

MAINE STATE LEGISLATURE

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L.D. 1823

Date: 7/9/24

(Filing No. S-(673))

MAJORITY

AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE

SENATE

131ST LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 739, L.D. 1823, "An Act to Respect and Protect the Right to Food"

Amend the bill by striking out the title and substituting the following:

'An Act to Protect the Right to Food'

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 3 MRSA §902, sub-§1-B, as enacted by PL 2013, c. 153, §1, is amended to read:

1-B. Edible landscaping, food forests and community gardens. The commission shall arrange for and oversee the development and implementation of a plan to incorporate food-producing plants, shrubs or trees into the landscaping of a portion of Capitol Park. ~~Use of edible~~ **Edible** landscaping must be consistent with the overall plan for the park under section 902-A, subsection 2 and is subject to available funding for the park.

The commission may seek and accept money and food-producing seeds, plants, shrubs or trees from public and private sources for the development and maintenance of edible landscaping throughout Capitol Park and may collaborate with local, state or regional public or private entities with expertise in the design and maintenance of permaculture, edible landscaping, food forests or community gardens.

For the purposes of this subsection, "food forest" has the same meaning as in Title 7, section 292, subsection 1 and "permaculture" has the same meaning as in Title 7, section 292, subsection 2.

Sec. 2. 7 MRSA §2, sub-§6, ¶D, as enacted by PL 2021, c. 677, §1, is amended to read:

D. Focusing on collective responsibility to amplify the voices of persons experiencing food insecurity; and

COMMITTEE AMENDMENT

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Sec. 3. 7 MRSA §2, sub-§6, ¶E, as enacted by PL 2021, c. 677, §1, is amended to read:

E. Closing the equity gap in household food insecurity by addressing underlying structural inequities; and

Sec. 4. 7 MRSA §2, sub-§6, ¶F is enacted to read:

F. Protecting the right to food as declared in the Constitution of Maine, Article I, Section 25.

Sec. 5. 7 MRSA §282, as amended by PL 2023, c. 420, §1, is further amended to read:

§282. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Direct producer-to-consumer transaction. "Direct producer-to-consumer transaction" means an exchange of food or food products directly between a food producer and a consumer by barter, trade or purchase on the property or premises owned, leased or rented by the food producer; at roadside stands, fundraisers, farmers' markets and community social events; or through buying clubs, deliveries or community-supported agriculture programs, herd-share agreements and other private arrangements.

1-A. Consumer. "Consumer" means an individual who acquires food or food products directly from a food producer of the individual's choosing solely for consumption by the individual or the individual's family.

2. Food or food products. "Food or food products" means food or food products that are grown, produced, processed or prepared for human consumption, including, but not limited to, vegetables, fruit, eggs, grain or grain products, herbs, seasonings or spices, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, cider or juice, acidified foods or, canned fruits or vegetables, honey, nuts, maple products, condiments or any combination of those items, such as baked goods, sandwiches or other meals, and that are provided in a direct producer-to-consumer transaction.

2-A. Food producer. "Food producer" means a person that provides directly to a consumer food or food products that the person:

- A. Grows, raises or produces; or
- B. Grows, raises, produces or acquires from another source and then processes or prepares in a kitchen.

For the purposes of this subsection, "kitchen" means a room, area, site or location where food or food products are produced, processed or prepared for a direct producer-to-consumer transaction.

2-B. Food sovereignty. "Food sovereignty" means the right of persons to healthy and culturally appropriate food produced through ecologically sound and sustainable methods and the right of persons to define their own food and agriculture systems.

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4. Traditional foodways. "Traditional foodways" means the cultural, social and economic practices related to the production and consumption of food, including the conveyance of knowledge regarding food production, preservation, preparation and presentation.

Sec. 6. 7 MRSA §283, first ¶, as enacted by PL 2017, c. 314, §1, is amended to read:

It is the policy of this State to encourage food self-sufficiency for its citizens. The department State shall support policies that:

Sec. 7. 7 MRSA §283, sub-§4, as enacted by PL 2017, c. 314, §1, is amended to read:

4. Self-reliance and personal responsibility. Promote self-reliance and personal responsibility by ensuring the ability of individuals, families and other entities to prepare, process, advertise and sell foods directly to customers intended solely for consumption by the customers or their families; and

Sec. 8. 7 MRSA §283, sub-§5, as enacted by PL 2017, c. 314, §1, is amended to read:

5. Rural economic development. Enhance rural economic development and the environmental and social wealth of rural communities; and

Sec. 9. 7 MRSA §283, sub-§6 is enacted to read:

6. Right to food. Protect the right to food as declared in the Constitution of Maine, Article I, Section 25.

Sec. 10. 7 MRSA §283-A is enacted to read:

§283-A. Food sovereignty principles

The Legislature finds that advancing the principles of food sovereignty will further the preservation of rural life and values as set forth in section 1-B and protect the right to food as declared in the Constitution of Maine, Article I, Section 25. Food sovereignty:

1. Focuses on the people. Centers the right to sufficient, healthy and culturally appropriate food for the people of the State in food, agriculture, livestock and fisheries policies;

2. Values food producers. Values all those who grow, harvest and process food, including women, small-scale farmers, herders, people who fish commercially, forest dwellers, indigenous populations and agricultural, migrant and fisheries workers;

3. Localizes food systems. Brings food producers and consumers closer together so they can make joint decisions on food issues that benefit and protect the people of the State;

4. Promotes local control. Respects the right of food producers to have control over their land, seeds and water and protects natural resources for the people of the State;

5. Builds knowledge and skills. Values the sharing of local knowledge and skills that have been passed down through generations to safeguard traditional foodways and enhance sustainable food production, free from technologies that undermine bodily health and well-being; and

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6. Works with nature. Focuses on production and harvesting methods that maximize the contribution of ecosystems and improve the resiliency of local food systems in the face of drought and other extreme weather conditions.

Sec. 11. 7 MRSA §284, as amended by PL 2021, c. 625, §3, is further amended to read:

§284. Authority

Pursuant to the home rule authority granted to municipalities by Title 30-A, section 3001 and by the Constitution of Maine, Article VIII, Part Second, pursuant to the authority granted to plantations by Title 30-A, section 7051, and notwithstanding any provision of law regulating food in this Title or Title 22 to the contrary, except as contained in section 285, a municipality or plantation may adopt ordinances regarding traditional foodways and direct producer-to-consumer transactions and the State shall recognize such ordinances by not enforcing those laws or implementing rules with respect to those traditional foodways or direct producer-to-consumer transactions that are governed by the ordinance.

Pursuant to the authority granted to county commissioners by Title 30-A, section 7505 and notwithstanding any provision of law regulating food in this Title or Title 22 to the contrary, except as contained in section 285, a county may adopt ordinances regarding traditional foodways and direct producer-to-consumer transactions within one or more unorganized territories within that county and the State shall recognize such an ordinance by not enforcing those laws or implementing rules with respect to those traditional foodways or direct producer-to-consumer transactions that are governed by the ordinance.

Sec. 12. 7 MRSA §284-A is enacted to read:

§284-A. Application

The provisions of this chapter apply to any local food ordinance adopted by a municipality, plantation or county including those local food ordinances adopted prior to October 31, 2017.

Sec. 13. 7 MRSA §284-B is enacted to read:

§284-B. Construction

To advance food sovereignty, the principles of food sovereignty and the policy of the State as set forth in this chapter, and to protect the right to food as declared in the Constitution of Maine, Article I, Section 25, this chapter may not be construed to require a specific form or framework for any ordinance regarding traditional foodways or direct producer-to-consumer transactions authorized pursuant to section 284.

In accordance with Title 30-A, section 3001, subsections 1 and 3, any ordinance regarding traditional foodways or direct producer-to-consumer transactions must be liberally construed to effectuate the purpose of that ordinance.

Sec. 14. 7 MRSA c. 8-G is enacted to read:

CHAPTER 8-G

MAINE VEGETABLE GARDEN PROTECTION ACT

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§291. Short title

This chapter may be known and cited as "the Maine Vegetable Garden Protection Act."

§292. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Food forest. "Food forest" means a diverse planting of edible plants that attempts to mimic the ecosystems and patterns found in nature.

2. Permaculture. "Permaculture" means sustainable landscape design and ecosystems based on a diversified crop of perennial trees, shrubs, herbs, vegetables, weeds, fungi and root systems that weave together microclimate, annual and perennial plants, soils, water management, wildlife and human needs into intricately connected, productive communities.

3. Vegetable garden. "Vegetable garden" means any plot of ground or elevated soil bed on residential property where annual or perennial vegetables, herbs, fruits, flowers, pollinator plants, leafy greens or other food-producing plants are cultivated.

§293. Right to cultivate vegetable gardens

Pursuant to the right to food as declared in the Constitution of Maine, Article I, Section 25, and notwithstanding any provision of law to the contrary, an individual has the right to cultivate vegetable gardens on the individual's property or on the private property of another with the permission of the owner of that property, in any municipality, village, plantation, county, unorganized territory or other political subdivision of this State.

§294. Permaculture, edible landscaping, food forests and community gardens

Pursuant to the right to food as declared in the Constitution of Maine, Article I, Section 25, any political subdivision of the State may develop and implement a program to promote permaculture and establish edible landscaping, food forests and community gardens in public spaces, including publicly owned properties, rights-of-way, school grounds, parks and parking lots.

A political subdivision of the State that develops and implements a program under this section may seek and accept money from public and private sources for the development and maintenance of permaculture, edible landscaping, food forests or community gardens and collaborate with local, state or regional public or private entities with expertise in the design and maintenance of permaculture, edible landscaping, food forests or community gardens.

§295. No prohibition or regulation

Pursuant to the right to food as declared in the Constitution of Maine, Article I, Section 25, and notwithstanding any provision of law to the contrary, the State or any political subdivision of the State may not prohibit or regulate vegetable gardens, permaculture, edible landscaping, food forests or community gardens in a manner inconsistent with this chapter.

§296. Construction

This chapter may not be construed to prohibit the adoption of an ordinance or regulation, pursuant to the home rule authority granted to municipalities by the Constitution

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of Maine, Article VIII, Part Second, the powers granted to villages, plantations, counties or other political subdivisions of the State by Title 30-A, the powers granted to the Maine Land Use Planning Commission by Title 12 and the powers granted to the Department of Environmental Protection by Title 38, of a general nature that does not solely or specifically apply to vegetable gardens, permaculture, edible landscaping, food forests or community gardens, including, but not limited to, ordinances or regulations relating to setbacks, water quality, plant and animal habitats, water use, fertilizer use, pesticide use or control of invasive species, so long as the ordinance or regulation does not have the effect of precluding vegetable gardens, permaculture, edible landscaping, food forests or community gardens in any political subdivision of the State.

Sec. 15. 7 MRSA §318, sub-§2, as amended by PL 2003, c. 167, §1, is further amended by enacting at the end a new first blocked paragraph to read:

The panel, to the extent practicable, may give priority consideration to applications from applicants who have a history of generational poverty or land dispossession in the United States or from applicants who are veterans. For purposes of this subsection, "veteran" means an individual who served in the United States Armed Forces and meets the definition of "veteran" under 38 Code of Federal Regulations, Section 3.1 or who has served or is currently serving in the Maine Army National Guard or Maine Air National Guard or the Reserves of the United States Armed Forces.

Sec. 16. 12 MRSA §1814, as amended by PL 1999, c. 240, §1; PL 2011, c. 657, Pt. W, §7; and PL 2013, c. 405, Pt. A, §24, is repealed and the following enacted in its place:

§1814. Convey land

1. Generally. Consistent with section 598-A, the bureau may sell and convey lands under this subchapter and improvements on those lands. With the consent of the Governor and the commissioner and subject to the provisions of section 598-A, the bureau may convey interests in lands or lease the same. Any lease to the Federal Government requires the approval of the Legislature. Any lease entered into must be canceled or revoked after due notice of intention to cancel or revoke the lease by action of the bureau when the use for which that lease was given has been abandoned or materially modified or whenever the conditions imposed in any lease have been broken.

2. Lease for cultivating edible crops, hay or pasturage for livestock. Pursuant to the right to food as declared in the Constitution of Maine, Article I, Section 25, the bureau, with the consent of the Governor and the commissioner and subject to the provisions of section 598-A, may lease the right to use parcels of land under this subchapter for purposes of cultivating edible crops, hay or pasturage for dairy animals or other livestock. Each lease must contain a provision that authorizes the bureau to terminate the lease at any time when the bureau in its sole discretion determines that termination is in the best interests of the State. The bureau may not issue any adjustment or compensation to any lessee under this subsection on account of that termination. The bureau, to the extent practicable, in establishing a lease under this subsection, may give priority consideration to individuals with a history of generational poverty or land dispossession in the United States or to individuals who are veterans. For purposes of this subsection, "veteran" means an individual who served in the United States Armed Forces and meets the definition of "veteran" under 38 Code of Federal Regulations, Section 3.1 or who has served or is

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1 currently serving in the Maine Army National Guard or Maine Air National Guard or the
2 Reserves of the United States Armed Forces.

3 **Sec. 17. 12 MRSA §1838, sub-§10** is enacted to read:

4 **10. Lease for cultivating edible crops, hay or pasturage for livestock.** Pursuant to
5 the right to food as declared in the Constitution of Maine, Article I, Section 25 and
6 consistent with section 598-A, the bureau, with the consent of the Governor and the
7 commissioner, may lease the right to use parcels of nonreserved public land for purposes
8 of cultivating edible crops, hay or pasturage for dairy animals or other livestock. Each
9 lease must contain a provision that authorizes the bureau to terminate the lease at any time
10 when the bureau in its sole discretion determines that termination is in the best interests of
11 the State. The bureau may not issue any adjustment or compensation to any lessee under
12 this subsection on account of that termination. The bureau, to the extent practicable, in
13 establishing a lease under this subsection, may give priority consideration to individuals
14 with a history of generational poverty or land dispossession in the United States or to
15 individuals who are veterans. For purposes of this subsection, "veteran" means an
16 individual who served in the United States Armed Forces and meets the definition of
17 "veteran" under 38 Code of Federal Regulations, Section 3.1 or who has served or is
18 currently serving in the Maine Army National Guard or Maine Air National Guard or the
19 Reserves of the United States Armed Forces.

20 **Sec. 18. 12 MRSA §1852, sub-§10** is enacted to read:

21 **10. Lease for cultivating edible crops, hay or pasturage for livestock.** Pursuant to
22 the right to food as declared in the Constitution of Maine, Article I, Section 25 and
23 consistent with section 598-A, the bureau, with the consent of the Governor and the
24 commissioner, may lease the right to use parcels of public reserved land for purposes of
25 cultivating edible crops, hay or pasturage for dairy animals or other livestock. Each lease
26 must contain a provision that authorizes the bureau to terminate the lease at any time when
27 the bureau in its sole discretion determines that termination is in the best interests of the
28 State. The bureau may not issue any adjustment or compensation to any lessee under this
29 subsection on account of that termination. The bureau, to the extent practicable, in
30 establishing a lease under this subsection, may give priority consideration to individuals
31 with a history of generational poverty or land dispossession in the United States or to
32 individuals who are veterans. For purposes of this subsection, "veteran" means an
33 individual who served in the United States Armed Forces and meets the definition of
34 "veteran" under 38 Code of Federal Regulations, Section 3.1 or who has served or is
35 currently serving in the Maine Army National Guard or Maine Air National Guard or the
36 Reserves of the United States Armed Forces.

37 **Sec. 19. 30-A MRSA §7051, sub-§11**, as amended by PL 2021, c. 625, §5, is
38 further amended to read:

39 **11. Ordinances.** Chapter 141, but only with respect to animal control ordinances,
40 subject to Title 7, section 3950, the sale and use of consumer fireworks within the
41 plantation, subject to Title 8, section 223-A, the accumulation of garbage, refuse, rubbish
42 or trash or unwanted or discarded material of any kind or source on private property and
43 ordinances regarding traditional foodways and direct producer-to-consumer transactions
44 adopted in accordance with Title 7, chapter 8-F.

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2 **Sec. 20. Appropriations and allocations.** The following appropriations and
 3 allocations are made.

4 **ATTORNEY GENERAL, DEPARTMENT OF THE**

5 **Human Services Division 0696**

6 Initiative: Establishes one half-time Assistant Attorney General position dedicated to the
 7 health inspection program within the Department of Health and Human Services, Maine
 8 Center for Disease Control and Prevention effective September 1, 2024 and provides
 9 funding for related All Other costs.

10	OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
11	POSITIONS - LEGISLATIVE COUNT	0.000	0.500
12	Personal Services	\$0	\$64,969
13	All Other	\$0	\$7,418
14	OTHER SPECIAL REVENUE FUNDS TOTAL	<hr/>	<hr/>
		\$0	\$72,387

16	ATTORNEY GENERAL, DEPARTMENT OF THE		
17	DEPARTMENT TOTALS	2023-24	2024-25

19	OTHER SPECIAL REVENUE FUNDS	\$0	\$72,387
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21	DEPARTMENT TOTAL - ALL FUNDS	<hr/>	<hr/>
		\$0	\$72,387

22 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

23 **Maine Center for Disease Control and Prevention 0143**

24 Initiative: Provides funding from the General Fund to reimburse the Department of the
 25 Attorney General for one half-time Assistant Attorney General position dedicated to the
 26 health inspection program within the Maine Center for Disease Control and Prevention.

27	GENERAL FUND	2023-24	2024-25
28	All Other	\$0	\$72,387
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30	GENERAL FUND TOTAL	<hr/>	<hr/>
		\$0	\$72,387

32	HEALTH AND HUMAN SERVICES,		
33	DEPARTMENT OF		
34	DEPARTMENT TOTALS	2023-24	2024-25

36	GENERAL FUND	\$0	\$72,387
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38	DEPARTMENT TOTAL - ALL FUNDS	<hr/>	<hr/>
		\$0	\$72,387

40	SECTION TOTALS	2023-24	2024-25
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42	GENERAL FUND	\$0	\$72,387
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OTHER SPECIAL REVENUE FUNDS	\$0	\$72,387
SECTION TOTAL - ALL FUNDS	\$0	\$144,774

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Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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SUMMARY

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This amendment, which is the majority report of the committee, replaces the bill and does the following.

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1. It amends the law governing edible landscaping throughout Capitol Park to allow collaboration with local, state or regional entities in developing and maintaining edible landscaping.

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2. It provides that strategies to end hunger in the State by 2030 must include protecting the right to food as declared in the Constitution of Maine, Article I, Section 25.

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3. It amends the Maine Food Sovereignty Act to:

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A. Require the State, instead of the Department of Agriculture, Conservation and Forestry, to support certain policies, including promoting self-reliance and personal responsibility and enhancing rural economic development, and add as a policy protecting the right to food as declared in the Constitution of Maine, Article I, Section 25;

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B. Establish food sovereignty principles;

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C. Apply the provisions of the Maine Food Sovereignty Act to all local food ordinances, including those in place before that Act was enacted; and

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D. Specify that the Maine Food Sovereignty Act does not require a specific form or framework for local food ordinances.

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4. It establishes the Maine Vegetable Garden Protection Act to:

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A. Allow an individual to cultivate vegetable gardens on the individual's property or on the private property of another with the permission of the owner of that property anywhere in the State without interference;

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B. Allow a municipality, county, village or plantation to develop and implement a program to promote permaculture and to establish edible landscaping, food forests and community gardens in public spaces, including publicly owned properties, rights-of-way, school grounds, parks and parking lots, in collaboration with local, state or regional public or private entities; and

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C. Allow a municipality, county, village or plantation to adopt ordinances to regulate matters related to the cultivation of vegetable gardens, permaculture, edible landscaping, food forests and community gardens.

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5. It requires the Maine Farms for the Future Program review panel, to the extent practicable, to give priority to applications from applicants who have a history of generational poverty or land dispossession in the United States or from applicants who are veterans.

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6. It allows the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands to lease land and parcels of land in parks and historic sites, nonreserved public land and public reserved land for purposes of cultivating edible crops, hay or pasturage for livestock, and allows that agency to give priority consideration in establishing those leases to individuals with a history of generational poverty or land dispossession in the United States or to individuals who are veterans.

7. It clarifies that a plantation has the same powers and duties and is subject to the same restrictions as a municipality with respect to ordinances regarding traditional foodways and direct producer-to-consumer transactions under the Maine Food Sovereignty Act.

The fiscal note on the amendment identifies certain requirements in the amendment as a potential state mandate. In order to be a mandate pursuant to the Constitution of Maine, a provision must require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue. The committee finds that the section of the amendment relating to the Maine Vegetable Garden Protection Act, the provision the fiscal note identifies as potentially a mandate, does not require any expansion or modification of activities so as to necessitate additional expenditures from local revenue.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 1823

LR 2106(02)

An Act to Respect and Protect the Right to Food

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-673)
 Committee: Agriculture, Conservation and Forestry
 Fiscal Note Required: Yes

Fiscal Note

Potential State Mandate - Unfunded

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$72,387	\$88,188	\$83,678
Appropriations/Allocations				
General Fund	\$0	\$72,387	\$88,188	\$83,678
Other Special Revenue Funds	\$0	\$72,387	\$88,188	\$91,096

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional filing fees will increase General Fund revenue by minor amounts.

State Mandates

Required Activity	Unit Affected	Local Cost
Requires municipalities to review ordinances for compliance with the Maine Vegetable Garden Protection Act.	Municipality	Insignificant statewide

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

CA(S-673)

Fiscal Detail and Notes

This bill includes ongoing General Fund appropriations to the Department of Health and Human Services, Maine Center for Disease Control and Prevention, Health Inspection program of \$72,387 in fiscal year 2024-25 to reimburse the Office of the Attorney General for one 0.5 Assistant Attorney General position effective September 1, 2024 to evaluate municipal ordinances, advise the program and address increased enforcement and litigation from the provisions of the bill. The bill includes corresponding Other Special Revenue Funds allocations to the Office of the Attorney General for the position.

The bill allows the Department of Agriculture, Conservation and Forestry to lease land in parks, historic sites, nonreserved public land and public reserved land for certain uses. Some potential leases will involve certain constitutional requirements for real estate held by the state. These leases will require legislative approval and will result in additional Other Special Revenue Funds revenue to the department.