

§4349-A. State capital investments

1. Growth-related capital investments. The State may make growth-related capital investments only in:

A. A locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the procedures, goals and guidelines of this subchapter or as identified in a growth management program certified under section 4347-A; [PL 2003, c. 641, §16 (AMD).]

B. In the absence of a consistent comprehensive plan, an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by Title 23, section 754; or [PL 1999, c. 776, §10 (NEW).]

C. Areas other than those described in paragraph A or B for the following projects:

(1) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other development, such as an activity that relies on a particular natural resource for its operation;

(2) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;

(3) A pollution control facility;

(4) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(5) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the former State Planning Office funds to assist with the preparation of a comprehensive plan or that received funds from the department to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received; or

(6) A housing project serving the following: individuals with mental illness, developmental disabilities, physical disabilities, brain injuries, substance use disorder or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; children or adults in the custody of the State; or individuals with a household income of no more than 80% of the area median income if the project has 18 or fewer units and receives funding through a program administered by the Maine State Housing Authority. A nursing home is not considered a housing project under this paragraph. [PL 2023, c. 218, §1 (AMD).]

[PL 2023, c. 218, §1 (AMD).]

2. State facilities. The Department of Administrative and Financial Services, Bureau of General Services shall develop site selection criteria for state office buildings, state courts, hospitals and other quasi-public facilities and other civic buildings that serve public clients and customers, whether owned or leased by the State, that give preference to the priority locations identified in this subsection while ensuring safe, healthy, appropriate work space for employees and clients and accounting for agency requirements. On-site parking may only be required if it is necessary to meet critical program needs and to ensure reasonable access for agency clients and persons with disabilities. Employee parking that is within reasonable walking distance may be located off site. If there is a change in employee parking from on-site parking to off-site parking, the Department of Administrative and Financial Services must consult with the duly authorized bargaining agent or agents of the employees. Preference must be given to priority locations in the following order: service center downtowns, service center growth areas and

downtowns and growth areas in other than service center communities. If no suitable priority location exists or if the priority location would impose an undue financial hardship on the occupant or is not within a reasonable distance of the clients and customers served, the facility must be located in accordance with subsection 1. The following state facilities are exempt from this subsection: a lease of less than 500 square feet; and a lease with a tenure of less than one year, including renewals.

[PL 2013, c. 368, Pt. V, §56 (AMD).]

2-A. State's role in implementation of growth management programs. All state agencies, as partners in local and regional growth management efforts, shall contribute to the successful implementation of comprehensive plans and growth management programs adopted under this subchapter by making investments, delivering programs and awarding grants in a manner that reinforces the policies and strategies within the plans or programs. Assistance must be provided within the confines of agency policies, available resources and considerations related to overriding state interest.

[PL 2001, c. 406, §14 (NEW).]

3. Preference for other state grants and investments.

[PL 2003, c. 604, §1 (RP); PL 2003, c. 604, §3 (AFF); PL 2005, c. 397, Pt. A, §32 (RP); PL 2005, c. 397, Pt. A, §33 (AFF).]

3-A. Preference for other state grants and investments. Preference for other state grants and investments is governed by this subsection.

A. When awarding a grant or making a discretionary investment under any of the programs under paragraph B, subparagraphs (1) and (2) or when undertaking its own capital investment programs other than for projects identified in section 4301, subsection 5-B, a state agency shall respect the primary purpose of its grant or investment program and, to the extent feasible, give preference:

- (1) First, to a municipality that has received a certificate of consistency for its growth management program under section 4347-A;
- (2) Second, to a municipality that has adopted a comprehensive plan that the former State Planning Office or the department has determined is consistent with the procedures, goals and guidelines of this subchapter and has adopted zoning ordinances that the former State Planning Office or the department has determined are consistent with the comprehensive plan; and
- (3) Third, to a municipality that has adopted a comprehensive plan that the former State Planning Office or the department has determined is consistent with the procedures, goals and guidelines of this subchapter.

If a municipality has submitted a comprehensive plan, zoning ordinance or growth management program to the former State Planning Office or the department for review, the time for response as established in section 4347-A has expired and comments or findings have not been provided to the municipality, a state agency when awarding a grant or making a discretionary investment under this subsection may not give preference over the municipality to another municipality. [PL 2011, c. 655, Pt. JJ, §23 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. This subsection applies to:

- (1) Programs that assist in the acquisition of land for conservation, natural resource protection, open space or recreational facilities under Title 5, chapter 353; and
- (2) Programs intended to:
 - (a) Accommodate or encourage additional growth and development;
 - (b) Improve, expand or construct public facilities; or

(c) Acquire land for conservation or management of specific economic and natural resource concerns. [PL 2003, c. 604, §2 (NEW); PL 2003, c. 604, §3 (AFF).]

C. This subsection does not apply to state grants or other assistance for sewage treatment facilities, public health programs or education. [PL 2003, c. 604, §2 (NEW); PL 2003, c. 604, §3 (AFF).]

D. The department shall work with state agencies to prepare mechanisms for establishing preferences in specific investment and grant programs as described in paragraph B. [PL 2011, c. 655, Pt. JJ, §23 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]
[PL 2011, c. 655, Pt. JJ, §23 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

4. Application. Subsections 1 and 2 apply to a state capital investment for which an application is accepted as complete by the state agency funding the project after January 1, 2001 or which is initiated with the Department of Administrative and Financial Services, Bureau of General Services by a state agency after January 1, 2001.
[PL 1999, c. 776, §10 (NEW).]

SECTION HISTORY

PL 1999, c. 776, §10 (NEW). PL 2001, c. 90, §2 (AMD). PL 2001, c. 406, §§12-15 (AMD). PL 2001, c. 593, §1 (AMD). PL 2001, c. 613, §§2,3 (AMD). PL 2003, c. 510, §A28 (AMD). PL 2003, c. 604, §§1,2 (AMD). PL 2003, c. 604, §3 (AFF). PL 2003, c. 641, §§16,17 (AMD). PL 2005, c. 397, §A32 (AMD). PL 2005, c. 397, §A33 (AFF). PL 2011, c. 542, Pt. A, §54 (AMD). PL 2011, c. 655, Pt. JJ, §§22, 23 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2013, c. 368, Pt. V, §56 (AMD). PL 2013, c. 424, Pt. B, §10 (AMD). PL 2017, c. 407, Pt. A, §120 (AMD). PL 2023, c. 218, §1 (AMD).

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