

City of Biddeford
City Council
March 03, 2020 6:00 PM Council Chambers

- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Adjustment(s) to Agenda**
- 4. Presentation:**
 - 4.a. My Place Teen Center - 75 Bacon Street
 - 4.b. Local Effects on Climate Change
Given by: Biddeford Conservation Commission

[3-03-2020 Climate Change Declaration Proposal.pdf](#)
[3-03-2020 Climate Change Presentation PowerPoint Rev4](#)
 - 4.c. Update on Lead Paint Abatement Grant Program
[3-03-2020 Lead-Based Paint Hazard Reduction Program PowerPoint](#)
[3-03-2020 Lead-Based Paint Hazard Reduction Program Brochure](#)
- Consent Agreement:**
MDOT - Construction Area - Precourt Street
[3-03-2020 MDOT Consent Agreement-Construction Area-Precourt Street.pdf](#)
- 5. Consideration of Minutes:**
 - 5.a. February 18, 2020 Council Meeting Minutes
[2-18-2020 Council Meeting Minutes.docx](#)
- 6. Orders of the Day:**
 - 6.a. 2020.12) Resolution/Opposition to LD 2090 An Act to Amend the Laws Governing Arbitration Under Certain Public Employees Labor Relations Laws
[3-03-2020 Resolution-Opposition to Labor Legislative Bills.docx](#)
[3-03-2020 Legislative Bills - Labor Relations.pdf](#)
- 7. Public Addressing the Council..(5 minute limit per speaker; 30 minute total time limit)**
- 8. City Manager Report**
- 9. Other Business**
- 10. Council President Addressing the Council**
- 11. Mayor Addressing the Council**
- 12. Executive Session**
 - 12.a. 1 MRSA 405(6)(C)...Disposition of City Property
- 13. Adjourn**

Date: March 3, 2020

Subject: Proposal for a Declaration of Climate Emergency for the City of Biddeford

Prepared By: Steve Reiter on behalf of the Biddeford Conservation Commission

We the City of Biddeford Conservation Commission accept the following:

- 1) That there is irrefutable and overwhelming scientific evidence that our planet is warming due to greenhouse gas emissions.
- 2) That the Gulf of Maine temperature is warming at a rate 99% faster than the temperature of the global oceans.
- 3) That the coastal zones within the city shall be threatened by an increasing sea level rise of 8 inches to 6.6 feet by the end of this century² and these estimates could be significantly greater.
- 4) That the probability of increasing frequency and severity of coastal storms is high due to rising sea level and temperatures.
- 5) That economic costs due to the local effects of climate change have been projected to be very significant and include:
 - Damage and replacement of infrastructure such as roads, bridges, public buildings, water and sewage facilities.
 - Relocation of private residences in coastal zones.
 - Loss of commercial properties in coastal zones.
 - Negative health effects due to longer, warmer seasons (Lyme Disease, Asthma, etc.)
 - Reduced fisheries including lobster, shrimp, clams, oysters, scallops, and groundfish due to warming waters, ocean acidification, and invasive species such as the Green Crab.
 - Loss of tourism
 - Loss of tax-based municipal revenue due to property lost to inundation from sea level rise.
- 6) That the effects of climate change will be irreversible within a short window of 10 – 15 years and that these effects will continue to worsen.

We therefore recommend that the City of Biddeford adopt a resolution declaring that our great city, due to its coastal proximity, publicly accepts that we have a climate emergency. Biddeford would join many other cities and towns within the United States to do so, including several in Maine, including Portland and South Portland. There are over 800 cities and towns across the globe that have declared Climate Emergencies. Nations, such as the United Kingdom, Canada and France have declared National Emergencies.

Such a declaration should require that a plan be developed to:

- 1) Account for and publicly report our current climate risk and greenhouse gas footprint using a standardized methodology and reporting system.
- 2) Address development of new construction in shoreland zones where such construction is in high risk areas.
- 3) Develop an adaptation (infrastructure and policy changes to accommodate changes we are already experiencing) and mitigation (reduce emissions) strategy to incorporate findings in our building codes, zoning, transportation, city-wide systems, and other areas under the city's jurisdiction.
- 4) Provide a timeline to move towards carbon neutrality in public buildings and public transportation.
- 5) Collaborate with the state of Maine and surrounding towns to contribute to an efficient and effective regional plan that makes the best use of our collective resources. This may include a Climate Change Policy Coordinator as a shared resource with other coastal communities.
- 6) Work with educational institutions such as UNE to coordinate community educational outreach and engage other communities, schools, and non-profit organizations willing to participate.

References:

- 1) National Oceanic and Atmospheric Administration; <https://noaa.gov>
- 2) National Resource Council of Maine; "Global Warming and Climate Change", <https://nrcm.org>
- 3) Maine Climate Threats, States at Risk; <https://statesatrisk.org>
- 4) Union of Concerned Scientists; "Confronting Climate Change in the U.S. Northeast: Science, Impacts and Solutions", 2007 Report
- 5) Watery Heatwave Cooks the Gulf of Maine; <https://climate.nasa.gov/news/2798/watery-heatwave-cooks-the-gulf-of-maine>
- 6) Effects of Sea Level Rise in Maine: <https://www.nrcm.org/programs/climate/global-warming-air-pollution/sea-level-rise-Maine>

A Presentation by the Biddeford Conservation Commission on the Local Effects of Climate Change

Presenting on behalf of the BCC: Steve Reiter, Chair

Climate Change – Local Effects

Sea Level Rise

Water Temperature

Air Temperature

Ocean Acidification

Health Risks

Impact to Natural Resources

Economic Losses

Sea Level Rise in the Gulf of Maine

- Predictions 8 inches to 6.6 feet by year 2100
- Greater flooding from coastal storms
- Economic losses



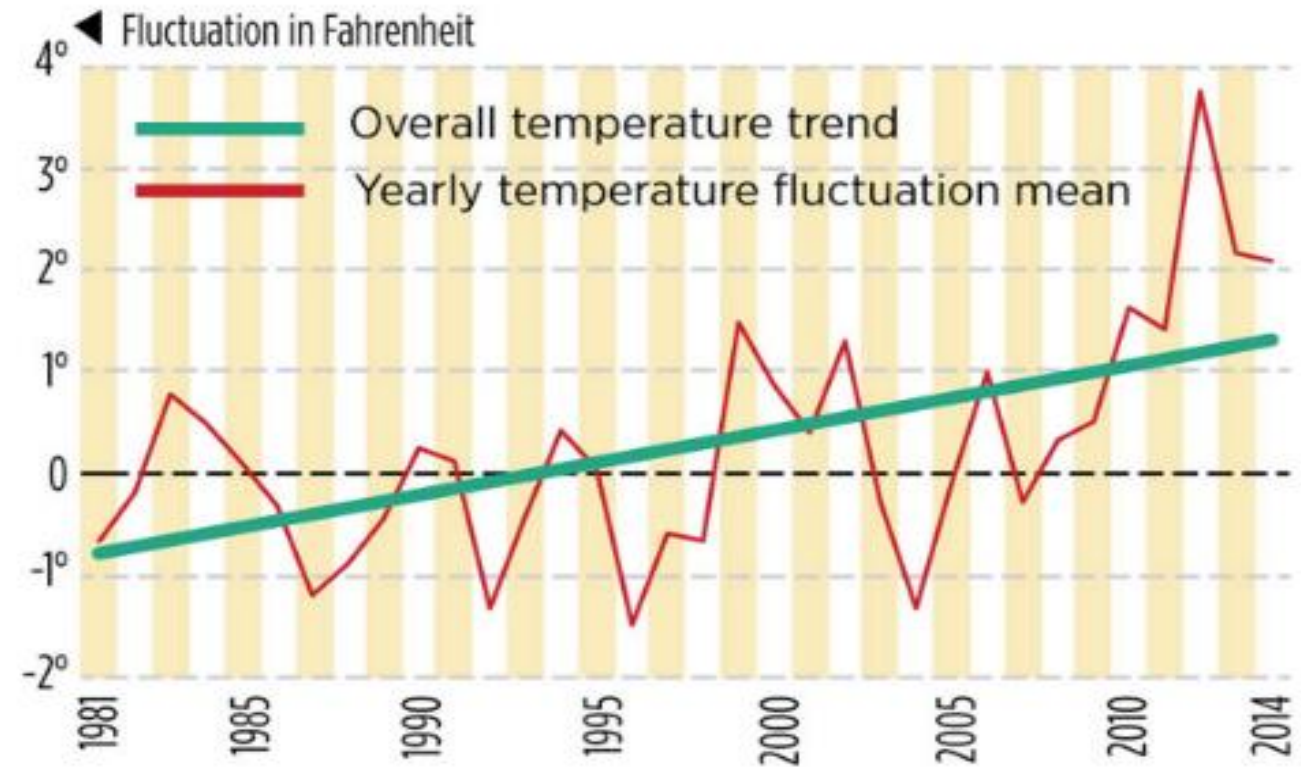
Water Temperature

Gulf of Maine is increasing at a rate 99% faster than the global oceans



Getting warmer

Sea surface temperatures in the Gulf of Maine have been rising over the past 35 years, and at nearly the fastest rate on the planet over the last 10. 2012 had the warmest readings in the 150 years humans have been collecting them.



SOURCE: Andrew J. Pershing/Gulf of Maine Research Institute

STAFF GRAPHIC | MICHAEL FISHER

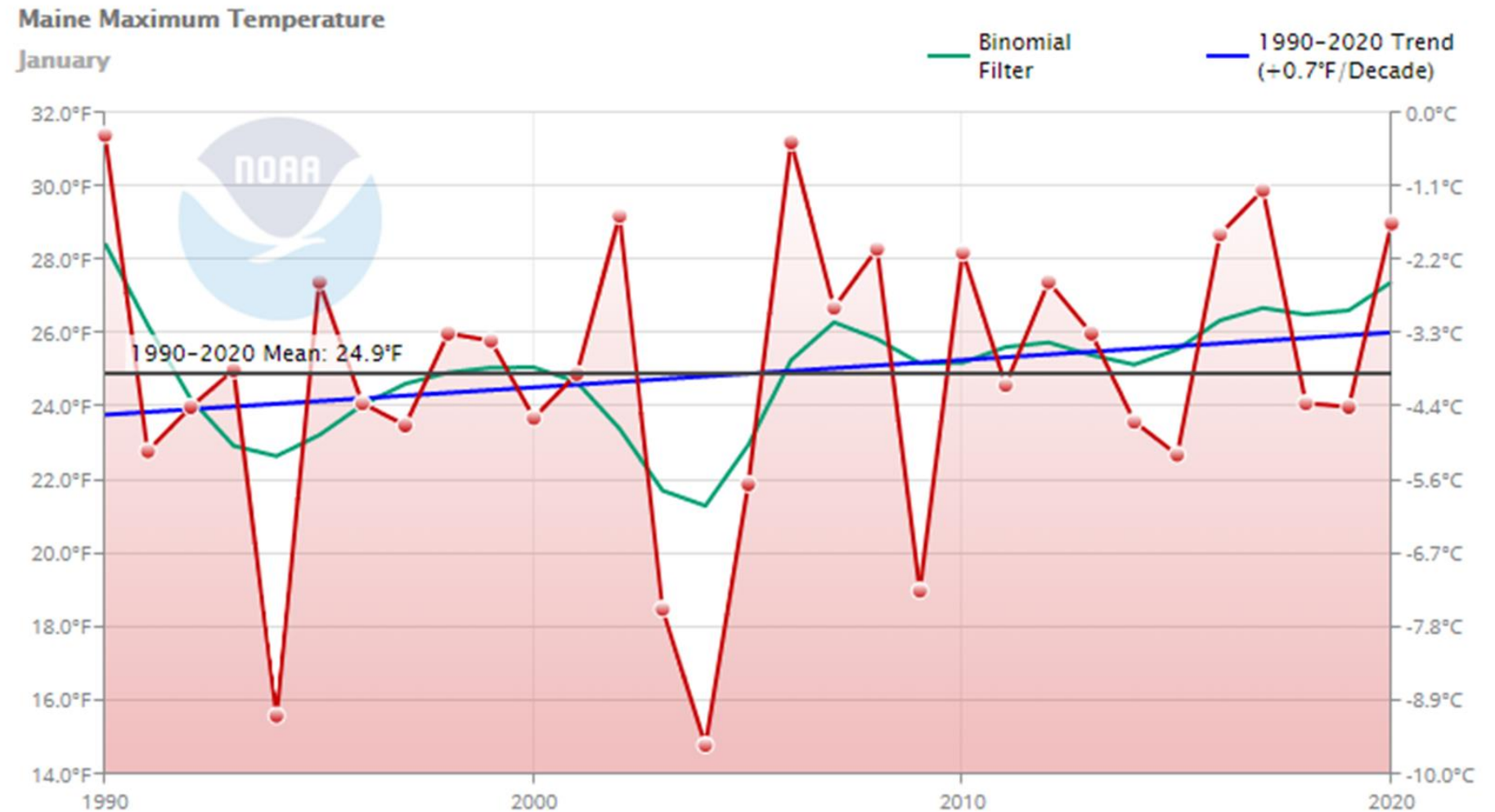
Air Temperature Increase

Cause:

- ✓ “Greenhouse Effect” from carbon containing gases

Effect:

- ✓ Scientists predict a 10° F increase globally by 2050



Ocean Acidification

Cause:

CO₂ is absorbed into the oceans and reacts with the seawater becoming more acidic

Effect:

The Gulf of Maine is becoming increasingly acidic



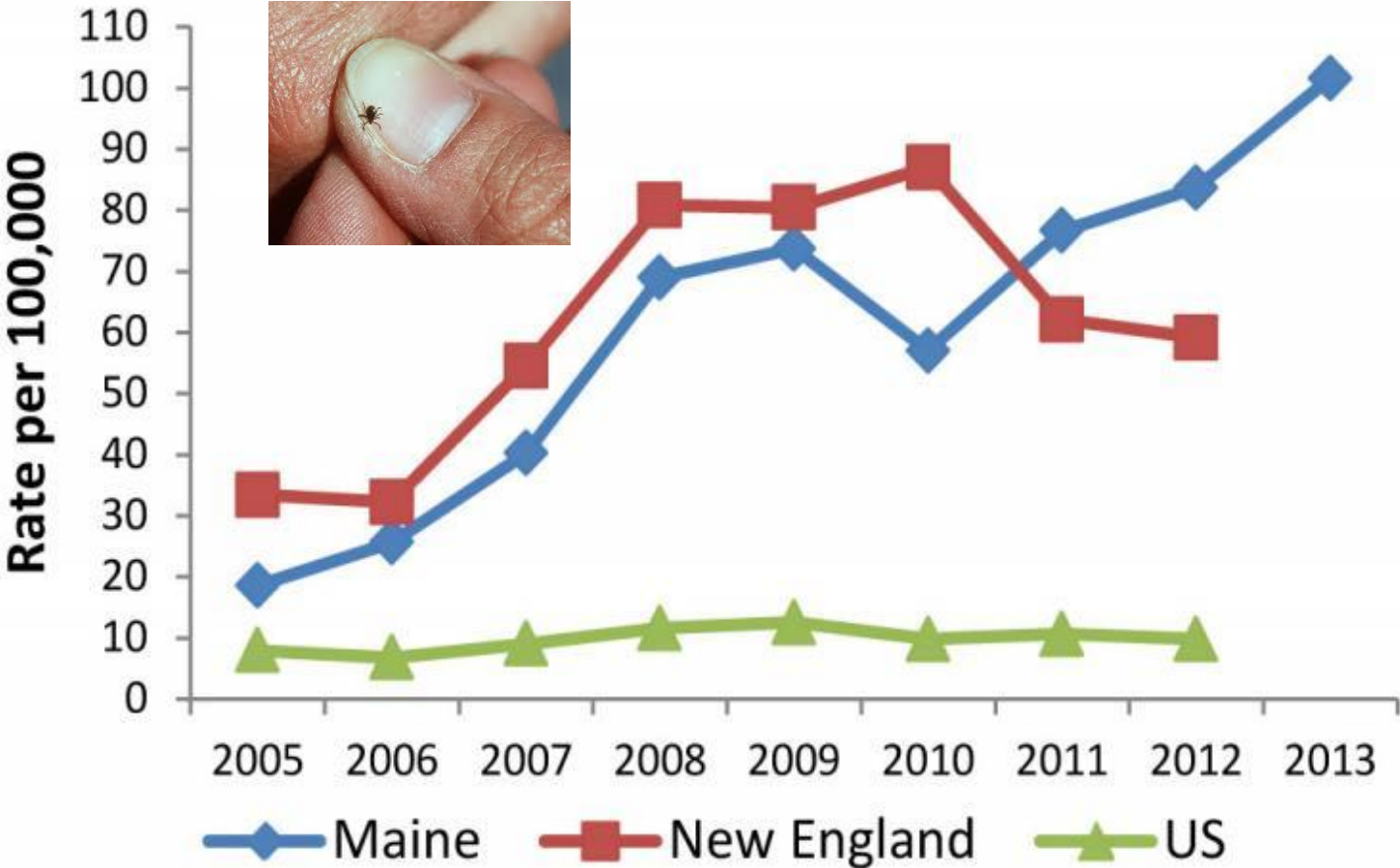
Health Risks

- ✓ Increasing incidence of Lyme Disease and Anaplasmosis
- ✓ Lung ailments such as asthma, respiratory infections and increased pollen allergies
- ✓ Increased cardiovascular risks and heat strokes
- ✓ Vector-borne diseases
- ✓ Diseases caused by flooding



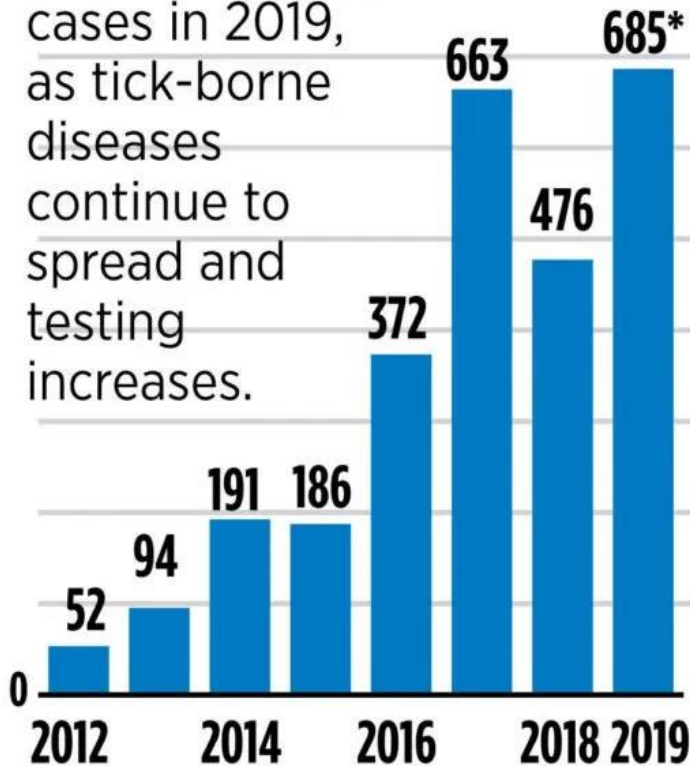
Deer Tick Disease Increasing in Maine

Figure 1: Lyme Disease Incidence – Maine and US, 2005-2013



Anaplasmosis in Maine

The state saw a record number of anaplasmosis cases in 2019, as tick-borne diseases continue to spread and testing increases.



*Preliminary figures
SOURCE: Maine Center for Disease Control and Prevention

STAFF GRAPHIC | MICHAEL FISHER

Natural Resources – Plants & Animals

Shore-land, beach habitat

- ✓ Shellfish, migratory birds

Ocean habitat

- ✓ Fish migration

Freshwater habitat

- ✓ Trout and Salmon
- ✓ Algal blooms

Forest habitat

- ✓ Tree damage, wildlife
- ✓ Increased wildfire risk



Economic Impacts From Climate Change

1. Ocean, bays and rivers rise up to 6.6 feet by 2100:

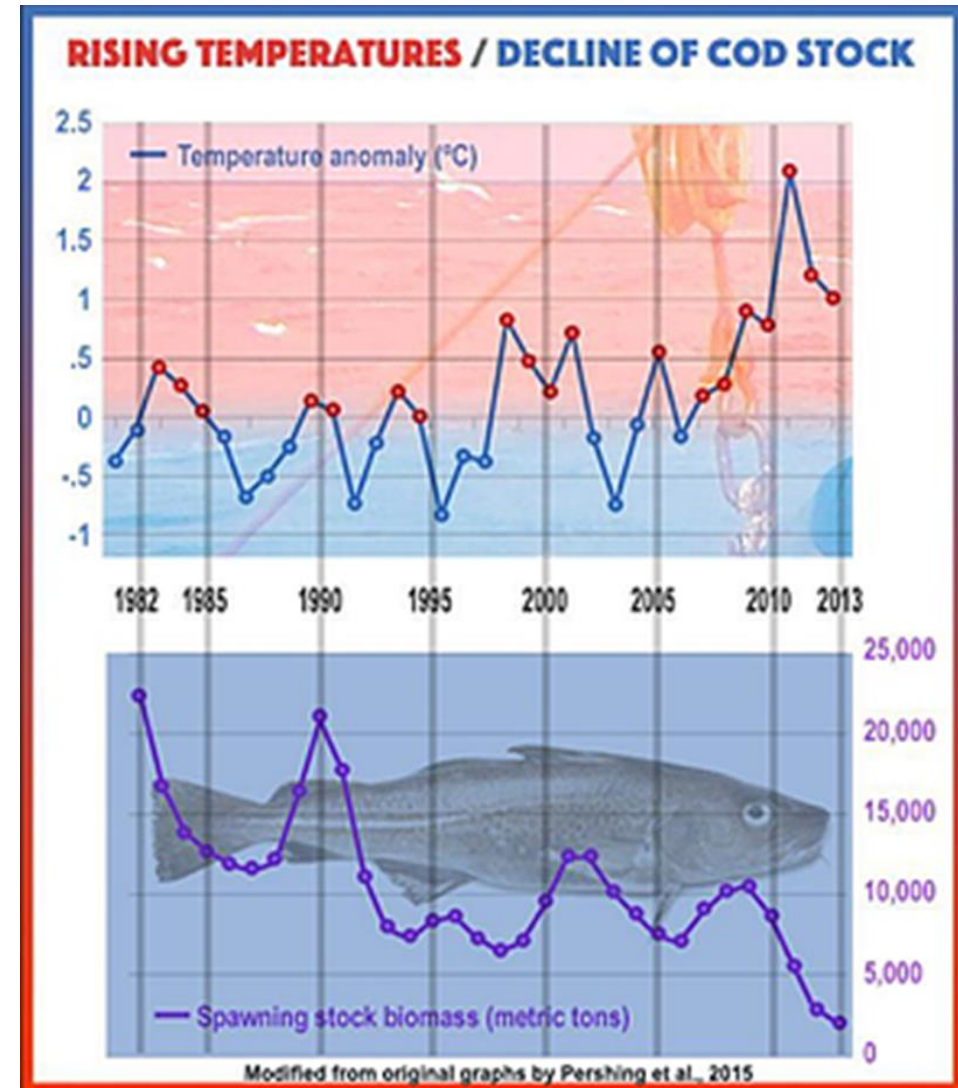
- ✓ Coastal properties
- ✓ Loss in TAX based revenue
- ✓ Infrastructure
- ✓ Natural resources
- ✓ Commercial Fishing
- ✓ Shellfish & Lobster



Economic Impacts From Climate Change

2. Ocean water temp

- ✓ Commercial fishing
- ✓ Natural resources
- ✓ Storm damage



Economic Impacts From Climate Change

3. Air temperature increase 10° by 2050

- ✓ Increased energy demands
- ✓ Droughts and crop failures
- ✓ Reduced tourism dollars



Economic Impacts From Climate Change

4. Ocean Acidification

- ✓ Commercial fishing
- ✓ Equipment repair and replacement
- ✓ Natural resources



Economic Impact From Climate Change

5. Health Risks

- ✓ Cost to public healthcare providers and hospital facilities



What Can Biddeford Do?

The 1st Step

Biddeford can follow the example of other Maine cities and towns and declare a **Climate Emergency**

The 2nd Step

Develop a meaningful action plan to: ADAPT, MITIGATE and PREVENT the effects of **Climate Change**

The 3rd Step

Engage other cities and towns, educational institutions and organizations in Maine to work collaboratively on solutions that benefit the entire state

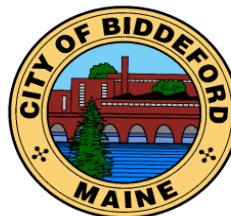
“People are beginning to see the climate changing around them. Things that we thought would take decades to unfold are actually happening on a much faster timeline. When people see things changing around them and experience them firsthand, they start to believe it more.”

Bethany Woodworth
Ph.D., associate lecturer in UNE's
Department of Environmental
Studies and coordinator of the
interdisciplinary minor in climate
change studies.



Lead-Based Paint Hazard Reduction Program

A HUD-Funded Three-Year Partnership of
the City of Biddeford's *Safe Homes for Healthy Families* Initiative,
Community Concepts, Inc.,
and Coastal Healthy Communities Coalition



Tonight's Presenters

Gail Wilkerson

City of Biddeford

Lead Hazard Reduction & Healthy Homes Program Manager

Sandy Albert,

Community Concepts

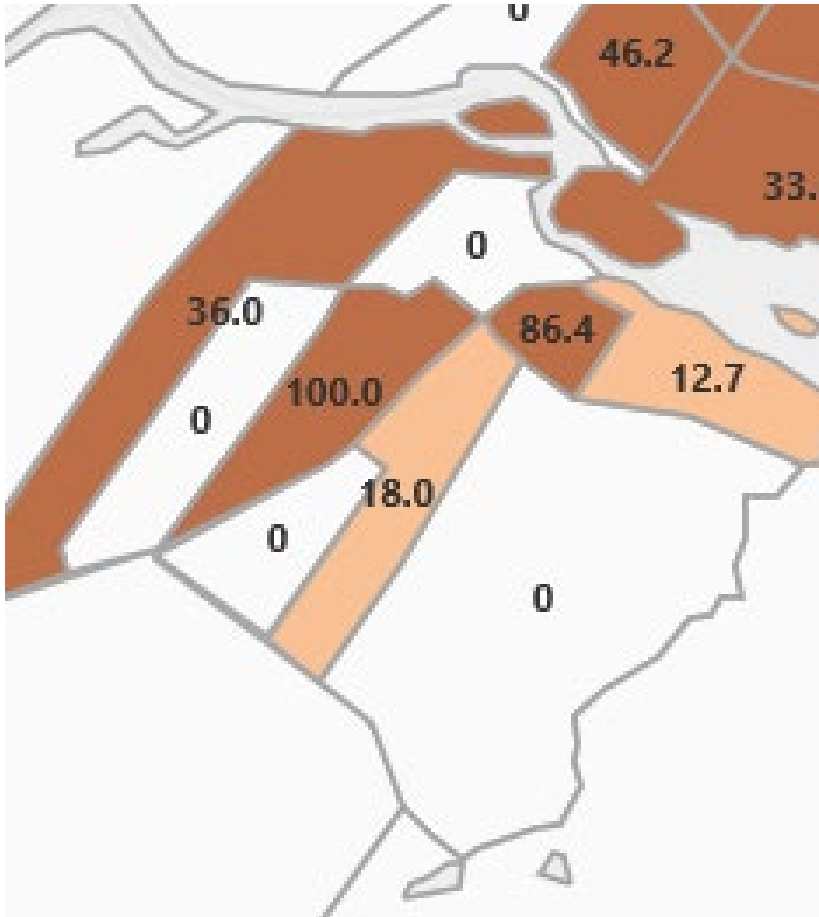
Lead Hazard Reduction Professional & Administrative Services
Contract Agency

Sarah Breul

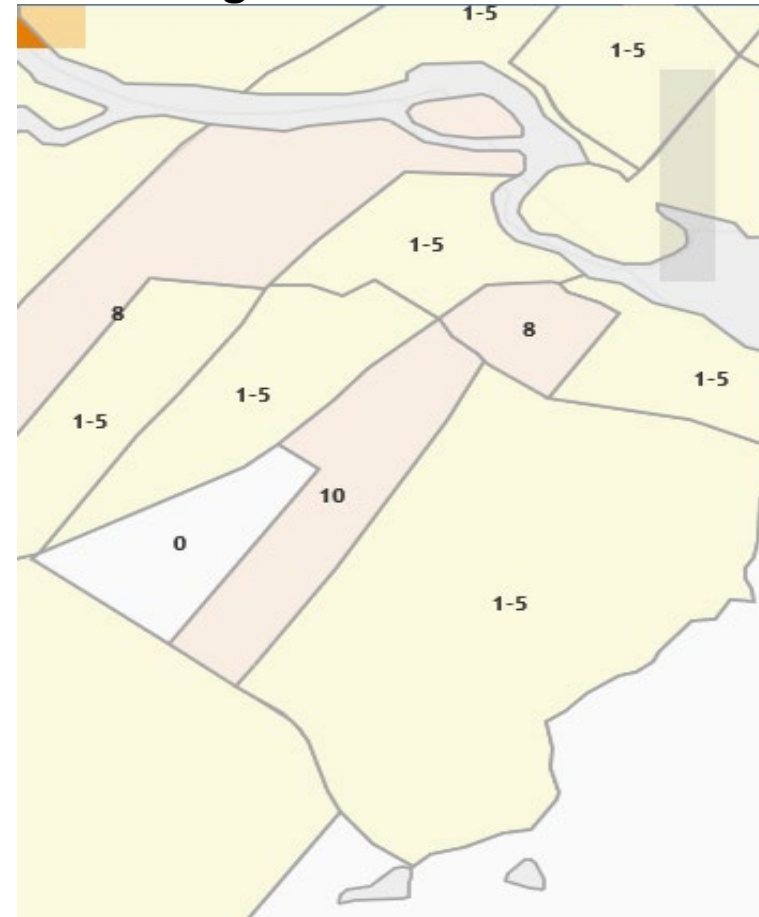
Coastal Healthy Communities Coalition at UNE

Childhood Lead Poison Prevention Program Contract Agency

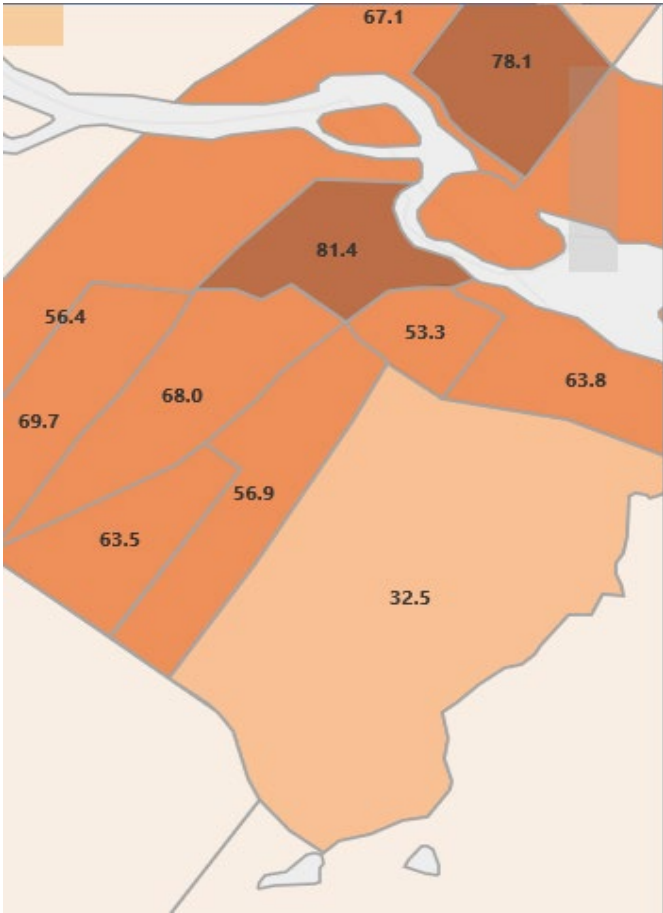
**Percent of Biddeford Families w/Children
Below Poverty Level
by Census Block Group,
Maine 2014-2018**



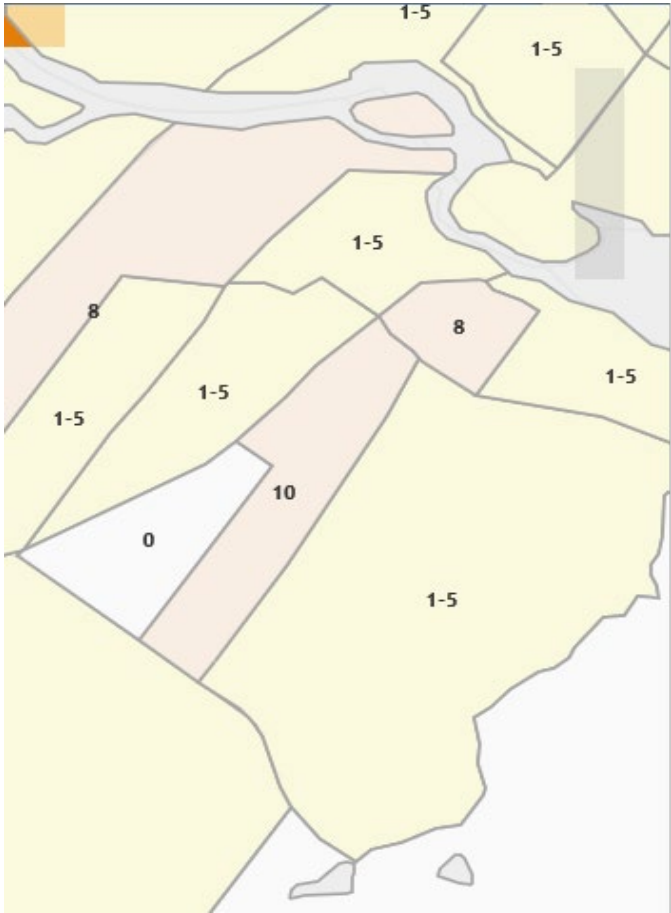
**Estimated # of Biddeford Children with
Blood Lead ≥ 5 ug/dL
by Census Block Group,
Maine 2014-2018
Age: 0-<36 Months**



Percent of Biddeford Housing Units Built Before 1950 by Census Block Group, Maine 2014-2018



Estimated # of Biddeford Children with Blood Lead ≥ 5 ug/dL by Census Block Group, Maine 2014-2018
Age: 0-<36 Months



Lead Program: By the Numbers

- \$3.2 million US Housing & Urban Development (HUD) Grant
- \$461,692 in matching funds
- Three-year program: Jan 2020 through Dec 2022
- 1 FTE: Lead Program Manager
- 175 Lead Inspections & Risk Assessments
- 135 units to be made Lead Safe
- \$10,000 per unit support to eligible property owners (max \$100K)
- Many community project partners

Program Partnership Goals

- Reduce incidence of child lead poisoning in Biddeford
 - Perform lead hazard control work in housing where children < 6 are at highest risk (*Community Concepts & Abatement Contractors*)
 - Conduct targeted outreach to occupants of Program's lead-remediated units & community education on lead poison prevention (*Coastal Healthy Communities Coalition*)
 - Monitor units made lead safe by the Program to assure continued lead-safe status and availability to low-income families of children < 6 (*City of Biddeford*)
 - Build local capacity of certified workers/firms to safely perform lead hazard control work (*City of Biddeford*)
 - Address additional health / safety issues in units made lead safe (e.g., installation of new fire doors or egress windows) *Community Concepts*

Program's 3-Year Benchmarks

- **Conduct FREE lead inspections/risk assessments in 175 rental units in downtown properties**
- **Make 135 units lead safe** for low- to moderate income tenants
- **Perform 80 FREE “Healthy Homes” assessments** of environmental hazards
- **Make 60 of the 135 lead-safe units free from additional health hazards**
- **Conduct community outreach to at least 4,000 individuals about the threat of childhood lead poisoning in aging rental units**
- **Train/certify at least 45 individuals in lead hazard control** to increase local capacity and help prevent future childhood lead poisoning
- **Provide matching funds of at least \$461,692** over next 36 months

Funding Priorities in the Target Area

1. Multi-unit properties under **Lead Abatement Order** by CDC
2. Multi-units housing **Children with an Elevated Blood Lead Level**
3. Housing units occupied by **Children Under Age 6**
4. Units housing **Pregnant Women**
5. **All Other** Multi-Unit Properties

An application at a higher priority level will always be given more immediate attention than applicants at a lower priority level

Properties Eligible for Financial Assistance

- Privately owned residential
- Built prior to 1978 with deteriorating lead-based paint
- Multi-unit properties only (2 or more units)
- Can be owner-occupied or 100% renter-occupied
- Downtown Biddeford (census tracts 252.01, 252.02)
- Code-compliant properties, otherwise in good condition
- Up-to-date on taxes, sewer bill
- Owner able to:
 - provide a 10% match (\$1,000 for each \$10,000 funded by City)
 - keep unit lead-safe for at least 3 years after remediated

Tenant Income Eligibility Criteria

- For 2-4 Unit Structures:
 - 51% of remediated units rented to occupants at/below 50% area median income
 - Remainder of remediated units rented to occupants at/below 80% area median income
- For 5+ Unit Structures:
 - 20% can meet or exceed 80% of area median income (market rate)
 - Of remaining units, 51% must be below 50% area median income
 - All other units: must be below 80% area median income
- *All remediated units must be made affordable to low- and moderate income families for a period of three years following abatement*

Tenant Income Eligibility Criteria

HUD 2019 Income Limits Summary										
City of Biddeford & York County, Maine Income Limit Area										
<i>effective April 2019</i>										
VERY LOW		NUMBER OF PERSONS IN FAMILY								
(50%) Income Limits		1	2	3	4	5	6	7	8	
		\$ 25,700	\$ 29,350	\$ 33,000	\$ 36,650	\$ 39,600	\$42,550	\$45,450	\$ 48,400	
LOW		NUMBER OF PERSONS IN FAMILY								
(80%) Income Limits		1	2	3	4	5	6	7	8	
		\$ 41,100	\$ 46,950	\$ 52,800	\$ 58,650	\$ 63,350	\$68,050	\$72,750	\$ 77,450	
<i>Based on area median income of \$73,300 for a family of 4.</i>										

Assistance Available to Eligible Property Owners

- **FREE** Lead-Related Professional Services
- Estimated value of services is @ \$3,000 per unit
 - Lead inspection / lead hazard risk assessment
 - Lead hazard control design plan
 - Lead clearance certification
 - Certified, professional lead remediation project oversight
 - Essential Maintenance Plan to help owners maintain lead-safe units

Financial Assistance for Lead Hazard Control Work

- The City will provide up to \$10,000/unit of assistance for remediation
- Maximum units assisted is 10 per property (max \$100,000)
- Assistance is made to eligible properties in the form of a 3-year 0%-interest deferred forgivable loan
 - 100% forgiven when all Program requirements are met over 36 months
- Requires a 10% contribution from owner
 - \$1,000 owner contribution per \$10,000 of Program assistance

Requirements for 100% Loan Forgiveness

- Multi-unit property not sold or re-financed before end of 3-year term
- Lead-safe units continue to be occupied by (or when vacant marketed to and made available for rent on a priority basis to):
 - Families with children under age 6
 - Family income at/below 80% of Area Median Income
 - Maintained in a lead-safe manner
- Owner remains up to date on City taxes and sewer bills
- Property remains code compliant

“Healthy Homes” Grants

- Properties receiving Lead Program assistance may also be eligible for a 1-time grant
- Up to \$5,000 per property as funding remains available
- Focus of grant: additional minor rehab that addresses other environmental safety/health hazards
- Examples:
 - Replacement of property fire doors
 - Replacement / addition of egress windows
 - Mold remediation
- City’s Healthy Homes rehab funds total \$288,000

The Application Process

- Multi-unit owner completes Program application
- Property ownership verified, property tax, sewer account status checked
- Tenants encouraged to provide their income information to Program
- Income verified by Program, Owner follows up on tenant paperwork
- Eligible applications placed in funding & date priority order
- Site visit by Lead Program Manager & Code Officer
- If no major structural, code issues, etc, application moves forward

Lead Inspection Process

- Owner, Community Concepts schedule Lead Inspection/Risk Assessment
- Lead-based paint hazard findings shared with Program, Owner
- Lead remediation design planned, estimated cost shared with Owner
- If Owner wishes to move forward with the work, the remediation plan is put out to bid for qualified abatement contractors
- Lowest, most responsive & responsible bid chosen by Program
- Program shares bid results with Owner, discusses Owner match, deferred loan criteria, etc
- Owner decides whether to move forward to Loan Closing

Remediation Process

- Contractor, Community Concepts, Owner agree on project start/end dates
- Program discusses temporary relocation needs with affected tenants
- The Program can provide funds when tenants do not have friends/family to stay with while their units are abated
- Certified lead abatement workers remediate units
- Independent contractor performs lead clearance testing
- Units are certified 'lead safe'
- Owners receive Essential Maintenance Plan to keep units lead safe

Owner Responsibilities: Post Remediation

- Keep up with Essential Maintenance Plan
- Continue to rent to low- to moderate-income families for 3 years
- Keep current with property taxes
- Remain code-compliant
- To achieve 100% loan forgiveness:
 - All of the above PLUS
 - Retain property ownership

Program Timeline

- Summer 2019: HUD grant submitted
- Fall 2019: HUD grant awarded
- Dec 2019: Lead Program Manager hired
- Dec-present: Implementation planning
- Mid-March: Rollout via Press Release & *Biddeford Beat* Article
Direct mail to downtown property owners
Applications available at Planning Office & on City Website
- April 1st: Anticipated HUD approval for first lead hazard control work contracts
- For further info:
 - Gail Wilkerson, 207-284-9115, option 6
 - Kieri Delano, 207-739-6575

Gail.Wilkerson@BiddefordMaine.org
kdelano@community-concepts.org

Questions?

HEALTH EFFECTS OF LEAD POISONING

Lead is a toxin that can be especially harmful to children under the age of 6. As one of Maine's oldest mill towns, Biddeford is one of five High-Risk Areas designated by the Maine Center for Disease Control (CDC) for having the greatest burden of children with lead poisoning.

Before the health risks associated with lead were known, it was used in many products, including in paint before 1978. Lead dust from old paint is the most common way children get lead poisoning.

Lead can have a very serious and permanent effect on a child's growth and development. Lead can cause:

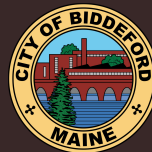
- Learning disabilities
- Behavioral problems
- Hearing damage
- Language or speech delays
- Lowered I.Q.

LEARN MORE

Gail Wilkerson, HQS-CSI, C-LI
Lead Program Manager
City of Biddeford
205 Main Street, Biddeford, ME 04005
207-284-9115 opt. 6
gail.wilkerson@biddefordmaine.org

APPLY TODAY

Keiri Delano
Lead Program Intake Coordinator
207-739-6575
kdelano@community-concepts.org
<https://www.ccimaine.org/lead-testing>



*Funded by HUD's
Office of Lead Hazard
Control & Healthy Homes*



**Safe Homes
For Healthy Families**

City of Biddeford's LEAD-BASED PAINT HAZARD REDUCTION PROGRAM

[www.biddefordmaine.org/
LeadProgram](http://www.biddefordmaine.org/LeadProgram)

AVAILABLE ASSISTANCE

FREE Professional Services

- Lead Inspection
- Lead Risk Assessment
- Lead Remediation Design
- Lead Clearance Certification
- Essential Maintenance Plan

Forgivable Loan

Applicants can receive a 0%-interest loan of up to \$10,000 per unit for lead remediation work. A 10% owner match per unit is required. *Note: match of 25% is required for buildings under a lead abatement order.*

The loan will be 100% forgiven after 3 years if the property is available to low- or moderate income families, not sold or refinanced during the loan period, and remains lead safe and code compliant.

A maximum of ten units (or \$100,000) can be financed per application.

"Healthy Homes" Grants

Properties remediated under this program may also be eligible for a grant of up to \$5,000 to address health & safety issues, such as the replacement of fire doors or egress windows.



Eligible Properties

Properties must be located in Biddeford's downtown area, be built before 1978, and have lead-based paint in deteriorated condition. Only **multi-unit** properties are eligible for the program.

Occupancy Requirements

The property owner must give rental priority to low- or moderate-income families with children under age 6 for at least three years following lead remediation.

Funding Priorities

Funding priority will be in the following order:

1. Buildings under a Lead Abatement Order
2. Buildings occupied by families with:
 - a. A child with an elevated blood lead level
 - b. A child under age 6 OR
 - c. A pregnant woman
3. All OTHER multi-unit buildings.



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Janet T. Mills
GOVERNOR

Bruce A. Van Notie
COMMISSIONER

James Bennett, City Manager
Re: City of Biddeford
205 Main Street, PO Box 586
Biddeford, ME 04005-0586

2/19/2020

Subject: 1¼' Overlay
Project Nos.: 2397700 & 2398500
Location: City of Biddeford
Roadway: Precourt Street

Dear Mr. Bennett:

The Maine Department of Transportation will soon solicit quotes for the subject project for construction, and pursuant to 29-A MRSA § 2382 (7) we have established a "Construction Area." A copy of 29-A § 2382 is enclosed for your information. Also included is an agreement, which requires signature by the municipal officers, and additional background documents.

The agreement stipulates that the municipality will issue a permit for a stated period of time to the MDOT contractor for transporting construction equipment (backhoes, bulldozers, etc.) that exceed legal weight limits, over municipal roads. The agreement acknowledges the municipality's right to require a bond from the contractor to "guarantee suitable repair or payment of damages" per 29-A MRSA.

29-A MRSA § 2382 (7) states that *"the suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers."* In other words, municipal officers determine the suitability of repairs on municipal ways and bridges.

The State cannot force municipalities to allow overweight vehicles to travel on posted municipal roads. Municipal postings supersede overweight permits. However, the agreement requires municipalities to make reasonable accommodations for overweight vehicles that are operated by contractors and the MDOT in connection with the construction project.

The specific municipal roads involved are not necessarily known at present, as the contractor's plan of operation won't be known until just prior to the start of work. If the municipality plans to require a bond; the amount of the bond should be determined prior to the start of work. If the project number administratively changes, you will be notified, and the agreement modified accordingly. Please return the completed agreement to my attention. Should you have any questions, please contact me at 207 624-3410.

Sincerely,

George M.A. Macdougall
Contracts & Specifications Engineer
Bureau of Project Development

Return this AGREEMENT, when completed, to:

Maine Department of Transportation
ATTN.: George Macdougall, Contracts & Specifications Engineer
#16 State House Station, Child Street
Augusta, Maine 04333-0016

Project Nos.: 2397700 & 2398500
Location: Biddeford

Pursuant to 29-A MRSA § 2382, the undersigned municipal officers of the City of Biddeford agree that a construction overlimit permit will be issued to the Contractor for the above-referenced project allowing the contractor to haul non-divisible overlimit loads on municipal ways.

The municipality may require the contractor to obtain a satisfactory bond pursuant to 29-A MRSA § 2388 to cover the cost of any damage that might occur as a result of the overlimit loads. If a bond is required, the exact amount of said bond should be determined prior to the use of any municipal way. The MaineDOT will assist in determining the amount of the bond if requested. A suggested format for a general construction overlimit bond is attached. A suggested format for a construction overlimit permit is also attached. This construction overlimit permit does not supersede rules that restrict the use of public ways, such as posting of public ways, pursuant to 29-A MRSA § 2395.

The maximum speed limit for trucks on any municipal way will be 25 mph (40 km per hour) unless a higher speed limit is specifically agreed upon, in writing, by the Municipal Officers.

CITY OF BIDDEFORD
By the Municipal Officials

SPECIAL PROVISION 105
CONSTRUCTION AREA

Construction Areas located in the Cities of Biddeford and Saco have been established by the Maine Department of Transportation (MDOT) in accordance with provisions of 29-A § 2382 Maine Revised Statutes Annotated (MRSA).

The sections of highway under construction in York County:

Project 2397700 is on Precourt Street in Biddeford beginning at US Route 1 and extending southeast 0.31 of a mile to Landry Street.

Project 2398500 is on Maple Street in Saco beginning at Lincoln Street and extending northeast 0.36 of a mile to Bradley Street.

Per 29-A § 2382 (7) MRSA, the MDOT may “*issue permits for stated periods of time for loads and equipment employed on public way construction projects, United States Government projects or construction of private ways, when within construction areas established by the Department of Transportation. The permit:*

A. Must be procured from the municipal officers for a construction area within that municipality;

B. May require the contractor to be responsible for damage to ways used in the construction areas and may provide for:

(1) Withholding by the agency contracting the work of final payment under contract; or

(2) The furnishing of a bond by the contractor to guarantee suitable repair or payment of damages.

The suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers;

C. May be granted by the Department of Transportation or by the state engineer in charge of the construction contract; and

D. For construction areas, carries no fee and does not come within the scope of this section.”

The Municipal Officers for the Cities of Biddeford and Saco agreed that an Overlimit Permit will be issued to the Contractor for the purpose of using loads and equipment on municipal ways in excess of the limits as specified in 29-A MRSA, on the municipal ways as described in the “Construction Area.”

As noted above, a bond may be required by the municipality, the exact amount of said bond to be determined prior to use of any municipal way. The MDOT will assist in determining the bond amount if requested by the municipality.

The maximum speed limits for trucks on any town way will be 25 mph (40 km per hour) unless a higher legal limit is specifically agreed upon in writing by the Municipal Officers concerned.

**COUNCIL MEETING
FEBRUARY 18, 2020**

Mayor Casavant called the meeting to order at 6:00 p.m.

Roll Call: William Emhiser, John McCurry, Jr., Stephen St. Cyr, Robert Quattrone, Jr., Amy Clearwater, Norman Belanger, Michael Ready, Marc Lessard

Doris Ortiz was excused.

The Council, and all who were present, recited the Pledge of Allegiance.

There were no adjustments to the agenda.

Presentation: National Night Out Award – Family Fun Festival

Mayor Casavant recognized CDBG Coordinator, Linda Holmes and Recreation Director, Carl Walsh for the planning, organization and putting on the Family Fun Festival (formerly known as the Bacon Street Festival). He noted that Biddeford competed nationwide for this award and was the only Maine community to receive the National Night Out Award. Even more impressive is the fact that this is the 9th year straight that Biddeford has received this award.

Presentation: Census 2020

Sterling Roop, Partnership Specialist with the New York Regional Census Center explained the importance of why everyone should be counted in the 2020 Census. He cited such reasons as the Census numbers help to determine services that the community will receive funding for, from children or the elderly. He stressed that Census information that is collected is protected and not shared in any way, shape or form. There are numerous ways to respond to the Census, including phone, online, paper ballot and/or a visit from a Census representative. The Heart of Biddeford is leading the *Complete Count Committee* in Biddeford and is working on getting the word out and provide ways for folks to be counted. The McArthur Library and Seeds of Hope are also involved in assisting to ensure those who may not have direct online or phone access can be counted. Sterling will work with the City to help get the word out via the City's social media sources, website, etc.

Appointment: Maine Service Center Coalition

Motion by Councilor McCurry, seconded by Councilor Clearwater to nominate City Manager, James Bennett as a member, representing Biddeford, to the Maine Service Center Coalition; and further, to allow City Clerk, Carmen Morris to sign and attest the appointment form.

Vote: Unanimous.

Consent Agreement: MDOT – Construction Overlimit Permit

Motion by Councilor Ready, seconded by Councilor Lessard to enter into the Consent Agreement with Maine Department of Transportation for a Construction Overlimit Permit.

Vote: Unanimous.

Consideration of Minutes: February 4, 2020

Motion by Councilor McCurry, seconded by Councilor Clearwater to accept the minutes as printed.

Vote: Unanimous.

Orders of the Day:

2020.11

IN BOARD OF CITY COUNCIL..FEBRUARY 18, 2020

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to enter into a contract with Richardson & Associates to complete a design concept for the 3 Lincoln Park Green Space at an amount not to exceed \$15,000.00.

Funding for this project shall be from account 31179-61010.

Motion by Councilor Clearwater, seconded by Councilor Lessard to grant the order.

Vote: Unanimous.

Public Addressing the Council..(5 minute limit per speaker; 30 minute total time limit):
There were no public comments.

City Manager Report:

City Manager, James Bennett provided the Council with a couple of Legislative Bills that he thinks the Council will want to keep an eye on. One Bill, if passed, would allow public employees (not including employees whose duties include protecting public safety) to strike. The second Bill, in a nutshell, would require a 3rd party arbitrator in labor relations to be selected from a panel of arbitrators who are appointed by the Governor from a list of nominations supplied by the Maine Labor Relations Board.

Other Business:

Councilor Lessard: shared that last week, Mayor Casavant, Councilor Ready and he met with the Saco Mayor and two Saco Councilors to discuss some of the things that both communities may be able to work on together. One of the items discussed was the Tri-City Transit, which encompasses Biddeford and Saco, as well as Old Orchard Beach. This group also discussed the continued sharing of a City Assessor. While Biddeford and Saco will undoubtedly have differing priorities, it was decided that both City Councils would be asked to budget money to go into a shared fund which would support shared projects that would be beneficial to both communities. He is hoping for Council support on this.

Councilor Ready: noted that the Personnel Committee, in a meeting earlier in the day, discussed that the Council take a stand on the two Legislative Bills that the City Manager spoke about in his report.

Councilor Clearwater: announced that the Heart of Biddeford is currently having a fundraiser called *Love Your Downtown Raffle*. She urged folks to see her or go right to the Heart of Biddeford office and purchase raffle tickets.

Council President Addressing the Council: Councilor McCurry recognized that Fire Chief, Scott Gagne has earned his Level 2 Certification.

He also recognized that the Biddeford High School Cheerleaders have won the State Championship once again this year.

He noted that the media recently reported that the City has seen a substantial increase in revenue for parking fees. He clarified that the increased revenue is not all from an increase in parking fines, but is also attributed to the sales of parking lot permits.

Mayor Addressing the Council: Mayor Casavant thinks that there is still a lot of confusion from the public regarding the instituted parking plan, as well as the proposed parking garage. He fears that folks are missing the whole picture and why all parking decisions are intertwined. This only reinforces the need for more and better communication about what is happening in the City and how all the pieces fit together – from the parking garage, paid parking lots, the development of Lincoln Mill and 3 Lincoln Street Open Space.

He publicly thanked Joe McKenney, of McKenney Photography for all the pictures he took at the Inauguration, as well as all his efforts and contributions as a City Volunteer.

Motion by Councilor McCurry, seconded by Councilor Clearwater to adjourn.

Vote: Unanimous.

Time: 6:33 p.m.

Attest by: _____
Carmen J. Morris, City Clerk



2020.12

IN BOARD OF CITY COUNCIL...MARCH 3, 2020

A resolution of the City Council of the City of Biddeford expressing opposition to LD 2090 An Act to Amend the Laws Governing Arbitration under Certain Public Employees Labor Relations Laws.

WHEREAS, one of the most important roles of local government in Maine is to establish the property tax burden for each community by thoughtful and public debate prior to the adoption of an annual budget; and

WHEREAS, an equally important role of the elected leadership in Maine communities is to establish compensation policies for their employees which balances the desire to employ highly motivated and talented professionals with the unique fiscal challenges that exist in every municipality; and

WHEREAS, it is estimated that wages, benefits and insurances of employees account for nearly seventy five percent of local municipal budgets; and

WHEREAS, for more than 40 years, current Maine state law regarding impasse resolution for public employees and unionized workforce has resulted in labor contracts that have been voluntary agreed to by both sides; and

WHEREAS, the unique balance between the parties established by current labor laws has not at any time in history resulted in an impasse between a municipal employer and its employees that was not resolved by voluntary agreement by the parties, and

WHEREAS, LD 2090 *An Act to Amend the Laws Governing Arbitration under Certain Public Employees Labor Relations Laws* would dramatically shift that effective balance; and

WHEREAS, \$2,644,071,685 of property tax revenue was raised in the state of Maine in 2018, and each dollar was determined by local elected leadership through a public budgeting process, including through the most purely democratic form of local taxation decision making on the floors of annual Town Meetings; and

WHEREAS, LD 2090 would grant the authority to determine wages, benefits and insurances exclusively to a so-called "neutral arbitrator" who is appointed by two other arbitrators during impasse resolution, and

WHEREAS, nearly two billion dollars of estimated property tax burden, the most regressive form of taxation in Maine, would be solely determined by binding arbitration which would take place in secrecy and without any recourse for the property taxpayers;

NOW THEREFORE BE IT RESOLVED that the Biddeford City Council in due regular and legal session convened expresses its opposition to LD 2090 for the following reasons:

- LD 2090 is unnecessary because there is no known case in the last forty years where the current method of dispute resolution did not result in a labor contract that was agreed to by both parties;
- LD 2090 would result in property tax rates being established without transparency and without affording citizens the ability to directly speak with their elected officials about their concerns;
- LD 2090 would result in compensation decisions being made in isolation, absent a complete understanding of the challenges and strategic direction of the community that only the elected leadership of the community can truly understand; and
- LD 2090 would fundamentally change the balance in Maine between public employers and their employees.

BE IT FURTHER RESOLVED, that the Biddeford City Council encourages the Maine Legislature and the Governor to reject LD 2090 and further encourages other Maine communities to join them in encouraging the same.



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2090

S.P. 739

In Senate, January 30, 2020

An Act To Amend the Laws Governing Arbitration under Certain Public Employees Labor Relations Laws

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in dark ink, appearing to read "Darek M. Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Speaker GIDEON of Freeport and
Senators: BELLOWS of Kennebec, LIBBY of Androscoggin, VITELLI of Sagadahoc,
Representatives: FECTION of Biddeford, MOONEN of Portland, SYLVESTER of Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §965, sub-§4**, as amended by PL 1975, c. 564, §18, is further
3 amended to read:

4 **4. Arbitration.** In addition to the 30-day period referred to in subsection 3, the
5 parties ~~shall~~ have 15 more days, making a total period of 45 days from the submission of
6 findings and recommendations, in which to make a good faith effort to resolve their
7 controversy.

8 If the parties have not resolved their controversy by the end of ~~said the~~ 45-day period,
9 they may jointly agree to an arbitration procedure ~~which that~~ will result in a binding
10 determination of their controversy. Such determinations ~~will be~~ are subject to review by
11 the Superior Court in the manner specified by section 972.

12 If they do not jointly agree to such an arbitration procedure within 10 days after the end
13 of ~~said the~~ 45-day period, then either party may, by written notice to the other, request
14 that their differences be submitted to a board of 3 arbitrators. The bargaining agent and
15 the public employer shall within 5 days of ~~such the~~ request each select and name one
16 arbitrator and shall immediately thereafter notify each other in writing of the name and
17 address of the person so selected. The 2 arbitrators so selected and named shall, within 10
18 days from ~~such the~~ request, agree upon and select and name a neutral arbitrator from the
19 panel of arbitrators established in accordance with subsection 4-A. ~~If either party shall~~
20 ~~not select its arbitrator or if the 2 arbitrators shall fail to agree upon, select and name a~~
21 ~~neutral arbitrator within said 10 days, either party may request the American Arbitration~~
22 ~~Association to utilize its procedures for the selection of the neutral arbitrator. As soon as~~
23 ~~possible after receipt of such request, the neutral arbitrator will be selected in accordance~~
24 ~~with rules and procedures prescribed by the American Arbitration Association for making~~
25 ~~such selection. If the 2 arbitrators cannot in 10 days select a neutral arbitrator, the~~
26 ~~executive director shall appoint the neutral arbitrator from the panel of arbitrators~~
27 ~~established in accordance with subsection 4-A.~~ The neutral arbitrator so selected ~~will~~
28 may not, without the consent of both parties, be the same person who was selected as
29 mediator pursuant to subsection 2 nor any member of the fact-finding board selected
30 pursuant to subsection 3. As soon as possible after the selection of the neutral arbitrator,
31 the 3 arbitrators ~~or if either party shall not have selected its arbitrator, the 2 arbitrators, as~~
32 ~~the case may be,~~ shall meet with the parties or their representatives, or both, forthwith,
33 either jointly or separately, make inquiries and investigations, hold hearings, or take such
34 other steps as they ~~deem~~ determine appropriate. ~~If the neutral arbitrator is selected by~~
35 ~~utilizing the procedures of the American Arbitration Association, the arbitration~~
36 ~~proceedings will be conducted in accordance with the rules and procedures of the~~
37 ~~American Arbitration Association.~~ The hearing shall must be informal, and the rules of
38 evidence prevailing in judicial proceedings ~~shall are~~ not be binding. Any and all
39 documentary evidence and other data ~~deemed~~ determined relevant by the arbitrators may
40 be received in evidence. The arbitrators ~~shall~~ have the power to administer oaths and to
41 require by subpoena the attendance and testimony of witnesses, the production of books,
42 records and other evidence relative or pertinent to the issues represented to them for
43 determination.

1 If the controversy is not resolved by the parties themselves, the arbitrators shall proceed
2 as follows: ~~With respect to a controversy over salaries, pensions and insurance, the~~
3 ~~arbitrators will recommend terms of settlement and may make findings of fact; such~~
4 ~~recommendations and findings will be advisory only and will be made, if reasonably~~
5 ~~possible, within 30 days after the selection of the neutral arbitrator; the arbitrators may in~~
6 ~~their discretion, make such recommendations and findings public, and either party may~~
7 ~~make such recommendations and findings public if agreement is not reached with respect~~
8 ~~to such findings and recommendations within 10 days after their receipt from the~~
9 ~~arbitrators; with respect to a controversy over all subjects other than salaries, pensions~~
10 ~~and insurance, the arbitrators shall make determinations with respect thereto if reasonably~~
11 ~~possible within 30 days after the selection of the neutral arbitrator; such determinations~~
12 ~~may be made public by the arbitrators or either party; and if made by a majority of the~~
13 ~~arbitrators, such determinations will be are binding on both parties and the parties will~~
14 ~~shall enter an agreement or take whatever other action that may be appropriate to carry~~
15 ~~out and effectuate such binding determinations; and such determinations will be are~~
16 ~~subject to review by the Superior Court in the manner specified by section 972.~~
17 Notwithstanding section 964, subsection 2, if the public employer fails to enter into an
18 agreement or take whatever other action may be appropriate to carry out and effectuate
19 binding determinations made by arbitrators pursuant to this subsection, the public
20 employees represented by the bargaining agent, except for public employees whose duties
21 include protecting public safety, may engage in a strike. The results of all arbitration
22 proceedings, recommendations and awards conducted under this section shall must be
23 filed with the Maine Labor Relations Board at the offices of its executive director
24 simultaneously with the submission of the recommendations and award to the parties. In
25 the event the parties settle their dispute during the arbitration proceeding, the arbitrator or
26 the ~~chairman~~ chair of the arbitration panel will shall submit a report of his the arbitrator's
27 or chair's activities to the Executive Director of the Maine Labor Relations Board not
28 more than 5 days after the arbitration proceeding has terminated.

29 In reaching a decision under this subsection, the arbitrator shall consider the following:

30 A. The interests and welfare of the public and the financial ability of the public
31 employer to finance the cost items proposed by each party to the impasse;

32 B. A comparison of the wages, hours and working conditions of the employees
33 involved in the arbitration proceeding with the wages, hours and working conditions
34 of other employees performing similar services in public and private employment in
35 other jurisdictions competing in the same labor market;

36 C. The overall compensation presently received by the employees including direct
37 wage compensation, vacation, holidays and excused time, insurance and pensions,
38 medical and hospitalization benefits, the continuity and stability of employment and
39 all other benefits received;

40 D. Factors other than those specified in paragraphs A to C that are normally and
41 traditionally taken into consideration in the determination of wages, hours and
42 working conditions through voluntary collective bargaining, mediation, fact-finding,
43 arbitration or otherwise between the parties, in public or private employment,
44 including the average Consumer Price Index;

45 E. The need of the public employer for qualified employees;

1 F. Conditions of employment in similar occupations outside public employment;

2 G. The need to maintain appropriate relationships between different occupations in
3 public employment; and

4 H. The need to establish fair and reasonable conditions in relation to job
5 qualifications and responsibilities.

6 Cost items in a collective bargaining agreement that is arrived at through arbitration in
7 accordance with this subsection may not be submitted for inclusion in the municipality's
8 operating budget for the fiscal year in which the agreement is ratified, but must be
9 submitted for inclusion in the municipality's operating budget for the fiscal year following
10 the fiscal year in which the agreement is ratified.

11 **Sec. 2. 26 MRSA §965, sub-§4-A** is enacted to read:

12 **4-A. Panel of arbitrators.** The Governor shall appoint a panel of arbitrators,
13 consisting of no fewer than 5 nor more than 10 impartial arbitrators, to serve as impartial
14 arbitrators of the interests of the public in the settlement of disputes between employers
15 and employees or their representatives. The board shall supply to the Governor
16 nominations for appointment to the panel. The arbitrators must reside in the State and be
17 neutral and unbiased. The board shall adopt rules governing the necessary qualifications
18 for appointment to the panel and allowable compensation for panel members.

19 **Sec. 3. 26 MRSA §979-D, sub-§4, ¶B,** as enacted by PL 1973, c. 774, is
20 amended to read:

21 B. If the parties have not resolved their controversy by the end of ~~said~~ the 45-day
22 period, either party may petition the board to initiate compulsory final and binding
23 arbitration of the negotiations impasse. On receipt of the petition, the executive
24 director of the board shall investigate to determine if an impasse has been reached. If
25 ~~he so the executive director determines that an impasse has been reached, he the~~
26 executive director shall issue an order requiring arbitration and requesting the parties
27 to select one or more arbitrators. If the parties within 10 days after the issuance of the
28 order have not selected an arbitrator or a Board of Arbitration, the ~~The~~ board shall
29 then order each party to select one arbitrator, and if these 2 arbitrators cannot in 5
30 days select a 3rd neutral arbitrator, the board shall submit a list from which the
31 parties may alternately strike names until a single name is left, who shall be
32 appointed by the board as arbitrator the 2 arbitrators so named shall select a 3rd
33 neutral arbitrator from the panel of arbitrators established in accordance with section
34 965, subsection 4-A. If the 2 arbitrators cannot in 10 days select a neutral arbitrator,
35 the executive director shall appoint the neutral arbitrator from the panel of arbitrators
36 established in accordance with section 965, subsection 4-A.

37 **Sec. 4. 26 MRSA §979-D, sub-§4, ¶D,** as enacted by PL 1973, c. 774, is
38 amended to read:

39 D. With respect to controversies over salaries, pensions and insurance, the arbitrator
40 ~~will~~ shall recommend terms of settlement and may make findings of fact. Such
41 recommendations and findings ~~shall be~~ are advisory and ~~shall be~~ are not be binding upon

1 the parties. The determination by the arbitrator on all other issues ~~shall be~~ is final and
2 binding on the parties.

3 **Sec. 5. 26 MRSA §979-D, sub-§4, ¶F** is enacted to read:

4 F. Notwithstanding section 979-C, subsection 2, if the public employer fails to enter
5 into an agreement or take whatever other action may be appropriate to carry out and
6 effectuate binding determinations made by arbitrators pursuant to this subsection, the
7 state or legislative employees represented by the bargaining agent, except for
8 employees whose duties include protecting public safety, may engage in a strike.

9 **Sec. 6. 26 MRSA §979-D, sub-§4, ¶G** is enacted to read:

10 G. Cost items in a collective bargaining agreement arrived at through arbitration in
11 accordance with this subsection:

12 (1) May not be submitted for inclusion in the Governor's operating budget for the
13 fiscal year in which the agreement is ratified; and

14 (2) Must be submitted for inclusion in the Governor's operating budget for the
15 fiscal year following the fiscal year in which the agreement is ratified.

16 **Sec. 7. 26 MRSA §1026, sub-§4, ¶A**, as corrected by RR 2009, c. 2, §76, is
17 amended to read:

18 A. At any time after participating in the procedures set forth in subsections 2 and 3,
19 either party, or the parties jointly, may petition the board to initiate arbitration
20 procedures. On receipt of the petition, the executive director shall within a reasonable
21 time determine if an impasse has been reached; the determination must be made
22 administratively, with or without hearing, and is not subject to appeal. If the
23 executive director so determines, the executive director shall issue an order requiring
24 arbitration and requesting ~~the parties to select one or more arbitrators. If the parties,~~
25 ~~within 10 days after the issuance of the order, have not selected an arbitrator or a~~
26 ~~Board of Arbitration, the executive director shall then order each party to select one~~
27 ~~arbitrator and the 2 arbitrators so selected shall to select a 3rd neutral arbitrator from~~
28 ~~the panel of arbitrators established in accordance with section 965, subsection 4-A. If~~
29 ~~the 2 arbitrators cannot in 5 days select a 3rd neutral arbitrator, the executive director~~
30 ~~shall submit identical lists to the parties of 5 or more qualified arbitrators of~~
31 ~~recognized experience and competence appoint the 3rd neutral arbitrator from the~~
32 ~~panel of arbitrators established in accordance with section 965, subsection 4-A. Each~~
33 ~~party has 7 days from the submission of the list to delete any names objected to,~~
34 ~~number the remaining names indicating the order of preference and return the list to~~
35 ~~the executive director. In the event a party does not return the list within the time~~
36 ~~specified, all parties named therein are deemed acceptable. From the arbitrators who~~
37 ~~have been approved by both parties and pursuant to the order of mutual preference,~~
38 ~~the executive director shall appoint a neutral arbitrator. If the parties fail to agree~~
39 ~~upon any arbitrators named, or if for any other reason the appointment cannot be~~
40 ~~made from the initial list, the executive director shall then submit a 2nd list of 5 or~~
41 ~~more additional qualified arbitrators of recognized experience and competence from~~
42 ~~which they shall strike names with the determination as to which party shall strike~~
43 ~~first being determined by a random technique administered through the Executive~~

1 Director of the Maine Labor Relations Board. Thereafter, the parties shall alternately
2 strike names from the list of names submitted, provided that, when the list is reduced
3 to 4 names, the 2nd from the last party to strike shall be entitled to strike 2 names
4 simultaneously, after which the last party to strike shall so strike one name from the
5 then 2 remaining names, such that the then remaining name shall identify the person
6 who must then be appointed by the executive director as the neutral arbitrator.

7 Nothing in this subsection may be construed as preventing the parties, as an
8 alternative to procedures in the preceding paragraph, from jointly agreeing to elect
9 arbitration from either the Federal Mediation and Conciliation Service or the
10 American Arbitration Association, under the procedures, rules and regulations of that
11 association, provided that these procedures, rules and regulations are not inconsistent
12 with paragraphs B and C.

13 **Sec. 8. 26 MRSA §1026, sub-§4, ¶B**, as amended by PL 1983, c. 153, §2, is
14 further amended to read:

15 B. If the controversy is not resolved by the parties themselves, the arbitrators shall
16 proceed as follows: ~~With respect to a controversy over salaries, pensions and~~
17 ~~insurance, the arbitrators will recommend terms of settlement and may make findings~~
18 ~~of fact; such recommendations and findings will be advisory only and will be made,~~
19 ~~if reasonably possible, within 60 days after the selection of the neutral arbitrator. The~~
20 ~~arbitrators may in their discretion make such recommendations and findings public,~~
21 ~~and either party may make such recommendations and findings public if agreement is~~
22 ~~not reached with respect to such findings and recommendations within 10 days after~~
23 ~~their receipt from the arbitrators. With~~ with ~~respect to a controversy over all~~ subjects
24 ~~other than salaries, pensions and insurance, the arbitrators shall make determinations~~
25 ~~with respect thereto if reasonably possible within 60 days after the selection of the~~
26 ~~neutral arbitrator. Such determinations may be made public by the arbitrators or~~
27 ~~either party and if made by a majority of the arbitrators, such determinations will be~~
28 ~~are~~ binding on both parties and the parties ~~will~~ shall enter an agreement or take
29 whatever other action that may be appropriate to carry out and effectuate such
30 binding determinations, and such determinations ~~will be~~ are subject to review by the
31 Superior Court in the manner specified by section 1033. The results of all arbitration
32 proceedings, recommendations and awards conducted under this section ~~shall~~ must be
33 filed with the Maine Labor Relations Board at the offices of its executive director
34 simultaneously with the submission of the recommendations and award to the parties.
35 In the event the parties settle their dispute during the arbitration proceeding, the
36 arbitrator or the ~~chairman~~ chair of the arbitration panel ~~will~~ shall submit a report of
37 ~~his~~ the arbitrator's or chair's activities to the Executive Director of the Maine Labor
38 Relations Board not more than 5 days after the arbitration proceeding has terminated.

39 **Sec. 9. 26 MRSA §1026, sub-§4, ¶D** is enacted to read:

40 D. Notwithstanding section 1027, subsection 2, if the university, academy or
41 community college fails to enter into an agreement or take whatever other action may
42 be appropriate to carry out and effectuate binding determinations made by arbitrators
43 pursuant to this subsection, the university, academy or community college employees

1 represented by the bargaining agent, except for employees whose duties include
2 protecting public safety, may engage in a strike.

3 **Sec. 10. 26 MRSA §1026, sub-§4, ¶E** is enacted to read:

4 E. Cost items in a collective bargaining agreement arrived at through arbitration in
5 accordance with this subsection:

6 (1) May not be submitted for inclusion in the Governor's operating budget for the
7 fiscal year in which the agreement is ratified; and

8 (2) Must be submitted for inclusion in the Governor's operating budget for the
9 fiscal year following the fiscal year in which the agreement is ratified.

10 **Sec. 11. 26 MRSA §1285, sub-§4,** as enacted by PL 1983, c. 702, is amended to
11 read:

12 **4. Arbitration.**

13 A. In addition to the 30-day period referred to in subsection 3, the parties shall have
14 15 more days, making a total of 45 days from the submission of findings and
15 recommendations, in which to make a good faith effort to resolve their controversy.

16 B. If the parties have not resolved their controversy by the end of that 45-day period,
17 either party may petition the board to initiate compulsory final and binding arbitration
18 of the negotiations' impasse. On receipt of the petition, the executive director of the
19 board shall investigate to determine if an impasse has been reached. If ~~he~~ the
20 executive director so determines, ~~he~~ the executive director shall issue an order
21 requiring arbitration and requesting ~~the parties to select one or more arbitrators. If~~
22 ~~the parties, within 10 days after the issuance of the order, have not selected an~~
23 ~~arbitrator or an arbitration panel, the board shall then order each party to select one~~
24 ~~arbitrator and, if these 2 arbitrators cannot in 5 days select a 3rd neutral arbitrator, the~~
25 ~~board shall submit a list from which the parties may alternately strike names until a~~
26 ~~single name is left, who shall be appointed by the board as arbitrator~~ the 2 arbitrators
27 so selected to select a 3rd neutral arbitrator from the panel of arbitrators established
28 in accordance with section 965, subsection 4-A. If the 2 arbitrators cannot in 5 days
29 select a 3rd neutral arbitrator, the executive director shall appoint the 3rd neutral
30 arbitrator from the panel of arbitrators established in accordance with section 965,
31 subsection 4-A. In reaching a decision under this paragraph, the arbitrator shall
32 consider the following factors:

33 (1) The interests and welfare of the public and the financial ability of State
34 Government to finance the cost items proposed by each party to the impasse;

35 (2) Comparison of the wages, hours and working conditions of the employees
36 involved in the arbitration proceeding with the wages, hours and working
37 conditions of other employees performing similar services in the executive and
38 legislative branches of government and in public and private employment in
39 other jurisdictions competing in the same labor market;

40 (3) The overall compensation presently received by the employees, including
41 direct wage compensation, vacation, holidays and excused time, insurance and

pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received;

(4) Such other factors not confined to the foregoing, which are normally and traditionally taken into consideration in the determination of wages, hours and working conditions through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment, including the average Consumer Price Index;

(5) The need of the Judicial Department for qualified employees;

(6) Conditions of employment in similar occupations outside State Government;

(7) The need to maintain appropriate relationships between different occupations in the Judicial Department; and

(8) The need to establish fair and reasonable conditions in relation to job qualifications and responsibilities.

C. Cost items in a collective bargaining agreement arrived at through arbitration in accordance with this subsection:

(1) May not be submitted for inclusion in the Judicial Department's operating budget for the fiscal year in which the agreement is ratified; and

(2) Must be submitted for inclusion in the Judicial Department's operating budget for the fiscal year following the fiscal year in which the agreement is ratified.

With respect to controversies over ~~salaries~~, pensions and insurance, the arbitrator shall recommend terms of settlement and may make findings of fact. The recommendations and findings ~~shall be~~ are advisory and ~~shall be~~ are not be binding upon the parties. The determination by the arbitrator on all other issues ~~shall be~~ is final and binding on the parties. Notwithstanding section 1284, subsection 2, if the public employer fails to enter into an agreement or take whatever other action may be appropriate to carry out and effectuate binding determinations made by arbitrators pursuant to this subsection, the judicial employees represented by the bargaining agent, except for employees whose duties include protecting public safety, may engage in a strike.

Any hearing ~~shall~~ must be informal and the rules of evidence for judicial proceedings ~~shall be~~ are not be binding. Any documentary evidence and other information ~~deemed determined~~ relevant by the arbitrator may be received in evidence. The arbitrator may administer oaths and require by subpoena attendance and testimony of witnesses and production of books and records and other evidence relating to the issues presented. The arbitrator ~~shall have~~ has a period of 30 days from the termination of the hearing in which to submit ~~his~~ a report to the parties and to the board, unless that time limitation is extended by the executive director.

Sec. 12. 26 MRSA §1285, sub-§5, ¶E, as enacted by PL 1983, c. 702, is amended to read:

E. In reaching a decision, the mediator-arbitrator shall consider the factors specified in section 1285, subsection 4. With respect to controversies over ~~salaries~~, pensions

1 and insurance, the mediator-arbitrator shall recommend terms of settlement and may
2 make findings of fact. Such recommendations and findings ~~shall be~~ are advisory and
3 ~~shall be~~ are not binding on the parties. The determination of the mediator-arbitrator
4 on all other issues ~~shall be~~ is final and binding on the parties.

5 **Sec. 13. Effective date.** This Act takes effect July 1, 2021.

6 SUMMARY

7 Under current law, arbitrations under labor relations laws governing municipal public
8 employees, University of Maine System employees, state employees and judicial
9 employees require that each party select one arbitrator and those 2 arbitrators select a
10 neutral 3rd arbitrator. This bill requires that the neutral 3rd arbitrator be selected from a
11 panel of arbitrators appointed by the Governor from a list of nominations supplied by the
12 Maine Labor Relations Board. Under the bill, appointees to the panel of arbitrators serve
13 as impartial arbitrators of the interests of the public in the settlement of disputes between
14 employers and employees or their representatives, and each appointee must reside in the
15 State. In addition, this bill:

16 1. Amends the labor relations laws governing municipal public employees and
17 University of Maine System employees to provide that determinations by arbitrators with
18 respect to controversies over all subjects, including salaries, pensions and insurance, are
19 final and binding on the parties;

20 2. Amends the labor relations laws governing state employees to provide that, with
21 respect to controversies over salaries, an arbitrator's determinations are final and binding
22 on the parties;

23 3. Amends the labor relations laws governing judicial employees to provide that an
24 arbitrator's determinations with respect to controversies over all subjects, including
25 salaries, pensions and insurance, are final and binding on the parties and that, with respect
26 to controversies over salaries, determinations by mediator-arbitrators are final and
27 binding on the parties;

28 4. Adds specific factors an arbitrator must consider when a controversy is not
29 resolved between a public employer and bargaining agent under the municipal public
30 employees labor relations law;

31 5. Provides that, if a public employer fails to enter into an agreement to carry out and
32 effectuate binding determinations made by arbitrators, the public employees are
33 authorized to strike;

34 6. Requires that cost items in a collective bargaining agreement arrived at through
35 arbitration may not be included in the state or local operating budget, as relevant, for the
36 current fiscal year, but must instead be submitted for inclusion in the operating budget for
37 the following fiscal year; and

38 7. Provides an effective date for the changes made in the bill of July 1, 2021.