MAINE STATE LEGISLATURE

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Date: 4/20/11

Majority

(Filing No. H-108)

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3	STATE AND LOCAL GOVERNMENT
4	Reproduced and distributed under the direction of the Clerk of the House.
5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	125TH LEGISLATURE
8	FIRST REGULAR SESSION
9 10	COMMITTEE AMENDMENT " \widehat{H} " to H.P. 255, L.D. 322, Bill, "An Act To Repeal the Informed Growth Act"
11 -	Amend the bill by striking out the title and substituting the following:
12	'An Act To Amend the Informed Growth Act'
13 14	Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:
15	'Sec. 1. 30-A MRSA §4365-A is enacted to read:
16	§4365-A. Municipal opt-in
17 18 19 20	The provisions of this subchapter do not apply to a municipality unless the municipality has adopted an ordinance that specifically adopts by reference the provisions of this subchapter. Nothing in this subchapter limits the home rule authority of municipalities to adopt ordinances on the same subject matter as this subchapter.
21 22	Sec. 2. 30-A MRSA §4366, sub-§8, as enacted by PL 2007, c. 347, §1, is repealed.
23 24	Sec. 3. 30-A MRSA §4366, sub-§10, as enacted by PL 2007, c. 347, §1, is amended to read:
25 26 27 28 29 30	10. Undue adverse impact. "Undue adverse impact" means that, within the comprehensive economic impact area, the estimated overall negative effects on the factors listed for consideration in section 4367, subsection 4 outweigh the estimated overall positive effects on those factors and that the estimated negative effects of at least 2 of the factors listed in section 4367, subsection 4, paragraph A outweigh the positive effects on those factors.
31 32	Sec. 4. 30-A MRSA §4367, sub-§1, as enacted by PL 2007, c. 347, §1, is amended to read:

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- 1. Qualified preparer. A comprehensive economic impact study must be prepared by a person, other than the applicant for a large-scale retail development, listed by the office as qualified by education, training and experience to prepare such a study. The office shall provide the list of qualified preparers to a municipal reviewing authority and land use permit applicant upon request. The office shall adopt routine technical rules under Title 5, chapter 375, subchapter 2 A to carry out the purposes of this subsection.
- Sec. 5. 30-A MRSA §4367, sub-§3, as enacted by PL 2007, c. 347, §1, is amended to read:
- 3. Payment. The applicant for the permit shall pay a fee of \$40,000 to the office to be deposited into a dedicated revenue account municipality. The municipality shall establish the amount of the fee. The development application is not complete for processing until the office confirms that the fee has been paid.

The office shall disburse to the municipality from the dedicated account an amount equal to the municipality shall use the fee to cover the municipality's projected costs of the comprehensive economic impact study contract, notice of the public hearing and related municipal staff support. The municipality's contract for the study must be defined and priced to ensure that the \$40,000 fee will be sufficient to cover both the costs of the study and the costs listed in this subsection. The office may charge against the fee an amount sufficient to cover its costs to record, administer and disburse the fee, but which may not exceed \$1,000. Any unexpended funds from the \$40,000 fee must be returned to the applicant.

- Sec. 6. 30-A MRSA §4367, sub-§4, ¶A, as enacted by PL 2007, c. 347, §1, is amended to read:
 - A. The <u>municipality may require that the</u> comprehensive economic impact study, using existing studies and data and through the collection and analysis of new data, must identify the economic effects of the large-scale retail development on existing retail operations; supply and demand for retail space; number and location of existing retail establishments where there is overlap of goods and services offered; employment, including projected net job creation and loss; retail wages and benefits; captured share of existing retail sales; sales revenue retained and reinvested in the comprehensive economic impact area; municipal revenues generated; municipal capital, service and maintenance costs caused by the development's construction and operation, including costs of roads and police, fire, rescue and sewer services; the amount of public subsidies, including tax increment financing; and public water utility, sewage disposal and solid waste disposal capacity.
- Sec. 7. 30-A MRSA §4371, as repealed and replaced by PL 2009, c. 260, §1, is repealed.'

38 SUMMARY

This amendment, which is the majority report of the committee, replaces the bill and makes the following changes to the Informed Growth Act.

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COMMITTEE AMENDMENT " to H.P. 255, L.D. 322



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· · 1.	It pr	ovides	that	the	provision	is of	the :	Informed	d G	rowth	Act	do	not	apply	to a
munici	pality	unless	the	mur	nicipality	adop	ts ar	ordina	nce	that: a	dopts	s by	ref	ference	e the
Inform	ed Gre	owth A	ct.												

- 2. It provides that municipalities that are subject to the Informed Growth Act by the adoption of such an ordinance receive the fee directly from the developer for the comprehensive economic impact study rather than through the Executive Department, State Planning Office and determine the amount of the fee.
- 3. The definition of "undue adverse impact" is amended to mean that the estimated overall negative effects outweigh the positive effects and removes the requirement that the estimated negative effects of at least 2 of the factors considered in the study outweigh the positive effects on those factors.
- 4. It provides that the municipality may determine which factors are considered in the comprehensive economic impact study.

FISCAL NOTE REQUIRED

(See attached)



125th MAINE LEGISLATURE

LD 322

LR 269(02)

An Act To Repeal the Informed Growth Act

Fiscal Note for Bill as Amended by Committee Amendment ""

Committee: State and Local Government

Fiscal Note Required: Yes

Fiscal Note

Elimination of Funded State Mandate

Minor savings - General Fund Minor revenue decrease - General Fund

Correctional and Judicial Impact Statements

May decrease the number of civil suits and civil violations. Any reduction in fines and filing fees will decrease General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill as amended makes changes to the Informed Growth Act (IGA). It provides that the IGA does not apply to a municipality unless it adopts a local ordinance which incorporates the IGA by reference. This relieves municipalities of the mandated requirement in current law to prepare comprehensive economic impact studies, review related applications, conduct public hearings on impact studies and issue permits for large scale retail developments. The bill removes certain administrative burdens from the State Planning Office, which is no longer required to act as a conduit for funds to municipalities for the application fees paid by prospective developers for large scale retail development permits. Any savings from removing these administrative duties are expected to be minor. The bill also allows municipalities to set their own fee levels for applications for permits to be issued pursuant to the IGA.