



LEGISLATIVE BULLETIN

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One Small Step for Policy... One Giant Leap for Municipalities!

As advocacy staff listen in to work sessions and attend public hearings on bills of municipal interest, there are times when a golden nugget is unexpectedly delivered. One such occasion took place on Tuesday, when the State & Local Government Committee received a presentation from the Governor's Office of Policy Innovation & the Future (GOPIF), stemming from LD 1934, *Resolve, to Improve the Coordination and Delivery of Planning Grants and Technical Assistance to Communities in Maine*, sponsored by Rep. Melanie Sachs of Freeport.

The resolve directed GOPIF to review opportunities for structural changes in state government and to make recommendations to aid in improving the coordination of technical assistance and planning for communities across Maine. Hannah Pingree, GOPIF director, provided the committee with a brief overview of the resolve and acknowledged how much municipalities currently have on their plates. She shared that GOPIF has worked hard to come up with the recommendations contained in the final report and tried to model it after the State Planning Office (SPO) that many communities relied on for technical assistance and community planning needs before it was dismantled in 2012.

Sarah Curran, the agency's deputy director, then shared the details of the recommendations in the report that included a reorganization of state departments under one umbrella as a new office. She stressed that no new positions were included in this assessment and that it is strictly a reorganization of current agencies, sorted into three main "buckets" of climate resilience, land use planning, and housing planning. By bringing the agencies together in one place, it would help communities tackle planning needs, provide technical assistance, and better align state resources with policy goals.

The full report can be found at <https://www.maine.gov/future/sites/maine.gov.future/files/inline-files/GOPIF%20LD%201934%20Report%2012-6-23.pdf>.

If you recall the advocacy wish list article published in the December 22 Legislative Bulletin, the article points out that in any given legislative year there can be several five-minute tasks added to the duties of municipal officials, and with 17 committees each adding to the list, it quickly becomes burdensome.

Might this reorganization be a step towards our wish coming true?

The SPO was an incredible resource for municipalities, particularly those without dedicated planning staff, small, rural communities with extremely limited resources, or those without the expertise to manage federal grant funds. It is very encouraging to hear the recommendations provided to the committee and the positive discussion that would facilitate better coordination at the state level to assist communities with tasks like waste management, flood mitigation, or development planning.

Likewise, advocacy staff are happy to hear the expression of support from committee members for consolidating state agencies into a "one stop shop" to make it less challenging for municipalities to acquire the needed technical assistance and planning support. Confirmation that Governor Mills is also supportive of the recommendations and intends to move the initiative forward via the supplemental budget is also welcomed news.

The wheels of government turn slowly, but luckily this report is a positive advance that shows local government a little bit of the love they deserve.

Same Planning Narrative, Different Bills

At the core of growth management theory is the process by which government can and does intervene in market operations. Yet again, this past weekend Maine was presented with the environmental realities as to why building where you want will increasingly need more municipal intervention.

Although to most municipal officials, the problem with the growth of residential housing has historically had more to do with who has the capital to invest in development, or access to government subsidies to build housing sold or rented at below market rates, or who is willing to take the risks to build speculative housing, still many of the bills before the Joint Select Committee on Housing point to municipal planning as the problem. Last Friday, the committee held work sessions for multiple carryover bills, two of which are poised to disrupt sections of statute that provide communities tools to manage

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Same Planning Narrative, Different Bills cont'd

growth and instead place additional demands on local officials or community volunteers.

LD 1864, *An Act to Increase Maine's Housing Supply by Prohibiting Certain Zoning Requirements in Areas Where Public Sewer and Water Infrastructure Are Available and in Designated Growth Areas*, sponsored by Rep. James Boyle of Gorham, aims to significantly limit, and all but remove, minimum lot sizes for buildable lots within a municipality's identified designated growth area. As drafted, the bill would limit the ability to set a minimum lot size to no greater than 20,000 square feet in areas without sewer and water services and 5,000 square feet in areas with these services. While supporters were quick to point out that these changes would only apply in an identified designated growth area, those changes nonetheless directly impact local decision-making authority.

In addition, the bill does not provide the flexibility necessary to address the environmental impacts that this level of density could present and limits inexpensive ways to mitigate stormwater runoff to comply with federal clean water requirements.

The committee analyst flagged potential intersections with the existing housing law, formerly known as LD 2003, and whether the bill would constitute a mandate for communities to return to the ordinance rewriting drawing board. Questions were also raised with respect to the need for technical assistance for municipalities and a potential effective date for compliance. Additionally, just before the discussion on LD 1864, the committee unanimously voted "ought to pass" on LD 1134, *An Act to Improve Housing Affordability by Amending the Definition of "Subdivision" Under the Site Location of Development Laws*, also sponsored by Rep. Boyle, leading some members to point to how the two bills conflicted with each other.

Ultimately, LD 1864 was tabled, and the analyst was tasked with a long list of questions to research. However, the answers will have to come quickly as the end of the month deadline for reporting carryover bills out of committee looms.

The committee also held a work session on LD 1976, *An Act to Amend the Growth Management Program Laws*, sponsored by Rep. Melanie Sachs of Freeport. While frequently referred to as a "recipe book" during the work session, the proponents insisted that the options and prescriptive language in LD 1976 decreased the burden on municipalities when creating a comprehensive plan.

However, MMA and other committee members disagreed.

As the analyst described in her assessment of the bill, not only does the language, as presented, specifically make it more difficult for some municipalities to obtain certification of a comprehensive plan, but the new language also removes the rulemaking authority of the Department of Agriculture, Conservation & Forestry, potentially providing that the Growth Management Act (GMA) would instead be managed by statute alone.

MMA staff worked with the sponsor who refreshingly went above and beyond to try to guide the key proponents of this bill

to collaborate on finding the language that would achieve the goals intended by the initiative.

Although the Association remains deeply grateful for this approach, the interested parties were unable to reach consensus, as divides over the balance between statutory and regulatory measures necessary to guide communities through the planning process persist. For municipal officials, the concern remains that the prescriptive statutory directives and definitions found in LD 1976 will dampen the local ingenuity necessary to put into motion the plans to guide the development a community's residents desire.

The analyst also confirmed MMA's concerns that the amended language does not provide a transition clause for communities in the midst of creating a comprehensive plan, or a timeline for amending ones recently passed under current law. While the state level goals for the GMA are broad, the definitions proposed in this bill are prescriptive and differ significantly in structure when compared to current, existing definitions. In addition, the language of "may" or "must," as it applies to a municipality's creation of a comprehensive plan, is confusing and sparks the fear of an unfunded mandate in municipal officials, and a funded one in legislators.

Ultimately, this bill was also tabled, with a long to-do list for the analyst and a request to the sponsor to engage with additional stakeholders.

At the end of the day, what is telling is that as legislators debate the merits of these bills, communities continue to map and plan for their futures suggesting that the statute alone is not the barrier to the widespread adoption of the comprehensive planning practices that proponents of LD 1976 desire to see in all municipalities.

Of note, on January 26 the Bureau of Resource Information and Land Use Planning Director, Judy East, will update the committee on the department's recent evaluation and review of the GMA and the corresponding rules. That presentation can be viewed on the Housing Committee page of the Legislature's website at <https://legislature.maine.gov/committee/#Committees/TAX>.

LEGISLATIVE BULLETIN

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HEARING SCHEDULE

For the week of January 22, 2024

Note: What follows is a schedule of public hearings which were known to us at the time of this publication. To sign up for direct committee notifications of meetings, hearings and work sessions, you can choose which committees you would like to hear from at this link: <https://lists.legislature.maine.gov/sympa>. Also, you should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules for hearings and work sessions can also be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>.

MONDAY, JANUARY 22

Agriculture, Conservation & Forestry
Room 214, Cross Building, 11:00 a.m.
Tel: 287-1312

LD 1349 – An Act to Review State Lands and Waterways That Have Sacred, Traditional or Other Significance to the Wabanaki People

LD 2093 – An Act to Address Food Insecurity by Helping Maine Residents Access Locally Produced Food

Criminal Justice & Public Safety
Room 436, State House, 10:00 a.m.
Tel: 287-1122

LD 2053 – An Act to Exempt Buildings Used to Cultivate Crops from the Maine Uniform Building and Energy Code

LD 2071 – Resolve, to Fill All Vacant and Expired Seats on the Emergency Medical Services' Board

Veterans & Legal Affairs
Room 437, State House, 10:00 a.m.
Tel: 287-1310

LD 2088 – An Act to Change the Number of Agency Liquor Stores Allowed in Certain Municipalities

TUESDAY, JANUARY 23

Energy, Utilities & Technology
Room 211, Cross Building, 1:00 p.m.
Tel: 287-4143

LD 2077 – An Act Regarding Customer Costs and the Environmental and Health Effects of Natural Gas

LD 2087 – An Act to Protect Property Owners by Preventing the Use of Eminent Domain to Build Transmission Lines Under the Northern Maine Renewable Energy Development Program

Health Coverage, Insurance & Financial Services
Room 220, Cross Building, 1:30 p.m.
Tel: 287-1314

LD 444 – An Act to Designate First Responders and Other Public Safety Professionals as a Special Risk Population for the Purposes of Improving Insurance Coverage for the Effects of Trauma

Innovation, Development, Economic Advancement & Business
Room 202, Cross Building, 1:00 p.m.
Tel: 287-4880

LD 284 – An Act to Implement the Recommendations of the Maine Workforce, Research, Development and Student Achievement Institute

Joint Select Committee on Housing
Room 216, Cross Building, 1:00 p.m.
Tel: 287-4149

LD 337 – An Act to Amend the Regulation of Manufactured Housing to Increase Affordable Housing

1:30 p.m.

LD 1752 – Resolve, to Prepare Preapproved Building Types

1:40 p.m.

LD 853 – RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Right to Housing

Judiciary
Room 438, State House, 1:00 p.m.
Tel: 287-1327

LD 2084 – An Act to Provide Funding for Essential Services for Victims of Crimes

Labor & Housing
Room 202, Cross Building, 1:00 p.m.
Tel: 287-1331

LD 2136 – An Act to Provide Financial Support for Shelters for Unhoused Individuals

Taxation
Room 127, State House, 1:00 p.m.
Tel: 287-1552

LD 1893 – An Act to Allow a Municipality to Impose a Fee on Short-term Rentals for the Benefit of That Municipality

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

LD 401 – An Act to Improve Transportation in Maine

LD 402 – An Act to Change Maine's Transportation Laws

WEDNESDAY, JANUARY 24

Education & Cultural Affairs
Room 208, Cross Building, 10:00 a.m.
Tel: 287-3125

LD 2042 – An Act to Update the Laws Governing Education in the Unorganized Territory

LD 2089 – An Act to Require Schools to Provide Instruction Regarding Prevention of the Illegal Use of Fentanyl and Other Drugs and Drug Poisoning Awareness in Grades 6 to 12 and to Establish Drug Poisoning Awareness Week

Environment & Natural Resources
Room 216, Cross Building, 9:00 a.m.
Tel: 287-4149

LD 295 – An Act Regarding Plastic Pollution

LD 2135 – Resolve, to Investigate and Address Municipal Solid Waste Disposal Services Issues

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

LD 2082 – An Act to Ensure the Financial Stability of Behavioral Health Services Providers and Housing Assistance Providers

LD 2105 – Resolve, to Protect and Enhance Access to Behavioral Health Services in Androscoggin County and Surrounding Communities

1:00 p.m.

LD 353 – An Act Concerning Substance Use Disorder, Treatment, Recovery, Prevention and Education

Judiciary
Room 438, State House, 9:00 a.m.
Tel: 287-1327

LD 2085 – An Act to Update Maine's Domestic Violence and Stalking Laws

LD 2159 – An Act to Protect the Confidentiality of Attorney-Client E-mail Communications for Residents of Jails and Correctional Facilities

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Taxation

Room 127, State House, 1:30 p.m.
Tel: 287-1552

LD 2106 – An Act to Accelerate the Production of Affordable Housing and Strengthen the Historic Property Rehabilitation Tax Credit

Veterans & Legal Affairs

Room 437, State House, 9:00 a.m.
Tel: 287-1310

LD 1517 – An Act to Create Equity in the State's Cannabis Industry

LD 1952 – An Act to Allow On-site Cannabis Consumption

LD 2147 – An Act to Remove the Requirement for Edible Cannabis Products to Be Stamped or Embossed on Each Serving with a Universal Symbol

THURSDAY, JANUARY 25

Energy, Utilities & Technology

Room 211, Cross Building, 1:00 p.m.
Tel: 287-4143

LD 1962 – An Act to Limit Utility Shut-offs

LD 2104 – An Act to Amend the Charter of the Wiscasset Water District

Submitting testimony after Hearing:

Legislative committees are currently working through several concept draft bills that have already had public hearings but were carried over into the Second Regular Session to allow more time for bill sponsors to develop the language necessary to advance the initiative. Even after a public hearing, the public can submit written testimony and comments on proposed language to concept drafts. For directions on how to submit, see the January 5 edition of the Legislative Bulletin.

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.

Criminal Justice & Public Safety

LD 2053 – *An Act to Exempt Buildings Used to Cultivate Crops from the Maine Uniform Building and Energy Code* (Sponsored by Rep. Shaw of Auburn)

This bill exempts buildings used to cultivate crops from the

Executive Session Reminder

In response to concerns that motions to move into executive sessions are sometimes incomplete, the Right to Know Advisory Committee sent notice asking MMA, and other organizations representing public entities, to remind members of their obligations under state statutes. As provided for in Title 1, §405(4), executive session motions must “include both the precise nature of the business of the executive session and a citation of one or more sources of statutory or other authority that permits an executive session for that business.”

Included in Appendix 6 of MMA's Municipal Officers Manual is a quick guide outlining the reasons for moving into executive session, as well as the sections of law that must be cited. The only allowable reasons include discussions of personnel matters; suspension or expulsion of a public school student; acquisition of real property or economic development; consultations with legal counsel; discussion of confidential records; discussion of examination results; and consultations with the code enforcement officer on a pending enforcement matter in District Court.

For more information about these requirements, municipal officials are urged to refer to information posted on the legal services section of the website.

Short on Reimbursement

This week, municipal assessors received troubling news from Maine Revenue Services (MRS), as the \$15 million in state revenue appropriated to reimburse municipalities for 100% of the lost property tax revenue associated with the Property Tax Stabilization Program fell short of actual need. Although the program was repealed in 2023, in its first – and only – year of implementation, municipalities reported \$26.5 million in lost property tax revenues.

The notice stated that due to the shortfall, municipalities that had submitted requests for reimbursement would initially receive 56% of the amount owed. MRS has requested an additional \$15 million to be included in the supplemental state budget, yet to be printed, and if approved by the Legislature, municipalities will receive the balance of the payment this spring.

As a reminder, to be eligible municipalities had to submit claims for reimbursement by the later of either November 1, 2023 or 30 days after committing taxes.

Maine Uniform Building and Energy Code, except that it does not exempt buildings used to cultivate cannabis.

Health Coverage, Insurance & Financial Services

LD 444 – *An Act to Designate First Responders and Other Public Safety Professionals as a Special Risk Population for the Purposes of Improving Insurance Coverage for the Effects of Trauma* (Sponsored by Sen. Bailey of York Cty.)

This concept draft would designate public safety professionals and first responders as a special risk population for the purposes of improving insurance coverage to detect and provide

Short-term Rentals & Other Taxing Issues

While municipal leaders can count the committee’s vote of “ought to pass as amended,” on LD 2006, *An Act to Amend the Laws Regarding Adjustments for Sudden and Severe Disruption of Municipal Valuation*, sponsored by Sen. Lisa Kiem of Oxford County, as a preliminary win, the committee has several other bills of municipal significance scheduled for debate and discussion in the coming week.

LD 1893, *An Act to Allow a Municipality to Impose a Fee on Short-term Rentals for the Benefit of That Municipality*, sponsored by Rep. Tiffany Strout of Harrington, one of three local option bills, will have its public hearing on January 23 at 1:00 p.m. in room 127 in the State House.

Unlike a local option sales tax, which would apply to all in a community, this local option fee would apply only to those utilizing the service of a short-term rental. This distinction is important because the fees themselves would be generated by those individuals who are adding to the strain on municipal services, not the everyday residents and taxpayers already bearing the local property tax burden. Approval of any fee would require a local referendum vote and the ballot question would need to identify the proposed fee. The bill also provides that the State cannot reduce the funding distributed to municipalities or direct how those additional local funds must be allocated.

In a world where, lately, removing any vestige of local control seems to be the norm, it’s a nice change of pace to have an initiative recognize that communities indeed know their communities best.

Next Tuesday’s 2:45 p.m. work session agenda is also replete with bills potentially impacting municipalities.

The committee will revisit LD 1153, *An Act to Allow Municipalities to Tax Personal Solar Equipment Under 5 Megawatts*, sponsored by Rep. David Woodsome of Waterboro and LD 1737, *An Act to Provide up to \$5,000 in Property Tax Relief to Veterans*, sponsored by Rep. Benjamin Hymes of Waldo, with anticipated amendments, and will hold an initial work session on LD 2005, *An Act to Eliminate Aircraft Excise Tax*, sponsored by Rep. Ann Fredericks of Sanford.

In addition, the committee will hear a presentation from Maine Revenue Services regarding the status of the State’s “current use” programs, which should provide valuable information for the work sessions on LD 1648, *An Act to Make Changes to the Farm and Open Space Tax Law*, sponsored by Rep. James Boyle of Gorham and LD 1685, *An Act to Increase Acreage Eligibility and Change Requirements for Filing Plans Under the Maine Tree Growth Tax Law*, sponsored by Rep. Ann Matlack of St. George on behalf of MMA.

Be prepared for what looks to be somewhat of a taxing week.

IN THE HOPPER

preventive care for the cumulative physical and mental health effects of exposure to consistent negative events and trauma.

Joint Select Committee on Housing

LD 337 – *An Act to Amend the Regulations of Manufactured Housing to Increase Affordable Housing* (Sponsored by Rep. Golek of Harpswell)

As amended by the sponsor, this bill provides that manufactured housing is allowed anywhere in the municipality where single-family housing units are allowed and are subjected to the same zoning requirement as those placed on single-family dwellings.

LD 853 – *RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Right to Housing* (Sponsored by Rep. Collings of Portland)

This resolution proposes to amend the Constitution of Maine to declare that all individuals have a natural, inherent, and unalienable right to housing.

LD 1752 – *Resolve, to Prepare Preapproved Building Types* (Sponsored by Sen. Pouliot of Kennebec Cty.)

This bill directs the Department of Agriculture, Conservation and Forestry, Bureau of Resource Information and Land Use Planning to contract with an appropriate consultant to

establish a set of building types that municipalities may adopt as preapproved building types to reduce the cost and time associated with processing building permit applications. The bill also requires the department to submit a report no later than November 6, 2024 to the joint standing committee of the Legislature having jurisdiction over housing matters, which is authorized to report out legislation in 2025.

Taxation

LD 1648 – *An Act to Make Changes to the Farm and Open Space Tax Law* (Sponsored by Rep. Boyle of Gorham)

This bill establishes a new method for the valuation for property enrolled in the farm and open space program by extending eligibility for a reduced valuation to land managed under a carbon conservation management plan. The plan, a written agreement between the landowner and the Department of Agriculture, Conservation and Forestry, must describe the strategies used on a parcel of land at least 10 acres in size to increase carbon storage or improve carbon conservation and include specific strategies for compliance, be sworn to and complied with by the landowner, and renewed at least once every 10 years. The bill also requires the state to reimburse municipalities for lost property tax revenue in a manner similar



HOPPER (cont'd)

to the method of reimbursement provided under the tree growth program. Finally, the bill repeals the statute limiting to no more than 15,000 acres the amount of land that a landowner may enroll in the farm and open space program.

LD 1685 – An Act to Increase Acreage Eligibility and Change Requirements for Filing Plans Under the Maine Tree Growth Tax Law (Sponsored by Rep. Matlack of St. George)

This bill amends the Maine Tree Growth Tax Law by increasing the acreage eligibility requirement from 10 to 25 acres of forested land beginning April 1, 2025. The bill authorizes municipal assessors and the State Tax Assessor to retain copies of required forest management and harvest plans and with assistance from the Director of the Bureau of Forestry to determine the sufficiency of a plan to meet the requirements of the law. The bill also specifies that the forest management and harvest plans retained by a municipal assessor or the State Tax Assessor are confidential and not public records.

LD 2106 – An Act to Accelerate the Production of Affordable Housing and Strengthen the Historic Property Rehabilitation Tax Credit (Sponsored by Sen. Rotundo of Androscoggin Cty.)

The bill increases the maximum tax credit allowed for certified historic property rehabilitation projects and allows nonprofit

organizations to claim the credit or an affordable housing tax credit refund on an annual basis beginning in tax year January 2024.

Veterans & Legal Affairs

LD 1952 – An Act to Allow On-site Cannabis Consumption (Sponsored by Rep. Boyer of Poland)

This bill creates a new business within the adult use cannabis laws providing for the licensing and oversight of “cannabis hospitality establishments,” where cannabis and related products can be sold and consumed at on location. The bill prohibits operators from giving away cannabis product, selling tobacco or alcohol or from selling products via vending machines, drive-through windows, or over the internet. The bill also requires the operator of an establishment to allow public safety officials to enter the facility in cases of an emergency.

LD 2088 – An Act to Change the Number of Agency Liquor Stores Allowed in Certain Municipalities (Sponsored by Sen. Daughtry of Cumberland Cty.)

This bill lowers the population threshold for municipalities to have up to seven agency liquor stores in a municipality from 15,000 to 10,000.