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Testimony of the Maine Municipal Association

In Opposition to

LD 1700 - *An Act to Protect Agricultural Lands by Creating a Permitting Process for Solar Development on Those Lands*

April 26, 2023

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Sen. Ingwersen, Rep. Pluecker and distinguished members of the Agriculture and Forestry Committee, my name is Rebecca Graham and I am submitting testimony in opposition to LD 1700, *An Act to Protect Agricultural Lands by Creating a Permitting Process for Solar Development on Those Lands*, on behalf of Maine Municipal Association which represents the interests of municipal government before the state and federal government. The positions of the Association are formed at the direction of our 70-member Legislative Policy Committee, (LPC) who are elected by the selectboards and council of the municipalities in each of the 35 Senate districts in Maine. As a result, the positions represent a wide view of communities with varying resources, rural and urban, and those with ample local resources as well as those with none.

Municipal officials share the intended goals of protecting agricultural land, particularly land in active production, which is rapidly disappearing across the state. Some municipalities have very specific empowering ordinances to provide additional financial incentives to keep large parcels of land in production in their communities because the highest and best use of that land will always outstrip the unquantifiable intrinsic value keeping these lands in production provide to communities and the state.

That said, there are key parts of this bill that are deeply concerning from the municipal perspective. Under sec. 3 C, officials are very concerned that the language “societal benefit of distributed energy production on the agricultural land outweighs the economic, cultural and societal benefit of food production” could be interpreted to apply to every solar project proposed undermining the protection value of the intent. The economic benefit of agricultural land can never compete with the economic value of distributed generation projects. This is why the Constitution carves these lands out from highest and best use calculations.

The other two concepts, cultural and societal benefits, are not defined and thus can be broadly interpreted either limiting the ability for appropriate development or conversely allowing arbitrary interpretation to force unwanted development. For instance, we are in the midst of a housing crisis, the societal benefit of undeveloped lands has shifted in our culture and the economic benefit of solar is less valued than housing at the moment. If faced with two development projects, one for housing and one for solar on the same parcel, these vague and situationally fluid qualifiers are problematic for officials attempting to make decisions.

Sec. 4 the permitting process is concerning because it removes local authority for review and shifts the traditional planning oversight relationship from the local level in partnership with a state permit, to a state permit and forced municipal acceptance of a project that might not be in an appropriate place and may drastically change community character. For an examples of why this

is not appropriate, the committee may be interested in hearing from the City of Augusta who had little knowledge or input into the way in which the on ramp projects have change the way visitors first encounter the city from the highway. When the department did allow input from the community as part of the project was next to a nature preserve, they concluded the project needed to be modified to address local resident concerns.

Some communities desire that solar projects that balance income for farmers be built to a standard that solar developers are unlikely to desire because it may require the least invasive method to permit agricultural use underneath the panels to meet the spirit of the incentives communities are providing agricultural lands entirely.

Municipalities have already adopted solar ordinances and are subject matter experts who were forced to address large scale solar developments without technical assistance in place at the state level once they were incentivized. Section 4 also strips communities of their homerule on these projects which are extremely local and parcel based, it lays out redundant and already required such as a planning board and appeals board that are only delegated to another authority such as the county by municipal charter.

Municipalities need appropriate technical guidance on best practices for evaluating projects on agricultural land not the removal of homerule principles to achieve them. Section D changes the local state partnership best practices which is to educate, inform and assist not evaluate and admonish. As evidenced by the shoreland zoning relationship, regulatory bodies at the state level are not best placed to understand the parcel level, and a better tool to help municipalities with enforcement not take enforcement against entire communities.

For all of these reasons, municipal officials ask you to vote ought not to pass on LD 1700 entirely.