

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2005

Legislative Document

No. 1574

S.P. 551

In Senate, April 14, 2005

**An Act To Assist Towns with the Implementation of the Laws
Governing Growth Management**

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 President EDMONDS of Cumberland.
Cosponsored by Representative KOFFMAN of Bar Harbor and
Senators: BROMLEY of Cumberland, DIAMOND of Cumberland, ROTUNDO of
Androscoggin, STRIMLING of Cumberland, Representatives: DUCHESNE of Hudson,
PIOTTI of Unity, WOODBURY of Yarmouth.

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

4 Sec. 1. 30-A MRSA §4301, sub-§4-C is enacted to read:

6 4-C. Consistent. "Consistent" when applied to the
8 requirement that an ordinance be consistent with a comprehensive
10 plan describes a provision of an ordinance that, on its own, is
12 sufficient to cause the implementation of a policy or
14 recommendation of a comprehensive plan, is a necessary
16 contribution toward the implementation of a policy or
18 recommendation of a comprehensive plan or increases the
probability of implementation of a policy or recommendation of a
comprehensive plan. A provision of an ordinance that is related
to a recommendation or policy of a comprehensive plan but that
has no effect on, interferes with or prevents the implementation
of the policy or recommendation is not consistent with the
comprehensive plan.

20 Sec. 2. 30-A MRSA §4346-A is enacted to read:

22 §4346-A. Funds for community preservation

24 1. Establishment of municipal community preservation funds.

26 A municipality that has adopted a comprehensive plan that has
28 been determined by the office to be consistent with this
30 subchapter may establish a municipal community preservation fund
for the purpose of applying for matching grants from the Maine
Community Preservation Trust Fund created in subsection 4. The
municipality shall use the funds to implement the recommendations
contained in the comprehensive plan relating to:

32 A. The completion and implementation of local land use
34 ordinances in accordance with the adopted comprehensive plan;

36 B. The acquisition, creation and preservation of open space
and waterfront access;

38 C. The acquisition, preservation, rehabilitation and
40 restoration of historic resources;

42 D. The acquisition, creation and preservation of land for
recreational use;

44 E. The creation, preservation and support of affordable
46 housing within designated growth areas;

48 F. The preservation and economic development of downtown or
village areas; and

2 G. The implementation of specific items in the comprehensive
3 plan's capital investment strategy to increase the capacity
4 for growth in designated growth areas or to preserve rural
5 resources.

6 2. Funds deposited in municipal community preservation
7 fund. The municipality may deposit in its municipal community
8 preservation fund local funds from any source that the
9 municipality determines appropriate if the funds are dedicated to
10 a purpose set forth in subsection 1, paragraphs A to G, except
11 that grants received from the State may not be deposited in the
12 municipal community preservation fund.

13 3. Surcharges. The following surcharges are imposed for the
14 purposes of community preservation.

15 A. The fees of a register of deeds, except as otherwise
16 provided, that are paid when an instrument is left for
17 recording, filing or deposit are subject to a surcharge of
18 \$20.

19 B. The fees for recording, filing or depositing a municipal
20 lien certificate are subject to a surcharge of \$10.

21 A surcharge under this subsection is not imposed on a declaration
22 of homestead. A surcharge under this subsection is not imposed on
23 fees charged for additional pages, photostatic copies, abstract
24 cards, square feet additions to filed and recorded plans or for
25 additional or required marginal references.

26 Of the surcharge imposed under this subsection, 10% is retained
27 by the registry of deeds, and 90% must be forwarded to the State
28 for deposit into the Maine Community Preservation Trust Fund
29 created in subsection 4.

30 4. Maine Community Preservation Trust Fund. The Maine
31 Community Preservation Trust Fund, referred to in this subsection
32 as "the fund," is established for the benefit of municipalities
33 that have established municipal community preservation funds. The
34 fund consists of all revenues received by the State from a
35 surcharge on fees of the registers of deeds, as provided in
36 subsection 3.

37 A. Money deposited with the Treasurer of State to the
38 credit of the fund must be invested in a manner that will
39 secure the highest interest rate available consistent with
40 the safety of the fund and with the requirement that all
41 amounts on deposit be available for withdrawal without
42 penalty for such withdrawal at any time. All interest
43 accrued and earnings must be deposited into the fund. The
44 fund shall be subject to the provisions of subsection 3.

2 fund may be expended solely for the administration and
3 implementation of this section. Any unexpended balances
4 must be redeposited for future use consistent with the
5 provisions of this section.

6 B. The Treasurer of State shall make all disbursements and
7 expenditures from the fund without further appropriation, as
8 directed by the director of the office. The operating and
9 administrative expenses of the office may not exceed 5% of
10 the annual total revenue received in the fund.

11 5. Disbursement from fund. The Treasurer of State shall
12 annually on October 15th disburse money from the Maine Community
13 Preservation Trust Fund under subsection 4 to cities and towns
14 that have established a municipal community preservation fund and
15 notified the office of the establishment of that municipal fund,
16 with a certification of the amount raised through June 30 and a
17 description of the means by which funds were raised.

18 A. The amount distributed under this subsection may not
19 exceed 50% of the cost of the project or projects identified
20 by the municipality for use of the funds. Funds must be
21 distributed to each municipality that has established a
22 municipal community preservation fund in an amount not less
23 than 5% but not greater than 100% of the total amount raised
24 by the additional surcharge on real property by each city or
25 town. The percentage must be the same for each city and town
26 and must be determined by the office annually in a manner
27 that distributes the maximum amount available to each
28 participating city or town.

29 B. Notwithstanding any other provision of this section, the
30 total state contribution for each city or town may not
31 exceed the amount raised by the municipality's community
32 preservation fund.

33 C. After funds in the Maine Community Preservation Trust
34 Fund under subsection 4 are distributed in accordance with
35 this subsection, any remaining funds remain in the Maine
36 Community Preservation Trust Fund for distribution in the
37 following year.

38 6. Restrictions. A municipality may not devote more than
39 75% of the total funds in a municipal community preservation
40 fund, including those generated locally and matching dollars from
41 the Maine Community Preservation Trust Fund, in any 3-year period
42 on any single recommendation contained in the comprehensive plan
43 specified in subsection 1, paragraphs A to G.

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SUMMARY

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6 This bill defines the term "consistent" when that term is
applied to the requirement that an ordinance be consistent with a
comprehensive plan. The bill also authorizes municipalities to
8 establish municipal community preservation funds and establishes
the Maine Community Preservation Trust Fund.