



Maine Municipal Association

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Testimony of the Maine Municipal Association

In Opposition To

LD 928 - *Proposing an Amendment to the Constitution of Maine to Establish a Right to a Clean and Healthy Environment*

March 21, 2023

Sen. Brennan, Rep. Gramlich and distinguished members of the Environment and Natural Resource Committee, my name is Rebecca Graham, and I am submitting testimony in opposition to LD 928, *Proposing an Amendment to the Constitution of Maine to Establish a Right to a Clean and Healthy Environment*, on behalf of Maine Municipal Association which represents the interests of municipal government before the legislature. The positions of the Association are determined by our 70-member Legislative Policy Committee (LPC) who are elected by the councils and selectboards in each of Maine's 35 Senate districts.

As we have seen with the most recent amendment referendum on the Right To Food, the aspirational goals of Constitutional amendments are subject to challenges asserting rights that were not the intent of the drafters, according to their testimony anyway. Courts are the only entity that can determine the limits and scope of Constitutional rights which makes such efforts an automatic trial lawyer employment act. These are public funds that are better used in direct service of environmental protection goals not funding legal challenges.

Constitutional amendments are restrictive, open communities to legal challenges for delivery or protection of resources, and generally only established concretely through the creation of case law to those legal challenges. Once settled, case law can strip a community, or this legislature, of the flexibility necessary to respond to fundamental human rights issues. Neither treaty law nor customary international law provide for such a right within human rights discourse though there are multiple elements of human rights law that correspond with sustainable management of ecosystems and biodiversity. There is a deep relationship between a clean and healthy environment and the enjoyment of all natural and inherent human rights and fundamental freedoms.

It is this inter-relationship between a healthy environment and all other rights established in customary international law that require as much flexibility in interpretation of environmental rights as possible for the government entities establishing regulation and enforcement mechanisms.

Environmental regulation and goals have consistently been increased and advanced by the actions of local governments who nimbly respond to the desires of their residents. Municipalities consistently use their ordinance authority to limit pollution to bodies of water, remove harmful products from waste streams, and limit the spread of chemicals that can effect an organic farm or the health of those sharing drinking water resources with their neighbors. Long before such efforts become politically palatable at the state level.

Municipalities need investment in state support to meet the climate and environmental goals that extend beyond municipal boundaries and not the advancement of constitutional language that will potentially handcuff these future efforts to be leveraged to the maximum extent practicable. They do not need public expenditure to run a referendum to affirm what is already known and actively pursued. Official urge you to vote ought not to pass on LD 928 and keep local funds necessary to run this referendum in service of environmental protection priorities at both the state and local level.