



STATE OF MAINE
 DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
 LAND USE PLANNING COMMISSION
 22 STATE HOUSE STATION
 AUGUSTA, MAINE 04333-0022

JANET T. MILLS
 GOVERNOR

AMANDA E. BEAL
 COMMISSIONER

JUDY C. EAST
 EXECUTIVE DIRECTOR

January 14, 2021

Co-Chairs, Committee on Agriculture, Conservation and Forestry
 Senator James F. Dill and Representative Margaret M. O'Neil

Co-Chairs, Committee on Taxation
 Senator Benjamin M. Chipman and Representative Maureen F. Terry
 100 State House Station
 Augusta, ME 04333-0100

RE: Land Use Planning Commission – Annual Report on Funding

Dear Co-Chairs Dill, O'Neil, Chipman, and Terry:

Attached please find the Annual Report on Funding to the Joint Standing Committee on Agriculture, Conservation and Forestry and the Joint Standing Committee on Taxation. This annual report is prepared by the Land Use Planning Commission pursuant to 12 M.R.S. § 685-G. The report is required to identify all General Fund and other appropriations to Commission.

In addition to the General Fund, the attached report shows the various revenue amounts assessed and collected for Commission services. It should be noted that these revenue amounts do not stay with the Commission, but instead go directly to the General Fund.

The revenue amounts collected include:

- The amount assessed and collected from the Unorganized Territories through the Municipal Cost Component;
- The Service Fees assessed for Commission services from each of the 35 Towns and Plantations that choose to have the Commission provide their land use services; and
- The fees collected from applicants, fines, and sales of maps and publications.

The report also shows the history of how the laws and rules have changed regarding Commission funding and revenue and, as required in Section 685-G, contains any recommendations for adjusting the fees discussed in the report. The Commission has provisionally adopted changes to its permitting fees as described in the attached. The implications of these changes, if adopted by the legislature, are unknown and a full and accurate accounting of their impact pursuant to Title 12, §685-G cannot be provided until January of 2024.

We are pleased to submit this report to the committees. We would be happy to discuss the information included in this report with either or both committee(s) at your convenience.

Sincerely,

Judy C. East, Executive Director - Land Use Planning Commission

CC: Everett Worcester, LUPC Chair
 Amanda Beal, DACF Commissioner

Enclosure

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**Annual Report of Funding
Land Use Planning Commission
to the
Joint Standing Committee on
Agriculture, Conservation and Forestry
and the
Joint Standing Committee on Taxation
of the
130th Maine Legislature,
First Regular Session**

January 15, 2021

**Submitted by
the
Land Use Planning Commission
Maine Department of Agriculture, Conservation & Forestry
22 State House Station
Augusta, Maine 04333-0022
207-287-2631**

This report has been prepared for the Committees as required by 12 M.R.S. § 685-G.

Section 685-G originally was enacted by Public Law 2007, chapter 541, § B-4 (L.D. 885), which, in turn, was based upon recommendations from the report of the "*Commission to Study the Cost of Providing Certain Services in the Unorganized Territories.*" The sections of the 2007 Public Law affecting the Land Use Planning Commission (the "LUPC") (previously the Land Use Regulation Commission or LURC) specified how the funding for LUPC services would be assessed and allocated starting in Fiscal Year 2009-2010. The 2007 Public Law specifically made changes to the amounts collected from both the Municipal Cost Component of the Unorganized Territory Education and Services Fund, which is collected from the taxpayers of the Unorganized Territory Tax District, and also from the Service Fees collected from the Towns and Plantations within the LUPC's jurisdiction.

Title 12, section 685-G was amended by Public Law 2009, ch. 213, § HHHH-1 (L.D. 353) and has not been changed since. This amendment made adjustments to the funding for LUPC services both from the Unorganized Territories and from the Towns and Plantations. The 2009 Public Law also required an accounting of the permitting fees and penalties collected from the unorganized territories, and from the towns and plantations, served by the LUPC. The current statutory provision governing funding of the LUPC and requiring this report states:

Title 12 §685-G. Funding

1. Unorganized territories. Beginning with fiscal year 2009-10, funding for services and activities of the commission for planning, permitting and ensuring compliance in the unorganized territories must be assessed and allocated to the unorganized territories through a fee equal to .014% of the most recent equalized state valuation established by the State Tax Assessor. This fee must be collected through the municipal cost component under Title 36, chapter 115.

2. Towns and plantations. Beginning with fiscal year 2009-10, a town or a plantation in the commission's jurisdiction that elects not to administer land use controls at the local level but receives commission services or a town or plantation with a portion of its land under the commission's jurisdiction and receiving commission services, including planning, permitting and ensuring compliance, must be assessed a fee equal to .018% of the most recent equalized state valuation established by the State Tax Assessor for that town or plantation or that portion of a town or plantation under the commission's jurisdiction. The State Tax Assessor shall issue a warrant to each such town or plantation no later than March 1st of each year. The warrant is payable on demand. Interest charges on unpaid fees begin on June 30th of each year and are compounded monthly at the interest rate for unpaid property tax as established by the State Tax Assessor for the unorganized territory. For any assessment that remains unpaid as of September 1st of the year in which it is due, state revenue sharing to that town or plantation must be reduced by an amount equal to any unpaid warrant amount plus any accrued interest, until the amount is paid. These fees must be deposited to the General Fund.

3. Report. By January 15, 2009 and annually thereafter, the commission shall report to the joint standing committees of the Legislature having jurisdiction over conservation matters and taxation matters regarding commission funding and other financial matters. The report must cover the 5 previous fiscal years and must identify General Fund appropriations and other resources, amounts assessed and collected from the assessments required under this section and former section 685-E and amounts assessed and collected from other fees and penalties assessed under this chapter. Beginning in January 2010, the report must include an accounting of the permitting fees and administrative penalties collected that segregates the amounts collected from the unorganized territories from the amounts collected from the towns and plantations and must include recommendations to adjust the fees for the unorganized territories and for towns and plantations based on the amounts collected for permitting fees and administrative penalties from each of these entities. The joint standing committees of the Legislature having jurisdiction over conservation matters and taxation matters shall jointly review the distribution of funding and other assessments among the General Fund, unorganized territories and towns and plantations under the commission's jurisdiction and may submit legislation considered necessary as a result of the commission's report to the First Regular Session of the 124th Legislature.

The first table below, *Law/Rule Language for Amounts Assessed and Collected for LUPC Services*, shows the history of changes to both the statutory provisions and the LUPC rules regarding funding from sources other than the General Fund. These other sources are the Unorganized Territories Education and Services Fund from the Unorganized Territory Tax District; Towns and Plantations provided services by the LUPC; and permit application fees, penalties, and sales of maps and publications. All revenue from these sources go to or are reimbursed to the General Fund and do not go directly to the LUPC.

The second table below, *Revenue Amounts Assessed and Collected for LUPC Services*, shows the funding by source and the amount of funding from each source, as well as apportions the LUPC application fees, penalties, and sales between the Unorganized Territories and the Towns and Plantations, as required by Section 685-G.