

# New-to-ME Planning webinar series

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Growth Management Law

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# New-to-ME planning webinar series

## Purpose and Goals

- ▶ Understanding the fundamentals
  - ▶ statute, rules, and roles of planning in Maine
- ▶ Introductions and relationship building
- ▶ Networking
- ▶ Mentoring

Please use the chat!



# GM law - overview for today

- ▶ GM Law - statutory overview
- ▶ Timeline - significant dates/changes
- ▶ Push-pull dynamics - controversy
- ▶ Need for reform in the 21<sup>st</sup> Century
- ▶ Insights from 2023 GM Program Evaluation
- ▶ Rulemaking - Chapter 208 CP Review Criteria

# Maine's Growth Management Law

Title 30-A Chapter 187 Planning and Land Use Regulation § 4301-4457

- Governs preparation/adoption of a local comprehensive plan and associated land use ordinances
- Does not require every community to prepare a comprehensive plan - a common misconception
- Does require every community that regulates land use to develop a comprehensive plan
- To be found consistent with the GM Law, the CP must designate Growth and Rural areas
- LD 2003 targets Growth Areas allowing up to 4 units of housing on a lot that allows residential uses



# “Growth Management”

Title 30-A Chapter 187 Planning and Land Use Regulation § 4301-4349-A

- ▶ Definitions § 4301-4302
- ▶ **Growth Management Program**
  - ▶ Statement of Purpose/State Goals § 4312
  - ▶ Local authority for growth management § 4323 (express limitation on home rule)
  - ▶ Responsibility § 4324-4325 (public input, regional coordination)
  - ▶ GM Program elements § 4326
- ▶ Evaluation §4331 (reporting to legislature)
- ▶ Technical and Financial Assistance § 4345-4346
- ▶ Review of Comp Plans §4347 - Rulemaking: Chapter 208
- ▶ Growth-related Capital Investments § 4349-A



# “Growth Management”

## Title 30-A Chapter 187 Planning and Land Use Regulation Implementation mechanisms § 4351-4357

- ▶ Land Use Regulation § 4351-4363
- ▶ Informed Growth Act § 4365-4372
- ▶ Subdivision § 4401 - 4408
- ▶ Enforcement § 4451 - 4453
- ▶ Municipal Regulation of Water Levels and Minimum Flows § 4454 - 4457

# GM Law legislative history - significant dates

- 1989
  - ▶ Enacted
- 1991
  - ▶ Repealed/reinstated
- 1999-2001
  - ▶ Growth-related capital investments ++
- 2003
  - ▶ Growth caps
- 2007
  - ▶ Informed Growth Act “big box retail”
- 2008-2011
  - ▶ 12-year consistency “shelf life”, rulemaking
- 2019
  - ▶ ADUs, Ageing in place, downtown parking, Sea Level Rise
- 2022
  - ▶ Climate, fair housing, Service Centers, goals “clean-up”



# Growth Management Law

## Push-Pull Dynamics:

Home rule and state oversight

Complex and controversial

Originally enacted 1989 after the “consumption decade”

Very high development pressures (Increasing SDs, BPs)

Land use is local; most everything else is regional

## GM Law (1989)

- ▶ REQUIRED municipalities to prepare Comp Plans; address 10 State Goals; designate Growth /Rural areas

## GM Law (1991)

- ▶ Repealed entirely; reinstated given the constitutional need to base zoning on public policy as expressed in a Comprehensive Plan; CPs **no longer mandatory**





# GM Law - anti-sprawl and rate of growth initiatives

GM Law (1999-2001): Several measures to give local Comp Plans more “teeth” and address costs of development sprawl

- ▶ Growth-related capital investments targeted to growth areas § 4349-A
- ▶ Required inclusion of Capital Investment Plan
- ▶ Required Timetables for implementation

GM Law (2003): Rate of Growth Ordinances § 4360 “Growth caps”

- ▶ Sets limits on # of permits in growth and rural areas
- ▶ Affordable housing provision

GM Law (2007): Informed Growth Act § 4365-4372 “big box retail”

- ▶ Municipalities can require a “comprehensive economic impact area” study when large retail is proposed



# GM Law - Rulemaking

## Rulemaking and then a significant political pendulum shift

GM Law (2008-2011): substantial rulemaking intended to streamline CP review process

- ▶ Focus on future land use plan
- ▶ Checklist for review of Comp Plans
- ▶ 12-year “shelf life” for consistency findings
- ▶ Significant loss of state staff and state/regional/municipal resources
- ▶ Erosion of state agency implementation of growth-related capital investments

GM Law (2012): elimination of State Planning Office

- ▶ Shift of land use staff to Municipal Planning Assistance Program at DACF



# GM Law -recent changes

## GM Law (2019): downtowns, aging in place, sea level rise

- ▶ Accessory dwelling units
- ▶ Downtown parking; upper floor re-use
- ▶ Housing to age in place; create age-friendly communities
- ▶ Plan for the effects of sea level rise on infrastructure

## GM Law (2022): various

- ▶ Fair housing provision linked to economic equity in goals
- ▶ LD 2003 provisions in affordable housing and increased density in growth areas
- ▶ Implement *Maine Wont' Wait* - 4 Year Plan for Climate Action
- ▶ Service Center Analysis - every 5 vs. every 10 years
- ▶ Goals and guidance "clean-up"

# Created in 1989 - pre-Internet

## 21<sup>st</sup> Century need & speed of change

### ▶ Preparation:

- ▶ Inventory requirements
- ▶ Staff demand on assembly of data; municipal/staff/contractor/volunteer demand to send it back
- ▶ Opportunity cost: public involvement, policy, and strategy development
- ▶ Volunteer burnout

### ▶ State Review Process:

- ▶ Checklist/inventory vs. policy focus
- ▶ Timeliness and state capacity
- ▶ Static data and maps as a decade+ elapses

# Evaluation §4331 - report to legislature

§4331 - The department shall conduct an ongoing evaluation process to determine the **effectiveness** of state, regional and local efforts under this chapter **to achieve the purposes and goals** of this chapter. The department shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the department in this effort.

- ▶ **1. Criteria.** In conducting the evaluation, the department shall develop criteria based on the goals of this chapter. The criteria must be objective, verifiable and, **to the extent practicable, quantifiable**.
- ▶ **2. Baseline conditions.** The department shall establish a baseline of land use conditions at a level of detail sufficient to permit general **comparison of state and regional trends in future land use development patterns**.
- ▶ **3. Public input.** The department shall incorporate **opportunities for public input** and comment into the evaluation process.
- ▶ **4. Level of analysis.** The department shall evaluate the program generally at a regional and statewide level. To illustrate the impact of the program, the department shall **compare** land use development trends and patterns in a **sample of towns that have participated in the program with a matched sample of towns that have not participated**. The evaluation performed by the department **must include** an analysis of the **State's financial commitment to growth management**.

# GM Law Evaluation - January 2023

Three criteria for evaluation:

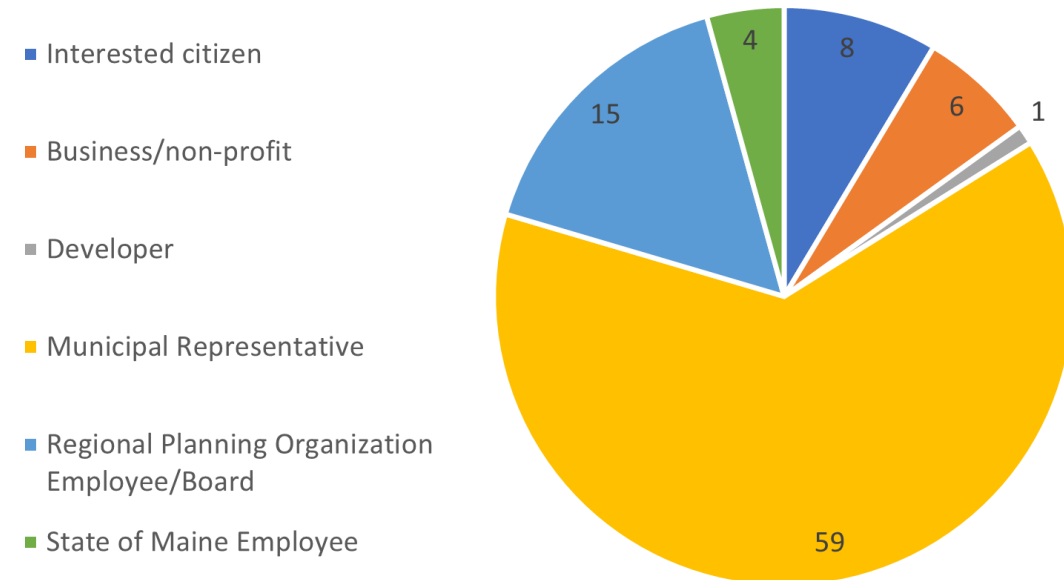
- ▶ Development tracking
- ▶ Local and regional planning activity
- ▶ State financial commitment to the growth management program

▶ Each criterion:

- ▶ Status & analysis
- ▶ Findings & Recommendations

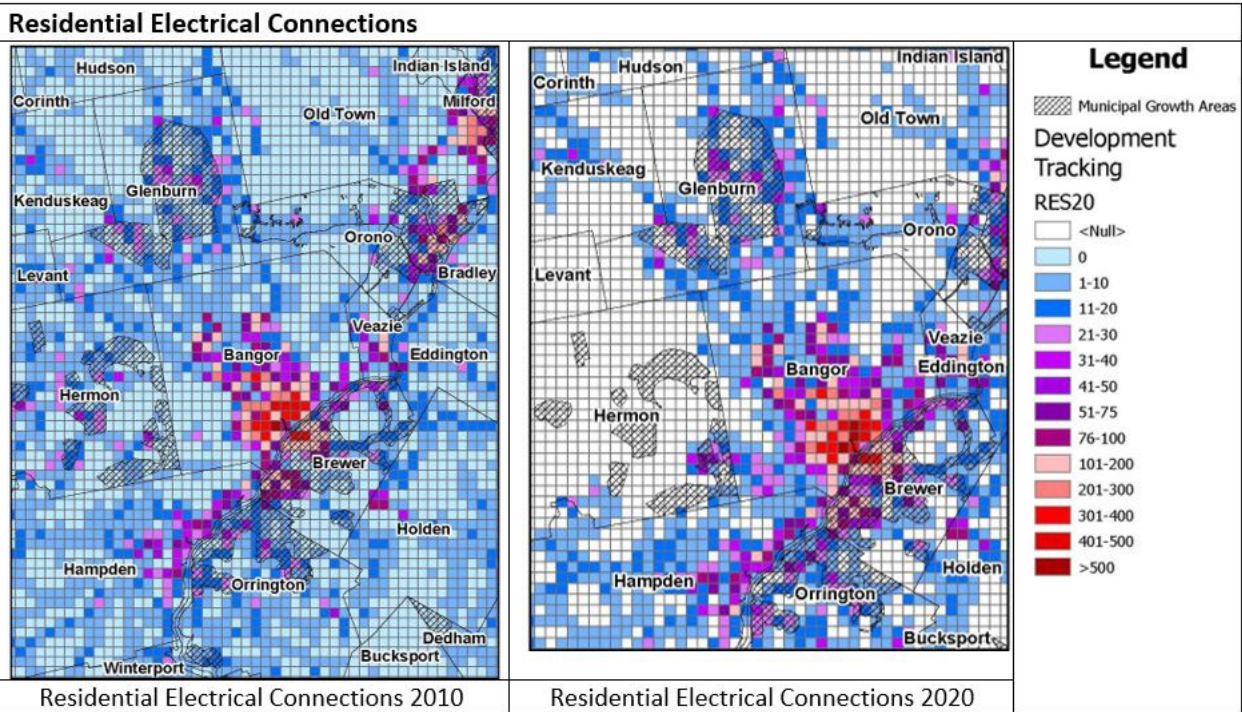
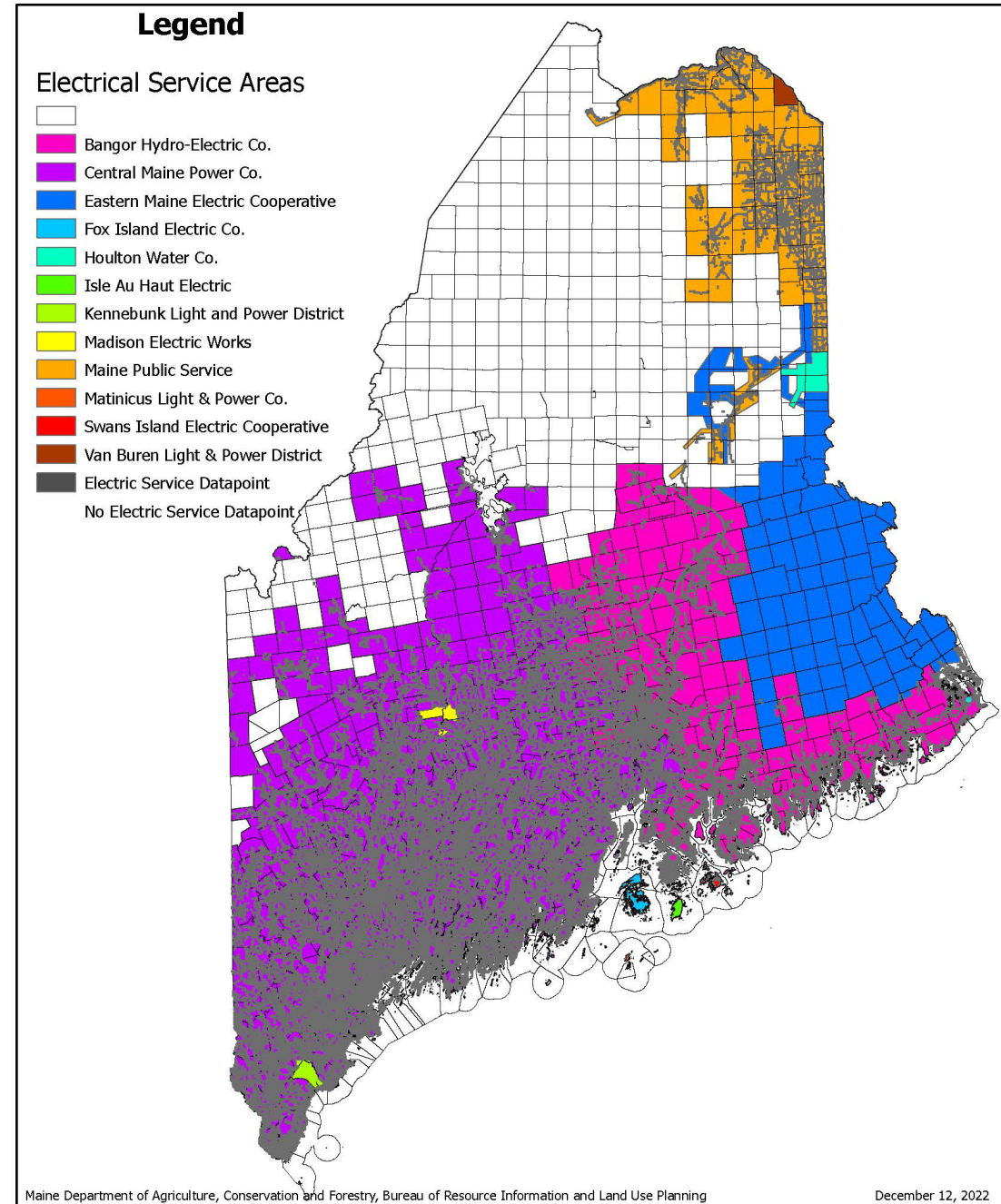
▶ Broad consultation

What is your relation to planning in Maine?



# Development tracking

- ▶ Change detection of impervious surfaces and building locations
- ▶ New electrical service connections
- ▶ E-911 address points (survey suggestion)



# Local & regional planning activity

Since 2011

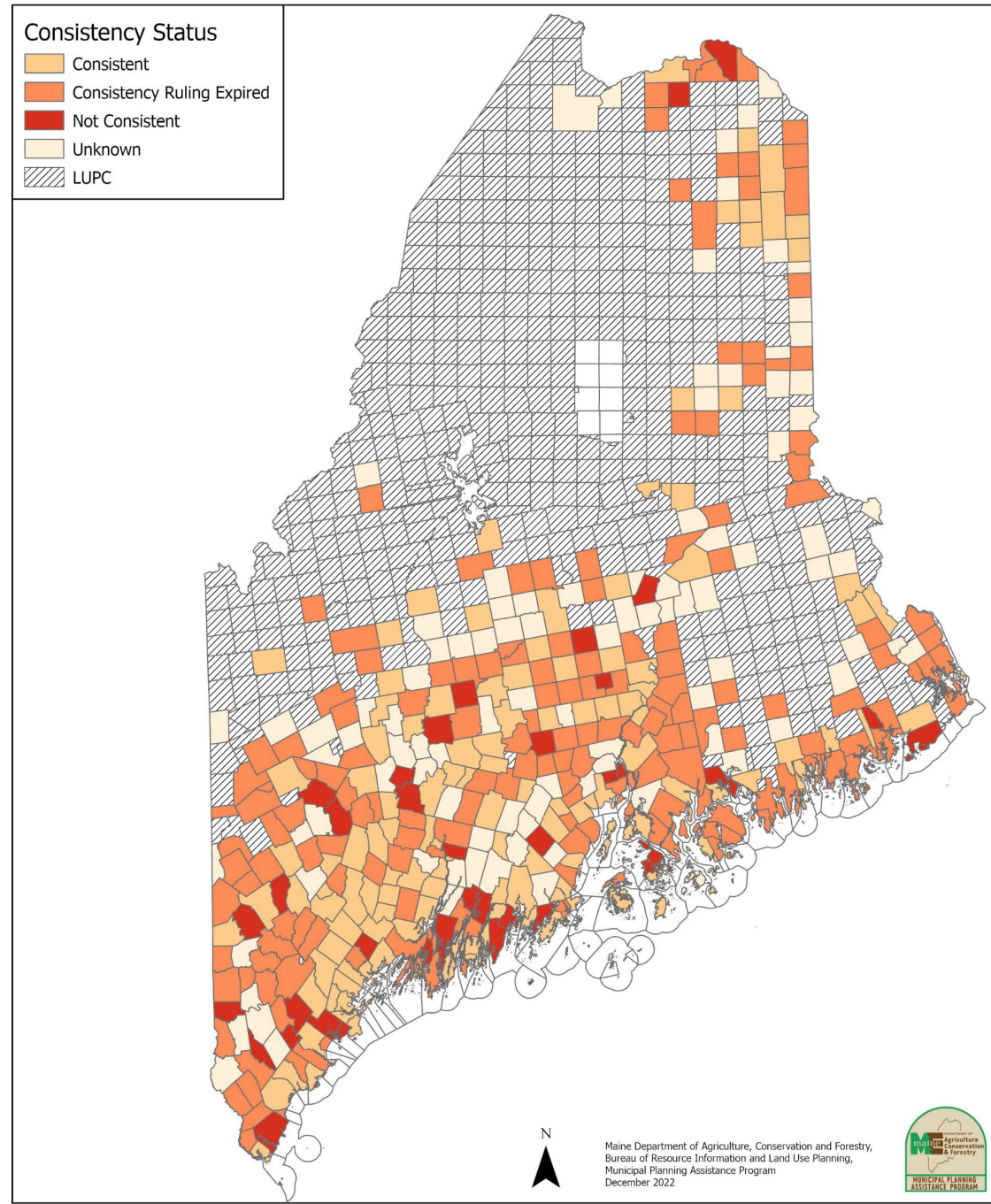
- ▶ 149 Comprehensive Plans submitted for state review
  - ▶ 132 found consistent
  - ▶ 7 under review (early 2023)
  - ▶ 3 incomplete - 2 were corrected and found consistent
  - ▶ 1 inconsistent (resubmitted and under review)
  - ▶ 1 withdrawn

Current status:

- ▶ 132 consistent with GMLaw
- ▶ 183 - expired consistency finding
- ▶ 37 found inconsistent
- ▶ 102 are unknown (never prepared or never submitted)

Last 3 years:

- ▶ 123 communities received data sets (58 with expired consistency finding)



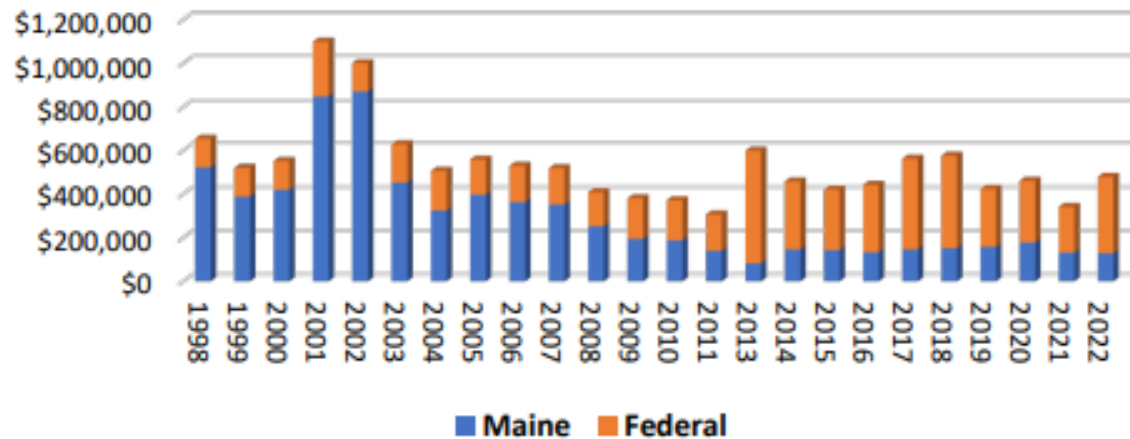


# State financial commitment to the growth management program

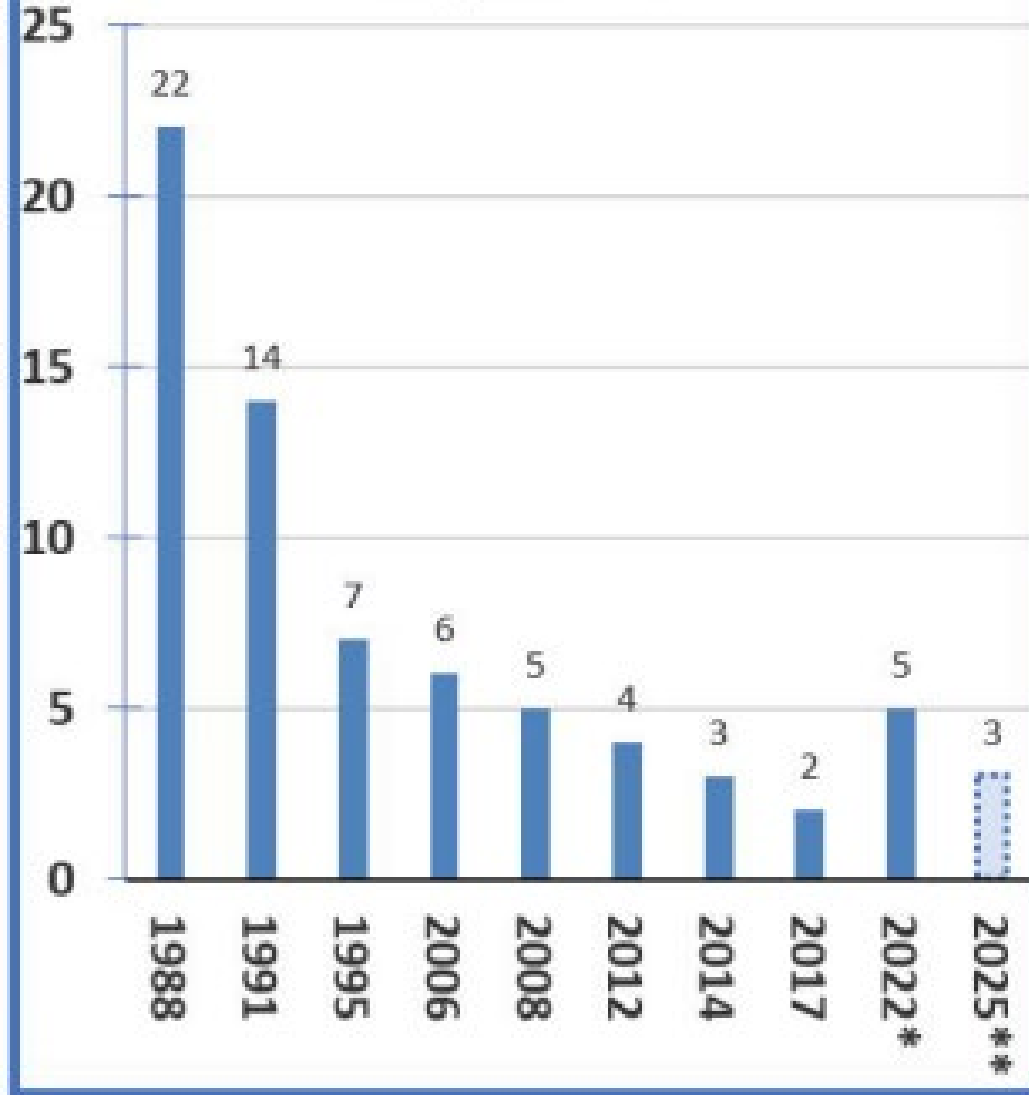
Four main conduits for state investment:

- ▶ a land use program at MPAP (former State Planning Office)
- ▶ municipal grants to develop and implement comprehensive plans (eliminated in 2007)
- ▶ grants to Regional Planning Organizations
- ▶ state investment in local facilities and infrastructure

**Program Grant Funding Levels**



**State Growth Management Program Staff**



\* 2022: 3 of 5 positions vacant

\*\* 2025: 2 limited period positions end



# Chapter 208 - Comprehensive Plan Review Criteria Rule

- ▶ Rulemaking initiated July 2023
- ▶ 8-9 month process
- ▶ Drafting within MPAP/BRILUP
- ▶ Outreach meetings to review concepts/drafts in January-March
- ▶ Goals:
  - ▶ Address one size fits all issue - allow/encourage a significant increase in regional plan preparation to address regional issues (73% of ME municipalities: population less than 3000)
  - ▶ Larger communities can still address/include the full range of topic areas
- ▶ Data delivery improvements
  - ▶ Online GIS access (new MPAP staff)
  - ▶ Development tracking
- ▶ Rules, Statute, Guidance

# Questions? Additional research?

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