

## §4312-C. Wild Blueberry Commission of Maine

**1. Commission established as a public instrumentality.** The Wild Blueberry Commission of Maine, as established by Title 5, section 12004-H, subsection 13-A and referred to in this section as the "commission," is established as a public body corporate and politic and an incorporated public instrumentality of the State. The exercise of powers conferred by this chapter is held to be the performance of essential government functions.

A. Employees of the commission may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

B. The commission may not be construed to be a state agency for any purpose, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

C. Notwithstanding paragraphs A and B:

(1) Employees of the commission may be state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter II;

(2) For the purposes of the Maine Tort Claims Act, the commission is a governmental entity and its employees and members are employees as those terms are defined in Title 14, section 8102;

(3) Funds received by the commission pursuant to this chapter must be allocated to the commission by the Legislature in accordance with Title 5, section 1673; and

(4) All meetings and records of the commission are subject to the provisions of Title 1, chapter 13, subchapter I, except that by majority vote of those members present, records and meetings of the commission may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the wild blueberry industry of the State or segments of that industry. The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the commission. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF); PL 2011, c. 657, Pt. W, §6 (REV).]

D. An employee of the commission who leaves commission employment may not be a paid lobbyist as defined by Title 3, section 312-A, subsection 10 for a wild blueberry business for a period of one year after leaving commission employment. [PL 2019, c. 186, §2 (NEW).]  
[PL 2019, c. 186, §2 (AMD).]

**2. Appointment.** Appointments to the commission are made by the Commissioner of Agriculture, Conservation and Forestry. The commissioner shall call for and consider nominations for grower representative appointments to the commission from the wild blueberry grower community in the State. The commissioner shall call for nominations by January 15th of any year in which a grower representative term will expire and shall announce the call for nominations at a statewide agricultural trade show held in Augusta in January.  
[PL 2019, c. 186, §3 (AMD).]

**3. Membership.** The commission consists of 10 members who are active in and representative of the wild blueberry industry, appointed by the Commissioner of Agriculture, Conservation and Forestry.

A. Five members must be grower representatives. For the purposes of this section, "grower representative" means a person, firm, partnership, association or corporation engaged in the

growing of wild blueberries in the State, including but not limited to those who engage in organic growing, other integrated crop management growing, fresh pack sales, wild blueberry business cooperative activities and wild blueberry value-added production and those representing a federally recognized Indian nation, tribe or band in the State. "Grower representative" does not include a processor representative. Grower representative members must be selected to represent grower representatives who pay both the processor and grower portions of the wild blueberry tax under this chapter and grower representatives who pay only the grower portion of the wild blueberry tax under this chapter. [PL 2019, c. 186, §4 (NEW).]

B. Five members must be processor representatives. For purposes of this section, "processor representative" means a person, firm, partnership, association or corporation that processes 1,000,000 pounds or more of wild blueberries grown in the State in a calendar year. [PL 2019, c. 186, §4 (NEW).]

[PL 2019, c. 186, §4 (RPR).]

**4. Term.** Members are appointed to staggered 4-year terms so that the terms of at least 2 but not more than 3 members expire on August 31st of every year. If the Commissioner of Agriculture, Conservation and Forestry fails to make an appointment prior to the expiration of a member's term, that member continues to serve until the commissioner makes an appointment for the remainder of that term. If a vacancy occurs prior to the expiration of a specified term, the Commissioner of Agriculture, Conservation and Forestry shall appoint an individual to serve only the remainder of that term. [PL 2019, c. 186, §5 (AMD).]

**5. Organization.** Members of the commission shall elect annually by majority vote one member of the commission to serve as chair and one member to serve as vice-chair. The commission may appoint by majority vote an executive director who is the commission's chief administrator and such personnel as the commission considers necessary to administer policies and programs established by the commission. The executive director and other staff serve at the pleasure of the commission. The salaries paid to the executive director and other staff of the commission are fixed by the commission. The executive director and other staff are not subject to the personnel laws of the State. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

**6. Compensation of commissioners.** Members of the commission are entitled to compensation in accordance with Title 5, chapter 379. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

**7. Function of commission.** It is the responsibility of the commission to utilize and allocate such funds as may be available from the funds collected under section 4307. The commission may make contracts or enter into contracts with any local, state, federal or private agency, department, firm, corporation or association as may be necessary to carry out the purposes of this chapter. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

**8. Debt.** A debt or obligation incurred by the commission is not a debt or obligation of the State. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

**9. Books and records.** The commission shall keep books, records and accounts of all its activities, which must be open to inspection and audit by the State at all times. An independent certified public accountant shall conduct an annual audit of the financial records of the commission and report the results of the audit to the commission, the Commissioner of Agriculture, Conservation and Forestry, the Treasurer of State and the Legislature. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF); PL 2011, c. 657, Pt. W, §6 (REV).]

**10. Funding.** The commission may receive and expend funds from any source, public or private, that it determines necessary to carry out its purposes. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

**11. Appropriation and use of money received.** The commission may accept grants or contributions of money or other things of value from any source, public or private. Those grants or other contributions must be held by the commission and used to carry out the purposes of this chapter, subject to any condition under which the grant or contribution was accepted by the commission. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

**12. Bylaws.** The commission may adopt bylaws to govern its functions. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

#### SECTION HISTORY

PL 1997, c. 511, §21 (NEW). PL 1997, c. 511, §25 (AFF). PL 2011, c. 579, §2 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2019, c. 186, §§2-5 (AMD).

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