

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

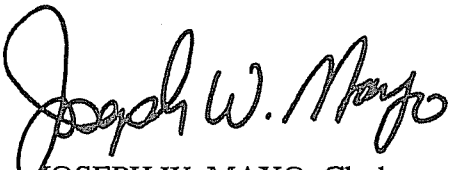
No. 258

H.P. 195

House of Representatives, February 2, 1993

An Act to Clarify the Municipal Role in Growth Management.

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative TOWNSEND of Eastport.
Cosponsored by Senator VOSE of Washington and
Representative: CLOUTIER of South Portland.

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

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Sec. 1. 30-A MRSA §4326, first ¶, as amended by PL 1991, c. 722, §7 and affected by §11, is further amended to read:

A local growth management program shall may include at least a comprehensive plan, as described in subsections 1 to 4, and an implementation program as described in subsection 5.

Sec. 2. 30-A MRSA §4326, sub-§§1 and 2, as amended by PL 1991, c. 722, §7 and affected by §11, are further amended to read:

1. **Inventory and analysis.** A comprehensive plan shall may include an inventory and analysis section addressing state goals under this subchapter and issues of regional or local significance the municipality considers important. The inventory must be based on information provided by the State, regional councils and other relevant local sources. The analysis must include 10-year projections of local and regional growth in population and residential, commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources.

The inventory and analysis section must may include, but is not limited to:

- A. Economic and demographic data describing the municipality and the region in which it is located;
- B. Significant water resources such as lakes, aquifers, estuaries, rivers and coastal areas and, where applicable, their vulnerability to degradation;
- C. Significant or critical natural resources, such as wetlands, wildlife and fisheries habitats, significant plant habitats, coastal islands, sand dunes, scenic areas, shorelands, heritage coastal areas as defined under Title 5, section 3316, and unique natural areas;
- D. Marine-related resources and facilities such as ports, harbors, commercial moorings, commercial docking facilities and related parking, and shell fishing and worming areas;
- E. Commercial forestry and agricultural land;
- F. Existing recreation, park and open space areas and significant points of public access to shorelands within a municipality;

2 G. Existing transportation systems, including the capacity
of existing and proposed major thoroughfares, secondary
4 routes, pedestrian ways and parking facilities;

6 H. Residential housing stock, including affordable housing;

8 I. Historical and archeological resources including, at the
discretion of the municipality, stone walls, stone
10 impoundments and timber bridges of historical significance;

12 J. Land use information describing current and projected
development patterns; and

14 K. An assessment of capital facilities and public services
16 necessary to support growth and development and to protect
the environment and health, safety and welfare of the public
and the costs of those facilities and services.

18 2. **Policy development.** A comprehensive plan ~~must~~ may
20 include a policy development section that relates the findings
contained in the inventory and analysis section to the state
22 goals. The policies must:

24 A. Promote the state goals under this subchapter;

26 B. Address any conflicts between state goals under this
subchapter;

28 C. Address any conflicts between regional and local issues;
30 and

32 D. Address the State's coastal policies.

34 **Sec. 3. 30-A MRSA §4326, sub-§3**, as amended by PL 1991, c.
722, §7 and affected by §11 and amended by c. 838, §§8 to 11, is
36 repealed and the following enacted in its place:

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

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

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

10 (a) Establish standards for these developments;

12 (b) Establish timely permitting procedures;

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

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

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

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

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

36 C. Protect, maintain and, when warranted, improve the water
38 quality of each water body pursuant to Title 38, chapter 3,
subchapter I, article 4-A and ensure that the water quality
40 will be protected from long-term and cumulative increases in
phosphorus from development in great pond watersheds;

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

48 E. Ensure the preservation of access to coastal waters
necessary for commercial fishing, commercial mooring,
50 docking and related parking facilities. Each coastal
municipality should discourage new development that is

2 incompatible with uses related to the marine resources
3 industry;

4 F. Ensure the protection of agricultural and forest
5 resources. Each municipality should discourage new
6 development that is incompatible with uses related to the
7 agricultural and forest industry;

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

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

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

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38 J. Develop management goals for great ponds pertaining to
39 the type of shoreline character, intensity of surface water
40 use, protection of resources of state significance and type
41 of public access appropriate for the intensity of use of
42 great ponds within a municipality's jurisdiction.

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44 **Sec. 4. 30-A MRSA §4326, sub-§§4 and 5, as amended by PL 1991,**
45 **c. 722, §7 and affected by §11, are further amended to read:**

46 **4. Regional coordination program.** A regional coordination
47 program ~~must~~ may be developed with other municipalities to manage
48 shared resources and facilities, such as rivers, aquifers,
49 transportation facilities and others. This program ~~must~~ should
50 provide for consistency with the comprehensive plans of other
municipalities for these resources and facilities.

2 5. **Implementation program.** An implementation program must
3 may be adopted that is consistent with the strategies in
4 subsection 3.

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STATEMENT OF FACT

10 This bill repeals the requirement that a municipality
11 include a comprehensive plan and an implementation plan as part
12 of its local growth management program. Municipalities are not
13 required to adopt local growth management programs, but under
14 current law, if they elect to do so, they are required to adopt a
15 comprehensive plan and an implementation plan as part of that
16 program. Prior to 1992, municipalities were encouraged to adopt
17 those elements as part of the program, but were not required to
18 do so. This bill returns the law to its pre-1992 form, so that
19 adoption of a comprehensive plan and an implementation plan is
20 voluntary.