

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2002

its facility in accordance with applicable law and the terms of its license.

Sec. 9. 23 MRSA §3360-A, sub-§6-C, ¶D, as corrected by RR 1999, c. 2, §27, is amended to read:

D. Failure of an underground facility operator to mark the location of the operator's underground facilities within the time limits required by subsection 4; ~~or~~

Sec. 10. 23 MRSA §3360-A, sub-§6-C, ¶E, as enacted by PL 1999, c. 718, §11, is amended to read:

E. Marking by an underground facility operator of the location of an underground facility in a reckless or negligent manner; ~~or~~

Sec. 11. 23 MRSA §3360-A, sub-§6-C, ¶F is enacted to read:

F. Failure of an excavator to comply with the requirements of subsection 5-C, 5-D or 5-E.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 28, 2002.

CHAPTER 578

H.P. 1588 - L.D. 2094

An Act to Encourage Regionalism in Municipal Growth Management

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

Sec. 1. 30-A MRSA §4301, sub-§2, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

2. Coastal area. "Coastal ~~areas~~ area" means ~~all municipalities a coastal island and any municipality or unorganized townships township~~ contiguous to tidal waters ~~and all coastal islands~~. The inland boundary of the coastal area is the inland line of any coastal town line.

Sec. 2. 30-A MRSA §4301, sub-§§4-A and 4-B are enacted to read:

4-A. Critical rural area. "Critical rural area" means a rural area that is specifically identified and designated by a municipality's or multimunicipal region's comprehensive plan as deserving maximum protection from development to preserve natural

resources and related economic activities that may include, but are not limited to, significant farmland, forest land or mineral resources; high-value wildlife or fisheries habitat; scenic areas; public water supplies; scarce or especially vulnerable natural resources; and open lands functionally necessary to support a vibrant rural economy.

4-B. Critical waterfront area. "Critical waterfront area" means a shoreline area characterized by functionally water-dependent uses, as defined in Title 38, section 436-A, subsection 6, and specifically identified and designated by a municipality's or multimunicipal region's comprehensive plan as deserving maximum protection from incompatible development.

Sec. 3. 30-A MRSA §4301, sub-§6-C is enacted to read:

6-C. Growth area. "Growth area" means an area that is designated in a municipality's or multimunicipal region's comprehensive plan as suitable for orderly residential, commercial or industrial development, or any combinations of those types of development, and into which most development projected over 10 years is directed.

Sec. 4. 30-A MRSA §4301, sub-§9, as amended by PL 1993, c. 166, §1, is further amended to read:

9. Growth management program. "~~Local growth~~ Growth management program" means a document containing the components described in section 4326, including the implementation program, ~~which that~~ is consistent with the goals and guidelines established by subchapter II and ~~which that~~ regulates land use beyond that required by Title 38, chapter 3, subchapter I, article 2-B.

Sec. 5. 30-A MRSA §4301, sub-§10, as amended by PL 1989, c. 562, §1, is further amended to read:

10. Planning committee. "~~Local planning~~ Planning committee" means the committee established by the municipal officers of a municipality or combination of municipalities ~~which that~~ has the general responsibility established under sections 4324 and 4326.

Sec. 6. 30-A MRSA §4301, sub-§§11-A, 14-B and 14-C are enacted to read:

11-A. Multimunicipal region. "Multimunicipal region" means a region made up of 2 or more municipalities that work together to cooperatively establish a growth management program or independent growth management programs that are unified with respect to the implementation of the state goal identified in

section 4312, subsection 3, paragraph A. The several municipalities in a multimunicipal region may establish the region pursuant to section 4325 or chapter 115.

14-B. Rural area. "Rural area" means a geographic area that is identified and designated in a municipality's or multimunicipal region's comprehensive plan as an area that is deserving of some level of regulatory protection from unrestricted development for purposes that may include, but are not limited to, supporting agriculture, forestry, mining, open space, wildlife habitat, fisheries habitat and scenic lands, and away from which most development projected over 10 years is diverted.

14-C. Transitional area. "Transitional area" means an area that is designated in a municipality's or multimunicipal region's comprehensive plan as suitable for a share of projected residential, commercial or industrial development but that is neither intended to accept the amount or density of development appropriate for a growth area nor intended to provide the level of protection for rural resources afforded in a rural area or critical rural area.

Sec. 7. 30-A MRSA §4312, sub-§2, ¶¶F and G, as amended by PL 1991, c. 622, Pt. F, §19, are further amended to read:

F. Provide for continued direct state regulation of development proposals that occur in areas of statewide concern, that directly impact natural resources of statewide significance or that by their scale or nature otherwise affect vital state interests; ~~and~~

G. Encourage the widest possible involvement by the citizens of each municipality in all aspects of the planning and implementation process, in order to ensure that the plans developed by municipalities have had the benefit of citizen input; ~~and~~

Sec. 8. 30-A MRSA §4312, sub-§2, ¶I is enacted to read:

I. Encourage the development and implementation of multimunicipal growth management programs.

Sec. 9. 30-A MRSA §4312, sub-§3, ¶A, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

A. To encourage orderly growth and development in appropriate areas of each community; and region while protecting the State's rural character, making efficient use of public services and preventing development sprawl;

Sec. 10. 30-A MRSA §4314, sub-§3, as amended by PL 2001, c. 406, §3, is further amended to read:

3. Rate of growth, zoning and impact fee ordinances. After January 1, 2003, any portion of a municipality's or multimunicipal region's rate of growth, zoning or impact fee ordinance must be consistent with a comprehensive plan adopted under this subchapter. The portion of a rate of growth, zoning or impact fee ordinance that is not consistent with a comprehensive plan is no longer in effect unless:

C. The ordinance or portion of the ordinance is exempted under subsection 2;

D. The municipality or multimunicipal region is under contract with the office to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier;

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted under this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment; or

F. The municipality or multimunicipal region applied for and was denied financial assistance for its first planning assistance or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the office subsequently offers the municipality or multimunicipal region its first planning assistance or implementation assistance grant, the municipality or multimunicipal region has up to one year to contract with the office to prepare a comprehensive plan or implementation program, in which case the municipality's or multimunicipal region's ordinances will be subject to paragraph D.

Sec. 11. 30-A MRSA c. 187, sub-c. II, art. 2, as enacted by PL 1989, c. 104, Pt. A, §45, is amended by repealing and replacing the headnote to read:

ARTICLE 2**GROWTH MANAGEMENT PROGRAMS**

Sec. 12. 30-A MRSA §4321, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

§4321. Growth management program established

There is established a program of ~~local~~ growth management to accomplish the goals of this subchapter.

Sec. 13. 30-A MRSA §4324, as amended by PL 1993, c. 721, Pt. A, §2 and affected by Pt. H, §1, is further amended to read:

§4324. Responsibility for growth management

This section governs a municipality's or multimunicipal region's responsibility for the preparation or amendment of its ~~local~~ growth management program. ~~Where~~ When procedures for the adoption of comprehensive plans and ordinances are governed by other provisions of this Title or municipal charter or ordinance, the municipality or multimunicipal region may modify the procedural requirements of this section as long as a broad range of opportunity for public comment and review is preserved.

1. Growth management program. Each municipality or multimunicipal region may prepare a ~~local~~ growth management program in accordance with this section or may amend its existing comprehensive plan and existing land use ordinances to comply with this subchapter.

2. Planning committee. If a municipality or multimunicipal region chooses to prepare a ~~local~~ growth management program, the municipal officers of a municipality or combination of municipalities 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~~ any portion of an implementation program to which it is assigned in an adopted comprehensive plan or otherwise directed by the municipal offi-

cers or municipal legislative body or bodies. 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 or any portion of the implementation program to which it is assigned in an adopted comprehensive plan~~ and make recommendations to the ~~municipal reviewing authority and municipal legislative body~~ regarding the adoption and implementation of the program or amended program.

3. Citizen participation. In order to encourage citizen participation in the development of a ~~local~~ growth management program, municipalities or multimunicipal regions may adopt ~~local~~ growth management programs only after soliciting and considering a broad range of public review and comment. The intent of this subsection is to provide for the broad dissemination of proposals and alternatives, opportunity for written comments, open discussions, information dissemination and consideration of and response to public comments.

4. Meetings to be public. The ~~local~~ planning committee shall conduct all of its meetings in open, public session. Prior public notice must be given for all meetings of the ~~local~~ planning committee pursuant to Title 1, section 406. ~~Prior to April 1, 1990, if the local planning committee provided notice in compliance with Title 1, section 406, that notice was sufficient for all legal purposes.~~

8. Public hearing required. The ~~local~~ planning committee shall hold at least one public hearing on its proposed comprehensive plan.

A. Notice of any public hearing must be posted in ~~the~~ each municipality at least ~~2 times~~ 30 days before the hearing.

B. A copy of the proposed comprehensive plan ~~shall~~ must be made available for public inspection at ~~the~~ each municipal office or other convenient location with regular public hours at least 30 days before the hearing.

9. Adoption. A comprehensive plan or land use ordinance is ~~deemed to have been considered~~ adopted as part of a ~~local~~ growth management program when it has been ~~accepted~~ adopted by the municipality's legislative body. A multimunicipal comprehensive plan or land use ordinance must be adopted by the municipal legislative body of each participating municipality unless another form of legislative

authority has been established for this purpose within the municipality or multimunicipal region.

10. Amendments to an adopted plan. When amending an adopted comprehensive plan, a municipality or multimunicipal region shall follow the same procedures for citizen participation, public notice and public hearing that are required for adoption of a comprehensive plan.

Sec. 14. 30-A MRSAs §4325, as amended by PL 1991, c. 622, Pt. F, §28, is further amended to read:

§4325. Cooperative growth management activities

This section governs cooperative ~~local~~ growth management efforts conducted by 2 or more municipalities.

1. Within municipality. A municipality may exercise its land use planning and management authority over the total land area within its jurisdiction.

2. Multimunicipal region. Any combination of ~~contiguous~~ municipalities may conduct joint planning and regulatory programs to meet the requirements of this subchapter upon adoption of a written comprehensive planning and enforcement agreement by the municipal legislative bodies involved. The municipalities must agree:

A. On procedures for joint action in the preparation and adoption of comprehensive plans ~~and~~ land use regulations and other implementation measures to be conducted on a multimunicipal basis;

B. On the manner of representation on any such joint land use body; and

C. On the amount and source of contribution from each municipality for any costs incurred in the development, implementation and enforcement of the comprehensive plan and land use ordinances its implementation program and on the method of distributing the benefits or impacts of regional land use, economic development, housing, transportation, infrastructure and other shared plans and programs.

3. Requirements. The comprehensive planning and enforcement agreement must be in writing, approved by the municipal legislative bodies and forwarded to the office.

Sec. 15. 30-A MRSAs §4326, as amended by PL 2001, c. 406, §4, is further amended to read:

§4326. Growth management program elements

A ~~local~~ growth management program ~~shall~~ must include at least a comprehensive plan, as described in subsections 1 to 4, and an implementation program as described in subsection 5.

1. Inventory and analysis. A comprehensive plan ~~shall~~ must include an inventory and analysis section addressing state goals under this subchapter and issues of regional or local significance that the municipality or multimunicipal region considers important. The inventory must be based on information provided by the State, regional councils and other relevant local sources. The analysis must include 10-year projections of local and regional growth in population and residential, commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources.

The inventory and analysis section must include, but is not limited to:

A. Economic and demographic data describing the municipality or multimunicipal region and the region in which it is located;

B. Significant water resources such as lakes, aquifers, estuaries, rivers and coastal areas and, ~~where~~ when applicable, their vulnerability to degradation;

C. Significant or critical natural resources, such as wetlands, wildlife and fisheries habitats, significant plant habitats, coastal islands, sand dunes, scenic areas, shorelands, heritage coastal areas as defined under Title 5, section 3316, and unique natural areas;

D. Marine-related resources and facilities such as ports, harbors, commercial moorings, commercial docking facilities and related parking, and shell fishing and worming areas;

E. Commercial forestry and agricultural land;

F. Existing recreation, park and open space areas and significant points of public access to shorelands within a municipality or multimunicipal region;

G. Existing transportation systems, including the capacity of existing and proposed major thoroughfares, secondary routes, pedestrian ways and parking facilities;

H. Residential housing stock, including affordable housing;

I. Historical and archeological resources including, at the discretion of the municipality or multimunicipal region, stone walls, stone im-

poundments and timber bridges of historical significance;

J. Land use information describing current and projected development patterns; and

K. An assessment of capital facilities and public services necessary to support growth and development and to protect the environment and health, safety and welfare of the public and the costs of those facilities and services.

2. Policy development. A comprehensive plan must include a policy development section that relates the findings contained in the inventory and analysis section to the state goals. The policies must:

A. Promote the state goals under this subchapter;

B. Address any conflicts between state goals under this subchapter;

C. Address any conflicts between regional and local issues; and

D. Address the State's coastal policies if any part of the municipality or multimunicipal region is a coastal area.

3. Implementation strategy. A comprehensive plan must include an implementation strategy section that contains a timetable for the implementation program, including land use ordinances, ensuring that the goals established under this subchapter are met. These implementation strategies must be consistent with state law and must actively promote policies developed during the planning process. The timetable must identify significant ordinances to be included in the implementation program. The strategies and timetable must guide the subsequent adoption of policies, programs and land use ordinances. ~~In developing its strategies and subsequent policies, programs and land use ordinances, each municipality shall employ the following guidelines consistent with the goals of this subchapter:~~

~~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 or any combination of those types of 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 may include, without limitation: density limits; cluster or special zoning; acquisition of land or development rights; or performance standards.~~

~~A municipality is not required to identify growth areas for residential, commercial or industrial growth if it demonstrates that it is not possible to accommodate future residential, commercial or industrial growth in these areas because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources; or it demonstrates that the municipality has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10 year planning period. A municipality exercising the discretion afforded by this paragraph shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4327;~~

~~B. Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development;~~

~~C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4 A and ensure that the water quality will be protected from long term and cumulative increases in phosphorus from development in great pond watersheds;~~

~~D. Ensure that its land use policies and ordinances are consistent with applicable state law regarding critical natural resources. A municipality may adopt ordinances more stringent than applicable state law;~~

~~E. Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal municipality shall discourage new development that is incompatible with uses related to the marine resources industry;~~

~~F. Ensure the protection of agricultural and forest resources. Each municipality shall discourage new development that is incompatible with uses related to the agricultural and forest industry;~~

~~G. Ensure that its land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality shall seek to achieve a level of 10% of new residential development, based on a 5-year historical average of residential development in the municipality, meeting the definition of affordable housing. Municipalities are encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to, cluster zoning, reducing minimum lot and frontage sizes, increasing densities and use of municipally owned land;~~

~~H. Ensure that the value of historical and archeological resources is recognized and that protection is afforded to those resources that merit it;~~

~~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~~

~~J. Develop management goals for great ponds pertaining to the type of shoreline character, intensity of surface water use, protection of resources of state significance and type of public access appropriate for the intensity of use of great ponds within a municipality's jurisdiction.~~

3-A. Guidelines for policy development and implementation strategies. In developing its strategies and subsequent policies, programs and land use ordinances, each municipality or multimunicipal region shall employ the following guidelines consistent with the goals of this subchapter:

A. Identify and designate geographic areas in the municipality or multimunicipal region as growth areas and rural areas, as defined in this chapter.

(1) Within growth areas, each municipality or multimunicipal region shall:

(a) Establish development standards;

(b) Establish timely permitting procedures;

(c) Ensure that needed public services are available; and

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

(2) Within rural areas, each municipality or multimunicipal region shall adopt land use policies and ordinances to discourage incompatible development. These policies and ordinances may include, without limitation, density limits, cluster or special zoning, acquisition of land or development rights and performance standards. The municipality or multimunicipal region should also identify which rural areas qualify as critical rural areas as defined in this chapter. Critical rural areas must receive priority consideration for proactive strategies designed to enhance rural industries, manage wildlife and fisheries habitat and preserve sensitive natural areas.

(3) A municipality or multimunicipal region may also designate as a transitional area any portion of land area that does not meet the definition of either a growth area or a rural area. Such an area may be appropriate for medium-density development that does not require expansion of municipal facilities and does not include significant rural resources.

(4) A municipality or multimunicipal region is not required to identify growth areas for residential, commercial or industrial growth if it demonstrates that it is not possible to accommodate future residential, commercial or industrial growth in these areas because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources.

(5) A municipality or multimunicipal region is not required to identify growth areas

for residential, commercial or industrial growth if it demonstrates that the municipality or multimunicipal region has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period.

(6) A municipality or multimunicipal region exercising the discretion afforded by subparagraph 4 or 5 shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4347-A;

B. Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development;

C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4-A and ensure that the water quality will be protected from long-term and cumulative increases in phosphorus from development in great pond watersheds;

D. Ensure that its land use policies and ordinances are consistent with applicable state law regarding critical natural resources. A municipality or multimunicipal region, if authorized to enact ordinances, may adopt ordinances more stringent than applicable state law;

E. Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal area may identify and designate one or more critical waterfront areas and implement policies to ensure protection of those areas or otherwise discourage new development that is incompatible with uses related to the marine resources industry;

F. Ensure the protection of agricultural and forest resources. Each municipality or multimunicipal region shall discourage new development that is incompatible with uses related to the agricultural and forest industries;

G. Ensure that the municipality's or multimunicipal region's land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality or multimunicipal region shall seek to achieve a level of at least 10% of new residential

development, based on a 5-year historical average of residential development in the municipality or multimunicipal region, that meets the definition of affordable housing. A municipality or multimunicipal region is encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to, cluster housing, reduced minimum lot and frontage sizes, increased residential densities and use of municipally owned land;

H. Ensure that the value of historical and archeological resources is recognized and that protection is afforded to those resources that merit it;

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 or multimunicipal region shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting that protection; and

J. Develop management goals for great ponds pertaining to the type of shoreline character, intensity of surface water use, protection of resources of state significance and type of public access appropriate for the intensity of use of great ponds within the municipality's or multimunicipal region's jurisdiction.

4. Regional coordination program. A regional coordination program must be developed with other municipalities or multimunicipal regions to manage shared resources and facilities, such as rivers, aquifers, transportation facilities and others. This program must provide for consistency with the comprehensive plans of other municipalities or multimunicipal regions for these resources and facilities.

5. Implementation program. An implementation program must be adopted that is consistent with the strategies in subsection 3 3-A.

Sec. 16. 30-A MRSA §4327, as amended by PL 1993, c. 721, Pt. A, §4 and affected by Pt. H, §1, is repealed.

Sec. 17. 30-A MRSA §4331, as enacted by PL 1993, c. 721, Pt. A, §5 and affected by Pt. H, §1, is amended to read:

§4331. Evaluation process

The office shall conduct an ongoing evaluation process to determine the effectiveness of state,

regional and local efforts under this chapter to achieve the purposes and goals of this chapter. Working through the Land and Water Resources Council, the office shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the office in this effort.

1. Criteria. In conducting the evaluation, the office shall develop criteria based on the goals of this chapter. The criteria must be objective, verifiable and, to the extent practicable, quantifiable.

2. Baseline conditions. The office shall establish a baseline of land use conditions at a level of detail sufficient to permit general comparison of state and regional trends in future land use development patterns.

3. Public input. The office shall incorporate opportunities for public input and comment into the evaluation process.

4. Level of analysis. The office shall evaluate the program generally at a regional and statewide level. To illustrate the impact of the program, the office shall compare land use development trends and patterns in a sample of towns that have participated in the program with a matched sample of towns that have not participated. The evaluation performed by the office must include an analysis of the State's financial commitment to growth management.

5. Periodic reports. Beginning on January 1, 1995, the office shall report in writing on the results of its evaluation process every 4 years and more frequently if necessary. The office shall submit its report to the joint standing committee of the Legislature having jurisdiction over natural ~~resource~~ resources matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

Sec. 18. 30-A MRSA §4345, as amended by PL 1995, c. 395, Pt. D, §13, is further amended to read:

§4345. Purpose; office to administer program

Under the provisions of this article, a municipality or multimunicipal region may request financial or technical assistance from ~~the State Planning Office, referred to in this article as~~ the office; for the purpose of planning and implementing a ~~local~~ growth management program. A municipality or multimunicipal region that requests and receives a financial assistance grant shall develop and implement its growth management program in cooperation with the office and in a manner consistent with the provisions of this article.

To accomplish the purposes of this article, the office shall develop and administer a technical and

financial assistance program for municipalities or multimunicipal regions. The program must include direct financial assistance for planning and implementation of ~~local~~ growth management programs, standards governing the review of ~~local~~ growth management programs by the office, technical assistance to municipalities or multimunicipal regions and a voluntary certification program for ~~local~~ growth management programs.

Sec. 19. 30-A MRSA §4346, as amended by PL 2001, c. 406, §§5 to 8, is further amended to read:

§4346. Technical and financial assistance program

The technical and financial assistance program for municipalities ~~and~~ regional councils and multimunicipal regions is established to encourage and facilitate the adoption and implementation of local, regional and statewide growth management programs ~~throughout the State~~. The office may enter into financial assistance grants only to the extent that funds are available. In making grants, the office shall consider the need for planning in a municipality or multimunicipal region, the proximity of the municipality or multimunicipal region to other ~~towns~~ areas that are conducting or have completed the planning process and the economic and geographic role of the municipality or multimunicipal region within a regional context. The office may consider other criteria in making grants, as long as the criteria support the goal of encouraging and facilitating the adoption and implementation of ~~a~~ local and multimunicipal growth management ~~program~~ programs consistent with the provisions of this article. In order to maximize the availability of the technical and financial assistance program to all municipalities, multimunicipal regions and regional councils, financial assistance programs administered competitively under this article are exempt from rules adopted by the Department of Administrative and Financial Services pursuant to Title 5, section 1825-C for use in the purchase of services and the awarding of grants and contracts. The office shall publish a program statement describing its grant program and advertising its availability to eligible applicants.

2-A. Financial assistance grants. A contract for a financial assistance grant must:

- A. Provide for the payment of a specific amount for the purposes of planning and preparing a comprehensive plan;
- B. Provide for the payment of a specific amount for the purposes of implementing that plan; and
- C. Include specific timetables governing the preparation and submission of products by the municipality or multimunicipal region.

The office may not require a municipality or multimunicipal region to provide matching funds in excess of 25% of the value of that municipality's or multimunicipal region's financial assistance contract for its first planning assistance grant and implementation assistance grant. The office may require a higher match for other grants, including, but not limited to, grants for the purpose of updating comprehensive plans. This match limitation does not apply to distribution of federal funds that the office may administer.

2-B. Use of funds. A municipality or multimunicipal region may expend financial assistance grants for:

- A. The conduct of surveys, inventories and other data-gathering activities;
- B. The hiring of planning and other technical staff;
- C. The retention of planning consultants;
- D. Contracts with regional councils for planning and related services;
- E. Assistance in the development of ordinances;
- F. Retention of technical and legal expertise ~~for permitting activities;~~
- G. The updating of growth management programs or components of a program; ~~and~~

G-1. Evaluation of growth management programs; and

H. Any other purpose agreed to by the office and the municipality or multimunicipal region that is directly related to the preparation of a comprehensive plan or the ~~preparation of policies, programs and land use ordinances to implement that~~ implementation of a comprehensive plan adopted under this subchapter.

2-C. Program evaluation. Any recipient of a financial assistance grant shall cooperate with the office in performing program evaluations required under section 4331.

3. Technical assistance. Using its own staff, the staff of other state agencies, contractors and the resources of the regional councils, the office shall provide technical assistance to municipalities or multimunicipal regions in the development, administration and enforcement of ~~local~~ growth management programs. The technical assistance component of the program must include a set of model land use ordinances or other implementation strategies developed by the office that are consistent with this subchapter.

4. Regional council assistance. As part of the technical and financial assistance program, the office may develop and administer a program to develop regional education and training programs, regional policies to address state goals and regional assessments. Regional assessments may include, but are not limited to, public infrastructure, inventories of agricultural and commercial forest lands, housing needs, recreation and open space needs, and projections of regional growth and economic development. The program may include guidelines to ensure methodological consistency among the State's regional councils. To implement this program, the office may contract with regional councils to assist the office in reviewing ~~local~~ growth management programs, to develop necessary planning information at a regional level or to provide support for local planning efforts.

5. Coordination. State agencies with regulatory or other authority affecting the goals established in this subchapter shall conduct their respective activities in a manner consistent with the goals established under this subchapter, including, but not limited to, coordinating with municipalities, regional councils and other state agencies in meeting the state goals; providing available information to regions and municipalities as described in section 4326, subsection 1; cooperating with efforts to integrate and provide access to geographic information system data; making state investments and awarding grant money as described in section 4349-A; and conducting reviews of growth management programs as provided in section 4347-A, subsection 3, paragraph A. Without limiting the application of this section to other state agencies, the following agencies shall comply with this subchapter. The Land and Water Resources Council shall periodically, but in no event less than biannually, review the effectiveness of agency coordination efforts, including, but not limited to, those in section 4349-A:

- A. Department of Conservation;
- B. Department of Economic and Community Development;
- C. Department of Environmental Protection;
- D. Department of Agriculture, Food and Rural Resources;
- E. Department of Inland Fisheries and Wildlife;
- F. Department of Marine Resources;
- G. Department of Transportation;
- G-1. Department of Human Services;
- G-2. Executive Department, State Planning Office;

H. Finance Authority of Maine; and

I. Maine State Housing Authority.

Sec. 20. 30-A MRSA §4347-A, as enacted by PL 2001, c. 406, §10, is amended to read:

§4347-A. Review of programs by office

1. Comprehensive plans. A municipality or multimunicipal region that chooses to prepare a growth management program and receives a planning grant under this article shall submit its comprehensive plan to the office for review. The office shall review plans for consistency with the goals and guidelines established in this subchapter. Any contract for a planning assistance grant must include specific timetables governing the review of the comprehensive plan by the office. Any comprehensive plan submitted for review more than 12 months following a contract end date may be required to update data, projections and other time-sensitive portions of the plan or program to the office's most current review standards.

2. Growth management programs. A municipality or multimunicipal region may at any time request a certificate of consistency for its growth management program.

A. Upon a request for review under this section, the office shall review the program and determine whether the program is consistent with the procedures, goals and guidelines established in this subchapter.

B. ~~Except as provided in subsection 1, certification~~ Certification by the office of a municipality's or multimunicipal region's growth management program under this article is valid for 10 years. To maintain certification, a municipality or multimunicipal region shall periodically review its growth management program and submit to the office in a timely manner any revisions necessary to account for changes, including changes caused by growth and development. Certification does not lapse in any year in which the Legislature does not appropriate funds to the office for the purposes of reviewing programs for recertification.

3. Review of comprehensive plan or growth management program. In reviewing a comprehensive plan or growth management program, the office shall:

A. Solicit written comments on any proposed comprehensive plan or growth management program from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a comprehensive plan or growth management

program and any interested residents of the municipality or multimunicipal region or of contiguous municipalities. The comment period extends for 45 days after the office receives the comprehensive plan or growth management program.

(1) Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the comprehensive plan or growth management program.

(2) Any regional council commenting on a program shall determine whether the program is compatible with the programs of other municipalities that may be affected by the program and with regional policies or needs identified by the regional council;

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region;

C. Within 60 days after receiving the comprehensive plan or 90 days after receiving the growth management program, send all written comments on the comprehensive plan or growth management program to the municipality or multimunicipal region and any applicable regional council. If warranted, the office shall issue findings specifically describing how the submitted plan or growth management program is not consistent with this subchapter and the recommended measures for remedying the deficiencies.

(1) In its findings, the office shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the office.

(2) If the office finds that the comprehensive plan or growth management program was adopted under this subchapter, the office shall issue a finding of consistency for the comprehensive plan or a certificate of consistency for the growth management program.

(3) Notwithstanding paragraph D, if a municipality or multimunicipal region requests a certificate of consistency for its growth management program, any unmodified component of that program that has previously been reviewed by the office and has received a finding of consistency will retain that finding during program certification review by the office as long as the finding of consistency is current as defined in rules adopted by the office;

D. Provide ample opportunity for the municipality or multimunicipal region submitting a comprehensive plan or growth management program to respond to and correct any identified deficiencies in the plan or program. A finding of inconsistency for a comprehensive plan or growth management program may be addressed within 24 months of the date of the finding without jeopardizing partial findings of consistency attained during that review. After 24 months, the plan or program must be resubmitted in its entirety for state review under the office's most current review standards; and

E. Provide an expedited review and certification procedure for those submissions that represent minor amendments to certified growth management programs.

The office's decision on consistency of a comprehensive plan or growth management program constitutes final agency action.

4. Updates and amendments. A municipality or multimunicipal region may submit proposed amendments to a comprehensive plan or growth management program to the office for review in the same manner as provided for the review of new plans and programs. Subsequent to voluntary certification under this subsection, the municipality or multimunicipal region shall file a copy of an amendment to a growth management program with the office within 30 days after adopting the amendment and at least 60 days prior to applying for any state grant program that offers a preference for consistency or certification.

5. Regional councils. Subject to the availability of funding and pursuant to the conditions of a contract, each regional council shall review and submit written comments on the comprehensive plan or growth management program of any municipality or multimunicipal region within its planning region. The comments must be submitted to the office and contain an analysis of:

A. Whether the comprehensive plan or growth management program is compatible with identified regional policies and needs; and

B. Whether the comprehensive plan or growth management program is compatible with plans or programs of ~~other~~ municipalities or multimunicipal regions that may be affected by the proposal.

Sec. 21. 30-A MRSA §4352, sub-§8, ¶A, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

A. Be consistent with the ~~local~~ growth management program adopted under this chapter;

Sec. 22. 30-A MRSA §5953-D, sub-§3, ¶D, as amended by PL 2001, c. 90, §4, is further amended to read:

D. In the case of a public service infrastructure grant or loan, the Department of Economic and Community Development affirms that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant or a loan, or a combination of both, if that municipality has adopted a ~~local~~ growth management program certified under section ~~4348~~ 4347-A that includes a capital improvement program composed of the following elements:

(a) An assessment of all public facilities and services, such as, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire and police;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

(2) A municipality is eligible to receive a loan if that municipality:

(a) Has adopted a comprehensive plan that is determined by the Executive Department, State Planning Office to be consistent with section 4326, subsections 1 to 4.

(3) A municipality is eligible to receive a loan if that municipality is a service center community.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of ~~subparagraphs~~ subparagraph (1) or (2) may jointly apply for assistance under this section; and

Sec. 23. 30-A MRSA §5953-D, sub-§3, ¶D, as amended by PL 2001, c. 406, §16, is further amended to read:

D. In the case of a public service infrastructure grant or loan, the Department of Economic and Community Development affirms that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant or a loan, or a combination of both, if that municipality has adopted a ~~local~~ growth management program certified under section 4347-A that includes a capital improvement program composed of the following elements:

(a) An assessment of all public facilities and services, such as, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire and police;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

(2) A municipality is eligible to receive a loan if that municipality:

(a) Has adopted a comprehensive plan that is determined by the Executive Department, State Planning Office to be consistent with section 4326, subsections 1 to 4.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of ~~subparagraphs~~ subparagraph (1) or (2) may jointly apply for assistance under this section; and

See title page for effective date.

CHAPTER 579

S.P. 799 - L.D. 2154

An Act to Change the Standard for Requesting an Adjustment to State Valuation Because of a Sudden and Severe Disruption of Valuation

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, some municipalities have experienced a significant decrease in municipal valuation; and

Whereas, there is a 2-year lag between a decrease in municipal valuation and its incorporation into state valuation; and

Whereas, this lag presents a significant problem for those municipalities' ability to raise sufficient revenues to fund municipal services; and

Whereas, the law provides a mechanism for municipalities to request an adjustment to their state valuation if the reduction in municipal valuation exceeds 5%; and

Whereas, the 5% threshold for requesting adjustments to state valuation is too high to provide relief to some municipalities; and

Whereas, it is necessary to change the threshold in time to permit some municipalities to seek an adjustment this year under a lower threshold; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 36 MRSA §208-A, sub-§2, ¶A, as enacted by PL 1997, c. 688, §1, is amended to read:

A. The municipality experiences an equalized net reduction in valuation of at least 2% from the equalized valuation that would apply without adjustment under this section. ~~The net reduction must be at least 2% for valuations based on the status of property on April 1, 1998 and 5% for valuations in subsequent years;~~