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DEPARTMENT OF ENVIRONMENTAL PROTECTION



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**TESTIMONY OF**  
**MELANIE LOYZIM, COMMISSIONER**  
**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**SPEAKING NEITHER IN SUPPORT OF NOR IN OPPOSITION TO L.D. 1997**

**AN ACT TO AN ACT TO IMPLEMENT CRITICAL REFORMS TO THE DEPARTMENT  
OF ENVIRONMENTAL PROTECTION OUTLINED IN THE STATE COVID-19  
REOPENING PLAN**

**PRESENTED BY SEN. STEWART**

**BEFORE THE JOINT STANDING COMMITTEE  
ON  
INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS**

**DATE OF HEARING:**

**January 9, 2024**

Senator Curry, Representative Roberts, and members of the Committee, I am Melanie Loyzim, Commissioner of the Department of Environmental Protection, speaking neither for nor against L.D. 1997.

In 2019, I participated in one of the workgroups that developed recommendations for Maine's Economic Development Strategy 2020-2029. Strategy F of the 10-year plan – "Maintain Stable Business Environment" – addressed challenges to economic development in Maine posed by environmental permitting requirements. Following the

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COVID state of civil emergency in Maine, these same challenges were later reiterated in the recommendations of the Governor's Economic Recovery Committee. Specific recommendations of the Committee that are reflected in L.D. 1997 included<sup>1</sup>:

- *Develop and implement an online permitting system at the Department of Environmental Protection to enable tracking of permit applications.*
- *Add a deadline to the review of Site Law Amendment Applications to ensure applicants receive timely responses.*

The DEP supports, and has been working to implement these recommendations.

#### Sections 1-4

Sections 1-4 of the bill pertain to establishing a new State Regulatory Ombudsman Program within the Department of Economic and Community Development (DECD). This would require appropriation of additional staff to DECD that may be unnecessary. DEP and DECD regularly collaborate to provide guidance to developers on how to navigate DEP's permitting processes. Two staff in DEP's Office of Innovation and Assistance (2 staff) are available to provide guidance to anyone subject to DEP regulations.

#### Section 5

Title 38, section 344-B requires DEP to annually publish a processing time for each type of new permit or license issued by the department, taking "into consideration all duties and responsibilities of the department and the availability of resources." If DEP fails to issue a decision within the published timeframe, DEP must return 50% of the processing fee to the applicant. Publication of these timeframes is intended to help property owners and developers incorporate these timeframes in their overall planning

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<sup>1</sup> Governor's Economic Recovery Committee: Recommendations to Sustain and Grow Maine's Economy. November 24, 2020. [https://www.maine.gov/future/sites/maine.gov/future/files/inline-files/Maine%20ERC%20Report\\_FINAL\\_11242020.pdf](https://www.maine.gov/future/sites/maine.gov/future/files/inline-files/Maine%20ERC%20Report_FINAL_11242020.pdf)

for projects, and for concerned citizens to be aware of how long they may have to submit comments on permit applications that are under review by DEP.

Section 5 of LD 1997 would supercede this specifically for permits required under the Site Location of Development Act (Site Law) and instead require a decision to be made on all Site Law applications (new developments and modifications to existing permits) within 90 days of receipt. The requirements for Site Law permits are contained in Title 38, Chapter 3, Article 6. Site Law permits are required for developments of 20 acres or larger, oil terminal facilities, offshore windpower projects greater than 3MW, and offshore wind terminals. Examples of developments that may require a Site Law permit include housing subdivisions, schools, hospitals, shopping malls, industrial facilities such as paper mills or water bottling plants, and transmission lines. Applications for a Site Law permit must include a demonstration that “the developer has made adequate provision for fitting the development harmoniously into the existing natural environment and that the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.” (38 MRS §484 (3)). Site Law review also includes consideration of the effects of groundwater withdrawals (38 MRS §484 (3)(F)), and whether the proposed development meets standards for stormwater management, including engineered system designs and impacts to lake watersheds (38 MRS §420-D).

DEP’s published processing timeframes for new Site Law permits range from 165 to 230 days. However, DEP does not provide any timeframes for processing applications to modify an existing Site Law permit. Such modifications may be needed for projects such as adding a new wing on a school building or a hospital, expanding the width of a transmission line corridor, or adding a new highway bypass. When DEP staff cannot adequately review all Site Law applications within published timeframes, new applications are often prioritized over modifications. Unfortunately, this prioritization does not mirror the value or impact of certain projects to the people of the State. Given

the range of development types, and associated potential for environmental impacts from those developments, DEP cannot adequately review all applications for Site Law permits to determine if they satisfy statutory requirements within 90 days. However, DEP recognizes the need for developers to be able to include environmental permitting timeframes in project schedules, and recommends that Section 5 of L.D. 1997 be amended by striking the printed language and instead applying the application timeframes established under Title 38, Section 344 to all Site Law applications:

**§344-B. Timetables for processing permit applications**

Pursuant to the provisions of this section, the commissioner shall determine and annually publish a processing time for each type of permit or license issued by the department. When establishing processing times for permits or licenses, the commissioner shall take into consideration all duties and responsibilities of the department and the availability of resources.

The provisions of this section apply only to new permit and license applications, except that the provisions of this section apply to all applications under section 484.

...

Section 6

Section 6 of the bill would establish a task force “to make recommendations on ways to make regulatory processes faster, more transparent and more accessible.” This work was already conducted during development of the State’s 10-yr Economic Plan and COVID Recovery Plan. The recommendations that resulted from those efforts remain relevant, and took into consideration the requirements of state and federal environmental laws. Those statewide planning efforts both resulted in the same resounding recommendation for DEP to develop a publicly accessible online licensing system, which is reflected in Section 7 of the bill.

### Section 7

In 2021, DEP received funds from the American Rescue Plan Act to build that system. DEP has contracted with Windsor Solutions to augment systems they have already deployed for other states to meet both U.S. EPA and Maine-specific statutory requirements. The system will give license applicants, licensees, citizens, and DEP staff 24/7 access to data, files and other information associated with proposed and licensed activities. It will enable applicants to submit all application materials electronically, track the progress of their application while it is under review at DEP, obtain copies of their various permits, and submit compliance reports and monitoring data. It will eliminate archaic redundancies in DEP's business processes. DEP has already deployed the first phase of this effort by implementing an online payment portal for transactions with DEP involving payments, such as license application fees and annual fees for emissions and pollutant discharges. Full deployment of the system for all DEP license types is planned to be completed by December 2026.

In summary, DEP agrees with the priorities highlighted in L.D. 1997, but suggests that this legislation is not necessary to continue implementation of the recommendations of the COVID Economic Recovery Committee.

Thank you for the opportunity for us to provide this testimony, and I would be happy to answer any questions that you might have.