

Testimony of the Maine Municipal Association

In Opposition To

***LD 1829, An Act to Build Housing for Maine Families and Attract Workers to Maine
Businesses by Amending the Laws Governing Municipal Land Use Decisions***

May 12, 2025

Sen. Curry, Rep. Gere and distinguished members of the Housing and Economic Development Committee, my name is Rebecca Graham, and I am submitting testimony in opposition to LD 1829 at the direction of MMA's Legislative Policy Committee (LPC). Our LPC is composed of municipal officials from across Maine, elected by their peers to represent communities with vastly different enforcement staff, resources and capacities.

Like with LD 1921, this proposal takes away local resident agency by tipping the remedy available away from the local Superior Court to a distant state level board, with no requirement for the process to occur where residents live. Filing with this board stop local superior court processes will be used by those who are driving displacement and gentrification of neighborhoods, not the residents impacted by planning decisions. Again, Maine's Constitution requires the state to provide 90% of the costs to implement this legislation unless you send a clear message that you have no desire to do so by the appropriate 2/3 majority vote. These sections of law were just enacted and resulting ordinances would again need to be amended at extreme cost to communities.

There is no path forward to a workable solution for this bill. It is unconstitutional at best, lacks an understanding of judicial authority and completely erodes democratic participation of residents to benefit private equity at the expense of the very people the bill claims to protect. A bill cannot "withstand" the provisions of Maine's Constitution via statute. If you desire to take this path and remove the right of appeal as outlined in Sec.1(19), it must be turned into a constitutional referendum and the people of Maine must be allowed to vote to return their protected powers to a board of unelected individuals outlined in the bill.

The balance in any development proposal for a community is between an individual developer's profit margin and the long-term community harm that can be caused by not protecting the local environment or damaging quality of life for residents through profit driven decisions. Additionally, the proposed board threatens to override the local community process for economic incentives that these projects need to secure bank funding or meet the developer's profit margin.

The result will disadvantage developers not only by wasting their time applying to a process the court will not uphold, but also by eroding further local will to provide development tax incentives that aid such projects.

Even with the benefit of all doubt, this bill would effectively supplant local legislative authority and the ability for Maine's municipalities to determine, for themselves, the terms under which their communities will grow and develop with state-mandated, universally applicable standards wholly devoid of local input, preferences, or priorities. At worst, this bill reflects an embarrassingly ill-informed and misguided attempt to fix a perceived problem in ways so unworkable that they belie a total lack of understanding of existing and foundational principles of law, governance, and best practices for community planning.

As discussed in LD 1926, the presence of a public water or wastewater system alone does not denote existing capacity for expansion. However, this bill drives the reverse cart before the horse and will force expansion of development where there is no capacity in the system. An additional cost to the local property taxpayer for a state desired outcome.

While it may be laudable to require training for a comprehensive planning committee under Sec. 2, the standard is one that is higher than existing requirements for elected officials to the planning board or to the Maine State Legislature who establish effective law. This requirement is suggested for a committee of resident volunteers who have no authority to establish rules or law by their role and instead are established to inform community visioning for the future. It's not clear what problem this section seeks to solve but perhaps should be used to reflect on the knowledge set of those who are proposing land use reform and encourage training on local processes.

Communities must maintain their rights to protect themselves from unanticipated genuine threats to health, safety, and welfare, particularly against bad development. These are decisions that should remain in the community and not be passed to an unelected board, with little lived experience, to decide far away from the community. For all of these reasons, municipal officials oppose this bill and urge the committee to engage with the municipal officials and employees from the communities you represent and find out what is truly needed.