

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 582

S.P. 191

In Senate, February 3, 2005

### An Act To Change the Effect of Local Ordinances on the State

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BROMLEY of Cumberland.  
Cosponsored by Representative KOFFMAN of Bar Harbor and  
Senator: DAMON of Hancock, Representatives: BEAUDETTE of Biddeford, SMITH of  
Monmouth.

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

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4       **Sec. 1. 30-A MRSA §4352, sub-§6**, as amended by PL 2003, c. 688, Pt. C, §20, is further amended to read:

6       **6. Effect on State.** ~~A zoning ordinance that is not~~  
7 ~~consistent with a comprehensive plan that is consistent with the~~  
8 ~~provisions of section 4326 is advisory with respect to the~~  
9 ~~State. Except as provided in this section, a state agency shall~~  
10 ~~comply with a zoning ordinance consistent with a comprehensive~~  
11 ~~plan that is consistent with the provisions of section 4326 in~~  
12 ~~seeking to develop any building, parking facility or other~~  
13 ~~publicly owned structure. Zoning ordinances, subdivision~~  
14 ~~ordinances and site plan review ordinances are advisory with~~  
15 ~~respect to the State, except that, when developing any buildings,~~  
16 ~~parking facilities or other publicly owned structures, a state~~  
17 ~~agency shall comply with zoning ordinances, subdivision~~  
18 ~~ordinances and site plan review ordinances that the office~~  
19 ~~determines are consistent with a comprehensive plan that the~~  
20 ~~office has found consistent under section 4347-A. For purposes~~  
21 ~~of this subsection, "buildings, parking facilities or other~~  
22 ~~publicly owned structures" does not include state highway~~  
23 ~~maintenance facilities or state or state aid highways, bridges,~~  
24 ~~railroads or trails.~~ The Governor or the Governor's designee  
25 may, after public notice and opportunity for public comment,  
26 including written notice to the municipal officers, waive any use  
27 restrictions in those ordinances upon finding that:

28           A. The proposed use is not allowed anywhere in the  
29           municipality;

30           B. There are no reasonable alternative sites for or  
31           configurations of the project within the municipality that  
32           would achieve the necessary public purposes;

33           C. There are no reasonable alternatives to the project,  
34           including sites in other municipalities, that would achieve  
35           the necessary public purposes;

36           D. The project will result in public benefits beyond the  
37           limits of the municipality, including without limitation,  
38           access to public waters or publicly owned lands; and

39           E. The project is necessary to protect the public health,  
40           welfare or environment.

41  
42  
43       A decision to waive a restriction under this section may be  
44       appealed by the municipality or any aggrieved party to Superior  
45       Court.

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## SUMMARY

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6       This bill provides that a state agency must comply with  
zoning, subdivision and site plan review ordinances that the  
State Planning Office has determined are consistent with a  
8 comprehensive plan that the State Planning Office has found  
consistent with the provisions of the law governing growth  
10 management.