

FOREST PRODUCTS NEWS

Land Use Regulation Commission

**By Patrick Strauch
Executive Director**



The Agriculture Conservation and Forestry (ACF) Committee recently concluded the work sessions for LD 1798, An Act to Reform Land Use Planning in the Unorganized Territory. The bill is modeled after the proposals presented by the LURC study commission which had been meeting for the past several months. The commission returned with a unanimous report that includes substantial changes to LURC's make

up and duties but does not eliminate the agency.

The work sessions began with the legal analyst Jill Ippoliti walking the committee through the proposed changes to the current law. Several times members asked for additional information or clarification on different aspects of the reforms. In order to keep the processes moving, questions were noted and staff from the DEP and LURC were present at all work session to, provide clarity.

Senate Chairman Roger Sherman kept the committee moving forward. The Senator used a list of ten areas making up the proposed reforms to conduct straw polls among the committee members to identify issues that could be included without further debate. There were at least three work sessions with several amendments added.

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Takings Update

The issue of regulatory takings is back before the Judiciary Committee this session. A study group was created during the 1st half of the 125th legislature and worked over the summer to draft recommendations on how to correct the current law which makes it nearly impossible to prove a takings claim. Maine courts have ruled that an aggrieved person must be able to prove that 95% of their property value has been lost in order to receive compensation.

The study group's proposals were drafted into LD 1810 and the public hearing for the bill was held on February 21st. While the usual parade of environmental lobbying groups appeared before the committee to misrepresent the contents of the bill, many proponents of this legislation also testified in favor of this badly needed reform. Those speaking in favor of the bill included foresters, small landowners, and farmers who have suffered financial loss due to overreaching and arbitrary land use regulation.

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LURC.....(Cont from page 1)

In the final analysis areas of agreement included:

- Revisions to the purpose and scope
- Increasing the commission size from 7 to 9 members.
- The 8 largest counties would nominate 8 commission members with the 9th nominated by the governor.
- All wind development would be handled by the DEP.
- Increase LURC's focus on prospective zoning and planning on a regional basis.
- Move forest regulation to the Maine Forest Service.
- Transition LURC staff over time to areas closer to the UT.
- LURC hearings and meeting would be held closer to the UT and project areas.
- Large projects would encourage pre-proposal meetings with LURC commissioners.

Areas the committee decided needed more discussion included:

- Moving small project permitting to counties
- Moving projects subject to the Site Location Development Act to DEP

Representative Foster (R – Augusta) introduced an amendment to the bill during this process that would make some changes to sections dealing with nominations and ap-

pointments as well as the opt-out provisions.

Changes to the opt-out provision in the amendment would force the counties to wait a minimum of five years from the date of the bills final passage to begin the withdrawal process. Counties would also have to demonstrate their financial capacity to carry out municipal functions. Review by the ACF committee and the full legislature would be required before a county could fully withdraw from LURC. This process would be similar to the way major substantive rules are handled by the committee and the full legislature.

Nominations to the new land use planning commission would require review by the ACF Committee and confirmation by the Senate. County nominations to the commission would increase from 6 to 8 and include Oxford and Hancock. The final nomination would be made by the Governor. The committee voted 7-5 along party lines to accept the changes in the amendment.

Perhaps the most debated recommendation is this county opt-out option. While we are optimistic the proposed reforms will achieve the goal of making LURC more responsive and accountable, this provision reserves the right for counties to take control of their own land use planning. This "safety valve" would

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LURC.....(Cont from page 2)

enable a county to, at their own expense, shift to land use planning under the Growth Management Act similar to any other organized town in Maine. Originally there was a three year threshold before a county could begin this rigorous the opt-out process.

Opponents to reform are painting the opt-out provision as the end of LURC, where most of the counties would simply opt-out as fast as possible. The MFPC believes the bar has been set high enough that counties would only choose to execute this option as a last resort if the other reforms prove inadequate and LURC continues to be unresponsive to local and regional needs.

Rep. McCabe (D - Skowhegan) inserted a good amendment that directed LURC to identify and prospectively zone regions by date certain. The final amendment to the bill was presented by Rep. Black (R-Wilton) and allowed LURC the option to recall counties back into LURC if they failed to meet planning and permitting options, and the opportunity to opt-out of LURC required presenting a case for approval by the legislature demonstrating LURC failures on behalf of the county.

The final vote was along party lines, but the minority and majority report differ primarily in the opt-out and county representation provisions.

MFPC fully supports the recommendations put forth by the study group included the LD 1798 majority report. We have been working with legislators to ensure LURC becomes more responsive to the landowners and residents of the jurisdiction. MFPC has been advocating for LURC to balance better landowner rights and land value with public interests. We continue to work with all members of the legislature to achieve broader support for the bill.

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MFPC Annual Meeting:
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Takings Update. (Cont. from page 2)

Attorney Cathy Connors (Pierce Atwood) described the components of the bill while Peter Didisheim from NRCM and Rep. Priest (D - Brunswick) and former chief of the Natural Resources Division of the Attorney General's office Jeff Pidot spoke against the bill.

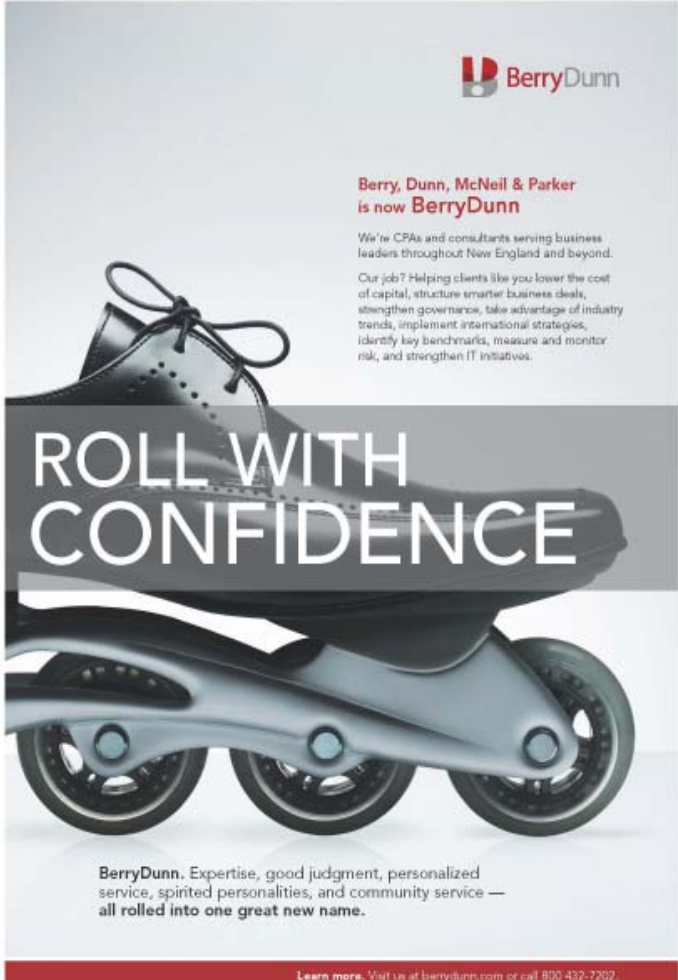
The proposed legislation is reduced in scope and would primarily benefit small landowners and farmers in the more extreme cases of regulatory taking. A property owner must be able to prove a 50% loss of value to the whole parcel of their land to be eligible for compensation. The bill is prospective and modeled after a law in Florida that has been enacted for over 15 years and has not seen the flood of litigation opponents are claiming would result from this more balanced bill. LD 1810 also does not apply to municipalities and preserves the state right to regulate for nuisance, health, and safety reasons.

On March 8th the committee voted out divided reports. The majority report proposed by Rep. Moulton (R - York) was supported by NRCM and maintains the status quo by creating a legislative committee to meet twice a year to investigate the impact of land use regulations. Four committee members supported an amendment offered by Rep. Cushing (R - Hampden) which placed a cap on the amount a landowner could be compensated for a taking and addressed Maine Municipal Association concerns about the creation of a municipal mandate. This bill is heading for a floor fight and we will keep membership posted as the process unfolds. We are committed to moving forward and securing an avenue for landowners to seek relief from unfair land use regulations.

Bonded Labor Update

The LCRED committee held its first work session on the bonded labor reforms on Feb. 10th. The bill and accompanying proposed amendment seek to modify

equipment proof of ownership and bonded worker notification requirements. Eliminates the "Recruitment Clearing House" and establishes the "Logging Industry Advisory Group" within the MEDOL to report and implement strategies to better facilitate training and employment for Maine's loggers and develop a long term program. The bill also continues the prohibition on Canadian workers collecting unemployment insurance. This bill seeks to reset the continuously modified triggers in the law that entrap employers, and return the rules to a reasonable level of review. Senator Saviello has worked tirelessly on the bill starting with a new title, An Act To Promote a Qualified U.S. Logging Workforce and Ensure Adequate Wood Supply for Maine Mills, and refocusing Maine DOL on building opportunities for US workers through training and education.



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2012 Teacher Tours Announced

For 15 years the Maine Tree Foundation and Project Learning Tree have been leading forest tours designed for Maine's middle and high school teachers. These tours were created to give teachers the opportunity to become familiar with Maine's forests and share their experience with students back in the classroom.

Two tours have been announced for the summer of 2012, one in the Rangeley Lakes and western mountain area from July 10th-13th and the other on West Grand Lake in Downeast Maine from July 24th to 27th. Each tour will last four days and will cover multiple subjects such as math, social studies, and science and how they relate to Maine's forest management and products. Locations that will be visited on the tours include active timber harvests, mills, wood product manufacturers, and wind energy projects.

MFPC would like members to reach out to teachers in their communities and encourage their participation in the teacher tour program. Members may also sponsor teachers to cover the costs of meals and lodging over the course of the four day tour. For more information log onto www.mainetreefoundation.org.



Secretary of State Appoints Small Business Advocate

Last June Gov. LePage signed the Act To Ensure Regulatory Fairness and Reform and created the nation's first Small Business Advocate (SBA) position to staff the Regulatory Fairness Board (RFB) within the Secretary of State's office. Early last October, Sec. of State Charlie Summers appointed Jay Martin to serve as the first SBA for the State of Maine. Mr. Martin addressed the MFPC Board of Director and Advisors on March 8th as part of his outreach efforts to businesses and trade associations. His mission is to solicit input on ways the state can be more effective and fair when dealing with regulatory disputes.

The RFB was established as a forum for small businesses to testify and express concerns on issues dealing with state regulations and statutes. The board is chaired by the Sec. of State and comprised of four members appointed by the Governor, President of the Senate, and Speaker of the House. The board's state goals are to "elicit public comment from Maine business owners/managers and the public concerning; specific state rules and regulations that may unreasonably impede business sustainability and growth; and recommendations for regulatory and statutory change that may enhance Maine's business climate". Recommendations will be reviewed by the board and presented to the governor and legislature

Public meetings are being planned statewide and MFPC would like to encourage members to attend or contact the SBA office to express concerns dealing with state laws and regulations. More information can be found at www.maine.gov/sos/sba and www.maine.gov/sos/sba/rfb.html.



Legislative Reception

The MFPC held its annual Legislative Reception on February 9th at the Augusta office. The MFPC Board of Directors would like to thank all of the legislators from both the House and Senate who took time to meet with MFPC members.

Legislators in attendance included:

- | | |
|--------------------------|------------------------|
| Sen. Doug Thomas | Rep. Dean Cray |
| Sen. Elizabeth Schnieder | Rep. Peter Johnson |
| Sen. Tom Saviello | Rep. Kim Rosen |
| Rep. James Dill | Rep. Ryan Harmon |
| Rep. Jeff Giffords | Rep. Paul Bennett |
| Rep. Dennis Keschl | Rep. Dale Crafts |
| Rep. Russel Black | Rep. Andre Cushing |
| Rep. Stacey Fitts | Rep. Terry Hayes |
| Rep. Eleanor Espling | Rep. Joyce Fitzpatrick |
| Rep. Peter Edgecombe | Rep. John Picchiotti |
| Rep. Larry Dunphy | Rep. Jane Knapp |



Assistant Democratic Leader Rep. Terry Hayes, Rep. Peter Edgecombe, Rep. Dean Cray, Sen. Elizabeth Schnieder, Mike Beardsley of PLC and Patrick Strauch of MFPC

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Legislative Reception(Cont. from page 6)



Dept. of Environmental Protection Commissioner Patty Aho, Rep. Kim Rosen, and Steve Schley of Pingee Heirs



Patrick Strauch of the MFPC and Dept. of Conservation Commissioner Bill Beardsley



Mark Doty of Plum Creek, Rep. John Picciotti, and Rep. Larry Dunphy,

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Rep. James Dill and Dept. of Agriculture Commissioner Walt Whitcombe

Legislative Update

MFPC has been hard at work navigating bills through this shortened legislative session. Below are summaries of some of the more important bills to the council that have been taken up so far. We always encourage members to contact our office for more details or to voice concerns.

Labor, Commerce, Research, and Economic Development

LD 1725 – An Act to Strengthen the Unemployment Insurance Laws and Reduce Unemployment Fraud

This bill seeks to tighten unemployment rules and thresholds for expanded work search. While we support the majority of this bill, we have concerns specifically about reducing the requirement to expand a unemployment search for loggers who are in a seasonal lay off period. As proposed, the length before an expanded search would be required has been reduced from 12 weeks to 6 weeks.

Several members of the committee share this concern, including Senator Jackson (D- Allagash). This issue and other provisions will be debated on the floor of the house and senate.

Agriculture, Conservation, and Forestry

LD 1785 – Game and Wild Turkey Hunters Be Accompanied by Guides Licensed in the State

LD 1785 repeals the requirement that out of state (Canadian) hunters hire a licensed Maine guide. The current requirement has been having a detrimental effect on hunting and tourism in the North Maine Woods and is hurting efforts to prevent access fee increases. The public hearing was held on Feb. 8th and received wide ranging

support. The only opposition came from Rep. Martin of Eagle Lake and Rep. Theriault of Madawaska. Both Legislators voiced concerns that Canadians were crossing the border unchecked to poach deer and were blocking roads to limit access to other hunters. Al Cowperthwaite, Director of the North Maine Woods, testified that there has been a dramatic decline in the number of Canadian hunters visiting Maine since the law was first enacted in 2005. He provided the committee with data showing that the number of Canadians purchasing hunting licenses in Maine has fallen 60%. The bill was voted out of the IF&W committee “Ought to Pass” after the work session on Feb. 13th.

LD 1739 - An Act to Change the Regulation of Forest Activities

This bill is an attempt to streamline regulations. It transfers responsibility and authority for forestry activities in the unorganized territory established in the LURC reform process. In this bill the MFS will administer timberland harvesting in shoreland areas and in protection districts. The bill also allows the Maine Forest Service to adopt procedures for the placement of “woody debris” in rivers and streams to provide additional cold water habitat. This bill was voted out of committee “ought to pass” on Feb. 14th.

LD 1740 – An Act to Remove the Repeal Date for Outcome Based Forestry

Outcome based forestry creates a different regulatory environment that is an alternative to a prescriptive regulation. This allows landowners to use creative and flexible principles to achieve objectives. We think it is important to be able to apply and test this option. The committee decided to remove the expiration date altogether in favor of receiving progress reports from the MFS. The bill was signed into law on March 8th.

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Legislative Update.....(Cont. from page 8)

LD 1741 – An Act to Streamline the Paperwork Requirements of the State’s Forest Practices Laws

This bill has several pieces aimed at assisting the MFS. MFPC is supportive of moving from a biennial report to an official report every 5 years. Based on MFS staff experience, the MFPC agrees with the switch from a per cord measurement to a 2 acre harvest criteria. MFPC supports deleting the unnecessary language requiring the MFS to notify towns of a change in use and since this section of the law was enacted there have been less than 5 instances (out of 40,000) where a town notification was required. The committee voted the bill “ought to pass as amended” on March 2nd.

Energy, Utilities, and Technology

LD 1706 – An Act to Protect Maine’s Biomass and Forest Products Industries by allowing Biomass Generators to Enter into Short-Term Contracts

MFPC is participating in discussions and coordinating with other associations. In the final analysis this issue became embroiled in the general divisions within the committee on renewable energy policy. MFPC needs to help find solutions to the challenges faced by our biomass energy members and will help develop alternative approaches

Environment and Natural Resources

LD 1683 – An Act to Provide Funding to Operate the Dolby Landfill in the Town of East Millinocket

This bill seeks to find funding for the Dolby Landfill. The opportunity exists for a profitable venture in solid waste management, but disagreements between the administration and the town of Millinocket are currently in the news.

LD 1718 – An Act to Improve Maine’s Capacity to Produce Low Cost Renewable Energy through Hydropower.

The Committee voted in favor of a study to catalog dams and hydro power before moving on any further action.

Inland Fisheries and Wildlife

LD 1652 – An Act to ensure a Reliable Funding Stream for the Department of Inland Fisheries and Wildlife.

This bill continues to be tabled as Senator Raye works to find a solution to the funding problem at IF&W

LD 1242 – An Act to Restore the Deer Herd in Certain Wildlife Management District in Maine

Committee discussion on this subject continues to show great frustration. The bill was tabled until March 14th to allow Commissioner Woodcock and the bill’s sponsor, Rep. Burns (R – Whiting), to find a workable solution to revitalize Maine’s diminished deer herd.

Taxation

LD 1470 – An Act to Ensure Harvesting of Timber on Land Taxed under the Maine Tree Growth Tax Law

Senator Raye introduced this bill to address growing industry and municipal concerns that land in tree growth, particularly on the coast, is not being harvested as intended under the law. We have been working with SWOAM and MMA to make reasonable modifications to the current law. A provision to allow the MFS to conduct a random study

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of TG properties should provide for good policy information to evaluate inconsistencies in the program and determine specific remedies to make the program stronger. Confidentiality of management plans is a major concern and currently the taxation committee is waiting on bill language. Successfully moved out of committee and will be presented on the floor shortly.

LD 1138 – An Act to Prevent the Unnecessary Expulsion of Landowners from the Maine Tree Growth Tax Law

This bill establishes new rules designed to prevent unnecessary expulsion and increased fines for abuse under tree growth. It would also require landowners to sign legal attestation that their intent is to grow trees for commercial harvesting. Many organizations are weighing in on the bill and its original intent is getting unwieldy. We will keep the membership posted as the efforts to simplify the bill are attempted.



Maine businesses, trade associations, and research institutions are invited to apply to MTI for funding to build collaborative initiatives that strengthen their technology industries

The Maine Technology Institute invites proposals by 5 pm on March 26, 2012 for collaborative, industry-led activities seeking to grow Maine’s technology-intensive industries and create good jobs across the state. Funding of up to \$500,000 is available (all awards require a 1:1 match). Proposed initiatives can include providing opportunities for a critical mass of businesses to learn from and work with each other, identifying and addressing common skills training needs, sharing of equipment or infrastruc-

ture that enables greater innovation and company growth, and/or jointly tackling common challenges or pursuing new opportunities that accelerate industry growth. “By working together, and with partners such as trade associations or research institutions, Maine companies can overcome the challenges of growing in a rural economy. Together, they can create peer networks and the critical mass of innovation necessary to drive regional business growth,” explained Betsy Biemann, President of MTI. “Over the years, the CIP program has helped Maine companies in a number of Maine’s technology clusters come together and create efficiencies that help them to succeed at increasing revenues and entering new markets. We encourage business collaborations to apply for this funding to help tackle their challenges and grow their industry together.”

For an overview of MTI’s Cluster Initiative Program and how to apply for funding, please attend a brown-bag workshop:

February 2 at the Target Technology Center in Orono from 11am-1pm

February 6 at the MTI Offices at Brunswick Landing in Brunswick from 11am-1pm

For detailed information on completing an application, please participate in a Webinar on March 6 from 1-2pm. Contact Patti Sutter at psutter@mainetechnology.org or 207-582-4790 x 211 to sign up for workshops and the webinar.

MTI’s Cluster Initiative Program awards up to \$500,000 for multi-year initiatives seeking to boost the strength and scale of Maine’s high-potential technology clusters. Eligible applicants include businesses, trade associations, universities and nonprofit research institutions across Maine. Program and application requirement information can be found online at www.mainetechnology.org/fund/cluster-initiative-program. Applications for cluster feasibility and planning awards of up to \$50,000 may be submitted at any time and will be reviewed on a rolling basis. All Cluster Initiative awards require at least 1:1 in matching funding.

MTI is a publicly financed, private nonprofit organization created by the Legislature to stimulate research and development activity leading to the commercialization of new products, processes and services in the state’s seven technology-intensive sectors. Programs are designed to enhance the competitive position of those sectors and increase the likelihood that one or more of the sectors will support clusters of industrial activity and create quality jobs across Maine. More about MTI at:

www.mainetechnology.org.