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TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON
JUDICIARY

IN SUPPORT OF LD 2170

An Act to Correct Inconsistencies, Conflicts and Errors in the Laws of Maine

February 3, 2024

Senator Carney, Representative Kuhn, and Joint Standing Committee on Judiciary members, my name is Judy East. I am the Director of the Bureau of Resource Information and Land Use Planning (BRILUP) in the Department of Agriculture, Conservation and Forestry (DACF). I am speaking in support of LD 2170, "*An Act to Correct Inconsistencies, Conflicts and Errors in the Laws of Maine.*"

The 1st Session of the 132nd Legislature passed two laws to modify sections of **Title 30-A**, governing Growth Management, and **Title 5**, moving the Municipal Planning Assistance Program (MPAP) from the Department of Agriculture, Conservation and Forestry (DACF) to the Maine Office of Community Affairs (MOCA). While most of the statutory alignments between the two titles were captured by LD 2170, I bring to your attention three loose ends that were not; this supportive testimony is therefore straightforward housekeeping.

[Public Law Chapter 393](#) (LD 1751) modified Subchapters 1 and 2 of the Planning and Land Use Regulation Act (Title 30-A Chapter 187) that establish the standards for the preparation of a Comprehensive Plan and a Growth Management Program.

[Public Law Chapter 388](#) (LD 210, AKA, the biennial budget) moved the MPAP to MOCA and defines the State review process of Comprehensive Plans and Growth Management Programs, the financial and technical assistance programs, and rules associated with Growth Management Programs and Comprehensive Plans that are consistent with the rules. These functions are now within Title 5 and repealed from Title 30-A.

There are three items that were adopted by PL 393 (LD 1751) that are neither reflected in MRS 5 §3233 nor proposed for correction in LD 2170. These include the following items (endnotes provide the language in LD 1751 that was removed in strikethrough and the new language in underline):

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1. The adjusted review period timesⁱ from MRS 30-A §4347-A (Review of Programs by Department).
2. The language describing how to revise a planⁱⁱ based on a state review from 30-A MRSA §4347-A, sub-§3-A.
3. The time that a consistency finding is valid and outdated references to the former State Planning Office and expired deadlinesⁱⁱⁱ.

Thank you for your time. I would be happy to answer any questions now or at the work session.

ⁱ Sec. 40. 30-A MRSA §4347-A, sub-§3-A, ¶C, as amended by PL 2011, c. 655, Pt. JJ, §21 and affected by §41, is further amended to read:

C. Within ~~35~~ 10 business days after receiving the comprehensive plan, notify the municipality or multimunicipal region if the plan is complete for purposes of review.

If the department notifies the municipality or multimunicipal region that the plan is not complete for purposes of review, the department shall indicate in its notice necessary additional data or information;

D. Within ~~40~~ 35 business days of issuing notification that a comprehensive plan is complete for purposes of review, issue findings specifically describing whether the submitted plan is consistent with the procedures, goals and guidelines established in this subchapter and identify which inconsistencies in the plan, if any, may directly affect rate of growth, zoning or impact fee ordinances.

(1) In its findings, the department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the department.

(2) If the department finds that the comprehensive plan was developed in accordance with the procedures, goals and guidelines established in this subchapter, the department shall issue a finding of consistency for the comprehensive plan.

(3) A finding of inconsistency must identify the goals under this subchapter not adequately addressed, specific sections of the rules relating to comprehensive plan review adopted by the department not adequately addressed and recommendations for resolving the inconsistency;

ⁱⁱ Sec. 42. 30-A MRSA §4347-A, sub-§3-A, ¶F, as amended by PL 2011, c. 655, Pt. JJ, §21 and affected by §41, is further amended to read:

F. Provide ample opportunity for the municipality or multimunicipal region submitting a comprehensive plan to respond to and ~~correct any identified deficiencies in the plan~~ revise the plan to be consistent with the procedures, goals and guidelines of this subchapter. A finding of inconsistency for a comprehensive plan may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the plan must be resubmitted in its entirety for state review under the department's most current review standards.

ⁱⁱⁱ Sec. 44. 30-A MRSA §4347-A, sub-§3-A, as amended by PL 2011, c. 655, Pt. JJ, §21 and affected by §41, is further amended by amending the 3rd blocked paragraph to read:

A finding by the department pursuant to paragraph D that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid for 12 years from the date of its issuance. A finding by the ~~former State Planning Office~~ department issued pursuant to this subchapter prior to ~~December 31, 2000~~ after January 1, 2013 that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid until December 31, ~~2012~~ 2028 or 12 years after the date of consistency determined by the department, whichever is later. For purposes of section 4314, subsection 3 and section 4352, subsection 2, expiration of a finding of consistency pursuant to this subsection does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines established in this subchapter.