

February 24, 2026

Maine Committee on Environment and Natural Resources

**RE: L.D. 2174 – An Act to Increase Predictability in the Permitting of Renewable Energy Development**

Committee Members,

The following are my public comments regarding the proposed amendment to LD 2174 dated February 18, 2026, to be presented to the Environment and Natural Resources committee on February 25, 2026. I recommend an **Ought Not to Pass** as presented.

1. In accordance with Article IV, Section 1 of the Maine constitution, the second regular session of the Legislature shall be limited to, among other matters, legislation of an emergency nature admitted by the Legislature. In accordance with Article IV, Section 16 an emergency bill shall include only such measures as are immediately necessary for the preservation of the public peace, health or safety; and shall not include (1) an infringement of the right of home rule for municipalities. As LD 2174 was originally submitted as an emergency bill during the second regular session of the Legislature (January 27, 2026) and proposes an infringement of the right of home rule, LD 2174 as presented appears to conflict with the Maine constitution and it would therefore appear that it must either 1) await the next first regular session of the Legislature or 2) be amended to remove all reference to infringements of the right of home rule. [Maine State Constitution | Maine Legislature](#) or [2023-constitution-of-maine.pdf](#), [LD 2174, HP 1462, Text and Status, 132nd Legislature, Second Regular Session](#)
2. Add to Title 30-A that all legislation that impacts home rule shall be approved by a 2/3 vote of members present of each chamber of the Legislature and by the Governor. [Title 30-A, §2101: Purpose](#)
3. Add to Title 5, Section 8072 that any State agency rulemaking that infringes on home rule shall be considered major substantive rules. [Title 5, §8072: Legislative review of major substantive rules](#)
4. Amend Title 35-A, Section 3131, subsection (4-A) to read: High-impact electric transmission line. “High-impact electric transmission line” means a transmission line that is:
  - a. Constructed to transmit direct current electricity; or,

- b. Capable of operating at 345 kilovolts or more and is not a generator interconnection transmission facility as defined in section 3132, subsection 1-B.

Please note that the above amendment eliminates 1) reference to a transmission line greater than 50 miles in length and 2) reference to, is not constructed primarily to provide electric reliability, as determined by the commission. [Title 35-A, §3131: Definitions](#)

- 5. Amend Title 35-A, Section 3136 as follows:
  - a. Amend Title 35-A, Section 3136, subsection (2A) to read: Lands or easements located within 300 feet of an inhabited dwelling, or such greater distance as determined by the commission upon completion of a study, to be completed by December 31, 2027, to determine the setback distance that a transmission line carrying 5,000 volts or greater should be from an inhabited dwelling to preserve public peace, health or safety.
  - b. Amend Title 35-A, Section 3136, subsection (5) to read: The owner of a property taken by eminent domain by a transmission and distribution utility for the construction, rebuilding or relocation of a transmission line is entitled to treble damages for all property taken, which must be determined using the methods set forth in Title 23, section 154 to 154-F.
  - c. Add to Title 35-A, Section 3136 a section to read: The owner of an abutting property taken by eminent domain by a transmission and distribution utility for the construction, rebuilding or relocation of a transmission line is entitled to double damages for all of their property that experiences a diminution of value resulting from the construction, rebuilding or relocation of said transmission line, using the methods set forth in Title 23, section 154 to 154-F.
  - d. Add to Title 35-A, Section 3136 a section to read: The owner of a property to be taken by eminent domain, or the owner of an abutting property to be taken by eminent domain, are entitled to compensation terms for the taking of the property, or for an easement on the property, by the taker that include allowing for periodic payments by the taker to the owner under terms that extend for a period of up to twenty years. [Title 35-A, §3136: Transmission and distribution utilities have eminent domain; approval](#)
- 6. Amend Title 35-A, Section 102 to read: Abutting property. Abutting property means real estate that shares a common boundary, or portion of a boundary, with land that is held in common ownership with land registered, or being considered for registration, when the abutting real estate is within 50 feet of the land registered or being consider for registration. Abutting property includes, but is not limited to, land separated by a road

and within 50 feet of land that is held in common ownership with land registered or being considered for registration. [Title 35-A, §102: Definitions](#), [Title 7, §52: Definitions](#)

7. Add to Title 35-A a new section that discusses community benefit agreements for solar energy development, wind energy development, energy storage system development, pumped-storage hydroelectric facility and high-impact electric transmission line development for host communities, that commence construction or relocation on or after August 1, 2026. The following concept is taken from Title 35-A, Section 3451 that discusses expedited permitting of grid-scale wind energy development:
  - a. Community benefits package. “Community benefits package means the aggregate collection of tangible benefits resulting from any of the following:
    - i. Payments, not including property tax payments, to the host community or communities, including, but not limited to, payments under community benefit agreements,
    - ii. Payments that reduce energy costs in the host community or communities; and
    - iii. Any donations for land or natural resource conservation given to the host community.
  - b. Community benefits package requirement. To demonstrate significant tangible benefits, the applicant for a solar energy development, wind energy development, energy storage system development, pumped-storage hydroelectric facility and high-impact electric transmission line development “the development” is required to establish a community benefits package for a host community that is valued at no less than \$4,000 per year, adjusted annually for inflation using the federal Department of Labor consumer price index, per wind turbine for a wind energy development and no less than \$700 per year, adjusted annually for inflation using the federal Department of Labor consumer price index, per megawatt nameplate capacity for solar energy development, energy storage system development, pumped-storage hydroelectric facility and high-impact electric transmission line development, averaged over a 20-year period. For a high-impact electric transmission line development, nameplate capacity is determined by the maximum rated operating capacity per circuit, as determined by the ISO-NE region, with the community benefit package value adjusted annually if the maximum rated operating capacity per circuit is increased by the ISO-NE region. Each host community will be entitled to a proportional share of the value of the community benefits package that is based upon the high-impact electric transmission line development length in that host community as compared to the entire length of the high-impact electric transmission development. This does not affect the property tax obligations of the development. Nothing in this section limits a host community’s authority to require a development to enter into a community benefit agreement and to

fulfill its property tax obligations, nor limit the host community’s authority to waive or reduce the community benefits package requirements. The community benefits package must include a financial assurance in the form of a bond or specialized insurance product to ensure that the community benefits package will be paid in full if the development defaults on its obligation to make payments under the community benefit agreement.

[Title 35-A, §3451: Definitions](#)

8. Amend Title 20-A, Section 15672, subsection (23) to read: Property fiscal capacity. “Property fiscal capacity” means the average of the certified state valuations for the 3 most recent years prior to the most recently certified state valuation or the certified state valuation for the most recent prior year, whichever is lower. Excluded from the certified state valuation calculation shall be 1) the valuation of a solar energy development, wind energy development, energy storage system development, pumped-storage hydroelectric facility and high-impact electric transmission line development “the development” and 2) any community benefits package received by the host community or communities of such development. [Title 20-A, §15672: Definitions](#)
9. Amend Title 30-A, Section 5681, subsection (4-A) to read: Distribution of Local Government Fund. The Treasurer of State shall transfer the balance in the Local Government Fund on the 20<sup>th</sup> day of each month. Money in the Local Government Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the property tax burden of the municipality. Excluded from the property tax burden calculation shall be 1) the valuation of a solar energy development, wind energy development, energy storage system development, pumped-storage hydroelectric facility and high-impact electric transmission line development “the development” and 2) any community benefits package received by the host community or communities of such development. [Title 30-A, §5681: State-municipal revenue sharing](#)
10. Amend Section 11, subsection 1 of the proposed bill that allows for the Department of Environmental Protection (DEP) to establish a permit-by-rule process for solar energy development that will occupy a land area of not more than 100 acres. P.L. 2023, Ch. 448, established in July 2023, 1) defines a solar energy development as occupying 5 acres or more and 2) that the Department of Agriculture, Conservation and Forestry (DACF) has permitting authority over a solar energy development. DACF has established in its rulemaking that an applicant can apply for a permit-by-rule for a solar energy development that is up to 20 acres. Should the DEP be allowed to establish a permit-by-rule process for a solar energy development, the acreage limit should be consistent, and therefore no greater than 20 acres. [Maine 131 - HP 1206 item 9.pdf, 001c575\\_0.docx](#)
11. Last is that throughout the proposed bill where performance dates are referenced, it is recommended that an additional 60 calendar days be added to those dates.

## SUMMARY

1. Highlight the constitutional question of bringing the bill forward, as presented during this session, due to the inclusion of infringements on home rule.
2. Add a provision that all legislation that impacts home rule would require a 2/3 vote of members present of each chamber of the Legislature and approval by the Governor.
3. Add a provision that any State agency rulemaking that infringes on home rule shall be considered major substantive rules.
4. Amend the definition of a high-impact electric transmission line to 1) remove reference to a transmission line greater than 50 miles in length and 2) reference to, is not constructed primarily to provide electric reliability, as determined by the commission.
5.
  - a. Require that the commission initiate a study to determine the setback distance that a transmission line should be from an inhabitable dwelling to preserve public peace, health and safety, but in no case reduce the distance to less than 300 feet,
  - b. Require that if eminent domain is used for the construction, rebuilding or relocation of a transmission line, the property owner is entitled to treble damages for all property taken,
  - c. Establish that if eminent domain is used for the construction, rebuilding or relocation of a transmission line, the abutting property owner is entitled to double damages for all property of the owner that experiences a diminution of value,
  - d. Establish that a property owner and abutting property owner are entitled to compensation terms by the taker that include allowing for periodic payments to the owner under terms that extend for a period of up to twenty years.
6. Revise the Maine PUC statutory definition of abutting property to align with the Agriculture and Animals statutory definition of abutting land.
7. Establish a required community benefit program package for solar energy development, wind energy development, energy storage system development, pumped-storage hydroelectric facility and high-impact electric transmission development.
8. Amend the definition of “property fiscal capacity” in the school funding formula to exclude 1) the value of a solar energy development, wind energy development, energy storage system development, pumped-storage hydroelectric facility and high-impact electric transmission development and 2) the value of a community benefits package to host communities. This is to avoid a municipality from receiving reduced funding from the State for these types of developments in their EPS school funding formula.
9. Amend the definition of property tax burden” in the revenue sharing formula to exclude 1) the value of a solar energy development, wind energy development, energy storage

system development, pumped-storage hydroelectric facility and high-impact electric transmission development and 2) the value of a community benefits package to host communities. This is to avoid a municipality from receiving reduced funding from the State for these types of developments in their revenue sharing formula.

10. Amend Section 11, subsection 1 in the proposed bill to reference a land area of not more than 20 acres, rather than the proposed 100 acres.
11. Recommend adding 60 calendar days to the proposed performance dates referenced in the bill.

Please note that:

1. ISO-NE region is as defined in Title 35-A, Section 1092, [Title 35-A, §1902: Definitions](#),
2. A pumped-storage hydroelectric facility is as defined by the Maine PUC Chapter 311, [Chapter 311.pdf](#),
3. A host community is as defined in Title 35-A, Section 3451. [Title 35-A, §3451: Definitions](#)

Sincerely,

*Steven J. Ingalls*

Steven Ingalls

Stetson, ME

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LD 2174

Please see my public comments dated 2/24/26 that are attached.