



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1284

H.P. 943

House of Representatives, March 23, 2011

An Act To Amend the Scallop Advisory Council

Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative FOSSEL of Alna.
Cosponsored by Senator LANGLEY of Hancock and
Representatives: McKANE of Newcastle, OLSEN of Phippsburg, PRESCOTT of Topsham,
Senator: SNOWE-MELLO of Androscoggin.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§57-F**, as enacted by PL 2003, c. 319, §1, is
3 amended to read:

4 **57-F.**

5 Marine Resources Scallop Advisory Expenses Only 12 MRSA ~~§6729-B~~
6 Council §6729-C

7 **Sec. 2. 12 MRSA §6729-A, sub-§1**, as amended by PL 2007, c. 607, Pt. A, §13,
8 is further amended to read:

9 **1. Uses of fund.** The commissioner shall use the fund for research directly related to
10 scallop fishery management information needs, for implementation of scallop
11 management measures and for reporting to licensed scallop harvesters on the results of
12 research and the use of fund revenues. The commissioner may authorize the expenditure
13 of money in the fund for research and development programs that address the restoration,
14 development or conservation of scallop resources. The commissioner shall consult with
15 the Scallop Advisory Council under section ~~6729-B~~ 6729-C before deciding upon
16 research projects and awarding grants from the fund. The fund may also be used for
17 support of the Scallop Advisory Council, including reimbursement for travel expenses.

18 **Sec. 3. 12 MRSA §6729-A, sub-§3**, as enacted by PL 2003, c. 319, §2, is
19 amended to read:

20 **3. Scallop Advisory Council.** The commissioner shall consult with the Scallop
21 Advisory Council under section ~~6729-B~~ 6729-C on the expenditure of funds under this
22 section.

23 **Sec. 4. 12 MRSA §6729-B**, as enacted by PL 2003, c. 319, §2, is repealed.

24 **Sec. 5. 12 MRSA §6729-C** is enacted to read:

25 **§6729-C. Scallop Advisory Council**

26 **1. Composition.** The Scallop Advisory Council, referred to in this section as "the
27 council," established by Title 5, section 12004-I, subsection 57-F, consists of members
28 elected pursuant to subsection 2 and 8 members appointed by the commissioner pursuant
29 to subsection 3.

30 **2. Election.** One scallop harvester who holds a current scallop hand fishing or
31 dragging license must be elected from each of the lobster management zones established
32 pursuant to section 6446. The commissioner shall adopt by rule procedures for a scallop
33 harvester to indicate which lobster management zone the scallop harvester wishes to vote
34 in and how a scallop harvester may stand for election, as well as procedures for
35 conducting the election of council members. Rules adopted under this subsection are
36 routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

- 1 **3. Appointments.** The commissioner shall appoint 8 members as follows:
- 2 A. Four scallop harvesters who hold current scallop hand fishing or dragging
3 licenses. In making these appointments, the commissioner shall seek to ensure that
4 the number of appointed and elected members with hand fishing licenses is as nearly
5 as possible equal to the number of members with dragging licenses;
- 6 B. One wholesale seafood license holder who deals in scallops;
- 7 C. One scientist who has expertise in marine resources management;
- 8 D. One recreational harvester who holds a current noncommercial scallop license;
9 and
- 10 E. One person who is a public member.

11 **4. Term.** An elected member serves for a 2-year term. When a vacancy occurs
12 among elected members, the vacancy must be filled in accordance with the rules adopted
13 under subsection 2. An appointed member serves for a 2-year term, except that a vacancy
14 must be filled by the commissioner for the unexpired portion of a term. When a vacancy
15 occurs among appointed members, the commissioner shall fill the vacancy by appointing
16 a member from the same category of members listed in subsection 3 as the member who
17 vacated the council. A member continues to serve until the member's successor is
18 appointed.

19 **5. Purpose.** The council shall make recommendations to the commissioner
20 concerning:

21 A. Research projects and grants made by the Scallop Research Fund. The council
22 may seek advice from scientists who have expertise in marine resources management
23 in determining the research needs for the scallop fishery; and

24 B. Other matters of interest to the scallop fishery.

25 Recommendations must be approved by a majority of voting members. Except as
26 otherwise specifically provided by law, the commissioner may not make a decision
27 affecting the scallop fishery that is not approved by the council.

28 **6. Compensation.** Members are entitled to expenses according to Title 5, chapter
29 379.

30 **7. Chair and officers.** The council shall choose one of its members to serve as
31 chair. The council may select other officers and designate their duties. The council shall
32 adopt bylaws governing the selection of officers, establishment of committees and other
33 matters relating to the functioning of the council consistent with this section.

34 **8. Meetings.** The council shall meet at least once a year. It may also meet at other
35 times at the call of the chair or the chair's designee or at the call of the commissioner or
36 the commissioner's designee. All meetings must be conducted in accordance with
37 Robert's Rules of Order.

38 **Sec. 6. Transition; first election of Scallop Advisory Council.** Members of
39 the Scallop Advisory Council serving on the effective date of this Act continue to serve

1 until December 31, 2011. The Department of Marine Resources shall adopt rules
2 governing the election of members to the council pursuant to the Maine Revised Statutes,
3 Title 12, section 6729-C, subsection 2 and shall conduct an election of members by
4 December 31, 2011 so that new elected members are elected by January 1, 2012. New
5 appointed members are appointed in accordance with the provisions of Title 12, section
6 6729-C, subsection 3 and must be appointed by January 1, 2012. Rules adopted pursuant
7 to this section are routine technical rules as defined in Title 5, chapter 375, subchapter
8 2-A.

9

SUMMARY

10 This bill alters the makeup of the Scallop Advisory Council to include one elected
11 scallop harvester with a valid scallop license from each of the lobster management zones
12 to serve on the council. It decreases the number of appointed members and ensures that
13 the makeup of the council includes a mix of harvesters with hand fishing scallop licenses
14 and dragging licenses. The Department of Marine Resources is directed to adopt routine
15 technical rules governing the elections of council members. The bill also provides that the
16 commissioner must seek the council's approval on decisions that affect the scallop
17 fishery.