

SENATE

JOHN M. NUTTING, DISTRICT 17, CHAIR
BRUCE S. BRYANT, DISTRICT 14
ROGER L. SHERMAN, DISTRICT 34

O.F.P.R.

2010 FEB 12 PM 1:11

JILL IPPOLITI, LEGISLATIVE ANALYST
MELISSA WRIGHT, COMMITTEE CLERK



HOUSE

WENDY PIEH, BREMEN, CHAIR
NANCY E. SMITH, MONMOUTH
BENJAMIN M. PRATT, EDDINGTON
LEILA J. PERCY, PHIPPSBURG
PETER S. KENT, WOOLWICH
JEFF M. McCABE, SKOWHEGAN
ANDREW ROESING O'BRIEN, LINCOLNVILLE
PETER EDGECOMB, CARIBOU
DEAN A. CRAY, PALMYRA
JEFFERY A. GIFFORD, LINCOLN

STATE OF MAINE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY

TO: Senator Bill Diamond, Senate Chair
Representative Emily Cain, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator John M. Nutting, Senate Chair
Representative Wendy Pieh, House Chair
Joint Standing Committee on Agriculture, Conservation and Forestry

DATE: February 12, 2010

RE: Recommendations on Part AA and Part DDD of L.D. 1671 – the Supplemental Budget Bill

Thank you for allowing us more time to discuss Part AA and Part DDD and offer additional thoughts.

Part AA: In our memo dated January 26th, we communicated our grave reservations regarding the sections of Part AA that significantly diminish resources available to the Division of Forest Protection within the Maine Forest Service. Further discussions amplified these concerns and led us to the recommendation outlined below. This is the unanimous recommendation of the Joint Standing Committee on Agriculture, Conservation and Forestry.

Recommendation : Remove Sec. AA-1 and Sec. AA-3 from LD 1671 and deposit revenue of an equal or greater amount to the General Fund by collecting unpaid taxes due under the Commercial Forestry Excise Tax. Representatives from both Maine Revenue Services and the Maine Forest Services attending budget work sessions at the committee's request acknowledged that many landowners subject to the CFET are not paying the tax. Some landowners may truly be unaware of the tax on commercial forestland. Others may be aware of the tax but have not identified themselves to MRS as owners of forestland.

Maine Revenue Services has not shared tax return information with MFS under the advice that such sharing is not clearly exempted from the confidentiality provision in Title 36, section 191. By sharing information, MFS can assist MRS in identifying landowners who are engaged in commercial forestry but do not appear on the rolls of those paying the CFET.

Standard practice when those subject to a tax are identified is to collect back taxes of 2-3 years in addition to the current year. Capturing 550,000 acres on which the tax has not been paid will yield \$203,500 for each of the past 2 years and another \$203,500 for the current year for a total of \$610,500. The actual number of captured acres is likely to exceed 550,000.

Please note that the identification of additional acreage subject to the tax will not increase revenue in the future unless the 40/60 ratio of funding between the CFET and the General Fund is changed. However, collections for the current year and past 2 years will be deposited in the General Fund according to standard practice and will aptly cover the \$600,000 which Sec. AA-1 and Sec. AA-3 proposed to fill.

A subcommittee of ACF developed 6 options for the entire committee to consider. On February 10th, the committee quickly and unanimously endorsed the proposal outlined above. The other 5 were not discussed at length but are briefly described in **Attachment A**. Some warrant further examination as continuing means of equitably and adequately funding fire protection in the unorganized territories. With limited time to examine each, we are recommending option one as a fair approach to realizing \$600,000 in the current biennium and a more responsible action than selling equipment and diminishing resources for fire protection.

Table 1 presents the fiscal impact for Sec. AA-1 and Sec. AA-3. Although we are confident that \$600,000 of additional revenue can be generated in the current biennium, how quickly that revenue comes in depends on the sharing of information between two state agencies.

Transfers to General Fund Proposed in Part AA – page ACF-23

| | FY 2009-10 | FY2010-11 |
|-------------------------------------|------------|-----------|
| Proposed in Sec. AA-1 (lines 3-10) | \$50,000 | \$150,000 |
| Proposed in Sec. AA-3 (lines 16-25) | \$400,000 | |
| | \$450,000 | \$150,000 |

In concluding our recommendation regarding the integrity of funding for the Division of Forest Protection, we again call your attention to the need to exempt the division from the lapsing of personal services appropriations required under 5 MRSA §1582, sub-§4 as recently amended by PL 2009, c. 462, Part G. Amending language for that section is provided in **Attachment 2**.

Recommended language to authorize the sharing of information between Maine Revenue Services and the Maine Forest Service is provided in **Attachment 3**.

Part DDD: While the Joint Standing Committee on Agriculture, Conservation, and Forestry rejected Part DDD of the proposed budget, we were pleased by AFA's interest in the recommendations that came out of the Natural Resource Agencies Task Force and would like to elaborate a bit on the comments at the January 26th work session.

First, the task force was made up primarily of stakeholders and focused on improving services to Maine people, businesses and others using our natural resources. The task force's primary finding was that the departments, in many cases, tend to function as silos, rather than sharing ideas and information. More communication and collaboration is needed among the departments rather than a consolidation of the departments, which would destroy their identities and abilities to respond with speed and agility.

Many departments and state agencies interact and, in some cases, have responsibilities that overlap. This need to interact extends beyond the natural resource agencies; for example enforcement issues and health and safety issues transcend several departments.

The working group proposed in Part DDD is to "seek to implement the 8 recommendations of the 2008 natural resources agency task force." (Part DDD, Sec. DDD-3, subsection 1) Exacting \$1.25 million from 4 of the natural resource agencies is not a logical path to implementing the task force recommendations. It is simply an arbitrary budget reduction proposal.

The 8 recommendations are copied below along with some brief thoughts on each including the likely fiscal implications.

1) Marketing Maine's natural resources. There could be benefits from a combined marketing effort, one including tourism. Such an effort would not save General Fund money, but could increase revenue from increased economic activity and visitors. A pilot project requiring collaboration could work well. The task force envisioned the Department of Economic and Community Development (DECD) facilitating collaborative marketing efforts. **This item will not likely generate substantial savings, but could be a better use of existing resources**

2) Reviewing business processes involved in natural resources agency ministerial licenses to create a system that serves all clients: While streamlining and simplifying many of the natural resources agencies' licenses is an obvious step to take, each department has its own computer software that is not compatible with the other departments' software. Perhaps the departments could together seek a grant for the technological upgrading necessary.

Some license fees are deposited in dedicated accounts; others go into the General Fund. Accurate accounting and timely revenue flow is critical, in particular, for self-funded programs. Many agencies do ministerial licensing. A system that best serves customers and meets state data and management needs might best be located in an agency other than one of the 4 targeted departments. The task force suggested possible location of a licensing system in the Secretary of State's Office. **This item would be expensive to implement, but would save substantial funds over time.**

3) Move oversight/management of all state boat launch facilities to single agency: This idea has been around for years, and seems a no-brainer from the perspective of the user. However, the Department of Inland Fish and Wildlife, and very likely the oversight committee as well, have strong objections to moving forward with this idea. **Not likely a money saver, more likely helpful to the public.**

4) Move toward more agencies/staff being co-located in various regional offices to increase communication and collaboration: No department in the State should be expanding or move into a new building whether owned or leased if there are options to share with another department. This goes beyond the natural resource agencies; it should include all agencies in State government. **This**

may generate some short term savings in State government, would certainly generate substantial savings over time.

5) Move toward rational alignment of districts for natural resource agencies to increase communication and collaboration among staff members and between agencies and local government and citizens of those regions: The districts serving the different natural resource agencies, including the Department of Environmental Protection, are not commonly aligned. If sharing housing were to be successful re-alignment of the varied districts would be helpful. Some regional areas may be federally designated. **This would not generate short term savings; could generate savings over time through increased efficiencies and facilitating the sharing of housing.**

6) Create a single entity to manage public lands and to communicate with citizens about opportunities for access and recreation consistent with management goals for those lands: This is another one that seems a no-brainer from the public perspective. However, both the departments of Conservation and Inland Fisheries and Wildlife have strong territorial attachments to their current areas of responsibility. **Not likely a money saver, more likely helpful to the public.**

7) Suggest each agency engage with staff and stakeholders to prioritize programs and services, with an end result to drop or reduce low-priority work in favor of more critical needs. There was not a lot time to look into this area, but it seemed that each agency had programs in statute that they were not able to fund, and that therefore were not being implemented. **This could generate short and long term savings at least in the focus of existing personnel. This recommendation, if implemented, should include all departments of State government.**

8) Suggest each agency review advisory boards and committees to determine the most effective mix of citizen engagement and cost (staff time and expenses) Advisory Boards and Committees: Each agency has multiple advisory boards and committees, throughout state government. Taking a look at these and evaluating their usefulness and effectiveness makes sense. While having these Boards and Committees invites public involvement, they also take a tremendous amount of time and resource from the agencies. Asking each department of State government to outline their various Boards and Committees with time as well as financial resources committed to them could be very interesting. **This could represent significant time savings if not financial savings.**

Recommendation: Rather than look for additional savings in the departments targeted in Part DDD , we respectfully suggest that the best opportunities to realize savings this biennium lie in achieving savings across all state agencies through 1.) the consolidation of office space, 2.) moving to compatible computer software and hardware, and 3.) reducing overlap in programs and responsibilities.

Although rejecting Part DDD we also want to reiterate our request that If AFA decides additional reductions to natural resource agencies are unavoidable, we urge that:

- A. The proposed \$1.25 million in savings be distributed over 6 agencies rather than 4 departments by including the Department of Environmental Protection and the State Planning Office.

- B. The working group established to determine how the savings will be achieved include the Commissioners and Director of the affected agencies.
- C. Representatives of interest groups with knowledge of and affected by the operations of these agencies serve in a consulting capacity to the working group.

Attachment 1

ACF Budget Subcommittee Notes from Tues. February 9, 2010 CSOB Room 201

Present: Rep. Cray, Rep. McCabe, Rep. Pratt, Acting Commissioner Townsend, Peter Beringer, Bill Williams, Alec Giffen, Dave LeDew, & Jim Cote

Funding Options

1. Capture landowners who should be paying the Commercial Forestry Excise Tax

- Maine Forest Service (MFS) provide landowner names to Maine Revenue Services (MRS)
- MRS provides information on entities that pay taxes in the UT to the MFS so it can assist identifying those who should be paying the CFET but currently are not. Note: May want to clarify that MFS & MRS are authorized to share information under Title 5 Section 191 sub-§2.
- MRS' standard practice is to collect back taxes of 2-3 years in addition to current year. A conservative estimate is \$200,000/year lost to non payment. Collecting 2 years of back taxes plus current year would bring in \$600,000
- If the non-payers are not pursued until after April 1, the rate will be set and thus the payers' rate will not be reduced *this year only*—enough to cover the FY10 hole

2. Increase the CFET from 40% to 45 or 50% (see CFET chart dated 2-3-10)

- Increasing the percentage of the CFET by 5% would increase receipts by \$433,000 if the Forest Protection budget remains unchanged and the rate would increase from \$.37 to \$.42 per acre if no additional acres are added.

3. Combination of options #1 and #2 (see CFET chart dated 2-3-10)

- Increasing the percentage of the CFET by 5% would increase receipts by \$433,000, by increasing the number of acres the rate would only increase \$.02 per acre.

4. Implement a flat fee-for-service to all property owners in the UT not paying CFET to cover the cost of Forest Fire Protection

- 10,000 units at \$60 would raise \$600,000; 15,000 units at \$40 would raise \$600,000.00
- Landowners who pay the CFET could be exempted from the flat fee

5. Institute a fee for submitting the Forestry Operations Notification (see FON chart dated 2-3-10)

- Charging \$25 for original notifications and \$10 for amendments is expected to raise \$119,000.00

6. Replace the Commercial Forestry Excise Tax with an adjustment to the Municipal Cost Component (MCC) to sustain forest protection services. Currently the MCC pays for the cost of actual fire suppression but does not contribute to maintaining the “fire department” (the Div. of Forest Protection)

- CFET as currently structured raises about \$3.4 million; 40% of annual forest protection costs statewide as provided in statute with an appropriation from the General Fund for the remaining 60%.
- Costs associated with providing protection and suppression to the UT are about \$4 million annually, about \$600,000 more than the CFET brings in. Keep in mind that the CFET is paid only on commercial forestland and paid by owners of more than 500 acres throughout the state
- Distributing the \$4 million cost of providing fire protection to all property owners in the UT would change the funding ratio from 60/40 to roughly 54% from the General Fund and 46% from all UT property owners.
- The Municipal Cost Component would distribute the cost of fire protection based on the value of property protected by MFS. It would capture owners of structures as well as landowners, distributing costs more equitably than in the past.
- Factoring in \$4 million for fireprotection would increase the mil rate in the UT by approximately 1.3 to 1.5 mil
- 2/3rds of the structures in the UT are second homes
- This proposed method parallels the way municipalities pay for fire protection

Attachment 2

Joint Standing Committee on Agriculture, Conservation and Forestry

Proposed Amendment for LD 1671

February 8, 2010

Sec. X. 5 MRSA §1582, sub-§4, as amended by PL 2009, c. 462, Part G, §1 is further amended to read:

4. Use of savings; personal services funds. Savings accrued from unused funding of employee benefits may not be used to increase services provided by employees. Accrued salary savings generated within an appropriation or allocation for Personal Services may be used for the payment of nonrecurring Personal Services costs only within the account where the savings exist. Accrued savings generated from vacant positions within a General Fund account's appropriation for Personal Services may be used to offset Personal Services shortfalls in other General Fund accounts that occur as a direct result of Personal Services appropriation reductions for projected vacancies, and accrued savings generated within a Highway Fund account's allocations for Personal Services may be used to offset Personal Services shortfalls in other Highway Fund accounts that occur as a direct result of Personal Services allocation reductions for projected vacancies; except that the transfer of such accrued savings is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Costs related to acting capacity appointments and emergency, unbudgeted overtime for which it is impractical to budget in advance may be used with the approval of the appointing authority. Other actions such as retroactive compensation for reclassifications or reallocations and retroactive or one-time settlements related to arbitrator or court decisions must be recommended by the department or agency head and approved by the State Budget Officer. Salary and employee benefits savings may not be used to fund recurring Personal Services actions either in the account where the savings exist or in another account. At the close of each fiscal year, except for the Division of Forest Protection account within the Department of Conservation, any unexpended General Fund Personal Services appropriations to executive branch agencies including accounts that are authorized to carry unexpended balances forward must lapse to the Salary Plan program, General Fund account in the Department of Administrative and Financial Services.

SUMMARY

This amendment exempts the Division of Forest Protection from the provision enacted in PL 2009, c. 462, Part G that lapses unexpended General Fund Personal Services appropriations to the Salary Program, General Fund account at the close of each fiscal year.

Attachment 3

Joint Standing Committee on Agriculture, Conservation and Forestry

Proposed Amendment for LD 1671

February 12, 2010

Sec. X. 36 MRSA §191, sub-§2, ¶PP is enacted to read:

PP. The disclosure to the Department of Conservation of information pertaining to the assessment and collection of taxes under chapter 367, including landowner names and acreages reported and assessed to facilitate the administration of chapter 367.

SUMMARY

This amendment authorizes employees of the Bureau of Revenue Services within the Department of Administrative and Financial Services to disclose information pertaining to the assessment and collection of the Commercial Forestry Excise Tax to the Department of Conservation to facilitate administration of the Commercial Forestry Excise Tax.