

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2094

H.P. 1588

House of Representatives, January 29, 2002

An Act to Encourage Regionalism in Municipal Growth Management.

Reported by Representative KOFFMAN for the Joint Study Committee to Study Growth Management pursuant to Joint Order 2001, H.P. 1330.

Reference to the Joint Standing Committee on Natural Resources suggested and printing ordered under Joint Rule 218.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

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

2
4 **Sec. 1. 30-A MRSA §4301, sub-§2**, as enacted by PL 1989, c.
104, Pt. A, §45 and Pt. C, §10, is amended to read:

6 **2. Coastal area.** "Coastal area" means all
7 municipalities a coastal island and any municipality or
8 unorganized townships township contiguous to tidal waters and all
9 coastal-islands. The inland boundary of the coastal area is the
10 inland line of any coastal town line.

12 **Sec. 2. 30-A MRSA §4301, sub-§4-A and 4-B** are enacted to read:

14 **4-A. Critical rural area.** "Critical rural area" means a
15 rural area that is specifically identified and designated by a
16 planning district's comprehensive plan as deserving maximum
17 protection from development to preserve natural resources and
18 related economic activities that may include, but are not limited
19 to, significant farmland, forest land or mineral resources;
20 high-value wildlife or fisheries habitat; scenic areas; public
21 water supplies; scarce or especially vulnerable natural
22 resources; and open lands functionally necessary to support a
23 vibrant rural economy.

24 **4-B. Critical waterfront area.** "Critical waterfront area"
25 means a shorefront area characterized by functionally
26 water-dependent uses, as defined in Title 38, section 436-A,
27 subsection 6, and specifically identified and designated by a
28 planning district's comprehensive plan as deserving maximum
29 protection from incompatible development.

32 **Sec. 3. 30-A MRSA §4301, sub-§6-C** is enacted to read:

34 **6-C. Growth area.** "Growth area" means an area that is
35 designated in a planning district's comprehensive plan as
36 suitable for orderly residential, commercial or industrial
37 development, or any combinations of those types of development,
38 and into which most development projected over 10 years is
39 directed.

40 **Sec. 4. 30-A MRSA §4301, sub-§9**, as amended by PL 1993, c.
41 166, §1, is further amended to read:

42 **9. Growth management program.** "~~Local--growth~~ Growth
43 management program" means a document containing the components
44 described in section 4326, including the implementation program,
45 which that is consistent with the goals and guidelines
46 established by subchapter II and which that regulates land use

beyond that required by Title 38, chapter 3, subchapter I,
2 article 2-B.

4 **Sec. 5. 30-A MRSA §4301, sub-§10**, as amended by PL 1989, c.
562, §1, is further amended to read:

6
7 **10. Planning committee.** "~~Local~~---~~planning~~ Planning
8 committee" means the committee established by the municipal
9 officers of a municipality or combination of municipalities which
10 that has the general responsibility established under sections
4324 and 4326.

12
13 **Sec. 6. 30-A MRSA §4301, sub-§§11-A, 13-B, 14-B and 14-C** are
14 enacted to read:

16 **11-A. Multimunicipal region.** "Multimunicipal region" is a
17 region made up of 2 or more municipalities that work together to
18 cooperatively establish a growth management program or
19 independent growth management programs that are unified with
20 respect to the implementation of the state goal identified in
21 section 4312, subsection 3, paragraph A. The several
22 municipalities in a multimunicipal region may establish the
23 region pursuant to section 4325 or chapter 115.

24
25 **13-B. Planning district.** "Planning district" means a
26 municipality, a multimunicipal region and, when applicable, a
27 regional council.

28
29 **14-B. Rural area.** "Rural area" means a geographic area
30 that is identified and designated in a planning district's
31 comprehensive plan as an area that is deserving of some level of
32 regulatory protection from unrestricted development for purposes
33 that may include, but are not limited to, supporting agriculture,
34 forestry, mining, open space, wildlife habitat, fisheries habitat
35 and scenic lands, and away from which most development projected
36 over 10 years is diverted.

37
38 **14-C. Transitional area.** "Transitional area" means an area
39 that is designated in a planning district's comprehensive plan as
40 suitable for a share of projected residential, commercial or
41 industrial development but that is neither intended to accept the
42 amount or density of development appropriate for a growth area
43 nor intended to provide the level of protection for rural
44 resources afforded in a rural area or critical rural area.

45
46 **Sec. 7. 30-A MRSA §4312, sub-§2, ¶¶F and G**, as amended by PL
1991, c. 622, Pt. F, §19, are further amended to read:

47
48 F. Provide for continued direct state regulation of
49 development proposals that occur in areas of statewide
50

2 concern, that directly impact natural resources of statewide
3 significance or that by their scale or nature otherwise
4 affect vital state interests; and

6 G. Encourage the widest possible involvement by the
7 citizens of each municipality in all aspects of the planning
8 and implementation process, in order to ensure that the
9 plans developed by municipalities have had the benefit of
10 citizen input; and

12 **Sec. 8. 30-A MRSA §4312, sub-§2, ¶I** is enacted to read:

14 I. Encourage the development and implementation of
15 multimunicipal growth management programs.

16 **Sec. 9. 30-A MRSA §4312, sub-§3, ¶A**, as enacted by PL 1989, c.
17 104, Pt. A, §45 and Pt. C, §10, is amended to read:

18 A. To encourage orderly growth and development in
19 appropriate areas of each community, and region while
20 protecting the State's rural character, making efficient use
21 of public services and preventing development sprawl;

24 **Sec. 10. 30-A MRSA §4314, sub-§3**, as amended by PL 2001, c.
25 406, §3, is further amended to read:

26 **3. Rate of growth, zoning and impact fee ordinances.** After
27 January 1, 2003, any portion of a municipality's planning
28 district's rate of growth, zoning or impact fee ordinance must be
29 consistent with a comprehensive plan adopted under this
30 subchapter. The portion of a rate of growth, zoning or impact
31 fee ordinance that is not consistent with a comprehensive plan is
32 no longer in effect unless:

34 C. The ordinance or portion of the ordinance is exempted
35 under subsection 2;

38 D. The municipality planning district is under contract
39 with the office to prepare a comprehensive plan or
40 implementation program, in which case the ordinance or
41 portion of the ordinance remains valid for up to 4 years
42 after receipt of the first installment of its first planning
43 assistance grant or for up to 2 years after receipt of the
44 first installment of its first implementation assistance
45 grant, whichever is earlier;

46 E. The ordinance or portion of the ordinance conflicts with
47 a newly adopted comprehensive plan or plan amendment adopted
48 under this subchapter, in which case the ordinance or
49 portion of the ordinance remains in effect for a period of
50

2 up to 24 months immediately following adoption of the
comprehensive plan or plan amendment; or

4 F. The municipality planning district applied for and was
6 denied financial assistance for its first planning
assistance or implementation assistance grant under this
8 subchapter due to lack of state funds on or before January
1, 2003. If the office subsequently offers the municipality
10 planning district its first planning assistance or
implementation assistance grant, the municipality planning
12 district has up to one year to contract with the office to
prepare a comprehensive plan or implementation program, in
14 which case the municipality's planning district's ordinances
will be subject to paragraph D.

16 **Sec. 11. 30-A MRSA c. 187, sub-c. II, art. 2**, as enacted by PL
1989, c. 104, Pt. A, §45, is amended by repealing and replacing
18 the headnote to read:

20 **ARTICLE 2**
GROWTH MANAGEMENT PROGRAMS

22 **Sec. 12. 30-A MRSA §4321**, as enacted by PL 1989, c. 104, Pt.
24 A, §45 and Pt. C, §10, is amended to read:

26 **§4321. Growth management program established**

28 There is established a program of local growth management to
accomplish the goals of this subchapter.

30 **Sec. 13. 30-A MRSA §4324**, as amended by PL 1993, c. 721, Pt.
32 A, §2 and affected by Pt. H, §1, is further amended to read:

34 **§4324. Responsibility for growth management**

36 This section governs a municipality's planning district's
responsibility for the preparation or amendment of its local
38 growth management program. ~~Where~~ When procedures for the
adoption of comprehensive plans and ordinances are governed by
40 other provisions of this Title or municipal charter or ordinance,
the municipality planning district may modify the procedural
42 requirements of this section as long as a broad range of
opportunity for public comment and review is preserved.

44 **1. Growth management program.** Each municipality planning
46 district may prepare a local growth management program in
accordance with this section or may amend its existing
48 comprehensive plan and existing land use ordinances to comply
with this subchapter.

50

2 **2. Planning committee.** If a municipality planning district
3 chooses to prepare a local growth management program, the
4 municipal officers of a municipality or combination of
5 municipalities shall designate and establish a local planning
6 committee.

7 A. The municipal officers may designate any existing
8 planning board or district established under subchapter IV,
9 or a former similar provision, as the local planning
10 committee. Planning boards established under former Title
11 30, section 4952, subsection 1, continue to be governed by
12 those provisions until they are superseded by municipal
13 charter or ordinance.

14 B. The local planning committee may develop and maintain a
15 comprehensive plan and may develop ~~an--initial--proposed~~
16 ~~zoning--ordinance--or--an--initial--revision--of--an--existing~~
17 ~~zoning--ordinance~~ any portion of an implementation program to
18 which it is assigned in an adopted comprehensive plan or
19 otherwise directed by the municipal officers or municipal
20 legislative body or bodies. In performing these duties, the
21 local planning committee shall:

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

24 (2) Prepare the comprehensive plan ~~and--proposed--zoning~~
25 ~~ordinance~~ or any portion of the implementation program
26 to which it is assigned in an adopted comprehensive
27 plan and make recommendations to the municipal
28 ~~reviewing--authority--and~~ municipal legislative body
29 regarding the adoption and implementation of the
30 program or amended program.

31 **3. Citizen participation.** In order to encourage citizen
32 participation in the development of a local growth management
33 program, municipalities planning districts may adopt local growth
34 management programs only after soliciting and considering a broad
35 range of public review and comment. The intent of this
36 subsection is to provide for the broad dissemination of proposals
37 and alternatives, opportunity for written comments, open
38 discussions, information dissemination and consideration of and
39 response to public comments.

40 **4. Meetings to be public.** The local planning committee
41 shall conduct all of its meetings in open, public session. Prior
42 public notice must be given for all meetings of the local
43 planning committee pursuant to Title 1, section 406. ~~Prior--to~~
44 ~~April--17--1990--if--the--local--planning--committee--provided--notice--in~~

~~compliance with Title 1, section 406, that notice was sufficient for all legal purposes.~~

2
4 **8. Public hearing required.** The local planning committee shall hold at least one public hearing on its proposed comprehensive plan.

6
8 A. Notice of any public hearing must be posted in the each municipality at least ~~2-times~~ 30 days before the hearing.

10
12 B. A copy of the proposed comprehensive plan shall ~~must~~ be made available for public inspection at the each municipal office or other convenient location with regular public hours at least 30 days before the hearing.

14
16 **9. Adoption.** A comprehensive plan or land use ordinance is ~~deemed to have been~~ considered adopted as part of a local growth management program when it has been ~~accepted~~ adopted by the municipality's legislative body. A multimunicipal comprehensive plan or land use ordinance must be adopted by the municipal legislative body of each participating municipality unless another form of legislative authority has been established for this purpose within the planning district.

20
22
24 **10. Amendments to an adopted plan.** When amending an adopted comprehensive plan, a municipality planning district shall follow the same procedures for citizen participation, public notice and public hearing that are required for adoption of a comprehensive plan.

26
28
30 **Sec. 14. 30-A MRS §4325**, as amended by PL 1991, c. 622, Pt. F, §28, is further amended to read:

32
34 **§4325. Cooperative growth management activities**

36 This section governs cooperative local growth management efforts conducted by 2 or more municipalities.

38
40 **1. Within municipality.** A municipality may exercise its land use planning and management authority over the total land area within its jurisdiction.

42
44 **2. Multimunicipal region.** Any combination of ~~contiguous~~ municipalities may conduct joint planning and regulatory programs to meet the requirements of this subchapter upon adoption of a written comprehensive planning and enforcement agreement by the municipal legislative bodies involved. The municipalities must agree:

2 A. On procedures for joint action in the preparation and
adoption of comprehensive plans and, land use regulations
4 and other implementation measures to be conducted on a
multimunicipal basis;

6 B. On the manner of representation on any such joint land
use body; and

8
10 C. On the amount and source of contribution from each
municipality for any costs incurred in the development,
12 implementation and enforcement of the comprehensive plan and
land-use ordinances its implementation program and on the
14 method of distributing the benefits or impacts of regional
land use, economic development, housing, transportation,
16 infrastructure and other shared plans and programs.

18 **3. Requirements.** The comprehensive planning and
enforcement agreement must be in writing, approved by the
municipal legislative bodies and forwarded to the office.

20 **Sec. 15. 30-A MRSA §4326**, as amended by PL 2001, c. 406, §4,
22 is further amended to read:

24 **§4326. Growth management program elements**

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

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

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

44 A. Economic and demographic data describing the
46 municipality planning district and the region in which it is
located;

2 B. Significant water resources such as lakes, aquifers,
estuaries, rivers and coastal areas and, where when
4 applicable, their vulnerability to degradation;

6 C. Significant or critical natural resources, such as
wetlands, wildlife and fisheries habitats, significant plant
8 habitats, coastal islands, sand dunes, scenic areas,
shorelands, heritage coastal areas as defined under Title 5,
10 section 3316, and unique natural areas;

12 D. Marine-related resources and facilities such as ports,
harbors, commercial moorings, commercial docking facilities
14 and related parking, and shell fishing and worming areas;

16 E. Commercial forestry and agricultural land;

18 F. Existing recreation, park and open space areas and
significant points of public access to shorelands within a
20 municipality the planning district;

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

26 H. Residential housing stock, including affordable housing;

28 I. Historical and archeological resources including, at the
discretion of the municipality planning district, stone
30 walls, stone impoundments and timber bridges of historical
significance;

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

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

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

44 A. Promote the state goals under this subchapter;

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

2 C. Address any conflicts between regional and local issues;
and

4 D. Address the State's coastal policies if any part of the
6 planning district is a coastal area.

8 **3. Implementation strategy.** A comprehensive plan must
10 include an implementation strategy section that contains a
12 timetable for the implementation program, including land use
14 ordinances, ensuring that the goals established under this
16 subchapter are met. These implementation strategies must be
18 consistent with state law and must actively promote policies
20 developed during the planning process. The timetable must
identify significant ordinances to be included in the
implementation program. The strategies and timetable 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:~~

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

26 ~~(1) Growth areas, which are those areas suitable for~~
28 ~~orderly residential, commercial and industrial~~
development or any combination of those types of
development, forecast over the next 10 years. Each
municipality shall:

30 ~~(a) Establish standards for these developments;~~

32 ~~(b) Establish timely permitting procedures;~~

34 ~~(c) Ensure that needed public services are~~
36 ~~available within the growth area; and~~

38 ~~(d) Prevent inappropriate development in natural~~
40 ~~hazard areas, including flood plains and areas of~~
high erosion; and

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

48 ~~These policies and ordinances may include, without~~
limitation: density limits; cluster or special zoning;

2 acquisition of land or development rights, or performance standards.

4 A municipality is not required to identify growth areas for
6 residential, commercial or industrial growth if it
8 demonstrates that it is not possible to accommodate future
10 residential, commercial or industrial growth in these areas
12 because of severe physical limitations, including, without
14 limitation, the lack of adequate water supply and sewage
16 disposal services, very shallow soils or limitations imposed
18 by protected natural resources, or it demonstrates that the
municipality has experienced minimal or no residential,
commercial or industrial development over the past decade
and this condition is expected to continue over the 10-year
planning period. A municipality exercising the discretion
afforded by this paragraph shall review the basis for its
demonstration during the periodic revisions undertaken
pursuant to section 4327;

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

24 C. Protect, maintain and, when warranted, improve the water
26 quality of each water body pursuant to Title 38, chapter 3,
28 subchapter 1, article 4 A and ensure that the water quality
will be protected from long term and cumulative increases in
phosphorus from development in great pond watersheds;

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

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

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

48 G. Ensure that its land use policies and ordinances
50 encourage the siting and construction of affordable housing
within the community and comply with the requirements of
section 4358 pertaining to individual mobile home and mobile

2 home-park-siting-and-design-requirements.--The-municipality
3 shall-seek-to-achieve-a-level-of-10%-of-new-residential
4 development,--based-on-a-5-year-historical-average-of
5 residential-development-in-the-municipality,--meeting-the
6 definition--of--affordable--housing,---Municipalities--are
7 encouraged-to-seek-creative-approaches-to-assist-in-the
8 development--of--affordable--housing,--including,--but--not
9 limited--to,--cluster-zoning,--reducing--minimum--lot--and
10 frontage-sizes,--increasing-densities-and-use-of-municipally
11 owned-land;

12 H,--Ensure-that-the-value-of-historical-and-archeological
13 resources-is-recognized-and-that-protection-is-afforded-to
14 these-resources-that-merit-it;

15 I,--Encourage-the-availability-of-and-access-to-traditional
16 outdoor---recreation---opportunities,---including,---without
17 limitation,--hunting,--boating,--fishing--and--hiking;--and
18 encourage-the-creation-of-greenbelts,--public-parks,--trails
19 and--conservation--easements,---Each---municipality---shall
20 identify--and--encourage--the--protection--of--undeveloped
21 shoreland-and-other-areas-identified-in-the-local-planning
22 process-as-meriting-that-protection;--and
23

24 J,--Develop-management-goals-for-great-ponds-pertaining-to
25 the-type-of-shoreline-character,--intensity-of-surface-water
26 use,--protection-of-resources-of-state-significance-and-type
27 of-public-access-appropriate-for-the-intensity-of-use-of
28 great-ponds-within-a-municipality's-jurisdiction.

29 **3-A. Guidelines for policy development and implementation**
30 **strategies. In developing its strategies and subsequent**
31 **policies, programs and land use ordinances, each planning**
32 **district shall employ the following guidelines consistent with**
33 **the goals of this subchapter:**

34 **A. Identify and designate geographic areas in the planning**
35 **district as growth areas and rural areas, as defined in this**
36 **chapter.**

- 37 **(1) Within growth areas, each planning district shall:**
- 38 **(a) Establish development standards;**
- 39 **(b) Establish timely permitting procedures;**
- 40 **(c) Ensure that needed public services are**
41 **available; and**

2 (d) Prevent inappropriate development in natural
3 hazard areas, including flood plains and areas of
4 high erosion.

6 (2) Within rural areas, each planning district shall
7 adopt land use policies and ordinances to discourage
8 incompatible development. These policies and
9 ordinances may include, without limitation, density
10 limits, cluster or special zoning, acquisition of land
11 or development rights and performance standards. The
12 planning district should also identify which rural
13 areas qualify as critical rural areas as defined in
14 this chapter. Critical rural areas must receive
15 priority consideration for proactive strategies
16 designed to enhance rural industries, manage wildlife
17 and fisheries habitat and preserve sensitive natural
18 areas.

20 (3) A planning district may also designate as a
21 transitional area any portion of land area that does
22 not meet the definition of either a growth area or a
23 rural area. Such an area may be appropriate for
24 medium-density development that does not require
25 expansion of municipal facilities and does not include
26 significant rural resources.

28 (4) A planning district is not required to identify
29 growth areas for residential, commercial or industrial
30 growth if it demonstrates that it is not possible to
31 accommodate future residential, commercial or
32 industrial growth in these areas because of severe
33 physical limitations, including, without limitation,
34 the lack of adequate water supply and sewage disposal
35 services, very shallow soils or limitations imposed by
36 protected natural resources.

38 (5) A planning district is not required to identify
39 growth areas for residential, commercial or industrial
40 growth if it demonstrates that the planning district
41 has experienced minimal or no residential, commercial
42 or industrial development over the past decade and this
43 condition is expected to continue over the 10-year
44 planning period.

46 (6) A planning district exercising the discretion
47 afforded by subparagraph 4 or 5 shall review the basis
48 for its demonstration during the periodic revisions
 undertaken pursuant to section 4347-A;

- 2 B. Develop a capital investment plan for financing the
replacement and expansion of public facilities and services
required to meet projected growth and development;
- 4
- 6 C. Protect, maintain and, when warranted, improve the water
quality of each water body pursuant to Title 38, chapter 3,
subchapter I, article 4-A and ensure that the water quality
8 will be protected from long-term and cumulative increases in
phosphorus from development in great pond watersheds;
- 10
- 12 D. Ensure that its land use policies and ordinances are
consistent with applicable state law regarding critical
natural resources. A municipality or multimunicipal region,
14 if authorized to enact ordinances, may adopt ordinances more
stringent than applicable state law;
- 16
- 18 E. Ensure the preservation of access to coastal waters
necessary for commercial fishing, commercial mooring,
docking and related parking facilities. Each coastal area
20 may identify and designate one or more critical waterfront
areas and implement policies to ensure protection of those
22 areas or otherwise discourage new development that is
incompatible with uses related to the marine resources
24 industry;
- 26 F. Ensure the protection of agricultural and forest
resources. Each planning district shall discourage new
28 development that is incompatible with uses related to the
agricultural and forest industries;
- 30
- 32 G. Ensure that the planning district's land use policies
and ordinances encourage the siting and construction of
affordable housing within the community and comply with the
34 requirements of section 4358 pertaining to individual mobile
home and mobile home park siting and design requirements.
36 The planning district shall seek to achieve a level of at
least 10% of new residential development, based on a 5-year
38 historical average of residential development in the
planning district, that meets the definition of affordable
40 housing. A planning district is encouraged to seek creative
approaches to assist in the development of affordable
42 housing, including, but not limited to, cluster housing,
reduced minimum lot and frontage sizes, increased
44 residential densities and use of municipally owned land;
- 46 H. Ensure that the value of historical and archeological
resources is recognized and that protection is afforded to
48 those resources that merit it;

2 I. Encourage the availability of and access to traditional
3 outdoor recreation opportunities, including, without
4 limitation, hunting, boating, fishing and hiking, and
5 encourage the creation of greenbelts, public parks, trails
6 and conservation easements. Each planning district shall
7 identify and encourage the protection of undeveloped
8 shoreland and other areas identified in the local planning
9 process as meriting that protection; and

10 J. Develop management goals for great ponds pertaining to
11 the type of shoreline character, intensity of surface water
12 use, protection of resources of state significance and type
13 of public access appropriate for the intensity of use of
14 great ponds within the planning district's jurisdiction.

16 **4. Regional coordination program.** A regional coordination
17 program must be developed with other municipalities or planning
18 districts to manage shared resources and facilities, such as
19 rivers, aquifers, transportation facilities and others. This
20 program must provide for consistency with the comprehensive plans
21 of other municipalities or planning districts for these resources
22 and facilities.

24 **5. Implementation program.** An implementation program must
25 be adopted that is consistent with the strategies in subsection 3
26 3-A.

28 **Sec. 16. 30-A MRSA §4327,** as amended by PL 1993, c. 721, Pt.
29 A, §4 and affected by Pt. H, §1, is repealed.

30 **Sec. 17. 30-A MRSA §4331,** as enacted by PL 1993, c. 721, Pt.
31 A, §5 and affected by Pt. H, §1, is amended to read:

34 **§4331. Evaluation process**

36 The office shall conduct an ongoing evaluation process to
37 determine the effectiveness of state, regional and local efforts
38 under this chapter to achieve the purposes and goals of this
39 chapter. Working through the Land and Water Resources Council,
40 the office shall seek the assistance of other state agencies. If
41 requested, all state agencies shall render assistance to the
42 office in this effort.

44 **1. Criteria.** In conducting the evaluation, the office shall
45 develop criteria based on the goals of this chapter. The
46 criteria must be objective, verifiable and, to the extent
47 practicable, quantifiable.

48 **2. Baseline conditions.** The office shall establish a
49 baseline of land use conditions at a level of detail sufficient
50

2 to permit general comparison of state and regional trends in
future land use development patterns.

4 **3. Public input.** The office shall incorporate opportunities
for public input and comment into the evaluation process.

6
8 **4. Level of analysis.** The office shall evaluate the program
generally at a regional and statewide level. To illustrate the
10 impact of the program, the office shall compare land use
development trends and patterns in a sample of towns that have
12 participated in the program with a matched sample of towns that
have not participated. The evaluation performed by the office
14 must include an analysis of the State's financial commitment to
growth management.

16 **5. Periodic reports.** Beginning on January 1, 1995, the
office shall report in writing on the results of its evaluation
18 process every 4 years and more frequently if necessary. The
office shall submit its report to the joint standing committee of
20 the Legislature having jurisdiction over natural resource
resources matters and the joint standing committee of the
22 Legislature having jurisdiction over appropriations and financial
affairs.

24
26 **Sec. 18. 30-A MRSA §4345,** as amended by PL 1995, c. 395, Pt.
D, §13, is further amended to read:

28 **§4345. Purpose; office to administer program**

30 Under the provisions of this article, a municipality
planning district may request financial or technical assistance
32 from ~~the State Planning Office, referred to in this article as~~
the office, for the purpose of planning and implementing a local
34 growth management program. A municipality planning district that
requests and receives a financial assistance grant shall develop
36 and implement its growth management program in cooperation with
the office and in a manner consistent with the provisions of this
38 article.

40 To accomplish the purposes of this article, the office shall
develop and administer a technical and financial assistance
42 program for municipalities planning districts. The program must
include direct financial assistance for planning and
44 implementation of local growth management programs, standards
governing the review of local growth management programs by the
46 office, technical assistance to municipalities planning districts
and a voluntary certification program for local growth management
48 programs.

2 **Sec. 19. 30-A MRSA §4346**, as amended by PL 2001, c. 406, §§5
to 8, is further amended to read:

4 **§4346. Technical and financial assistance program**

6 The technical and financial assistance program for
7 ~~municipalities--and--regional--councils~~ planning districts is
8 established to encourage and facilitate the adoption and
implementation of local, regional and statewide growth management
10 programs throughout-the-State.

12 The office may enter into financial assistance grants only
to the extent that funds are available. In making grants, the
14 office shall consider the need for planning in a municipality
planning district, the proximity of the municipality planning
16 district to other ~~towns~~ areas that are conducting or have
completed the planning process and the economic and geographic
18 role of the municipality planning district within a regional
context. The office may consider other criteria in making
20 grants, as long as the criteria support the goal of encouraging
and facilitating the adoption and implementation of -a- local and
22 multimunicipal growth management ~~program~~ programs consistent with
the provisions of this article. In order to maximize the
24 availability of the technical and financial assistance program to
all municipalities, multimunicipal regions and regional councils,
26 financial assistance programs administered competitively under
this article are exempt from rules adopted by the Department of
28 Administrative and Financial Services pursuant to Title 5,
section 1825-C for use in the purchase of services and the
30 awarding of grants and contracts. The office shall publish a
program statement describing its grant program and advertising
32 its availability to eligible applicants.

34 **2-A. Financial assistance grants.** A contract for a
financial assistance grant must:

36 A. Provide for the payment of a specific amount for the
38 purposes of planning and preparing a comprehensive plan;

40 B. Provide for the payment of a specific amount for the
42 purposes of implementing that plan; and

44 C. Include specific timetables governing the preparation
and submission of products by the municipality planning
district.

46 The office may not require a municipality planning district to
48 provide matching funds in excess of 25% of the value of that
municipality's planning district's financial assistance contract
50 for its first planning assistance grant and implementation

2 assistance grant. The office may require a higher match for
4 other grants, including, but not limited to, grants for the
6 purpose of updating comprehensive plans. This match limitation
8 does not apply to distribution of federal funds that the office
10 may administer.

12 **2-B. Use of funds.** A municipality planning district may
14 expend financial assistance grants for:

16 A. The conduct of surveys, inventories and other
18 data-gathering activities;

20 B. The hiring of planning and other technical staff;

22 C. The retention of planning consultants;

24 D. Contracts with regional councils for planning and
26 related services;

28 E. Assistance in the development of ordinances;

30 F. Retention of technical and legal expertise for
32 permitting-activities;

34 G. The updating of growth management programs or components
36 of a program; and

38 G-1. Evaluation of growth management programs; and

40 H. Any other purpose agreed to by the office and the
42 municipality planning district that is directly related to
44 the preparation of a comprehensive plan or the preparation
46 of policies, programs and land use ordinances to implement
48 that implementation of a comprehensive plan adopted under
50 this subchapter.

2-C. Program evaluation. Any recipient of a financial
assistance grant shall cooperate with the office in performing
program evaluations required under section 4331.

3. Technical assistance. Using its own staff, the staff of
other state agencies, contractors and the resources of the
regional councils, the office shall provide technical assistance
to municipalities planning districts in the development,
administration and enforcement of local growth management
programs. The technical assistance component of the program must
include a set of model land use ordinances or other
implementation strategies developed by the office that are
consistent with this subchapter.

2 **4. Regional council assistance.** As part of the technical
3 and financial assistance program, the office may develop and
4 administer a program to develop regional education and training
5 programs, regional policies to address state goals and regional
6 assessments. Regional assessments may include, but are not
7 limited to, public infrastructure, inventories of agricultural
8 and commercial forest lands, housing needs, recreation and open
9 space needs, and projections of regional growth and economic
10 development. The program may include guidelines to ensure
11 methodological consistency among the State's regional councils.
12 To implement this program, the office may contract with regional
13 councils to assist the office in reviewing local growth
14 management programs, to develop necessary planning information at
15 a regional level or to provide support for local planning efforts.

16 **5. Coordination.** State agencies with regulatory or other
17 authority affecting the goals established in this subchapter
18 shall conduct their respective activities in a manner consistent
19 with the goals established under this subchapter, including, but
20 not limited to, coordinating with municipalities, regional
21 councils and other state agencies in meeting the state goals;
22 providing available information to regions and municipalities as
23 described in section 4326, subsection 1; cooperating with efforts
24 to integrate and provide access to geographic information system
25 data; making state investments and awarding grant money as
26 described in section 4349-A; and conducting reviews of growth
27 management programs as provided in section 4347-A, subsection 3,
28 paragraph A. Without limiting the application of this section to
29 other state agencies, the following agencies shall comply with
30 this subchapter. The Land and Water Resources Council shall
31 periodically, but in no event less than biannually, review the
32 effectiveness of agency coordination efforts, including, but not
33 limited to, those in section 4349-A:

- 34 A. Department of Conservation;
35
36 B. Department of Economic and Community Development;
37
38 C. Department of Environmental Protection;
39
40 D. Department of Agriculture, Food and Rural Resources;
41
42 E. Department of Inland Fisheries and Wildlife;
43
44 F. Department of Marine Resources;
45
46 G. Department of Transportation;
47
48 G-1. Department of Human Services;

50

2 G-2. Executive Department, State Planning Office;

4 H. Finance Authority of Maine; and

6 I. Maine State Housing Authority.

8 **Sec. 20. 30-A MRSA §4347-A**, as enacted by PL 2001, c. 406,
§10, is amended to read:

10 **§4347-A. Review of programs by office**

12 **1. Comprehensive plans.** A municipality planning district
14 that chooses to prepare a growth management program and receives
a planning grant under this article shall submit its
16 comprehensive plan to the office for review. The office shall
review plans for consistency with the goals and guidelines
18 established in this subchapter. Any contract for a planning
assistance grant must include specific timetables governing the
20 review of the comprehensive plan by the office. Any
comprehensive plan submitted for review more than 12 months
22 following a contract end date may be required to update data,
projections and other time-sensitive portions of the plan or
24 program to the office's most current review standards.

26 **2. Growth management programs.** A municipality planning
district may at any time request a certificate of consistency for
its growth management program.

28 A. Upon a request for review under this section, the office
30 shall review the program and determine whether the program
is consistent with the procedures, goals and guidelines
32 established in this subchapter.

34 ~~B. Except as provided in subsection 1, certification~~
Certification by the office of a municipality's planning
36 district's growth management program under this article is
valid for 10 years. To maintain certification, a
38 municipality planning district shall periodically review its
growth management program and submit to the office in a
40 timely manner any revisions necessary to account for
changes, including changes caused by growth and development.
42 Certification does not lapse in any year in which the
Legislature does not appropriate funds to the office for the
44 purposes of reviewing programs for recertification.

46 **3. Review of comprehensive plan or growth management**
program. In reviewing a comprehensive plan or growth management
48 program, the office shall:

2 A. Solicit written comments on any proposed comprehensive
3 plan or growth management program from regional councils,
4 state agencies, all municipalities contiguous to the
5 municipality planning district submitting a comprehensive
6 plan or growth management program and any interested
7 residents of the municipality planning district or of
8 contiguous municipalities. The comment period extends for
9 45 days after the office receives the comprehensive plan or
10 growth management program.

11 (1) Each state agency reviewing the proposal shall
12 designate a person or persons responsible for
13 coordinating the agency's review of the comprehensive
14 plan or growth management program.

15 (2) Any regional council commenting on a program shall
16 determine whether the program is compatible with the
17 programs of other municipalities that may be affected
18 by the program and with regional policies or needs
19 identified by the regional council;

20
21 B. Prepare all written comments from all sources in a form
22 to be forwarded to the municipality planning district;

23
24 C. Within 60 days after receiving the comprehensive plan or
25 90 days after receiving the growth management program, send
26 all written comments on the comprehensive plan or growth
27 management program to the municipality planning district and
28 any applicable regional council. If warranted, the office
29 shall issue findings specifically describing how the
30 submitted plan or growth management program is not
31 consistent with this subchapter and the recommended measures
32 for remedying the deficiencies.

33 (1) In its findings, the office shall clearly indicate
34 its position on any point on which there are
35 significant conflicts among the written comments
36 submitted to the office.

37 (2) If the office finds that the comprehensive plan or
38 growth management program was adopted under this
39 subchapter, the office shall issue a finding of
40 consistency for the comprehensive plan or a certificate
41 of consistency for the growth management program.

42 (3) Notwithstanding paragraph D, if a municipality
43 planning district requests a certificate of consistency
44 for its growth management program, any unmodified
45 component of that program that has previously been
46 reviewed by the office and has received a finding of
47
48
49
50

2 consistency will retain that finding during program
certification review by the office as long as the
4 finding of consistency is current as defined in rules
adopted by the office;

6 D. Provide ample opportunity for the municipality planning
district submitting a comprehensive plan or growth
8 management program to respond to and correct any identified
deficiencies in the plan or program. A finding of
10 inconsistency for a comprehensive plan or growth management
program may be addressed within 24 months of the date of the
12 finding without jeopardizing partial findings of consistency
attained during that review. After 24 months, the plan or
14 program must be resubmitted in its entirety for state review
under the office's most current review standards; and

16 E. Provide an expedited review and certification procedure
18 for those submissions that represent minor amendments to
certified growth management programs.

20 The office's decision on consistency of a comprehensive plan or
22 growth management program constitutes final agency action.

24 **4. Updates and amendments.** A municipality planning
district may submit proposed amendments to a comprehensive plan
26 or growth management program to the office for review in the same
manner as provided for the review of new plans and programs.
28 Subsequent to voluntary certification under this subsection, the
municipality planning district shall file a copy of an amendment
30 to a growth management program with the office within 30 days
after adopting the amendment and at least 60 days prior to
32 applying for any state grant program that offers a preference for
consistency or certification.

34 **5. Regional councils.** Subject to the availability of
36 funding and pursuant to the conditions of a contract, each
regional council shall review and submit written comments on the
38 comprehensive plan or growth management program of any
municipality planning district within its planning region. The
40 comments must be submitted to the office and contain an analysis
of:

42 A. Whether the comprehensive plan or growth management
44 program is compatible with identified regional policies and
needs; and

46 B. Whether the comprehensive plan or growth management
48 program is compatible with plans or programs of ~~other~~
municipalities and planning districts that may be affected
50 by the proposal.

2 **Sec. 21. 30-A MRSA §4352, sub-§8, ¶A**, as enacted by PL 1989,
c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

4
6 A. Be consistent with the local growth management program
adopted under this chapter;

8 **Sec. 22. 30-A MRSA §5953-D, sub-§3, ¶D**, as amended by PL 2001,
c. 90, §4, is further amended to read:

10
12 D. In the case of a public service infrastructure grant or
loan, the Department of Economic and Community Development
14 affirms that the applicant has met the conditions of this
paragraph.

16 (1) A municipality is eligible to receive a grant or a
loan, or a combination of both, if that municipality
18 has adopted a local growth management program certified
under section 4348 ~~4347-A~~ that includes a capital
20 improvement program composed of the following elements:

22 (a) An assessment of all public facilities and
services, such as, but not limited to, roads and
24 other transportation facilities, sewers, schools,
parks and open space, fire and police;

26 (b) An annually reviewed 5-year plan for the
replacement and expansion of existing public
28 facilities or the construction of such new
facilities as are required to meet expected growth
30 and economic development. The plan must include
32 projections of when and where those facilities
will be required; and

34 (c) An assessment of the anticipated costs for
replacement, expansion or construction of public
36 facilities, an identification of revenue sources
38 available to meet these costs and recommendations
for meeting costs required to implement the plan.

40 (2) A municipality is eligible to receive a loan if
42 that municipality:

44 (a) Has adopted a comprehensive plan that is
determined by the Executive Department, State
46 Planning Office to be consistent with section
4326, subsections 1 to 4.

48 (3) A municipality is eligible to receive a loan if
50 that municipality is a service center community.

2 Subject to the limitations of this subsection, 2 or more
3 municipalities that each meet the requirements of
4 ~~subparagraphs~~ subparagraph (1) or (2) may jointly apply for
5 assistance under this section; and

6
7 **Sec. 23. 30-A MRSA §5953-D, sub-§3, ¶D**, as amended by PL 2001,
8 c. 406, §16, is further amended to read:

9
10 D. In the case of a public service infrastructure grant or
11 loan, the Department of Economic and Community Development
12 affirms that the applicant has met the conditions of this
13 paragraph.

14
15 (1) A municipality is eligible to receive a grant or a
16 loan, or a combination of both, if that municipality
17 has adopted a ~~local~~ growth management program certified
18 under section 4347-A that includes a capital
19 improvement program composed of the following elements:

20
21 (a) An assessment of all public facilities and
22 services, such as, but not limited to, roads and
23 other transportation facilities, sewers, schools,
24 parks and open space, fire and police;

25
26 (b) An annually reviewed 5-year plan for the
27 replacement and expansion of existing public
28 facilities or the construction of such new
29 facilities as are required to meet expected growth
30 and economic development. The plan must include
31 projections of when and where those facilities
32 will be required; and

33
34 (c) An assessment of the anticipated costs for
35 replacement, expansion or construction of public
36 facilities, an identification of revenue sources
37 available to meet these costs and recommendations
38 for meeting costs required to implement the plan.

39
40 (2) A municipality is eligible to receive a loan if
41 that municipality:

42
43 (a) Has adopted a comprehensive plan that is
44 determined by the Executive Department, State
45 Planning Office to be consistent with section
46 4326, subsections 1 to 4.

47
48 Subject to the limitations of this subsection, 2 or more
municipalities that each meet the requirements of

