



LEGISLATIVE BULLETIN

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Intersession Comp Plan Depression

What is in a comprehensive plan? While the answers vary based on the community, the universal experience is at least two years of unpaid volunteer labor, difficult and sometimes contentious public engagements, and a ten-year theme to guide local development desires. Hopefully, the plan will be fit for available community infrastructure, protect natural areas and working waterfronts, and contemplate how to keep older residents in their neighborhoods and part of the community. Sometimes, a significant chunk of local revenue is used to pay a knowledgeable consultant to guide the process and develop mapping to support plan goals.

Communities across Maine have invested in this process, and many are in their rewrite stages because much of the climate resiliency funding communities need is tied to incorporating, identifying, and mitigating anticipated climate threats of the future. Many historically developed communities along river and ocean highways of the past will need to think about managing development retreat.

A Brief History of How We Got Here from There

In 2017, at the direction of the 129th Legislature, MMA convened a stakeholder group of municipal officials, State GIS experts, planners, and coastal organizations to analyze the extent to which changes in the natural environment may pose risks to Maine's coastal communities and report back to the Legislature recommended action steps for addressing potential hazards. During a municipally hostile administration, the State Planning Office and all the assistance communities once had to coordinate the nexus of regulation that falls to local government was eradicated. Unsurprisingly, municipal leaders identified a number of risks they could not address alone. Some communities had applied for grants to address what they could without state or well-funded regional support systems and the major recommendation from the report was that municipalities needed the office returned.

That October, a raging wind and rainstorm completely cut off the Harpswell peninsula leaving residents unable to get past downed wires and electrical infrastructure to fuel generators or access town for days. In the spring of 2018, the bill to establish a commission to address coastal hazards was vetoed.

Fast forward to the 2020 COVID lockdown and a new administration. Climate and resiliency is back on the policy priorities agenda and stakeholder meetings across the

(continued on next page)

A Holiday Treat

What's this you ask? Seeing that it is the first of December and in the spirit of the holiday season, the advocacy team thought we'd treat our faithful readers to a December Legislative Bulletin!

Well, perhaps that is not entirely correct.

While we greatly appreciate your support of our advocacy efforts, the truth is that due to the Legislature's July 26, 2023 adjournment, and a rash of fall committee hearings, work sessions, and task force and working group meetings, the break that normally occurs between the first and second session hasn't occurred. As a result, we have a fair amount of intersession information to share with municipal officials.

The December bulletins will be published electronically, only, emailed to our subscribers, and posted on MMA's website. We will return to publishing printed editions in mid-January.

Thank you for your ongoing support and at home lobbying efforts.

Happy holidays from the MMA's advocacy team.

spectrum from energy to planning have renewed attention. Guess what the consistent theme of needs identified from the study groups uncovered? The need for investment in regional planning organizations and the incredible deficit for community capacity created by the lack of state planning assistance.

If comprehensive plans are needed to reflect the community's risks to get the funding to address them, the 487 municipalities better have some help.

In 2022, finally, planning at the state level started getting some love. While rumors have it a single staff person was allotted the task of reviewing and approving the comprehensive plans submitted by all communities, some waiting for years since their submission. The municipal planning assistance program also needed to have a plan for scaling up the help and catching up on tasks in statute that had not been updated in the previous eight years. Still, the office remains understaffed from the municipal point of view anyway, but it's growing, and municipal officials all know good help is hard to find.

A Housing Herring for Thanksgiving?

While many municipal officials had turkeys thawing in the refrigerator, the Joint Select Committee on Housing held a public hearing on LD 1976, *An Act to Update the Growth Management Program Laws*, sponsored by Rep. Melanie Sachs of Freeport. The 28-page bill makes substantive changes to the comprehensive plan process for communities and in many cases the language unintentionally accomplishes the exact opposite of the spoken intent from the bill's proponents. A group of municipal officials met with the sponsor and bill drafters in advance of the public hearing to explain many of the concerns the prescriptive language created while also highlighting there was support for changing some of the laborious processes involved with plan adoption now.

Many of the desires for any member of a comprehensive planning committee center around adequate resources and technical support for its development, including flexible tools and definitions that fit local reality and regulatory requirements. That flexibility comes from the generic statutory directions with robust and amendable definitions via the rule making process, and technical support behind the scenes. The bill makes very prescriptive narrowly interpreted "placetypes" a new requirement for communities who want to adopt a plan, and forces communities to do

housing type inventories as a new task. Additionally, it eliminates some of the vital links to resource protection, climate change and cluster development which allow for increased density as a trade off with shared green spaces important for federal stormwater regulated communities.

More concerning, is the shift from routine and technical rule making authority – one that matches the relationship between the state and those carrying out the work– is proposed to be shifted to major and substantive. This is a pivot required for regulatory relationships with state government that cost communities money and one not needed for a facilitating relationship. As the state was always intended to be the technical support for this task of developing a non-enforceable guidance document which communities use to tailor their enforceable ordinances, this shift is a major red herring for thankless tasks required from unpaid volunteers. This is especially true when the work is linked to prioritizing who receives climate threat funding.

The public hearing was surprisingly contentious with proponents expressing concerns that the department was moving into rule making while the bill was being carried over to be heard as part of the committee work this fall. It seemed as though some proponents thought it was somehow nefarious to be catching up with the unaddressed work of the past four years needed to access significant federal funding opportunities. Regardless, the sponsor is committed to finding language that achieves the intent, even though many of the proponents testifying didn't seem to understand that enabling statutes need flexible, not prescriptive, language that can be adapted without legislative authority to achieve community goals long after the next new planning priority has emerged. Somewhat ironically, those testifying in support of the bill provided ample examples of where their desired planning approaches were happening because of the existing flexible language.

While the intent spoken by proponents is supported and laudable, the legal language does not currently achieve the wish. Municipal officials are willing to help get it there. However, if wishes were fishes, lawyers and highly paid consultants would not be necessary to adopt a comprehensive plan, and the municipal planning assistance program would be adequately resourced to paddle us into the future.

The work session on LD 1976 has not been scheduled yet, but if the trend holds true, it will be voted out of committee before you can buy charcoal to fill your Christmas stockings.

ARPA Updates from a Treasury, Far, Far Away

While the American Rescue Plan Act (ARPA) deadlines of December 31, 2024 and December 31, 2026 may seem farther away than the next galaxy, it's important to be considering the obligation and expenditure of your municipality's ARPA funds.

The U.S. Treasury just released new Interim Rules with a modified definition of "obligation," clarifying that project funds cannot simply be allocated using a warrant article or council directive. The expenditure of project funds must be evidenced through contracts, invoices and other approved documentation provided to Treasury through the ARPA portal. In addition, the rule clarifies that funds that are not obligated in this fashion by December 31, 2024 must be returned to Treasury. The new rule also provides guidance on how to estimate costs that may be incurred after the December 2024 deadline.

For your reference, MMA Legal Services' ARPA Information Packet includes direct links to Treasury's website. Additionally, if your municipality did not file a report via the portal by the extended August 30, 2023 deadline, you are encouraged to do so despite the late hour. Although Treasury will neither confirm nor deny issuing non-compliance penalties, it would be unfortunate to have to return all those funds to the federal government.

Potholes & Politics - The Deep Dive on Municipal Matters

Do you know how tax assessors determine property values for taxation? Did you know that Maine has a program for certifying police departments that follow the best law enforcement practices that is achievable by even small agencies? Do you know that municipal reevaluation can eliminate taxes on some properties while new "cash bidding war" owners are appropriately burdened?

If you're a fan of deep dives into municipal government practices, want to make well informed policy decisions achievable by those charged with the task, or you like really bad jokes, you'll love MMA's podcast, Potholes & Politics: Local Maine Issues from A-Z.

Check us out on your favorite Pod-catcher service or stream us directly from the MMA website <https://www.memun.org/Media-Publications/MMA-Podcast>. Don't forget to like us and subscribe!

Sharing is caring...so share your favorite episode with your neighbors too!

Let's Call in the Generals for Assistance

At a meeting held in the fall of 2022, MMA's Legislative Policy Committee elected to include General Assistance (GA) program reforms as part of its 2023-2024 legislative platform. LD 1664, *An Act to Increase Reimbursement Under the General Assistance Program*, sponsored by Sen. Moore of Washington County, and LD 1732, *An Act to Expand the General Assistance Program*, sponsored by Rep. Meyer of Eliot, both seek to increase municipal reimbursement for the direct aid provided to eligible GA applicants from 70% to 90%.

In addition, LD 1732 strives to increase GA administrator training, require Department of Health and Human Services staff training, increase hotline availability to provide municipal administrators 24/7 responses to inquiries, as well as to require state officials to issue written decisions to hotline questions within 24 hours of receipt. The bill seeks state reimbursement for 5% of local administrative costs, 100% reimbursement for additional needed administrative expenses, such as interpreter services, and state funding for 100% of emergency aid expenditures that exceed established maximum levels of assistance when those costs are required by state statute or department rule. The bill also directs DHHS to implement a statewide database for use by GA administrators.

Several other related bills, not drafted by MMA, are also being considered.

Two meetings of the Joint Standing Committee on Health and Human Services (HHS) have been held this fall to discuss options, with the goal of merging aspects of the four proposals into one that can move forward during the 2024 session. In a similar vein, through summer listening sessions and other means, staff at DHHS have heard from applicants, as well as their advocates, with concerns regarding the local administration of the GA program and are currently working towards updating and requiring administrator training and the eventual implementation of a statewide database.

While these may seem like "wins," it's too early to say if municipal generals have won this fight for assistance. The HHS Committee meets again on December 14 at 10:00 a.m. to discuss General Assistance.

LEGISLATIVE COMMITTEE MEETING SCHEDULE FOR THE WEEK OF DECEMBER 4, 2023

The following is a schedule of Joint Standing Committee and Subcommittee meetings for the week of December 4, as well as meetings of Commissions, Studies, and Working Groups, that were known at the time of this publication. Weekly schedules for meetings and work sessions can be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>.

MONDAY, DECEMBER 4

Right to Know Advisory Committee
Room 228 (AFA Committee Room) State House, 1:00 p.m.

Members of the public may attend the meeting in person or may choose to view a livestream of the meeting [here](#).

Agenda items include:

- Public Comment on disciplinary records of public employees and topics that have been the subject of subcommittee discussions.
- Reports of Subcommittees and Subcommittee Recommendations
- Public Records Exceptions
- Public Records Process
- Law Enforcement Records
- Consideration of Other Advisory Committee Recommendations
- Disciplinary records of public employees
- Review Outline of Draft Report

SUBCOMMITTEE MEETINGS: In addition, two of the subcommittees have meetings scheduled prior to the full Advisory Committee meeting - dates and locations below. Subcommittee materials will be distributed to subcommittee members and posted to the Advisory Committee webpage [here](#). Members of the public may attend the subcommittee meetings in person or may choose to view a livestream of the meetings (link for each meeting below).

PUBLIC RECORDS PROCESS SUBCOMMITTEE MEETING:
Monday, December 4, 2023 at **11:00 a.m.**
Room 228 (AFA Committee Room) at the State House – livestream available [here](#).

PUBLIC RECORDS EXCEPTION SUBCOMMITTEE MEETING:
Monday, December 4, 2023 at **12:00 p.m.**
Room 438 (JUD Committee Room) at the State House – livestream available [here](#).

TUESDAY, DECEMBER 5

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

Topic: EPS Briefing

Joint Select Committee on Housing Interim Meeting
Room 216, Cross Building, 9:00 a.m.
Tel: 287-4149

Topics:

- 1) Housing First – service coordinator positions (DHHS);
- 2) Emergency Housing Relief Funds (GOPIF); and
- 3) Emergency Shelters, including low-barrier shelters (Preble Street Resources, Milestone Recovery, and others).

WEDNESDAY, DECEMBER 6

Abandoned & Discontinued Roads Commission
Sixth Floor, Room 600, Cross Building, 9:00 a.m.

Topics:

- 1) Adoption of November 16 meeting minutes;
- 2) Final submissions from Teams Committee;
- 3) Final submissions from Priority Committee;
- 4) Final submissions from Title 12 group;
- 5) Discussion of draft report to legislature; and
- 6) Other business and announcements.

For more information on the Commission, visit:
<https://www.maine.gov/adrc/>

THURSDAY, DECEMBER 7

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

LD 91 (*An Act to Adopt the National 2022 Amendments to the Uniform Commercial Code*) Subcommittee Meeting

Topic: Proposed Uniform Commercial Code amendments

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