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STATE OF MAINE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

COMMITTEE ON STATE AND LOCAL GOVERNMENT

To: Richard W. Rosen, Senate Chair  
Patrick S.A. Flood, House Chair  
Joint Standing Committee on Appropriations and Financial Affairs

From: Douglas A. Thomas, Senate Chair *D.A.T.*  
H. David Cotta, House Chair *MD*  
Joint Standing Committee on State and Local Government

Re: Report back on LR 2847, supplemental budget

Date: March 27, 2012

The State and Local Government Committee has completed its deliberations on LR 2847, the supplemental budget bill. The Committee met on March 26<sup>th</sup>, 2012. The Committee has the following recommendations and divided votes:

**Department of Administrative and Financial Services initiatives and language with the exception of Language Part KKK** (pages A-1 to A-3, Language Parts N, XX, ZZ, EEE, GGG, HHH and III): The Committee voted unanimously of those present to accept the recommendations from Department of Administrative and Financial Services (with the exception of Part KKK) as presented. Those present to vote were Sen. Thomas, Reps. Cotta, Harvell, Moulton, Turner, Boland, Casavant and Graham. Rep. Kaenrath also voted with the rest of the Committee on March 27<sup>th</sup>.

**Department of Administrative and Financial Services, Part KKK, Online public notice service:** The Committee voted unanimously of those present to remove the language of Part KKK from the supplemental budget. The Committee recommends that the Department of Administrative and Financial Services come up with a more detailed plan that includes more information about savings and possible contract costs and submit legislation next session. The Committee believes that this issue should be proposed in a legislative policy bill rather than a budget bill. Those present to vote were Sen. Thomas, Reps Cotta, Harvell, Moulton, Turner, Boland, Casavant and Graham. Rep. Kaenrath voted with the rest of the Committee on March 27<sup>th</sup>.

**Office of the Treasurer of the State debt service initiative (A-96 – 0021):** The Committee voted unanimously of those present to accept the initiative on debt service as presented. Those present to vote were Sen. Thomas, Reps Cotta, Harvell, Moulton, Turner, Boland, Casavant and Graham. Rep. Kaenrath voted with the rest of the Committee on March 27<sup>th</sup>.

**State Planning Office (A-37 – A-38, Portions of Language Parts of CC, EE and NN):** The Committee divided on the elimination of the State Planning Office and the transfer of its duties with a vote of 6-5 to accept the budget as presented. Those voting in favor of the budget proposal were Sens. Thomas and Collins and Reps. Cotta, Harvell, Cebra and Turner. Those voting against the proposal were Reps. Moulton, Boland, Casavant and Graham. Rep. Kaenrath registered his vote for the minority report on March 27<sup>th</sup>. The preference of the minority is to amend the proposal in line with the language that was presented by a number of the testifiers during the public hearing. The minority report language is attached.

**Office of Policy and Management (A-36, Language Parts Q and DD, portions of Language Parts CC, EE and NN):** The Committee also divided on the creation of the Governor's Office of Policy and Management with a vote of 6-5 to accept the proposal as presented. Those voting in favor of the budget proposal were Sens. Thomas and Collins and Reps. Cotta, Harvell, Cebra and Turner. Those voting against the proposal were Reps. Moulton, Boland, Casavant and Graham who are not in favor of the creation of a new OPM office within the Governor's Office. Rep. Kaenrath registered his vote for the minority report on March 27<sup>th</sup>.

**Subpoena power and confidentiality of papers in the proposed Office of Policy and Management:** The majority of the Committee that voted in favor of the creation of Office of Policy and Management (above) do not choose to comment on the language related to subpoena power and confidentiality of papers. The Committee learned that the Judiciary Committee has been asked by the Appropriations and Financial Affairs Committee to weigh in on this issue as well as proposed amended language relating to subpoena power and confidentiality; we consider that the Judiciary Committee are the policy experts and we defer to them.

**An Act to Implement the Maine Land Use Planning, Training and Technical Assistance Act**

**Be it enacted by the People of the State of Maine**

Sec. 1. 5 MRSA, Pt. 31 is enacted to read:

**PART 31**

**Land Use Planning, Training and Technical Assistance Act**

**CHAPTER 631**

**§25001. TITLE**

This chapter shall be known and may be cited as the “Maine State Land Use and Planning, Training and Technical Assistance Act.”

**§25002. DEFINITIONS**

The following terms shall have the following meanings, unless a different meaning is plainly required by the context:

**1. Comprehensive planning.** “Comprehensive planning” includes, but is not limited to:

A. Preparation of strategic and long-range plans and goals for human and physical resources development and utilization, but does not include preparation of an economic development strategy pursuant to chapter 383;

B. Standards and procedures for programming and financing plans for capital improvements;

C. Coordination of related departmental plans;

D. Intergovernmental coordination of related planning activities;

E. Preparation of regulatory and administrative measures in support of paragraphs A to D; and

F. Continuing analysis of the economy of the State in conjunction with the Department of Economic and Community Development.

**2. Director.** “Director” means the State Land Use Planning Director.

**3. Office.** “Office” means the State Land and Use Planning Office as provided in section 25003.

**§25003. STATE LAND USE AND PLANNING OFFICE**

There is established to carry out the purpose of this chapter a State Land Use and Planning Office in the Executive Department which is concerned with research, analysis and the formulation, coordination and management of land use policy. The State Land Use Planning Office is directly responsible to Governor and serves as an advisory, consultative, coordinating, and administrative and research agency as specified in section 25005. The State Land Use Planning Office assists the Governor and other state agencies in land use planning and policy development for the State, its political subdivisions and regional planning commissions.

## **§25004. STATE PLANNING DIRECTOR**

**1. Director.** The Executive head of the State Land and Use Planning Office is the director and is appointed by the Governor to serve at the pleasure of the Governor.

**2. Qualifications.** The director shall be qualified by education, training and experience in planning or public administration.

**3. Powers and duties.** The director shall exercise the powers of the State Land Use and Planning Office and shall be responsible for the execution of its duties. The director shall:

A. Appoint and remove the staff of the office and prescribe their duties as may be necessary to implement the purposes of this chapter. Professional employees authorized by this chapter shall be hired as unclassified employees. All other employees shall be subject to those civil service and personnel policies established for state employees generally and shall be paid salaries at rates of pay comparable to those of state employees with equivalent responsibilities in other state agencies.

(1) The State Land Use Planning Director is authorized to employ professional planning personnel competent by education, training and experience in fields such as economics, local and regional planning, public policy and natural resources.

(2) The director is authorized to employ such statistical, clerical and other office help as required and authorized by the budget;

B. Be assisted by departments, agencies, authorities, boards, commissions, other instrumentalities of the State or other governmental units in the gathering of information, reports and data which relate to state planning. The State Land Use Planning Office shall designate staff members of the office who shall work with the several departments;

C. At the director's discretion, act for the State in the initiation of or participation in any multi-governmental agency program relative to the purposes of this chapter;

D. Prepare and submit for executive and legislative action thereon the budget for the State Land Use Planning Office;

E. Make reports at least annually to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government matters detailing the activities of the office and, after consultation with and approval by the Governor, submit such recommendations for legislative action as determined necessary to further the purposes of this chapter; and

F. Make reports annually to the joint standing committee of the Legislature having jurisdiction over natural resources matters detailing the activities of the office regarding land issues and, after consultation with and approval of the Governor, submit recommendations for legislative action as determined necessary to further the purposes of this chapter.

**§25005. POWERS AND DUTIES OF THE STATE LAND USE AND PLANNING OFFICE**

**1. Powers and duties.** The State Land Use and Planning Office shall:

A. Coordinate the preparation of State land use policies with State economic development, environmental, energy, and transportation policies to serve as guidance for State agencies and local and regional comprehensive plans.

The State Land Use and Planning Office shall give the public full opportunity to participate in the formulation of these policies and these policies shall not be in direct conflict with adopted local and regional plans;

B. Provide technical assistance to the Governor and Legislature by undertaking special studies and plans, preparing or analyzing policy alternatives and identifying the immediate and long-range needs and resources to meet these needs in the area of land use planning. The office shall prepare the plans and studies at the request of the Governor, the Legislature or interdepartmental committees, councils and task forces;

C. Collect data and prepare statewide forecasts relating to matters affecting the growth and development of the State and its resources to assist the Governor, the Legislature and the various state departments in formulating and achieving economic goals and to assist local and regional agencies in the preparation of local and regional plans. These data and statistics, including census information, shall be made available to the Legislature and public upon request.

(1) All state agencies shall cooperate with the State Land Use and Planning Office with respect to the provisions of this paragraph.

(2) In implementing this paragraph, the State Land Use and Planning Office may use secondary data made available to the office by other state agencies or other organizations;

D. Upon request provide technical assistance to local and regional planning groups in the fields that are relevant to the elements of a growth management program under Title 30-a, Chapter 187. The office shall make available to municipalities and regional planning agencies existing information from state agencies to be used in the development of comprehensive plans and land use ordinances. The director shall oversee delivery of technical assistance and resources to municipalities for the purpose of flood plain management activities. The director shall provide technical assistance to municipalities and regional planning organizations in the development and implementation of local comprehensive land use plans and local building codes and those local building rehabilitation codes that are consistent with any model building codes adopted by the State. The office shall review growth management program pursuant to Title 30a, Chapter 187, or as otherwise directed by the Legislature or requested by municipalities and regional planning agencies;

E. Participate with other states or subdivisions thereof in interstate planning, and assist cities, towns, municipal corporations, counties and regional councils to participate with other states or their subdivisions in planning;

F. At its discretion, assist in planning and executing any public or private project involving grants or loans; advise, confer and otherwise cooperate with municipal planning boards, agencies, officials, civic and other groups and citizens in matters relating to urban renewal,

zoning and planning relating to schools, housing, health, land use controls and other objectives;

G. Act as the coordinating agency between the several officers, authorities, boards, commissions, departments and divisions of the State in matters relative to the physical development of the State and review the proposals of those agencies in the light of their relationship to the adopted policies and incorporate such reviews in the reports of the office. Nothing in this section may be construed as limiting the powers and duties of any officer, authority, board, commission, department or political subdivision of the State; and

H. Compile, analyze and maintain information useful to the development of industry in the State concerning resources, sites, space, equipment, adequate housing, contracts, materials, transportation, markets, labor supply, population trends and other economic considerations and shall measure and monitor economic distress and poverty in the State on an ongoing basis. The State Land Use Planning Office, in conjunction with the Department of Economic and Community Development, shall study problems peculiar to the industry and economy of this State with a view toward the broader utilization of our natural resources, which studies must be advanced by coordination of research with existing private and governmental agencies and educational institutions, and may be advanced by contractual relations with persons or organizations equipped to conduct the needed research. The State Planning Land Use Office shall, upon request from the Governor or any state department, assist in the preparation of reports regarding the responsibilities and duties provided by this subsection, including regular analysis of poverty and economic distress. The State Land Use Planning Office shall coordinate its activities pursuant to this paragraph with the Bureau of Child and Family Services to meet the annual reporting needs of the bureau;

I. Administer a program of training and certification for municipal code enforcement officers; and

J. Administer the Maine Coastal Program pursuant to the federal Coastal Zone Management Act of 1972.

## **2. Administrative responsibilities.**

A. The State Land Use Planning Director is authorized to employ staff as described in section 25004, subsection 3.

B. The State Land Use Planning Office, with the consent of the Governor, may employ such expert and professional consultants, and contract for such research projects, as it deems necessary within the limits of the funds provided and consistent with the powers and duties of the office.

C. The State Land Use Planning Office is authorized and empowered to enter into such agreements with the Federal Government and other agencies and organizations as will promote the objectives of this chapter.

D. Funds from the Federal Government or from any individual, foundation or corporation may be accepted by the State Planning Office and expended for

purposes consistent with this chapter.

The office may prepare and distribute printed and audio-visual materials on matters within its statutory jurisdiction. The director shall fix the prices at which publication of the office shall be sold or delivered. The office shall decide which publications shall be included and shall retain, without charge, an appropriate number of each publication for complimentary distribution. Income from the sale of publications shall be credited to the General Fund.

## **§25006. MAINE DOWNTOWN CENTER**

**1. Establishment.** The Maine Downtown Center, referred to in this section as the "center," is established to encourage downtown revitalization in the State.

**2. Purpose.** The center serves the following functions:

A. To advocate for downtown revitalization;

B. To promote awareness about the importance of vital downtowns;

C. To serve as a clearinghouse for information relating to downtown development; and

D. To provide training and technical assistance to communities that demonstrates a willingness and ability to revitalize their downtowns.

**3. Collaboration.** The State Land Use Planning Office within the Executive Department shall work collaboratively with the Commissioner of Economic and Community Development, the Maine Development Foundation and other state agencies to coordinate the programs of the center.

**4. Funding.** The center shall develop a plan for the ongoing funding of the center.

**5. Definition.** For the purposes of this section, "downtown" has the same meaning as in Title 30-A, section 4301, subsection 5-A.

## **§25007. FLOODPLAIN MAPPING FUND**

**1. Fund established.** The Floodplain Mapping Fund, referred to in this section as "the fund," is established as a dedicated nonlapsing fund administered by the office for the purpose of providing funds for the mapping of floodplains using light detection and ranging technology in the State.

**2. Sources of money.** The fund consists of any money received from the following sources:

A. Contributions from private sources;

B. Federal funds and awards;

C. The proceeds of any bonds issued for the purposes for which the fund is established;

and

D. Any other funds received in support of the purposes for which the fund is established.

**3. Disbursements from the fund.** The State Land and Use Planning Office shall apply the money in the fund toward the support of floodplain mapping in the State, including, but not limited to, the acquisition of light detection and ranging elevation data and the processing and production of floodplain maps.

## **§25007. REGIONAL PLANNING FUND**

**1. Fund established.** The Regional Planning Fund, referred to in this section as "the fund," is established as a dedicated nonlapsing fund administered by the State Land and Use Planning Office for the purpose of providing contractual support to regional councils as established in 30-A, Chapter 187, section 4346, subsections 3 and 4.

**2. Sources of money.** The fund consists of any money received from the following sources:

A. Contributions from private sources;

B. Federal funds and awards;

C. Any other funds received in support of the purposes for which the fund is established.

**3. Disbursements from the fund.** The State Land Use and Planning Office shall apply the money in the fund toward the support of the land use planning services provided to municipalities by regional councils.