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STATE OF MAINE
DEPARTMENT OF CONSERVATION
MAINE LAND USE REGULATION COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

PAUL RICHARD LEPAGE
GOVERNOR

WILLIAM H. BEARDSLEY
COMMISSIONER

January 15, 2012

Co-Chairs, Committee on Agriculture, Conservation and Forestry
Senator Roger L. Sherman and Representative Peter E. Edgecomb

Co-Chairs, Committee on Taxation
Senator Jonathan T. E. Courtney and Representative L. Gary Knight

100 State House Station
Augusta, ME 04333-0100

Dear Co-Chairs Sherman, Edgecomb, Courtney and Knight:

Please see the attached annual report to the Joint Standing Committees on Agriculture, Forestry and Conservation and Taxation. This is the fourth annual report required based on Title 12§685-G. The report is required to identify all General Fund and other appropriations to LURC.

In addition to the General Fund, the attached report shows the various revenue amounts assessed and collected for LURC services. It should be noted, however, that these amounts do not stay with LURC but instead go directly to the General Fund.

The revenue amounts collected include:

- The amount assessed and collected from the Unorganized Territories through the Municipal Cost Component,
- The Service Fees assessed for LURC services from each of the 39 Towns and Plantations that choose to have LURC provide their land use control, and
- The application fees collected from applicants, fines, and sales of maps and publications.

This report also shows the history of how the laws and rules have changed regarding LURC funding and revenue collected since the beginning of LURC and also recommendations for adjusting any fees as asked for beginning with last years report.

We are pleased to submit this report to the committees for their consideration. We would be pleased to discuss the information included in this report with either committee at their convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Samantha Horn Olsen'.

Samantha Horn Olsen
Acting Director, Land Use Regulation Commission

cc: Committee Members
William H. Beardsley, Commissioner Dept. of Conservation
Enc.

SAMANTHA HORN OLSEN, ACTING DIRECTOR

www.maine.gov/doc/lurc
PHONE: (207) 287-2631
FAX: (207) 287-7439
TTY: (888) 577-6690

**Annual Report of Funding
Land Use Regulation Commission
to the
Joint Standing Committees on
Agriculture, Conservation and Forestry
and Taxation
of the
125th Maine Legislature,
Second Regular Session**



**January 15, 2012
Submitted by
Maine Department of Conservation
Land Use Regulation Commission
22 State House Station
Augusta, Maine 04333-0022
207-287-2631**

This report has been prepared for the Committees as required by Public Law, Chapter 541, H.P. 670 - L.D. 885, PART B, *“An Act to Implement the Recommendations of the Commission to Study the Costs of Providing Certain Services in the Unorganized Territories.”*

The law was brought about based upon recommendations from the report of the *“Commission to Study the Cost of Providing Certain Services in the Unorganized Territories.”*

The specific areas of the law affecting LURC relate to changes on how the funding for LURC Services would be assessed and allocated starting in Fiscal Year 2009-2010. The law specifically made changes to the amounts collected from both the Municipal Cost Component of the Unorganized Territory Education and Services Fund which is collected from the Taxpayers of the Unorganized Territory Tax District; and also from the Service Fees collected from the Towns and Plantations within LURC’s jurisdiction.

A subsequent change as specified in Public Law, Chapter 213, H.P. 274 – L.D. 353, Part HHHH, *“An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2009, June 30, 2010 and June 30, 2011”*, made additional adjustments to the funding for LURC Services from both the Unorganized Territories and the Service Fees from Towns and Plantations for Fiscal Year 2009-2010. It also required an accounting of the permitting fees and penalties collected from the unorganized territories and from the towns and plantations served by LURC. The actual text of that specific area of the law is as follows showing the changes since the original requirements of the report:

Title 12 §685-G. Funding

“1. Unorganized territories. Beginning with fiscal year 2009-10, funding for services and activities of the commission for planning, permitting and ensuring compliance in the unorganized territories must be assessed and allocated to the unorganized territories through a fee equal to .014% of the most recent equalized state valuation established by the State Tax Assessor. This fee must be collected through the municipal cost component under Title 36, chapter 115.

2. Towns and plantations. Beginning with fiscal year 2009-10, a town or a plantation in the commission's jurisdiction that elects not to administer land use controls at the local level but receives commission services or a town or plantation with a portion of its land under the commission's jurisdiction and receiving commission services, including planning, permitting and ensuring compliance, must be assessed a fee equal to .018% of the most recent equalized state valuation established by the State Tax Assessor for that town or plantation or that portion of a town or plantation under the commission's jurisdiction. The State Tax Assessor shall issue a warrant to each such town or plantation no later than March 1st of each year. The warrant is payable on demand. Interest charges on unpaid fees begin on June 30th of each year and are compounded monthly at the interest rate for unpaid property tax as established by the State Tax Assessor for the unorganized territory. For any assessment that remains unpaid as of September 1st of the year in which it is due, state revenue sharing to that town or plantation must be reduced by an amount equal to any unpaid warrant amount plus any accrued interest, until the amount is paid. These fees must be deposited to the General Fund.

3. Report. By January 15, 2009 and annually thereafter, the commission shall report to the joint standing committees of the Legislature having jurisdiction over conservation matters and taxation matters regarding commission funding and other financial matters. The report must cover the 5 previous fiscal years and must identify General Fund appropriations and other resources, amounts assessed and collected from the assessments required under this section and former section 685-E and amounts assessed and collected from other fees and penalties assessed under this chapter. Beginning in January 2010, the report must include an accounting of the permitting fees and administrative penalties collected that segregates the amounts collected from the unorganized territories from the amounts collected from the towns and plantations and must include recommendations to adjust the fees for the unorganized territories and for towns and plantations based on the amounts collected for permitting fees and administrative penalties from each of these entities. The joint standing committees of the Legislature having jurisdiction over conservation matters and taxation matters shall jointly review the distribution of funding and other assessments among the General Fund, unorganized territories and towns and plantations under the commission's jurisdiction and may submit legislation considered necessary as a result of the commission's report to the First Regular Session of the 124th Legislature.”

The first table, *Law/Rule Language for Amounts Assessed and Collected for LURC Services*, shows the history of changes to both the Statute and LURC’s rules regarding funding assessed and collected from areas other than the General Fund. Those different areas are from the Unorganized Territories Education and Services Fund from the Unorganized Territory Tax District; Towns and Plantations provided services by LURC; and permit application fees, penalties, and sales of maps and publications. All revenue from these areas go to or are reimbursed to the General Fund and do not go directly to LURC.

The second table, *Revenue Amounts Assessed and Collected for LURC Services*, shows the specific areas and actual amounts including the new information requested by the most recent law change.

Law/Rule Language for Amounts Assessed and Collected For LURC Services

Fiscal Year	Unorganized Territory Education and Services Fund	Towns & Plantations Service Fees	LURC Application Fees, Penalties, and Sales
1971 (Beginning of LURC)	<i>“The Commission shall prepare a biennial budget and after approval of the budget by the Commissioner of the Department of Conservation, it shall submit to the Legislature requests for appropriations sufficient to carry out its assigned tasks.”</i> (The funding account was unspecified; it is assumed it was from the General Fund.)		(Fees were based upon a sliding scale depending upon the activity and on the total cost of construction for the proposal.)
FY 1983-84	<i>“Services and activities of the commission which benefit the unorganized and deorganized areas of the State, other than plantations, shall be charged to the unorganized territory and collected through the Unorganized Territory Educational and Services Tax established in Title 36, chapter 115.”</i>	<i>“Beginning in FY 1983-84, services and activities of the commission which benefit plantations, towns, and cities shall be paid from the General Fund which shall be reimbursed by charges made by the commission directly to the plantation, town or city receiving the benefit; charges for fiscal years 1983-84 and 1984-85 shall be delayed until July 1, 1985. Services and activities of the commission which are available on a statewide level shall be paid from the General Fund.”</i> (There was also a reporting requirement. As seen below, this provision was removed and never occurred.)	(Minor changes to the minimum fee and sliding scale were made until 2003.)
FY 1985-86	<i>“Beginning with fiscal year 1985-86, funding for the services and activities of the commission shall come from the General Fund and not be allocated to the unorganized territory under Title 36, chapter 115. It is also the intent of the Legislature that no charges may be made to plantations, towns, or cities for fiscal years 1983-84 or 1984-85.</i>		(See above)
FY 1991-92	<i>“Notwithstanding section 685-D, beginning with fiscal year 1991-92, funding for planning services and activities of the commission must be assessed and allocated to the unorganized territory in an amount not to exceed 10% of the total General Fund appropriation to the commission.”</i>	(No Change)	(See above)
FY 2003-04	No Change	<i>“Beginning with fiscal year 2003-04, a town or plantation in the commission’s jurisdiction that elects not to administer land use controls at the local level but receives commission services or a town or plantation with a portion of its land under the commission’s jurisdiction and receiving commission services, including planning, permitting, and ensuring compliance, must be assessed a fee equal to .01% of the most recent equalized state valuation established by the State Tax Assessor for that town or plantation or that portion of a town or plantation under the commission’s jurisdiction ... these fees must be deposited to the General Fund.”</i> (This was the first time a fee was required of the Towns and Plantations.)	(Changes to fees based on the type of activity conducted, regardless of size. Examples are Building Permit \$75, Development Permit (Commercial) \$325.)
FY 2005-06	Percentage changed to 18% of total GF.	(No Change)	(No Change)
FY 2007-08	(No Change)	(No Change)	(Changes to a base permit fee for activities and additional amount based on size (square footage, linear distance, height) of the development. This also added after-the-fact fees.)
FY 2009-10 & FY 2010-11	Changed to .014% of valuation.	Changed to .018% of valuation.	(No change)

Revenue Amounts Assessed and Collected for LURC Services

Fiscal Year	A	B	C			D	E	F
	Unorganized Territory Education and Services Fund ¹	Towns & Plantations Service Fees ²	LURC Application Fees, Penalties and Sales ³			Total Undedicated General Fund Revenue ⁴ (A+B+C3)	LURC's Budget ⁵ General Fund Appropriation	Difference E-D
			C1 Unorganized Territory Applicants (67% of C3)	C2 Towns & Plantation Applicants (33% of C3)	C3 Total Deposits			
2004-2005	\$187,364	\$79,025	\$91,700	\$45,165	\$136,865	\$403,254	\$1,872,639	\$1,469,385
2005-2006	\$350,332	\$87,867	\$173,144	\$85,280	\$258,424	\$696,623	\$1,972,729	\$1,276,106
2006-2007	\$352,962	\$96,660	\$132,822	\$65,420	\$198,242	\$647,864	\$1,940,821	\$1,292,957
2007-2008	\$364,286	\$112,805	\$178,757	\$88,045	\$266,802	\$743,893	\$2,120,604	\$1,376,711
2008-2009	\$404,589	\$127,960	\$229,065	\$112,823	\$341,888	\$874,437	\$2,023,891	\$1,149,454
2009-2010	\$487,977	\$257,004	\$198,968	\$98,000	\$296,968	\$1,044,981	\$1,928,670	\$883,689
2010 -2011	\$525,931	\$255,213	\$148,825	\$73,302	\$222,127	\$1,003,271	\$1,790,136	\$786,478
2011-2012 Estimate	\$534,156 (Actual)	\$257,787 (Actual)	\$115,890 (Estimate)	\$57,080 (Estimate)	\$172,970 (Estimate)	\$964,913 (Estimate)	\$1,830,488 (Actual)	\$865,575 (Estimate)

¹ The Townships in the Unorganized Territory have no local municipal government. Local Land Use controls are provided to the Unorganized Territories by LURC. The Municipal Cost Component (MCC), the cost of funding services in the Unorganized Territory that would not be borne by the State if the Unorganized Territory Tax District were a municipality, for LURC's services is reimbursed directly to the General Fund. The Unorganized Territories, approximately 420 townships, account for approximately 67% of all LURC applications and workload. The bill for the MCC is prepared in March for the next fiscal year starting July 1st.

² LURC regulated Towns and Plantations have some form of local government and have the choice to assume local land use control or to have that service provided for by LURC. The 39 LURC regulated Towns and Plantations account for approximately 33% of all LURC applications. The Service Fees paid by the Towns and Plantations are deposited to the General Fund. The warrants are sent to the Towns and Plantations in March and payments are due by June 30 for that fiscal year ending on that date.

³ LURC permit application fees, penalties for enforcement cases, and sales of maps/publications are deposited directly to the General Fund. Application fees are paid for by the applicant and are required before an application can be processed. Penalties are fees collected after a Settlement Agreement is reached with a landowner as part of the resolution for violations at that property. Columns C1 and C2 show an estimate of what permit fees, fines, and sales are attributed to applicants in the Unorganized Territories and the total of the towns and Plantations based on the attributing 67% of all deposits (Column C3) to the Unorganized territories and 33% to the Towns and Plantations. FY 2011-12 is estimated by doubling the amounts received for the first six months through December 31, 2011. Other Special Revenues from Extraordinary Projects Title 12 §685-F are not included due to the fluctuating nature and complexity of these projects and the required independent accounting system.

⁴ This is partially estimated based on amounts received through December 31, 2011.

⁵ General Fund amounts budgeted for Fiscal Years from FY 2003-04 to FY 2010-11 are actual approved budgets. FY 2011-12 is estimated based on the current proposed budget as of January 11, 2012.

Recommendations

As stated in the most recent language, “*Beginning in January 2010, the report must include an accounting of the permitting fees and administrative penalties collected that segregates the amounts collected from the unorganized territories from the amounts collected from the towns and plantations and must include recommendations to adjust the fees for the unorganized territories and for towns and plantations based on the amounts collected for permitting fees and administrative penalties from each of these entities.*”

Given the recent recommendations presented to the Legislature in response to Resolve 2011, chapter 113, originating from LD 1534, Resolve To Reform the Land Use and Planning Authority in the Unorganized Territory, we recommend no changes to the existing fees or the existing funding formulas at this time. Once the future structure of LURC is determined, it will be easier to recommend adjustments.