

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
SECOND SPECIAL SESSION

HOUSE AMENDMENT "~~L~~" to H.P. 1402, L.D. 1985, Bill, "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of Law"

Amend the bill by striking out all of Part F and inserting in its place the following:

PART F

Sec. F-1. 5 MRSA §934-A, sub-§1, ¶¶A and C, as enacted by PL 1987, c. 534, Pt. A, §§4 and 19, are repealed.

Sec. F-2. 5 MRSA §934-A, sub-§1, ¶¶D and E, as amended by PL 1987, c. 816, Pt. P, §1, are repealed.

Sec. F-3. 5 MRSA §934-A, sub-§1, ¶F, as enacted by PL 1987, c. 816, Pt. P, §2, is repealed.

Sec. F-4. 5 MRSA §934-A, sub-§1, ¶¶G to I are enacted to read:

G. Director, Administration;

H. Director, Community Development; and

I. Director, Tourism.

Sec. F-5. 5 MRSA §13051, last ¶, as enacted by PL 1987, c. 816, Pt. P, §4, is repealed.

Sec. F-6. 5 MRSA §13052, last ¶, as enacted by PL 1987, c. 816, Pt. P, §5, is repealed.

Sec. F-7. 5 MRSA §13055, sub-§1, as amended by PL 1989, c. 875, Pt. M, §§2 and 3 and affected by §13, is further amended to read:

2           1. **Organizations.** The department shall ~~contain~~ contains  
the following organizations:

4           A. The Office of Business Development; and

6           B. The Office of Community Development; ~~and.~~

8           ~~E. The Office of Comprehensive Land Use Planning.~~

10           **Sec. F-8. 5 MRSA §13072, sub-§4,** as enacted by PL 1987, c.  
12 534, Pt. A, §§17 and 19, is amended to read:

14           4. **Provide information.** The director shall provide  
16 municipalities with information about the department's programs  
and services and shall refer municipalities to the offices and  
18 programs within the State that can best assist them. The office  
shall make available to municipalities and regional planning  
20 agencies existing information from state agencies to be used in  
the development of comprehensive plans and land use ordinances.

22           **Sec. F-9. 5 MRSA §13072, sub-§7, ¶A,** as amended by PL 1987, c.  
24 816, Pt. P, §10, is further amended to read:

26           A. The Community Development Block Grant Program;

28           **Sec. F-10. 5 MRSA §13072, sub-§7, ¶¶D to F** are enacted to read:

30           D. The Coastal Zone Management Local Grants Program;

32           E. The Maine Natural Heritage Program. The director shall  
administer the Maine Natural Heritage Program established  
34 under section 13074-A; and

36           F. The National Flood Insurance Program.

38           **Sec. F-11. 5 MRSA §13072, sub-§8,** as amended by PL 1987, c.  
816, Pt. P, §11, is further amended to read:

40           8. **Provide technical assistance.** The director shall  
42 oversee delivery of technical assistance and resources to  
municipalities and regional community and economic development  
44 organizations for the purpose of encouraging economic growth  
while maintaining the quality of life. Additionally, the  
46 director shall oversee delivery of technical assistance and  
resources to municipalities for the purpose of flood plain  
48 management activities and enhancing and expanding parks, open  
spaces and recreational opportunities as a part of comprehensive  
community development. Within available resources, the director

2 shall provide technical assistance to municipalities and regional  
3 planning organizations in the development and implementation of  
4 local comprehensive land use plans.

6 **Sec. F-12. 5 MRSA §13072, sub-§10** is enacted to read:

8 10. Enforcement assistance program. The office shall  
9 administer a program of training and financial assistance for  
10 municipal code enforcement officers.

12 **Sec. F-13. 5 MRSA §13074-A** is enacted to read:

14 **§13074-A. Maine Natural Heritage Program**

16 The Maine Natural Heritage Program is established to perform  
17 the following functions.

18 1. Ongoing inventory. The Maine Natural Heritage Program  
19 shall conduct an ongoing inventory of the State's critical  
20 natural resources, including, but not limited to, rare plants,  
21 animals, natural communities and ecosystems, including their  
22 location and biological and ecological status.

24 2. Biological and conservation data base. The Maine  
25 Natural Heritage Program shall maintain a biological and  
26 conservation data base that must contain inventory data and other  
27 relevant biological and ecological information about critical  
28 natural resources and about ecologically significant sites  
29 harboring these resources. Information contained within the  
30 biological and conservation data base may be made available upon  
31 request for conservation and land use planning, environmental  
32 review, scientific research, education or other appropriate,  
33 noncommercial use. For the purposes of this subsection, an  
34 appropriate use is one that will not jeopardize sensitive  
35 populations or habitats.

36 3. Interdepartmental coordination of inventory and data  
37 management activities. The Maine Natural Heritage Program shall  
38 coordinate inventory and data management activities with the  
39 Department of Inland Fisheries and Wildlife, the Department of  
40 Environmental Protection, the Department of Conservation and the  
41 State Planning Office to prevent duplication, increase efficiency  
42 and increase the flow of data and communication among those  
43 agencies and to support the mandates and programs of the  
44 cooperating agencies. The Maine Natural Heritage Program shall  
45 establish and maintain installations of the biological and  
46 conservation data base within the Department of Inland Fisheries  
47 and Wildlife, the Department of Environmental Protection and the  
48 State Planning Office pursuant to memoranda of agreement.

50

2 4. Grants. Any person, organization or agency of the State  
3 may apply to the Maine Natural Heritage Program for a grant to  
4 undertake inventory and research about rare, endangered or  
5 threatened plants, animals and natural communities or  
6 ecosystems. The office may award grants out of the Maine Natural  
7 Heritage Fund.

8 5. Charges. The Maine Natural Heritage Program may levy  
9 appropriate charges to those using for commercial gain the  
10 services provided by the Maine Natural Heritage Program to  
11 recover the costs of providing the service and a reasonable  
12 portion of the costs associated with building and maintaining the  
13 biological and conservation data base. Charges must be fixed in  
14 a schedule prepared and revised as necessary by the office and  
15 must be supported and explained by accompanying information.

16 6. Cooperative agreements. The Maine Natural Heritage  
17 Program may enter into cooperative agreements with federal or  
18 state agencies, political subdivisions of this State or private  
19 persons or organizations to receive or disburse funds to carry  
20 out the purposes of this section.

22 **Sec. F-14. 5 MRSA c. 383, sub-c. VI, as amended, is repealed.**

24 **Sec. F-15. 12 MRSA §8003, sub-§3, ¶P, as enacted by PL 1989, c.**  
26 **555, §6, is amended to read:**

28 P. The director shall act as a liaison with the Department  
29 of Environmental Protection, the Maine Land Use Regulation  
30 Commission, the Department of Inland Fisheries and Wildlife,  
31 ~~the Office of Comprehensive Land Use Planning~~ and the  
32 Cooperative Extension Service on forestry issues.

34 **Sec. F-16. 12 MRSA §8867, sub-§1, ¶A, as amended by PL 1991,**  
36 **c. 591, Pt. G, §8, is further amended to read:**

38 A. Seek advice from ad hoc advisory boards formed pursuant  
39 to Title 5, section 12008, and technical working groups on  
40 forest management issues that vary from region to region,  
41 including regeneration and clear-cutting rules; and

42 **Sec. F-17. 12 MRSA §8867, sub-§1, ¶B, as enacted by PL 1989, c.**  
44 **555, §10, is amended to read:**

46 B. Consult with the Commissioner of Environmental  
47 Protection and the Commissioner of Inland Fisheries and  
48 Wildlife to ensure consistency between the departments'  
49 rules and the consideration of wildlife habitat and  
50 environmental protection; ~~and.~~

2           Sec. F-18. 12 MRSA §8867, sub-§1, ¶C, as enacted by PL 1989,  
c. 555, §10, is repealed.

4           Sec. F-19. 30-A MRSA §4301, sub-§13, as enacted by PL 1989, c.  
6 104, Pt. A, §45 and Pt. C, §10, is repealed.

8           Sec. F-20. 30-A MRSA §4311, as enacted by PL 1989, c. 104,  
Pt. A, §45 and Pt. C, §10, is repealed.

10           Sec. F-21. 30-A MRSA §4312, sub-§1, as enacted by PL 1989, c.  
12 104, Pt. A, §45 and Pt. C, §10, is repealed.

14           Sec. F-22. 30-A MRSA §4312, sub-§2, ¶¶A to C, as enacted by PL  
16 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

18           A. Establish, in each municipality of the State, local  
comprehensive planning and land use management according to  
20 ~~the schedule contained in this subchapter and consistent~~  
~~with the goals and policies of the State;~~

22           B. ~~Provide municipalities with the tools and resources to~~  
~~effectively plan for and manage future development within~~  
24 ~~their jurisdictions with a maximum of local initiative and~~  
~~flexibility;~~

26           C. Encourage, ~~through state and regional technical and~~  
28 ~~financial assistance and review,~~ local land use ordinances,  
tools and policies that are based on local comprehensive  
30 plans that are prospective and inclusive of all matters  
determined by the Legislature to be in the best interests of  
32 the State;

34           Sec. F-23. 30-A MRSA §4312, sub-§2, ¶E, as enacted by PL 1989,  
c. 104, Pt. A, §45 and Pt. C, §10, is repealed.

36           Sec. F-24. 30-A MRSA §4312, sub-§2, ¶¶F and G, as enacted by PL  
38 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

40           F. Provide for continued direct state regulation of  
development proposals that occur in areas of statewide  
42 concern, that directly impact natural resources of statewide  
significance or that by their scale or nature otherwise  
44 affect vital state interests; and

46           G. Encourage the widest possible involvement by the  
citizens of each municipality in all aspects of the planning  
48 and implementation process, in order to ensure that the  
plans developed by municipalities ~~and reviewed by the State~~  
50 have had the benefit of citizen input; ~~and.~~

2           **Sec. F-25. 30-A MRSA §4312, sub-§2, ¶H,** as enacted by PL 1989,  
c. 104, Pt. A, §45 and Pt. C, §10, is repealed.

4           **Sec. F-26. 30-A MRSA §4313,** as amended by PL 1991, c. 278,  
6 §1, is repealed.

8           **Sec. F-27. 30-A MRSA §4313-A** is enacted to read:

10       §4313-A. Transition; savings clause

12           Any comprehensive plan or land use regulation or ordinance  
14 adopted or amended by a municipality under former Title 30,  
16 chapter 239, subchapters V and VI remains in effect until amended  
18 or repealed subject to this subchapter.

20           **Sec. F-28. 30-A MRSA §4323, first ¶,** as enacted by PL 1989, c.  
22 104, Pt. A, §45 and Pt. C, §10, is amended to read:

24           Through the exercise of its home rule authority, subject to  
26 the express limitations and requirements of this subchapter,  
28 every municipality shall may:

30           **Sec. F-29. 30-A MRSA §4324, sub-§§1 and 2,** as enacted by PL  
32 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

34           1. **Growth management program.** Pursuant--to--the--schedule  
36 established--in--section--4343,--each Each municipality shall may  
38 prepare a local growth management program in accordance with this  
40 section and--which that is consistent with the goals, guidelines  
42 and other provisions of this subchapter, or shall may amend its  
44 existing comprehensive plan and existing land use ordinances to  
46 comply with this subchapter.

48           2. **Local planning committee.** The municipal officers of a  
50 municipality or combination of municipalities shall may designate  
and establish a local planning committee.

A. The municipal officers may designate any existing  
planning board or district established under subchapter IV,  
or a former similar provision, as the local planning  
committee. Planning boards established under former Title  
30, section 4952, subsection 1, continue to be governed by  
those provisions until they are superseded by municipal  
charter or ordinance.

B. The local planning committee shall may develop and  
maintain a comprehensive plan and shall may develop an  
initial proposed zoning ordinance or an initial revision of  
an existing zoning ordinance. In performing these duties,  
the local planning committee shall should:

2 (1) Hold public hearings and use other methods to  
4 solicit and strongly encourage citizen input; and

6 (2) Prepare the comprehensive plan and proposed zoning  
8 ordinance and make recommendations to the municipal  
10 reviewing authority and municipal legislative body  
12 regarding the adoption and implementation of the  
14 program or amended program.

16 Sec. F-30. 30-A MRSA §4324, sub-§5, as amended by PL 1989, c.  
18 562, §3, is repealed.

20 Sec. F-31. 30-A MRSA §4324, sub-§6, as enacted by PL 1989, c.  
22 104, Pt. A, §45 and Pt. C, §10, is repealed.

24 Sec. F-32. 30-A MRSA §4324, sub-§7, as amended by PL 1989, c.  
26 562, §4, is repealed.

28 Sec. F-33. 30-A MRSA §4324, sub-§8, ¶A, as amended by PL 1989,  
30 c. 562, §5, is further amended to read:

32 A. Notice of any public hearing shall must be published in  
34 a ~~newspaper of general circulation~~ posted in the  
36 municipality at least 2 times. ~~The date of the first~~  
38 ~~publication must be at least 30 days before the hearing.~~  
40 ~~This notice shall also contain a statement that the comments~~  
42 ~~are expected from the office and will be available for~~  
44 ~~distribution before, and for discussion at, the public~~  
46 ~~hearing.~~

48 Sec. F-34. 30-A MRSA §4326, sub-§3, as amended by PL 1989, c.  
878, Pt. A, §84, is further amended to read:

3. Implementation strategy. A comprehensive plan shall  
36 must include an implementation strategy section which that  
38 contains a timetable for the implementation program, including  
40 land use ordinances, ensuring that the goals established under  
42 this subchapter are met. These implementation strategies must be  
44 consistent with state law and shall must actively promote  
46 policies developed during the planning process. The timetable  
48 shall must identify significant ordinances to be included in the  
implementation program. The strategies and timetable shall must  
guide the subsequent adoption of policies, programs and land use  
ordinances. In developing its strategies and subsequent  
policies, programs and land use ordinances, each municipality  
shall employ the following guidelines consistent with the goals  
of this subchapter:



HOUSE AMENDMENT "LL" to H.P. 1402, L.D. 1985

2 A. Identify and designate at least 2 basic types of  
geographic areas:

4 (1) Growth areas, which are those areas suitable for  
6 orderly residential, commercial and industrial  
development forecast over the next 10 years. Each  
municipality shall may:

8 (a) Establish standards for these developments;

10 (b) Establish timely permitting procedures;

12 (c) Ensure that needed public services are  
14 available within the growth area; and

16 (d) Prevent inappropriate development in natural  
18 hazard areas, including flood plains and areas of  
high erosion; and

20 (2) Rural areas, which are those areas where  
22 protection should be provided for agricultural, forest,  
open space and scenic lands within the municipality.  
24 Each municipality shall may adopt land use policies and  
ordinances to discourage incompatible development.

26 These policies and ordinances may include, without  
28 limitation: density limits; cluster or special zoning;  
acquisition of land or development rights; or performance  
standards;

30 B. Develop a capital investment plan for financing the  
32 replacement and expansion of public facilities and services  
required to meet projected growth and development;

34 C. Protect, maintain and, when warranted, improve the water  
36 quality of each water body pursuant to Title 38, chapter 3,  
subchapter I, article 4-A;

38 D. Ensure that its land use policies and ordinances are  
40 consistent with applicable state law regarding critical  
natural resources. A municipality may adopt ordinances more  
42 stringent than applicable state law;

44 E. Ensure the preservation of access to coastal waters  
46 necessary for commercial fishing, commercial mooring,  
docking and related parking facilities. Each coastal  
48 municipality shall may discourage new development that is  
incompatible with uses related to the marine resources  
50 industry;

2 F. Ensure the protection of agricultural and forest  
resources. Each municipality shall may discourage new  
4 development that is incompatible with uses related to the  
agricultural and forest industry;

6 G. Ensure that its land use policies and ordinances  
encourage the siting and construction of affordable housing  
8 within the community and comply with the requirements of  
section 4358 pertaining to individual mobile home and mobile  
10 home park siting and design requirements. The municipality  
shall-~~seek~~ is encouraged to achieve a level of 10% of new  
12 residential development, based on a 5-year historical  
average of residential development in the municipality,  
14 meeting the definition of affordable housing.  
Municipalities are encouraged to seek creative approaches to  
16 assist in the development of affordable housing, including,  
but not limited to, cluster zoning, reducing minimum lot and  
18 frontage sizes, increasing densities and use of municipally  
owned land;

20 H. Ensure that the value of historical and archeological  
22 resources is recognized and that protection is afforded to  
those resources that merit it; and

24 I. Encourage the availability of and access to traditional  
26 outdoor recreation opportunities, including, without  
limitation, hunting, boating, fishing and hiking; and  
28 encourage the creation of greenbelts, public parks, trails  
and conservation easements. Each municipality shall may  
30 identify and encourage the protection of undeveloped  
shoreland and other areas identified in the local planning  
32 process as meriting such protection.

34 **Sec. F-35. 30-A MRSA §4326, sub-§4, as enacted by PL 1989, c.**  
104, Pt. A, §45 and Pt. C, §10, is amended to read:

36 **4. Regional coordination program.** A regional coordination  
38 program shall may be developed with other municipalities to  
manage shared resources and facilities, such as rivers, aquifers,  
40 transportation facilities and others. ~~This program shall~~ Each  
municipality is encouraged to provide ~~for~~ consistency with the  
42 comprehensive plans of other municipalities for these resources  
and facilities.

44 **Sec. F-36. 30-A MRSA §4326, sub-§5, as amended by PL 1991, c.**  
46 278, §2, is further amended to read:

48 **5. Implementation program.** An implementation program must  
be adopted ~~that is~~ under this subchapter must be consistent with  
50 the strategies in subsection 3. ~~Except as otherwise provided in~~

~~this subsection, a zoning ordinance must be adopted within 18 months of the applicable deadline date established in section 4343, subsection 1, with the remainder of the strategies adopted according to the timetable set in the plan and the provisions of section 4313. If the office has extended the deadline for submission of the zoning ordinance pursuant to section 4343, subsection 1-B, a zoning ordinance must be adopted within 6 months after the extended deadline, with the remainder of the strategies adopted according to the timetable set in the plan and the provisions of section 4313.~~

Sec. F-37. 30-A MRSA §4327, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**§4327. Monitoring and revision**

A municipality shall periodically review and revise its local growth management program in a timely manner to account for changes caused by growth and development. A municipality shall is encouraged to update its program at least once every 5 years in accordance with this section. ~~The municipality shall submit any comprehensive plan and zoning ordinance revised under this section to the office for review as provided in section 4343, subsection 4.~~

Sec. F-38. 30-A MRSA c. 187, sub-c. II, art. 3, as amended, is repealed.

Sec. F-39. 30-A MRSA §4354, first ¶, as amended by PL 1991, c. 18, §2 and c. 236, §2, is repealed and the following enacted in its place:

A municipality may enact an ordinance under its home rule authority requiring the construction of off-site capital improvements or the payment of impact fees instead of the construction. Notwithstanding section 3442, subsection 2, an impact fee may be imposed that results in a developer or developers paying the entire cost of an infrastructure improvement. A municipality may impose an impact fee either before or after completing the infrastructure improvement.

Sec. F-40. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 13082, \$520,000 is transferred from the Community Industrial Buildings Fund of the Department of Economic and Community Development to General Fund undedicated revenue by June 30, 1992.'

Further amend the bill by relettering the Parts to read consecutively.

2

## STATEMENT OF FACT

4           This amendment eliminates the existing obligation of  
6 municipalities to adopt comprehensive plans and related zoning  
8 ordinances. All forms of state review of local planning efforts  
10 are eliminated. This amendment also eliminates the Office of  
12 Comprehensive Land Use Planning in the Department of Economic and  
14 Community Development. Some of that office's technical  
assistance functions and grant management functions are shifted  
to the Office of Community Development in the same department.  
This amendment also transfers \$520,000 from the Community  
Industrial Buildings Fund to the General Fund.

Filed by Rep. Gould of Greenville  
Reproduced and distributed under the direction of the Clerk  
of the House.

12/18/91

(Filing No. H-821)