

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

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ONE HUNDRED AND SIXTEENTH LEGISLATURE

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J.S. McCarthy Company
Augusta, Maine
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

CHAPTER 165

S.P. 100 - L.D. 278

An Act to Provide Additional Powers to the Public Utilities Commission

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

Sec. 1. 35-A MRSA §112, sub-§4, ¶C is enacted to read:

C. Subject to the requirements of the United States Constitution and the Constitution of Maine and upon a finding that there is probable cause to believe that a public utility is altering, amending, removing or destroying any of its books, accounts, papers or records in an attempt to frustrate an investigation of the commission, a Judge of the District Court or a Justice of the Peace, at the request of the commission and without notice, may issue a search warrant requiring seizure of those documents that are necessary for the commission to discharge its duties.

Sec. 2. 35-A MRSA §1316-A is enacted to read:

§1316-A. Information related to violation of state law; confidentiality

Subject to the requirements of Title 5, section 9055 regarding ex parte communications but notwithstanding any other provision of law, the commission may declare and treat as confidential communications from any person concerning the affairs of a utility that are reasonably related to a violation of state laws.

See title page for effective date.

CHAPTER 166

H.P. 388 - L.D. 501

An Act to Correct Errors and Inconsistencies in the Growth Management Laws

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

Sec. 1. 30-A MRSA §4301, sub-§9, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

9. Local growth management program. "Local growth management program" means a document containing the components described in section 4326, including the implementation program, which is consistent with the goals and guidelines established by subchapter II and

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

Sec. 2. 30-A MRSA §4301, sub-§15, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is repealed.

Sec. 3. 30-A MRSA §4301, sub-§15-A is enacted to read:

15-A. Zoning ordinance. "Zoning ordinance" means a type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.

Sec. 4. 30-A MRSA §4314, sub-§2, as enacted by PL 1991, c. 722, §6 and affected by §11, is amended to read:

2. Zoning ordinances. Notwithstanding section 4352, subsection 2, a zoning ordinance that regulates land use beyond that required by Title 38, chapter 3, subchapter I, article 2-B and that is not consistent with a comprehensive plan adopted under this subchapter is void 24 months after adoption of the plan.

Sec. 5. 30-A MRSA §4324, sub-§2, as amended by PL 1991, c. 622, Pt. F, §23, is further amended to read:

2. Local planning committee. ~~The~~ If a municipality chooses to prepare a local growth management program, the municipal officers of a municipality or combination of municipalities may shall designate and establish a local planning committee.

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

B. The local planning committee may develop and maintain a comprehensive plan and may develop an initial proposed zoning ordinance or an initial revision of an existing zoning ordinance. In performing these duties, the local planning committee shall:

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

(2) Prepare the comprehensive plan and proposed zoning ordinance and make recommendations to the municipal reviewing authority and municipal legislative body regarding the adoption and implementation of the program or amended program.

Sec. 6. 30-A MRSA §4326, sub-§3, ¶A, as amended by PL 1991, c. 722, §7 and affected by §11, is further amended to read:

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

(1) Growth areas, which are those areas suitable for orderly residential, commercial and industrial development forecast over the next 10 years. Each municipality shall:

(a) Establish standards for these developments;

(b) Establish timely permitting procedures;

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

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

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

These policies and ordinances ~~must~~ may include, without limitation: density limits; cluster or special zoning; acquisition of land or development rights; or performance standards;

Sec. 7. 30-A MRSA §4326, sub-§3, ¶I, as amended by PL 1991, c. 722, §7 and affected by §11 and amended by c. 838, §10, is repealed and the following enacted in its place:

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

Sec. 8. 30-A MRSA §4346, sub-§2, as enacted by PL 1991, c. 780, Pt. E, §2, is amended to read:

2. Implementation assistance grants. The technical and financial assistance program must provide direct financial assistance to municipalities to implement the

~~local growth management program comprehensive plan.~~ The maximum municipal cost share for an implementation assistance grant may not exceed 25%. A contract for an implementation assistance grant must include specific timetables governing the municipality's submission of zoning ordinances to the office for review.

A municipality may expend implementation assistance grant money received under this subsection for any purpose directly related to the preparation of policies, programs and land use ordinances implementing a comprehensive plan that has been adopted and that is consistent with this subchapter. Activities eligible for funding by an implementation assistance grant include, but are not limited to:

A. Assistance in the development of ordinances;

B. Retention of technical and legal expertise for permitting activities; and

C. The updating of local growth management programs or components of the program.

Sec. 9. 30-A MRSA §4347, first ¶, as enacted by PL 1991, c. 780, Pt. E, §2, is amended to read:

A municipality that ~~applies for an~~ chooses to prepare a local growth management program and receives a planning or implementation assistance grant under this article must submit its comprehensive plan and proposed zoning ordinances to the office for review. The office shall review plans and zoning ordinances for consistency with the goals and guidelines established in this subchapter. Any contract for a planning assistance grant or an implementation assistance grant must include specific timetables governing the review of the comprehensive plan or zoning ordinance by the office.

Sec. 10. 30-A MRSA §4347, sub-§2, as enacted by PL 1991, c. 780, Pt. E, §2, is amended to read:

2. Updates and amendments. A municipality may submit proposed amendments to a comprehensive plan or zoning ordinances to the office for review in the same manner as provided for the review of new plans and ordinances. ~~After an initial review of the proposed amendments by the office~~ Subsequent to voluntary certification under section 4348, the municipality shall file a copy of an amendment to a zoning ordinance with the office within 30 days after adopting the amendment.

Sec. 11. 30-A MRSA §4348, sub-§1, as enacted by PL 1991, c. 780, Pt. E, §2, is amended to read:

1. Solicitation of comments. In conducting a review under this section, the office shall solicit written comments on the proposed local growth management program from regional councils and state agencies, all municipalities contiguous to the municipality submitting

the proposed program and any interested residents of the municipality or contiguous municipalities.

A. Any regional council commenting on a proposed program or program component shall determine whether the proposed program or program component is compatible with those of other municipalities that may be affected by the proposal program and with regional needs identified by the regional council.

B. Within 90 days after receiving the municipal request, the office shall issue a certificate of consistency or request revisions to the proposed program. If the same local growth management program or a component of the program component has been previously reviewed by the office under this article, denial of certification or requested revisions must be based on written findings prepared by the office at that time.

C. If the office requests revisions to the proposed program, it shall provide the municipality with findings specifically describing the deficiencies in the submitted program and the recommended measures for remedying the deficiencies.

D. The office shall provide ample opportunity for the municipality submitting a local growth management program to respond to and correct any identified deficiencies in the program.

~~E. As set forth in section 4349, a municipality that receives a certificate of consistency is entitled to receive preference for certain state aid programs over a municipality that has received a planning or implementation assistance grant but has not received certification within 4 years after accepting a grant.~~

F. The office shall provide an expedited review and certification procedure for those submissions that represent minor amendments to certified local growth management programs.

G. The office's decision on certification constitutes final agency action.

Sec. 12. 30-A MRSA §4349, as enacted by PL 1991, c. 780, Pt. E, §2, is amended to read:

§4349. Eligibility for other state aid, grants and assistance

~~1. Application. The preference for municipal eligibility for the state aid, grant and assistance programs listed in this section is applicable only to those municipalities that have chosen to accept a planning assistance grant. This section does not apply to any municipality that chooses not to accept a planning assistance grant.~~

~~2. Preference. For those municipalities that have received a planning assistance grant from the office, preference must be given to municipalities that have received certification within 4 years after accepting the planning assistance grant. When awarding grants or assistance to municipalities under any of the following programs, state agencies shall consider whether or not a municipality that received a planning assistance grant has had that plan certified by the office under section 4348. When awarding grants or assistance under any of the following programs, state agencies shall give preference to a municipality that receives a certificate of consistency under section 4348 over a municipality that has received a planning or implementation assistance grant but has not received certification within 4 years after accepting such a grant:~~

A. Programs that assist in the acquisition of land for conservation, natural resource protection, open space or recreational facilities under Title 5, chapter 353;

B. Community development block grants; and

C. Programs intended to:

(1) Accommodate or encourage additional growth and development;

(2) Improve, expand or construct public facilities;

(3) Acquire land for conservation, recreation or resource protection; or

(4) Assist in planning or managing specific economic and natural resource concerns.

This subsection does not apply to state aid, grants or other assistance for sewage treatment facilities, public health programs or education.

See title page for effective date.

CHAPTER 167

H.P. 749 - L.D. 1016

An Act Concerning the Hunting of Bear

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

Sec. 1. 12 MRSA §7451, sub-§1, ¶A, as amended by PL 1987, c. 171, is further amended to read:

A. There ~~shall be~~ is an open season on hunting bear from the first Monday preceding September 1st to November 30th annually. The commissioner