify the applicant of the reasons why verification is denied. Upon request, the department shall assist a district in determining eligibility.

4. Rules; recognition. The commissioner may adopt rules to further define the verification process and establish additional eligibility criteria as needed for designation of "Farming for Maine" farms. The commissioner shall provide signs or certificates or develop other means of recognizing a farm that has attained designation as a "Farming for Maine" farm. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Fee. A municipality may charge a fee of not more than \$20 for filing a verified designation application under this section.

Sec. A-2. 7 MRSA §163 is enacted to read:

§ 163. Pilot program for establishing agricultural districts and agriculture enhancement groups

The commissioner may establish a pilot program to examine the effectiveness of agricultural districts in keeping farmland in agricultural production and enhancing the profitability of farming. For the purposes of this section, "pilot program" means an agricultural districts program that allows farmers to propose that the department designate their farmland as an agricultural district where commercial agriculture is encouraged and farmland protected through collaborative efforts at the state and local level.

1. Eligibility criteria for agricultural districts. In order to be eligible to participate in the pilot program, farms must form agricultural districts. An agricultural district must be composed of 3 or more farms that are located in geographic proximity to each other, produce similar types of agricultural products or share common marketing interests. The commissioner shall review eligibility criteria for participants in agricultural districts in other states and may develop additional criteria for participation with the pilot program, including, but not limited to, minimum acreage and farm income thresholds.

2. Benefits. The commissioner shall review benefits accruing to participants in agricultural districts in other states. Prior to initiating the pilot program, the commissioner shall develop a description of potential benefits accruing to participants in a pilot program. Potential benefits may include, but are not limited to, scoring bonuses for competitive grants, loans or business assistance programs and for project proposals screened for submission to the Land for Maine's Future Fund under Title 5, section 6203. The commissioner shall consult with other agencies administering programs affected by the proposed benefits.

3. Selection of regions. The commissioner shall distribute a description of the purpose and potential benefits of forming an agricultural district. Distribution may be through public agencies and private organizations that have regular contact with farmers in the State. The description must be posted

on the department's publicly accessible website. The description notice must include information on how to contact the department to express interest in learning more about or participating in an agricultural district.

Based on the response to the initial solicitation, the commissioner may designate one or more districts. Prior to making a selection, the commissioner shall communicate with local or regional planning commissions and state, local or regional land trusts to ascertain their willingness to participate in efforts to protect farmland in the proposed districts.

If more than one district is designated for the pilot program, the commissioner shall strive to select districts in different parts of the State or different sectors of the State's agricultural economy.

Sec. A-3. Duties of the Commissioner of Agriculture, Food and Rural Resources with regard to the designation of "Farming for Maine" farms. The Commissioner of Agriculture, Food and Rural Resources shall send a letter to municipal officials explaining the purpose of designating "Farming for Maine" farms under the Maine Revised Statutes, Title 7, section 162. The commissioner, in consultation with the Executive Department, State Planning Office, shall communicate ways that a municipality could use the record of designations to assist local planning boards and to solicit farmers' input in land use planning discussions.

The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters no later than February 1, 2011 on the development of any additional eligibility criteria, the number of farmers seeking designation as a "Farming for Maine" farm, overall interest in the designation program and regions displaying the most interest. The commissioner shall present the committee with recommendations to increase participation, including possible incentives and an estimate of the cost to implement any of the commissioner's recommendations.

Sec. A-4. Report on pilot program. The Commissioner of Agriculture, Food and Rural Resources shall report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters no later than February 15, 2011 on any progress made in initiating a pilot program to examine the effectiveness of agricultural districts under the Maine Revised Statutes, Title 7, section 163. The commissioner shall summarize discussions on appropriate eligibility criteria and benefits for an agricultural districts program and the names and affiliations of people participating in these discussions. The commissioner shall provide an estimate of the resources needed to proceed with a pilot program if one has not been undertaken.

Sec. A-5. Monitoring federal estate tax changes. Beginning in calendar year 2009, the Department of Agriculture, Food and Rural Resources and the State Tax Assessor shall jointly monitor changes in the federal estate tax on an annual basis and identify the impact of the tax provisions on the preservation of farmland in the State. By January 15th of each year beginning in 2010, the department and the assessor shall provide the joint standing committees of the Legislature having jurisdiction over agricultural matters and taxation matters with a written update of their monitoring activity. The department may make recommendations for changes to the State's estate tax that will facilitate the preservation of farmland. The joint standing committee of the Legislature having jurisdiction over taxation matters may introduce legislation related to this review.

PART B

Sec. B-1. 12 MRSA §1812, first ¶, as amended by PL 2001, c. 466, §3, is further amended to read:

With the consent of the Governor and the commissioner, the director may acquire on behalf of the State land or any interests in land within this State, with or without improvements, by purchase, gift or eminent domain for purposes of holding and managing the same as parks or historic sites. When acquiring land or interest in land, the director shall examine options for obtaining public vehicular access rights to the land. If an acquisition is made that does not include guaranteed public vehicular access, the director shall describe the acquisition in the report required under section 1817 and the justification for that acquisition. The right of eminent domain may not be exercised to take any area or areas for any one park that singly or collectively exceed 200 acres, nor may it be exercised to take any developed or undeveloped mill site or water power privilege in whole or in part or any land used or useful in connection therewith or any land being used for an industrial enterprise. The right of eminent domain may not be exercised without prior review by the joint standing committee of the Legislature having jurisdiction over conservation matters.

Sec. B-2. 12 MRSA §1813, first ¶, as enacted by PL 1997, c. 678, §13, is amended to read:

For the purpose of establishing, preserving or enhancing corridors for use for open space or recreation, the director may acquire with the consent of the Governor and the commissioner, by license, lease, purchase, gift or eminent domain, railroad rights-of-way upon which rail service is no longer operated except that the right of eminent domain may not be exercised without prior review by the joint standing committee of the Legislature having jurisdiction over conservation matters. When railroad rights-of-way or interests in railroad rights-of-way are taken by eminent domain, the proceedings must be in accordance with this section and are not subject to Title 35-A, chapter 65. For purposes of these acquisitions, the term "owner" as used in this section means the person holding the dominant rights in the property immediately prior to the termination of the operation of rail service and that person's successors and assigns. Acquisitions pursuant to this subsection are not subject to any limitation in acreage.

Sec. B-3. 12 MRSA §1892, 2nd ¶, as enacted by PL 1997, c. 678, §13, is amended to read:

If all reasonable efforts to acquire lands or interests therein by negotiation have failed and public exigency requires it, the director, with the consent of the Governor and the commissioner, may utilize the power of eminent domain to acquire any land determined necessary to provide passage via the most direct or practicable connecting trail right-of-way across such lands; however, not more than 25 acres in any one mile may be acquired without consent of the owner and that owner and adjacent landowners may not be precluded from using motorized vehicles across such trails to maintain reasonable access to their fee or other interests in land. The right of eminent domain may not be exercised without prior review by the joint standing committee of the Legislature having jurisdiction over conservation matters.

PART C

Sec. C-1. 30-A MRSA §4401, sub-§2-B is enacted to read:

2-B. Farmland. "Farmland" means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2.

Sec. C-2. 30-A MRSA §4404, sub-§14-A is enacted to read:

14-A. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

Sec. C-3. The State Planning Office and the Department of Agriculture, Food and Rural Resources develop a model ordinance. The Executive Department, State Planning Office and the Department of Agriculture, Food and Rural Resources shall review existing municipal ordinances intended to protect farmland and provide examples of these provisions to municipal and regional planning committees. The Director of the State Planning Office and the Commissioner of Agriculture, Food and Rural Resources shall report on their progress and outcomes to the Joint Standing Committee on Agriculture, Conservation and Forestry by December 1, 2009.

Effective September 12, 2009