



# LEGISLATIVE BULLETIN

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## The Possible Return of a Redesigned SPO

Last week, members of the Appropriations and State & Local Government Committees received a report from the Governor's Office of Policy Innovation and the Future (GOPIF), which was directed via the adoption of LD 1934, *Resolve, to Improve the Coordination and Delivery of Planning Grants and Technical Assistance to Communities in Maine*. A copy of the report can be found [here](#).

The resolve directed GOPIF to examine the planning grants and technical assistance needs of all communities with particular focus on the smallest and most underfunded towns and cities; the state programs that exist to help municipalities address community planning needs; and the mechanisms in place to support municipalities and regional planning organizations that are competing for state and federal funding opportunities. The idea for the study came from bill sponsor Rep. Melanie Sachs of Freeport, whose past involvement in municipal government fueled her desire to ensure that municipalities and regional planning entities can access available resources and assistance with fewer points of entry. A one stop shopping approach, if you will.

In part, the study concluded that since "The complexity of housing, land use, resiliency and other challenges facing communities demands greater coordination across state agencies to maximize unprecedented federal funding opportunities that now exist," it would be of utmost importance to create an office directed to "work in partnership with communities and regional organizations to navigate these complex challenges and pursue comprehensive solutions that benefit Maine's people, economy, and environment."

In other words, to implement a revamped version of the State Planning Office, which was unfortunately dismantled – rather than redesigned – in 2012. A much-welcomed solution.

Through focus group meetings, which informed the final recommendations, GOPIF found that the issues raised by the impacted parties fell into four categories:

**Accessing Experts & Assistance.** GOPIF learned that in some cases municipal officials have difficulty understanding which state agencies, grant programs and staff are available to assist communities in addressing a particular task or issue. In other cases, local leaders found that the advice and guidance

provided by one agency conflicted with that offered by another, thereby highlighting the need for a more collaborative, less siloed approach. Additionally, GOPIF heard that a "one size fits all" approach toward providing technical assistance does not work. Instead, the program should be designed "to meet municipalities where they are" on the spectrum of in-house capacity and access to resources.

*(continued on next page)*

## What is on the Advocacy Holiday Wish List?

That the Advocacy team inboxes are blowing up with newly printed bills and notices for January 3 public hearings provides a clear signal that the next session of the Legislature is coming in hot. Unfortunately, good public policy that actually delivers on the clever political sound bites, takes time.

The remarkable man from Maine, Senator George Mitchell, returned to Belfast this year to commemorate the 25<sup>th</sup> anniversary of the Belfast Good Friday Agreement. In his speech, Mitchell highlighted a political reality not unique to a divided society mired in violent opposition. Calling out the "100 percenters" he remarked that every political party contained individuals who refused compromise, seeing any incremental change not in line with their own goals as a weakness. He remarked that reasonable compromise is essential to democracy and signals that we all must work together to solve complex problems.

Building on that hope of reasonable compromise to grow faith in our institutions, what follows are some concepts the Advocacy Team has on their Christmas wish lists that we hope magically find their way down the legislative chimneys to make for a much brighter new year in municipal government.

### Bill Language Matters

The socials are circulating a meme of a lawyer editing a Christmas card that is humorous because it's accurate. The card reads; "*I wish you, but in no way guarantee, a reasonably Merry Christmas, and/or festive period, including but not limited to a reasonably happy twelve (12) months from the date hereto.*" Law is not an aspirational language discipline. For an idea to be

*(continued on page 3)*

**Coordinating Grants & Related Information.** As access to state and federal pass-through grants supporting community planning and projects continue to increase, towns and cities need the technical assistance necessary to successfully apply for available funds. Ready access to technical assistance is particularly important for communities that do not currently have the staff on hand to navigate the grant application process. Additionally, impacted parties recommended the implementation of a searchable grant database or portal to assist communities in finding and accessing the most appropriate funding sources for specific planning and infrastructure needs.

**Financial Support for Regional Planning Organizations.** GOPIF also found that appropriate financial support for the planning organizations that provide technical assistance to municipalities is needed. These entities – organized either as regional planning commissions or councils of governments – have not received the funding sufficient to provide the aid municipalities need to implement state policy priorities. Much like the need to coordinate grant information, providing financial support to regional entities is seen as an opportunity to level the playing field by ensuring that all communities have the resources necessary to apply for state and federal grants.

**Off the Shelf Tools.** Struggling with the lingering impacts of the Great Recession of 2008 that caused reductions in public employee ranks, now compounded by workforce recruitment and retention issues, focus group participants expressed a need for quality off-the-shelf planning tools and guides to advance and implement local planning priorities. Proponents of the ap-

proach believe that access to these tools will not only reduce planning related costs borne by property taxpayers, but also reduce the need for every community to “reinvent the wheel” in the process of developing new ordinances or resolving commonplace challenges.

With the study and listening sessions in mind, the GOPIF report concludes with a first step recommendation to reorganize all land use, climate resilience and housing related planning programs into one state office.

More specifically, the recommendation provides that the new state office “reorganize existing programs to provide coordinated and efficient technical assistance and funding in partnership with communities across Maine to support them as they navigate increasingly complex challenges. Working closely with state agencies, the new office could be largely accomplished utilizing current staff and with accompanying current state and federal resources. Programs would be reorganized into one new standalone office, and current leadership and staffing would be retained. In addition, program statutes would follow to become the responsibility of the office.”

Now it is up to the Legislature to decide whether to implement these recommendations and provide its local level partners much needed and desired planning support or send the report to the dark recesses of the legislative archives to anxiously wait for the appropriate “next time.”

For what it is worth, town and city leaders urge implementation of the new office now. There is no need to wait. As a matter of fact, Maine can’t wait.

## Holiday Break

This edition of the Legislative Bulletin will be the last for 2023. We will resume publication on January 5, 2024, including mailing bulletins to subscribers who have elected to receive printed copies. With several public hearings and work sessions already scheduled, some as soon as January 3, it is likely to be a fast-paced session. On that note, if you would like to amend the way in which you receive the bulletin (e.g., email, print or both), please contact Laura Ellis at [lellis@memun.org](mailto:lellis@memun.org).

Thank you for your support and Happy New Year.

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## LEGISLATIVE BULLETIN

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delivered, the resulting statute must empower or restrict the level of government intended to deliver or stop the statutory goals. It's not just all "mays" and "shalls." Generally, empowerment requires less language. Restricting requires specific language. Above all, language matters.

In a perfect world, the bill summary would state exactly what problem the bill proposes to fix and what level of government it intends to empower or limit. Since they frequently contain very little substance, it is only through engagement that language can be addressed to achieve the goal appropriately. In the same speech in Belfast, Mitchell proffered that every solution contains the seeds of a new problem. Bad bill language employs more lawyers than it delivers good public policy.

#### **A Required Class on Dillon's Rule vs. Home Rule**

Everyone loves creating their own community and watching it flourish through local action. Not all communities can do this to the same degree or have the same desires. As a certain director likes to point out, your community can be your community because the adjacent community is what it is. We are drawn to our own community for many reasons.

What all communities have are some radically important powers to shape their own identity and priorities through the concept of "Home Rule." In a home rule state, State law is a "floor" that local governments have a right to build upon, in order to develop their community, the way their residents want, often heightening protections for civil and human rights and providing creative and efficient services. In a Dillon's Rule state, all power comes from the state, and a municipality cannot enact any local law without permission. It requires bills to be laboriously specific.

Maine is among the minority of home rule states, and this is why many of us believe it is so special. *Hint: if a municipality or several municipalities are doing something amazing, then it does not need to be in statute.* It can and is already happening. It needs either to be resourced for other communities to achieve the same, or an idea that residents want and have the ability to deliver. What they do not need is more statutory language that restricts how they achieve the intended outcome.

#### **Municipal Government is Not a Special Interest**

Municipal officials and staff are the ones either delivering the bulk of bright ideas of state and federal politicians or bearing the brunt of it. If the legislature overrides their obligation to fund a mandate by a two-thirds majority, resulting in property tax increases to deliver it, residents then yell at municipal staff, not their legislators. While the Advocacy Team can agree it takes a special kind of crazy to work in municipal government, where no one is ever happy to see you and frequently upset at your job in general, we believe it is the best kind.

The people in your town office or city hall chose to work in those services not for the lucrative pay but because they believe in service to their community. Presumably this is why legislators

also run for state government. Municipal officials and employees are your neighbors, parents, children, uncles, aunts, siblings and more often than not, grandparents. If you don't like something that is happening in your community talk to them. They can explain what is happening and offer real solutions to help change it.

Get involved. Ask questions. But above all, recognize they are decent humans serving other humans within the capacity and rules that you provide. They are not special interests seeking to advance personal wealth or an agenda against community needs. Only the ill-informed blame the server for the poorly cooked steak and call it progress.

#### **Design for The Least of Us and Deliver for All of Us**

While some tasks seem trivial to add to a municipal duty, every other committee is adding to municipal tasks that are also seemingly trivial. If every committee adds another 5-minute task on municipal government, the legislature has added another hour and a half of burden on a part-time office. In reality, the end of session finds committees adding far more than one 5-minute addition to the local government time burden.

In addition to the 17 other committees adding to the tasks of local government, department rulemaking often increases the burden. It's not trivial or cheap, and municipal government doesn't have the same luxury afforded to state government departments with staff that can evaluate each new task and advise if they can manage the new task under existing resources.

Grants are often not helpful. They require staff time and hoop jumping to obtain, which costs money usually not allowed to be reimbursed through the same grant simply to access the funds. The very communities that need grant assistance have the least administrative time to access the funding or manage the reporting requirements. Either permit application costs to be allowable expenses under newly designed grant programs or keep it simple.

#### **Commit to A Bright New Year**

Bright can be synonymous with intelligent, but also light bringing and joyous. All of these interpretations are what we hope for public policy that impacts communities this year. It has been a tough one marked with challenges that illustrated how well levels of government can work together when they have adequate resources, and even in spite of not having them.

We hope that the Legislature can find ways to enhance and resource governments from Fort Kent to Kittery at the level of their need to achieve duties and goals of state-wide significance. We will continue to share the good work of municipal government and hope to introduce you to many more municipal officials in the halls of the statehouse next year. As the old Turkish folklore quipped in the 1625 "Essays" by Francis Bacon goes, "If the Mountain won't go to Mohammed, then Mohammed must come to the Mountain." We hope you'll be engaging with many more municipal officials this year.

# Hearing Schedule for early 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/>.

## WEDNESDAY, JANUARY 3

**Agriculture, Conservation & Forestry**  
**Room 214, Cross Building, 2:00 p.m.**  
**Tel: 287-1312**

LD 2033 – Resolve, Authorizing the Director of the Bureau of Parks and Lands to Convey a Parcel of Land in the Town of Woodstock

LD 2061 – Resolve, Authorizing the Director of the Bureau of Parks and Lands to Convey Peacock Beach State Park to the Town of Richmond

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

LD 2035 – An Act Regarding Disclosure of Flood Risk by Sellers of Real Estate

## THURSDAY, JANUARY 4

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

LD 2066 – An Act to Clarify Liability Under the Uncontrolled Hazardous Substance Site Law and to Waive a Fee Regarding Voluntary Response Action Plans

## FRIDAY, JANUARY 5

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

LD 1257 – An Act to Increase Housing Capacity and Protect the Municipal Tax Base and Working Lands

LD 1672 – An Act to Establish an Affordable Housing Permitting Process

## WEDNESDAY, JANUARY 10

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

LD 2030 – An Act to Exempt Certain Emergency Activities and Structure Elevation Increases in Flood Zones from Permit Requirements Under the Natural Resources Protection Act

LD 2058 – An Act Regarding Compliance with Environmental Permit and License Application Requirements

LD 2059 – An Act Regarding Processing of Applications Under the Natural Resources Protection Act to Ensure Consistency with Shoreland Zoning Laws

## THURSDAY, JANUARY 11

**Marine Resources**  
**Room 206, Cross Building, 1:00 p.m.**  
**Tel: 287-1337**

LD 2003 – An Act to Protect Maine's Intertidal Zone



**POTHLES  
& POLITICS**

Local Maine Issues  
from A-Z.

“Potholes & Politics: Local Maine Issues from A to Z” is a podcast about municipalities in Maine and the people and policies that bring local government to your doorstep. Through stories, experiences, current events, and interviews with municipal officials, this podcast spotlights the everyday challenges and successes of local governments in our home state and all the issues being explored in Augusta at the Maine Legislature.

Check out our episodes:

**MMA:**

<https://www.memun.org/Media-Publications/MMA-Podcast>

**Spotify:**

<https://open.spotify.com/show/1LR5eRGG1qS2gu5NRoCUS1>

**Apple Podcasts:**

<https://podcasts.apple.com/us/podcast/potholes-politics-local-maine-issues-from-a-to-z/id1634403397>



# Intel on Maine's Paid Family Leave Act

In July, the Maine State Legislature adopted the Paid Family and Medical Leave Act as Part AAA of the FY 2024-FY 2025 supplemental budget. In summary, the law: (1) extends twelve weeks of paid time off over a one-year period to all employees to be used for reasons prescribed in statute; (2) establishes the definitions guiding the provisions of the law; (3) finances the program through a mandatory premium, based on employee wages, of up to 1%, split evenly between employers and employees; (4) creates a high-threshold process for employers to seek state approval to meet obligations under the law through a private plan; and (5) establishes a 15-member Paid Family and Medical Leave Benefits Authority to oversee the program.

The full text of the law can be found on pages 317 to 337 [here](#).

We understand that municipal officials have many questions about how this law will impact existing sick leave, paid time off, and short-term disability benefits, as well as the burdens to be placed on property taxpayers. While very few answers are currently available, a plain reading of the law suggests that the “one size fits all” approach, coupled with broadened definitions of what constitutes eligibility for paid time off, will require communities to amend existing benefits and programs to comply with the Legislature’s directive to all employers.

Additionally, the program will be implemented in stages. There are four key steps and several dates to keep in mind.

**Listening Sessions.** The Maine Department of Labor has scheduled four listening sessions, which will be held online from 5:30 p.m. to 7:00 p.m. on **January 25, February 1, February 12, and February 28, 2024**. The purpose of these sessions is

to provide interested parties an opportunity to share feedback about the program. Municipal officials are strongly encouraged to participate in the process as a vehicle for raising concerns and posing questions.

**Rulemaking.** The rulemaking process will begin in the “**spring of 2024**.” These rules are important, as they will guide the implementation and administration of the program. Pursuant to the provisions guiding the rulemaking process, the public will have an opportunity to comment on the proposed rules.

**Employee/Employer Contributions.** Starting on **January 1, 2025**, the State will begin to collect required payroll contributions.

**Availability of Benefits.** Finally, the law makes the benefits pursuant to the paid leave law available to employees as of **May 1, 2026**.

While the lack of answers is frustrating, rest assured that MMA staff are working to develop the information and resources municipal officials will need to implement the program. The first step in this effort will be to develop the testimony the Association will provide during one of the department’s listening sessions. If you have specific concerns you would like MMA to include in its testimony or have questions about the implementation process outlined above, please contact Kate Dufour at [kdufour@memun.org](mailto:kdufour@memun.org).

Also, please visit the Maine Department of Labor’s [website](#) to learn more about the paid leave program, as well as to sign-up to receive important updates. As always, do not hesitate to direct questions about the law to MMA Legal Services at [legal@memun.org](mailto:legal@memun.org).

## 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](http://www.memun.org).

### Judiciary

LD 2035 – *An Act Regarding Disclosure of Flood Risk by Sellers of Real Estate* (Sponsored by Sen. Brenner of Cumberland Cty.)

This bill requires sellers of residential and nonresidential real property to notify prospective buyers in writing of whether the property is in an area of special flood hazard mapped on a flood insurance rate map issued by the Federal Emergency Management

Agency, the presence and cost of any active flood insurance policy for the property, any previous flood damage incurred, any flood insurance claims filed and any flood-related disaster aid received while the prospective seller owned the property. The bill includes provisions for nonresidential real property regarding the delivery and timing of the flood risk disclosure and provisions regarding contract termination; these provisions are similar to current law concerning residential real property disclosures.

### Joint Select Committee on Housing

LD 1257 – *An Act to Increase Housing Capacity and Protect the Municipal Tax Base and Working Lands* (Sponsored by Rep. Crafts of Newcastle)

This bill adds to the list of subdivision review exceptions projects that yield three but no more than 18 dwelling units on a single or parcel of land located in a designated growth area within a municipality, provided the project is subject to municipal site plan

## LD 2003 Office Hour Sessions

DECD’s Housing Opportunity Program staff will host nine additional in-person office sessions throughout January and into early February. The purpose of the meetings is to provide an opportunity for elected and appointed municipal officials and residents to discuss and pose questions about the impacts of the LD 2003 housing mandates on existing regulations, ordinances, and planning documents. There is no need to register to attend the events, as the sessions are conducted without the use of a structured agenda and participants are encouraged to drop in as their schedules allow. Please direct questions about sessions listed below to [housing.decd@maine.gov](mailto:housing.decd@maine.gov).

### Thursday, January 4, 2024

10:00 a.m. to Noon  
Mexico Public Library  
15 Recreation Drive, Mexico, ME 04257

### Thursday, January 4, 2024

2:30 p.m. to 4:30 p.m.  
New Vineyard Public Library  
20 Lake Street, New Vineyard, ME 04956

### Monday, January 8, 2024

10:00 a.m. to Noon  
Ellsworth Public Library  
20 State Street, Ellsworth, ME 04605

### Thursday, January 18, 2024

10:00 a.m. to Noon  
Vassalboro Public Library  
930 Bog Road, E. Vassalboro, ME 04935

### Thursday, January 18, 2024

2:00 p.m. to 4:00 p.m.  
Turner Public Library  
98 Matthews Way, Turner, ME 04282

### Thursday, January 25, 2024

10:00 a.m. to Noon  
Gray Public Library  
5 Hancock Street, Gray, ME 04039

### Thursday, January 25, 2024

2:00 p.m. to 4:00 p.m.  
Bonney Memorial Library  
36 Main Street, Cornish, ME 04020

### Thursday, February 1, 2024

10:00 a.m. to Noon  
Skidompha Public Library  
184 Main Street, Damariscotta, ME 04543

### Thursday, February 1, 2024

2:00 p.m. to 4:00 p.m.  
Thomaston Public Library  
60 Main Street, Thomaston, ME 04861

## IN THE HOPPER

review. The bill also defines “administrative reviewing authority,” as a municipal employee or other designee of a municipality, and “municipal site plan review,” which must include criteria regarding storm water management, sewage disposal, water supply and vehicular access. Finally, the bill requires the reviewing authority, when reviewing an application for subdivision approval, to determine that the proposed subdivision is not located in an area identified and designated in the municipality’s comprehensive plan as a rural area, unless the area is a designated growth area or an area for which the municipality has adopted a plan governing the approval of subdivisions.

LD 1672 – *An Act to Establish an Affordable Housing Permitting Process* (Sponsored by Rep. Gere of Kennebunkport)

This bill creates the seven-member Affordable Housing Development Review Board, which includes a representative of municipal government, tasked with reviewing proposed affordable and workforce housing developments, effectively circumventing the local processes. In the review process, the board is authorized

to preempt municipal ordinances in the process of determining whether to grant or deny the application for a permit. The bill also creates the process by which a housing development may apply for a permit, in lieu of applying for a local permit, provided the development is in a designated growth area or area served by public water or sewer and 50% of the building’s square footage is for affordable or workforce housing. The bill also provides that the development is authorized in an area where a municipal ordinance is not consistent with a comprehensive plan and provides that inconsistent ordinances include provisions that require a minimum lot size of more than 5,000 square feet, density restriction, more than two parking spaces per three dwelling units, more than 50 feet of street frontage, and more than 10 feet of front setback, to name a few. The bill also prescribes the procedures the review board must employ, which requires that notice of a hearing be provided to the applicant and the impacted local board. The bill extends appeal rights to the applicant and provides that municipal fees may not be assessed except to connect to utilities and apply for building permits. Finally, the application fee for the special permitting process is \$5,000 per application.