



LEGISLATIVE BULLETIN

A publication of the Maine Municipal Association • Vol. XLVII No. 16 • MAY 9, 2025

Marathon Cannabis Policymaking

“Alright, alright, alright.” David Wooderson, Dazed and Confused

With several committees set to hear testimony on a multitude of bills typically generating high interest, the distinct odor in the air made it clear that cannabis was on the agenda. It was then obvious once arriving on the fourth floor, where the rotunda was packed with people shoulder to shoulder. It was a wonderful display of democracy, bright and early on a Monday morning, and the buzz was palpable as individuals slid their way through the crowd to the sign-up table to register to speak on one of the nine cannabis bills before the Veterans & Legal Affairs (VLA) Committee.

In addition to the committee room, there were three overflow rooms to accommodate the sheer number of individuals who came to have their voices heard. The first bill to be heard was LD 1897, *An Act Regarding Sun-grown Cultivation in the Medical Use and Adult Use Cannabis Industries*, sponsored by Rep. Osher (Orono). The bill, which was brought forward to the sponsor by an organic farmer, pointed out the challenges sun-grown cannabis farmers face as opposed to the farmers who participate in the cannabis market using indoor growing methods.

The bill would amend both the medical and adult use programs and, in part, increase the number of plants or canopy for sun-grown cultivators in the medical program and repeal the mandatory testing requirement for yeast and mold in the adult use program.

Rep. Osher, who is an agricultural scientist by trade, specifically in crops and soil technology, provided detailed scientific information on the differences between crops and soils or mediums used for indoor cultivation and outdoor, sun-grown crops. She highlighted the benefits for indoor growers such as season length and pest control measures and provided in-depth information on the microbes found in soils and why this was important when considering removing the testing requirements for certain yeast and mold.

Considering the bill sponsor’s testimony was heavy with scientific information, Rep. Malon (Biddeford) aptly asked if there were some microbes that were considered harmful, or if there was a level that would be ideal, perhaps not a specific number but a range. Rep. Osher explained that currently the tests only determine the number and not the type of organisms found and detailed how the testing would work for specific organism types.

One by one, for over an hour, interested parties and cannabis caregivers rose to testify in support of LD 1897 all sharing their passion for sun-grown cultivation methods and the other proposed measures in the bill, with one participant sarcastically advocating

for a third market—the spiritual use market, that would have no regulations—and another yelling at committee members that the illegal cannabis grows make more money than Taylor Swift.

Up next, and of municipal interest, were jointly held hearings for LD 104, *An Act to Protect the Health of Medical Cannabis Patients and Streamline the Mandatory Testing of Cannabis*, sponsored by Rep. Malon (Biddeford), and LD 1847, *An Act to Institute Testing and Tracking of Medical Use Cannabis and Cannabis Products Similar to Adult Use Cannabis and Cannabis Products, Dedicate a Portion*

(continued on page 2)

The Road to Growth Management Diverges

Thursday, the Housing and Economic Development Committee held two public hearings that pose two very different paths to amending long standing growth management law, often referred to as “GMA.” The two bills, LD 1751, *An Act to Improve the Growth Management Program Laws*, sponsored by Rep. Roberts (South Berwick), and LD 1940, *An Act to Revise the Growth Management Program Laws*, sponsored by Rep. Sachs (Freeport), take two vastly different paths through the comprehensive planning wilderness that once was supported by the State Planning Office when the original act was formed.

At the core of the differences between the two paths is a foundational misunderstanding of the purpose of a plan, and the function of statute enabling that purpose, which may be achieved in multiple different ways. At some points in the hours of testimony received, it often sounded like these important visionary documents shaped by unelected volunteers are intended to be justiciable documents alone. While some proponents of one bill wanted to put more accountable teeth in the final document to force certain types of development through mapping that later could not be changed with new priorities midcycle, others confused ordinance amendments with comprehensive plans and contract zoning.

Fundamentally, one bill, LD 1751, was supported by the very practitioners who must carry out these processes regularly, amend and direct implementation plans, and balance budgets with development proposals and community needs. LD 1940 was supported by environmental groups, developers, and towns that had already

(continued on page 6)

of the Adult Use Cannabis Sales and Excise Tax to Medical Use Cannabis Programs and Create a Study Group, sponsored by Rep. Graham (North Yarmouth). Both bills seek to create a testing and tracking program within the medical cannabis program, with LD 1847 going beyond just testing and tracking.

The Office of Cannabis Policy (OCP) requested the bill sponsor bring LD 104 forward to streamline the adult use testing and tracking program and then mirror that program to the medical use program.

Likewise, LD 1847 was requested to be brought forward by public health advocates who have serious concerns with the lack of a testing and tracking system for the medical use program. In addition to the testing and tracking program, the bill would create a study group to review the effects of cannabis on youth, create a cap on the amount of THC, the intoxicating chemical in cannabis, that would be allowed in any cannabis product, add PFAS to the list of chemicals in the testing program, and require edibles, like gummies, to be blister packaged to prevent accidental ingestion.

Public health advocates rose to support the group of bills sharing the importance of a testing system in the medical program, particularly when minors can be ingesting potentially harmful products. These same advocates support the cap on THC content for edible products, shared strong concern for the effects of high potency cannabis products on the developing brains of minors and lent support to the creation of a study group to continue to explore this important topic.

In addition to public health advocates, a handful of industry stakeholders and other interested parties testified in support for the bill. These supporters shared that the lack of meaningful control measures in the medical program has caused an oversaturated and unsafe medical market, noting that many medical patients are not aware their medicine is not tested for safety. Some were even patients in the program and shared their desire for tested and safe products.

John Hudak, Director of OCP, also testified in support of a testing and tracking program and provided historical information supporting that the time was ripe to implement the changes and for addressing the potency issues, based on the number of complaints their office has received.

After over an hour and a half of testimony

in support of the bills, the committee turned to testimony opposition, warning that the list was long.

For three and a half hours the public spoke in opposition to the bill requiring a testing and tracking system in the medical cannabis program, stressing that medical patients do not want this as evidenced by patients seeking out caregivers in the Maine market, and the extensive list of testifiers in opposition to this bill.

The committee took up one more public hearing before a break. LD 1840, *An Act to Amend the Maine Medical Use of Cannabis Act*, sponsored by Sen. Hickman (Kennebec County), seeks to amend the medical cannabis program laws in response to OCP's enforcement actions. In his testimony, the sponsor made it clear that the intent was to correct issues that came about after the passage of certain laws in the 131st Legislature, in particular, a provision defining a caregiver retail store, which is subject to municipal approval, and the release of previously confidential information.

The bill sponsor stressed that the bill also clarifies what activities a caregiver may participate in, to make clear that caregivers can continue operating as they have from the beginning of the program's inception. As expected, many caregivers and other industry representatives testified in support of the bill and shared stories about how the misinterpretations of law affected their business and the cannabis community over the past year.

Strong opposition to the bill came from OCP who testified that this bill rolls back agreements made last session regarding the medical program and claimed this bill was an "affront to the substantial efforts" made by the interested parties to carefully negotiate program requirements that address public health and safety concerns. The department further testified that by amending the definition of a caregiver retail store (yet again) allows a loophole for caregivers to operate without obtaining or maintaining municipal approval.

From the municipal perspective, it would make sense to grandfather current caregivers but would also benefit the industry to insist new caregivers entering the market are required to obtain municipal approval to operate within their borders. It recognizes the market is evolving, and communities

deserve to have a voice in the activities happening there. Although the department fell victim to the three-minute rule, their submitted testimony accused the Legislature of negotiating in bad faith and suggested that it threatens to jeopardize future negotiations.

After some very direct questions from committee members, the chair said she would see the department at the work session, giving the impression that their presence was not an option.

MMA submitted conditional testimony in opposition to the bill, pending the results of the poll sent to its Legislative Policy Committee members, with updated testimony to be submitted before the work session.

On Thursday, the VLA committee met to hear testimony on seven more bills related to cannabis policy. First of municipal interest were a block of bills meant to address the illegal cannabis cultivation activities that are a growing problem across the state. The four bills heard at the same time were LD 1455, *An Act to Prevent Illegal Cannabis Growing Operations in the State*, sponsored by Sen. Cyrway (Kennebec County); LD 1608, *An Act to Counter Unlawful Cannabis Cultivation*, sponsored by Rep. Perkins (Dover Foxcroft); LD 1609, *An Act to Prevent the Participation of Individuals and Companies Linked to Federally Recognized Criminal Organizations in the Medical and Adult Use Cannabis Programs*, sponsored by Rep. Fredricks (Sanford); and, LD 1320, *An Act to Prevent Illicit Cultivation and Trafficking Within Maine's Regulated Cannabis Industry*, sponsored by Sen. Timberlake (Androscoggin County).

Testimony was taken on the entire block of bills, in any measure of support or opposition and in no particular order. One of the first among many to rise was Derrick Shirley, a resident of Gray and mentioned in previous issues of the *Legislative Bulletin* for his passionate and often animated testimony on cannabis related policy, who was also sporting an orange prison jumpsuit with a statement on the back about being a cannabis prisoner. To see the message printed on the back of his jumpsuit, watch the recording for the hearings in the VLA committee on May 8.

Testifying neither for nor against the bills was OCP who answered several questions from the committee around current practices and their thoughts on creating an annual

(continued on page 4)

HEARING SCHEDULE

For the week of May 12, 2025

Note: It appears as though the legislative presiding officers have waived the requirement that bills be advertised for public hearings two weeks in advance; therefore, you should check your newspapers for Legal Notices as there may be changes in the hearing schedule. It is not uncommon at this time of the session to have a bill printed one day and a public hearing scheduled within a couple of days. Weekly schedules for hearings and work sessions can be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>. Below are the public hearings for which we have received notice prior to the publishing of this Legislative Bulletin.

MONDAY, MAY 12

Environment & Natural Resources
Room 216, Cross Building, 10:00 a.m.
Tel: 287-4149

LD 754 *An Act to Ban the Sale, Use and Possession of Single-use Electronic Cigarettes and to Review Extended Producer Responsibility Options for All Batteries*

LD 846 *An Act to Protect Natural Resources by Clarifying Hydropower Dam Removal Requirements*

LD 1903 *An Act to Conform the State's Perfluoroalkyl and Polyfluoroalkyl Substances Laws to Federal Standards*

LD 1904 *An Act to Establish the Municipal Shoreline Protection Legal Fund*

Health & Human Services
Room 209, Cross Building, 10:00 a.m.
Tel: 287-1317

LD 1946 *An Act to Clarify the Eligibility of Certified Recovery Residences for Bridging Rental Assistance Program Housing Vouchers*

Judiciary
Room 438, State House, 10:00 a.m.
Tel: 287-1327

LD 1816 *An Act to Establish a Statewide Sexual Assault Forensic Examination Kit Tracking System and Conduct an Inventory of Existing Forensic Examination Kits in the Possession of Law Enforcement*

1:00 p.m.

LD 1824 *An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality*

LD 1927 *An Act to Protect Housing Quality by Enacting Mold Inspection, Notification and Remediation Requirements*

State & Local Government
Room 214, Cross Building, 10:00 a.m.
Tel: 287-1330

LD 1556 *Resolve, Regarding Increasing the Number of Kennebec County Commissioners*

LD 1767 *An Act to Amend the Waldo County Budget Adoption Process and Allow Residents Who Are Not Municipal Officers to Serve on the Waldo County Budget Committee*

LD 1884 *An Act to Increase the Number of Kennebec County Commissioners*

LD 1934 *An Act to Promote Responsible Outdoor Lighting*

TUESDAY, MAY 13

Housing & Economic Development
Room 206, Cross Building, 1:00 p.m.
Tel: 287-4880

LD 1829 *An Act to Build Housing for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Municipal Land Use Decisions*

WEDNESDAY, MAY 14

State & Local Government
Room 214, Cross Building, 1:00 p.m.
Tel: 287-1330

Draft legislation proposed by the committee from the Abandoned & Discontinued Roads Commission Report, which can be accessed at https://www.memun.org/DesktopModules/Bring2mind/DMX/API/Entries/Download?EntryId=10590&Command=Core_Download&language=en-US&PortalId=0&TabId=309: *An Act to Amend the Laws Governing Public Easements and Provide General Fund Allocation for the Abandoned and Discontinued Roads Commission*

Transportation
Room 126, State House, 1:00 p.m.
Tel: 287-4148

LD 304 *An Act Regarding the Department of Transportation*

THURSDAY, MAY 15

Health & Human Services
Room 209, Cross Building, 9:30 a.m.
Tel: 287-1317

LD 1216 *An Act to Improve Behavioral Health Crisis Services and Suicide Prevention Services*

10:00 a.m.

LD 1428 *An Act to Increase Access to Child Care for Maine Families*

LEGISLATIVE BULLETIN

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to:

Legislative Bulletin

Maine Municipal Association, 60 Community Drive, Augusta, ME 04330
207-623-8428 Website: www.memun.org

Editorial Staff: Kate Dufour, Rebecca Graham, Rebecca Lambert, Amanda Campbell and Laura Ellis of Advocacy & Communications.

Layout: Sue Bourdon, Advocacy & Communications

Marathon Cannabis Policymakingcont'd

inspection schedule.

The committee chair noted that following the public hearings for the day, they would be voting ought not to pass on three of these bills in favor of one vehicle to make all the changes they feel are necessary.

Moving along to the next public hearing, LD 1365, *An Act to Allow Consumption of Adult Use Cannabis in Locally Approved Hospitality Lounges*, sponsored by Rep. Boyer (Poland), seeks to provide a legal place for tourists and other Mainers to consume cannabis. An amendment presented for the bill also intends to address the issues identified by stakeholders relating to indoor smoking laws, municipal and state approval, and would require a server education course, like the training provided for alcohol servers.

Support for the bill came from industry participants while opposition was strong and consisted of testimony brought forward by a variety of stakeholders including industry participants, the Center for Disease Control and Prevention, the Department of Public Safety, MMA, and public health advocates.

Hospitality Maine testified neither for nor against LD 1365 and recommended a phased roll-out to allow room for all stakeholders to learn and further mentioned that

traditional restaurants are not a good model for these venues.

The committee then made quick work of LD 1831, *An Act to Support Small Adult Use Cannabis Businesses by Establishing a Micro Cannabis Facility License*, sponsored by Rep. Boyer (Poland) that seeks to allow an entry point for small cultivators into the adult use market, noting that the adult use market is failing because of excessive fees and excise taxes.

Testimony in support of the measure came from a variety of industry stakeholders supporting the expansion of adult use license types, while opposition came from MMA who questioned the need for a new license type with limits larger than the smallest tier already in statute. The association further suggested that refining licensing requirements causes increased administrative burdens, enforcement challenges, and potential zoning changes which could be a significant undertaking for under resourced municipalities.

The last bill for the day was LD 1669, *An Act to Establish the Cannabis Advisory Council*, sponsored by Sen. Hickman (Kennebec County). This bill establishes a council to make recommendations to OCP,

the Department of Administrative & Financial Services, and the legislative committee having jurisdiction over matters related to cannabis, including recommended changes to the tracking system contract, public health protections, and federal legalization.

The bill sponsor suggested that another member should be added to the council for an odd number of members and further recommended that the seat be filled by someone with experience in public health matters, appointed by the director of OCP. The council would be staffed under the current resources of OCP.

With the council makeup heavily comprised of industry participants, it was clearly supported by a majority who were present to testify on LD 1669. Opposition came from MMA who was concerned with the lack of municipal representation on the council, and further that the representation was limited to a municipality who participated in all the cannabis programs.

Dramatic opposition also came from Derrick Shirley who claimed this bill would set up a “cool kid’s club” comprised of people who are fortunate enough to be able to contribute to the campaigns of our elected

(continued on page 5)

IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill’s summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the Legislative Bulletin to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA’s website, www.memun.org.)

Environment & Natural Resources

LD 846 *An Act to Protect Natural Resources by Clarifying Hydropower Dam Removal Requirements* (Sponsored by Rep. Blier of Buxton)

This bill amends the laws regulating the removal of an existing dam that is part of a hydropower project by requiring that if a portion of the dam is located on land owned by a municipality or other government entity, the applicant must demonstrate to the Department of Environmental Protection that the municipality approves the removal of the dam. The bill also requires an applicant to participate in a premeeting with the department and hold a public informational meeting and further prohibits the applicant from filing for a permit to remove only a portion of the dam. Additionally, if the removal is expected to alter water levels, the department shall require as a condition of the permit the applicant to identify all landowners expected to be affected by the changes in water levels and set aside sufficient funds to reimburse those landowners for corresponding losses in property value.

LD 1904 *An Act to Establish the Municipal Shoreline Protection Legal Fund* (Sponsored by Sen. Nangle of Cumberland Cty.)

This bill creates the Municipal Shoreline Protection Legal Fund, administered by the Office of Policy Innovation and the Future to assist municipalities in paying legal costs incurred in pursuing egregious shoreland zoning violations. The bill requires municipalities that receive financial assistance to reimburse the fund within six months of the settlement or final adjudication of a legal claim. The bill also appropriates \$100,000 in one-time funding and provides for ongoing appropriations to ensure a minimum balance of \$100,000 remains in the fund.

Health & Human Services

LD 1428 *An Act to Increase Access to Child Care for Maine Families* (Sponsored by Speaker Fecteau of Biddeford)

This bill requires municipalities to allow childcare or family childcare facilities to operate in an area that is zoned for residential purposes and further allows facility owners to operate without an outdoor recreational space, provided the facility is within one-quarter of a mile of an outdoor public recreational space. The bill also directs the Maine State Housing Authority to amend its rules governing low-income housing tax credits to allow the community rooms that are required as part of the projects built using the credits to be used as childcare facilities or family childcare providers.

LD 1946 *An Act to Clarify the Eligibility of Certified Recovery Residences for Bridging Rental Assistance Program Housing Vouchers* (Sponsored by Rep. Warren of Scarborough)

This bill provides that certified recovery residences are eligible to accept

Marathon Cannabis Policymakingcont'd

legislators. Although Shirley wishes he could support the bill, he feels any bill authorizing a study is a waste of time and opens the door for monetary political donors to be chosen for positions on the council.

As promised, after a break to allow staff to satiate the hunger that was no doubt creeping in, the committee chose to unanimously report LD 1455, LD 1609 and LD 1320 as ought not to pass in favor of using LD 1609 as a vehicle to address the problem of illicit cultivation happening in Maine.

The committee then turned to a language review for LD 544, *An Act to Create Parity in the Taxation of Medicine by Exempting Sales of Cannabis for Medical Use*, sponsored by Rep. Fredricks (Sanford). This bill would exempt medical cannabis from sales tax like other pharmaceuticals. The fiscal note for the bill would simply be the reduction in revenue collected from the sale of medical cannabis but in reality, is projected to be millions of dollars. With the assumption that the bill would be placed on the appropriations table, it was voted out ought to pass with the amendment of a fiscal note and all but one committee member in favor.

Surprisingly, the committee turned their attention to LD 1669, heard earlier in the day.

The analyst provided a summary of the bill the best she could given the limited time in which to prepare and pointed to testimony from OCP who was concerned that the duties of the council would overlap with the cannabis business advocate position that is like an ombudsman.

The analyst suggested some language changes to clarify the intent of the bill and questioned whether a medical provider would be a good addition to the membership of the council. As discussion continued, council membership continued to grow to the point where Rep. Fredricks was no longer comfortable with the size. This turned the discussion to the proposed membership makeup and ultimately determined that the other proposed members on the council could encompass the skills and experience that has been suggested as needing a voice.

At this point Rep. Malon (Biddeford) reentered the committee room and was surprised that a substantive work session was being conducting on a cannabis bill with no obvious notice. This prompted Sen. Hickman (Kennebec County) to declare that it was the decision of the chair that with no opposition to the bill there was no reason not to conduct a work session on the bill.

The claim was made despite the written testimony submitted by MMA in opposition, which further suggested the addition of a larger municipal voice, as well as one of law enforcement. To be fair, compliance employees of OCP are comprised in part of retired law enforcement who could lend their expertise to the council, as mentioned during this impromptu work session, and it was recognized that the municipal seat should not be so narrowly specified.

Rep. Malon shared that it was his view that if LD 1669 was not tabled, he would be voting ought not to pass. After discussing the language issues contained in the bill, the committee moved to table the bill for further consideration.

Work sessions have not been scheduled for most of these bills, but given the pace in which bills are being scheduled it's likely that marathon work sessions on cannabis bills will be conducted in the coming week.

As always at this time in session, keep your eyes open for calls to action as bills are being worked at an alarming rate. It's never a bad idea to contact your legislators to discuss the importance of the partnership between state and local governments.

IN THE HOPPER (cont'd)

housing vouchers and that residents are eligible to apply for benefits under the Bridging Rental Assistance Program provided all program standards and conditions are met.

LD 1959 *An Act to Prohibit the Department of Health and Human Services from Reducing General Assistance Reimbursement Maximums for Payment of Costs of Providing Emergency Shelter* (Sponsored by Sen. Talbot Ross of Cumberland Cty.)

Retroactive to July 1, 2023, this bill provides that the maximum level of municipal general assistance for an emergency shelter is the actual cost of providing services. The bill also prohibits the Department of Health and Human Services from adopting any rule reducing or otherwise restricting maximum levels of municipal general assistance for providing emergency shelter or any rule establishing maximum time periods for eligibility for emergency housing assistance that are more restrictive than limits established in the laws governing municipal general assistance.

Housing & Economic Development

LD 1385 *An Act to Consider Municipalities Meeting Regional Housing Goals in Awarding Transportation Grants* (Sponsored by Rep. Gere of Kennebunkport)

This bill requires the Department of Transportation to consider a municipality's past actions and future plans toward meeting regional housing production goals when considering the award of discretionary grants.

LD 1829 *An Act to Build Housing for Maine Families and Attract Workers*

to Maine Businesses by Amending the Laws Governing Municipal Land Use Decisions (Sponsored by Speaker Fecteau of Biddeford)

This bill establishes within the Administrative Office of the Courts the three-member Housing Development Resolution Board, to hear appeals regarding final decisions made by a municipal reviewing authority that impact housing developments. The board is directed to hear and affirm, reverse or modify the final decisions of a municipal review authority, only with respect to errors of law or if the board is persuaded that the decision was unreasonable, and concerning: (1) subdivisions, site plans, variances, special exceptions, administrative appeals and ordinance administration; (2) the use of innovative land and growth management and interim growth management controls; (3) historic district, heritage and conservation commissions; (4) other municipal permits and fees applicable to housing and housing developments; and (5) mixed-use combinations of residential and nonresidential uses. An appeal must be filed within 14 business days, with notice provided to the municipal review committee, which must within 14 business days submit to the review board a certified record of its proceedings. The board is then directed to hold a hearing on the merits of the appeal within 60 days and issue a written decision within 30 days thereafter. Appeals of local decisions may also be brought to the board by any other aggrieved or injured party that demonstrates legal standing. The bill provides that any party that brings an action before the board waives the right to bring an action in Superior Court. The bill also requires planning committee members to attend training on land use planning offered by a state agency or statewide association representing municipalities within 180 days of appointment. Additionally, the bill: (1) prohibits municipalities from

The Road to Growth Management Divergescont'd

used form-based planning to develop their comprehensive plans under the existing GMA procedures but hadn't met other requirements to show their work to meet state goals in the current process.

Some proponents shared multiple examples of towns that had adopted the place-type planning proposed as the only path to a comprehensive plan under LD 1940, ironically already possible without change but not being forced upon all communities. Additional concerns were expressed regarding a checklist which is not necessary to follow under the current law as evidenced by their example. Proponents of LD 1751 shared the lack of flexibility offered by LD 1940 and legal issues that would leave communities out in the cold under the other bill along with the decades of practice that helped form why those protections were necessary.

The unifying theme was the need to update the Growth Management Act though the divergence is where one goes to seek that clarity. Statute is the bucket that communities fill, not the place where they find clarity because it is meant for lawyers.

One of the biggest concerns shared by municipal officials and professional planners is forced zoning, which as Kara Wilbur of BuildMaine highlighted, was the intent of LD 1940. In her supportive testimony she shared that form-based planning led to zoning and changes to zoning.

Forced zoning that treats development in one area differently than development in another beyond resource and habitat protection is precisely what many communities do not want, but also assumes conserved lands are not present in growth areas which would force mapping and carve outs in the center of those areas which are entirely unnecessary in current law.

Eric Cousens, planning director of Auburn, uses form-based codes, the very direction of LD 1940, and expressed deep concerns about the additional mapping but also highlighted that form-based codes work very well in urban areas and not well at all in rural areas.

Everyone talked about NIMBYism, and the need for housing, with a number of proponents believing the comprehensive plan interrupts this because speaking to affordable housing in a plan somehow creates it or at least legally enables it. With both chairs of the committee cosponsors of one of the

bills, the most frequent clarifying question asked by the committee following supportive statements was, "wouldn't you agree?"

No one picked up on the most obvious fact. If it can happen now, it is not the statute that is the problem but the lift, meaning resources are the barrier to new planning approaches and value judgements placed on communities that legislators do not live in, by statute or floor speech, is not progress. As one proponent of LD 1751 pointed out, the state should put its money where its mouth is.

The housing crisis goes far beyond basic economics. Hidden within the policies of landlords, real estate agents, lenders, and insurers, are deeply rooted unjust barriers

which are almost never discussed in the Housing and Economic Development Committee. It is these barriers that block access to credit, insurance, and rental opportunities. Of course, if fixing housing segregation were as easy as tweaking a few zoning codes, we'd have solved housing inequality somewhere between brunch and a ribbon-cutting ceremony. In reality, building integrated communities takes a bit more than rezoning and hoping for the best.

That's why the voices of the practitioners matter. They haven't left behind social justice or environmental interests in LD 1751, but they haven't been heard in LD 1940 unless it was the voice of agreement to a form-based only planning approach.

Eroding Community Voices

In politics, if you want to bury a story you release it on Friday after 5:00 p.m. presuming that everyone is sick of the week and not paying attention. Often it works.

In the Maine Legislature, if you want to hide the sausage-making you caucus off mic and discuss positions with peers and come back on mic to vote. Better still, you write amendments to bills that override the will of the voters hours before the off-mic caucus. This tactic is especially popular to impact municipal voters who spent years deciding the shape of their communities' futures and force them to spend thousands of dollars amending land use maps, zoning ordinances and infrastructure investment plans within unachievable deadlines.

Why would anyone lose faith in democracy?

As the *Legislative Bulletin* goes to print today, the Housing and Economic Development Committee will hold a public hearing on a bill that overturns lot size minimums set in either statute or municipal ordinance and off street parking space requirements to produce housing for individuals who make up to 220% of area median income (AMI), and require the sale or rental of the resulting units to maintain a restrictive covenant for a period of 30 years, with no mechanism for enforcing what happens next against the landlord or purchaser of the housing unit for a prior owner's actions.

Under LD 1926, *An Act to Require Increased Housing Density or Lower Mini-*

mum Lot Sizes for Workforce Housing (Rep. Stover, Boothbay), if 50% of the resulting units are sold or rented to those making between 80%-100% of AMI the allowable lot size is reduced by 90% of statutory requirements, or local rules, including shoreland zone size minimums. If the unit is sold or rented to individuals who make 181% to 220% the lot size requirement reduction is 50% of statutory and ordinance requirement minimums. Furthermore, municipalities are directed to amend their ordinances by January 1, 2026, or three months after the bill is likely to become effective if statutory adjournment holds, in council communities. Town meeting towns would have an extra six months to amend comprehensive plans and update zoning maps by July 1, 2026.

Municipal officials question if the drinking straws that will be placed in adjacent septic fields, usually unnecessary when lot minimums are deployed, should be biodegradable or whether that would be dependent on AMI as well. Clarity for this muddy proposal should come in future work sessions next week, as the committee must vote out all bills by Friday according to internal deadlines.

The unnecessary deadlines are making for other interesting processes, such as the introduction of amendments to bills a few days or in most cases, just a few hours before a work session.

Last night at 8:24 p.m., Rep. Malon of Biddeford shared his amendment on LD

(continued on page 7)

Eroding Community Voices.....cont'd

997, *An Act to Allow Residential Use Development in Commercial Districts*, which like previous bills tells municipalities what they can already do, and have already done, and repeals the provision recently enacted under 30-A MRSA §4364-C, sub-§3, allowing rental units to be developed in commercial use zones, replacing it with a more prescriptive direction to amend ordinances by July 1, 2027. Not only should the legislature be forced to pay again for the mandated ordinance changes just adopted in 2024, via the passage of LD 2003 in 2022, but the resulting direction is subject to even more discretionary measurements of “unreasonable costs or delays” and requirements that development cannot be prohibited except when needed to address “flooding or the existence of other natural hazards in the zone.” Adding salt to the wound, the summary of the amendment’s intent reads “This amendment replaces the bill.”

Human-made contamination is not listed as a reason to prohibit residential use in commercial zones so contaminated ground and reclaimed landfills can find

new purpose. In this case, the straws do not need to be biodegradable and municipalities get an extra year to scrap brownfield mitigation plans.

LD 1247, *An Act to Restrict Municipal Ordinance Requirements Regarding Housing Developments* (Rep. Gere, Kennebunkport), which also has a work session today, requires municipalities to allow a dwelling unit on a lot with 5,000 square feet, up to three units, and two parking spaces for every three units if the lot is served by public water or sewer, or a similar special district. The bill also limits setbacks between buildings to 10 feet, and 50 feet from the street.

Residential sprinklers would prevent the neighborhood from catching fire.

The bill will be worked along with LD 1272, *An Act to Address the Housing Crisis by Reducing Barriers to Building More Accessory Dwelling Units* (Speaker Fecteau, Biddeford) which again rewrites the recently adopted rules to preempt municipal subdivision prohibitions on newly allowed ADUs, promotes condoization of the units to fit banker needs, and prohibits municipal

authority to regulate short-term rentals by prohibiting subservient use or requiring owner occupancy of a primary unit.

Only one of the bills that will be reviewed today has unanimous support and will result directly in housing, not continual administrative burden at property taxpayer expense, and directly involves municipal voters. LD 1681, *An Act to Consider Municipal Shelter Facilities and Housing Projects Essential for Public Health, Welfare and Safety by Updating the Definition of “Public Service Infrastructure* (Rep. Lookner, Portland) received no developer attention at all because it surprisingly allows municipalities, at the direction of their voters, to bond for their own municipal shelter facilities and housing projects by defining them as “public service infrastructure.”

For enabling communities, the association and its municipalities are grateful for Rep. Lookner’s simple empowerment solution. Officials are encouraged to call elected officials and thank them or hold them accountable where applicable.

IN THE HOPPER (cont'd)

enacting ordinances that limit the rate of growth of residential development in designated areas; (2) requires municipalities to authorize in all areas where residential development is allowed: (a) two dwelling units per lot if located on a lot not in a designated growth area; (b) four units per lot if located in a growth area; (c) four units on lots served by public water and sewer; and (d) two additional units on a lot with an existing dwelling unit; (3) requires municipalities to allow an affordable housing development to exceed any height restrictions but by no more than 14 feet; and (4) prohibits the establishment or enforcement of ordinances that: (a) include dimensional requirements that differ from those established of single-family units, and (b) establish minimum lot size requirements greater than 5,000 square feet per dwelling. Finally, the bill provides that a municipality only has the authority to conduct an administrative review for an affordable housing density bonus or when the project has four or fewer units.

LD 1921 *An Act to Create a Statewide Housing Resolution Board* (Sponsored by Rep. Gere of Kennebunkport)

This bill establishes in the Administrative Office of the Courts a three-member Housing Resolution Board to hear appeals of final decisions by a municipal review authority, including planning, site plan, design review and historic preservation review boards, regarding housing and mixed-use housing developments. The board is directed to hear and affirm, reverse or modify the final decisions of a municipal review authority, only with respect to errors of law or if the board is persuaded that the decision was unreasonable, and concerning: (1) subdivisions, site plans, variances, special exceptions, administrative appeals and ordinance administration; (2) the use of innovative land and growth management and interim growth management controls; (3) historic district, heritage and conservation commissions; (4) other municipal permits and fees applicable to housing

and housing developments; and (5) mixed-use combinations of residential and nonresidential uses. An appeal must be filed within 30 days, with notice provided to the municipal review committee, which must within 30 days submit to the review board a certified record of its proceedings. The board is then directed to hold a hearing on the merits of the appeal and issue a written decision within 60 days thereafter. Appeals of local decisions may also be brought to the board by any other aggrieved or injured party that demonstrates legal standing. The bill provides that any party that brings an action before the board waives the right to bring an action in Superior Court. However, decisions of the board can be appealed to the Supreme Judicial County by any party.

Inland Fisheries & Wildlife

LD 1763 *An Act to Regulate Nonwater-dependent Floating Structures on Maine’s Waters* (Sponsored by Rep. Hepler of Woolwich)

This bill implements a prohibition on the placement or use of a nonwater-dependent floating structure in, on or over inland waters or coastal waters. As defined in the bill, a “nonwater-dependent floating structure” is a waterborne structure that is supported wholly or partially by the structure’s own buoyancy and that supports a nonwater-dependent use. “Nonwater-dependent uses” are defined as those uses that can function in a location other than the surface waters of the state and that do not require, for their primary purpose, location on submerged lands or direct access to inland waters or coastal waters. The prohibition includes exceptions for functionally water-dependent uses, swimming structures, water toys, ice fishing shacks and aquaculture facilities. The bill also clarifies the regulation of houseboats and homemade watercraft under the laws regulating watercraft.

(continued on page 8)



IN THE HOPPER (cont'd)

Judiciary

LD 1927 *An Act to Protect Housing Quality by Enacting Mold Inspection, Notification and Remediation Requirements* (Sponsored by Rep. Kessler of South Portland)

This bill requires a landlord, upon receipt of a request from a tenant, to inspect a dwelling unit within 24 hours following a leaking event or for visible mold or dampness. The bill also requires a landlord to demonstrate reasonable effort to repair the source of the leak and restore the area within five days of inspection. The bill requires a tenant to, after reasonable notice, provide the landlord access to the dwelling unit for remediation purposes. The bill also specifies that municipal code enforcement, local health, and municipal officers have the authority to require compliance with the provisions of the bill and requires municipalities to schedule and complete inspections within one business day of receiving a complaint regarding a leaking event and within five business days of mold and dampness report. The municipality is also required to maintain a detailed record of all conducted inspections.

State & Local Government

LD 1934 *An Act to Promote Responsible Outdoor Lighting* (Sponsored by Rep. Osher of Orono)

This bill requires that outdoor lighting installed or replaced after October 1, 2026, comply with certain standards intended to reduce the amount of unnecessary light emitted. The bill includes exemptions for certain types of lighting such as outdoor sports, temporary and required emergency lighting. Of note, the bill also requires all municipalities to adopt ordinances to promote

compliance with the provisions of this bill and allows a municipality to adopt ordinances that are stricter than those required by this bill.

Taxation

LD 1885 *An Act to Create a State Property Tax Directed Toward 2nd Homes for the Purposes of Funding Education, Early Childhood Programs and the Land for Maine's Future Trust Fund* (Sponsored by Rep. Geiger of Rockland)

This bill imposes a statewide property tax of five mils on taxable real estate and establishes an exemption of up to \$1 million in assessed value on resident homesteads. The bill also distributes: (1) 50% of the revenue to the Fund for Essential Programs and Services to provide funds to school administrative units that do not achieve the annual target for the state share percentage of the statewide adjusted total cost of the components of essential programs and services, provided that certain conditions are met; (2) 40% of the revenue to the Early Childhood Education Fund to provide funds for the purpose of expanding or developing early childhood education programs, as determined by the Commissioner of Education; and (3) 10% to Land for Maine's Future Trust Fund.

LD 1895 *An Act to Require the Removal from a Property Tax Lien the Name of a Previous Owner Who Paid Prorated Property Taxes* (Sponsored by Rep. Arata of New Gloucester)

This bill requires the municipal treasurer to prepare and record a discharge of the tax lien against the seller if the seller provides proof of payment of the seller's pro rata share of all taxes owed by the seller. The discharge is only for the seller; the lien remains against the real estate.