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February 6, 2024

Testimony of Rep. Jessica Fay in support of
LD 2101, An Act to Strengthen Shoreland Zoning Enforcement
Before the Joint Standing Committee on State and Local Government

Sen. Nangle, Rep. Stover and Members of the State and Local Government Committee, thank you for the opportunity to **testify in favor** of LD 2101, **An Act to Strengthen Shoreland Zoning Enforcement**. I am Jessica Fay, and I represent House District 86 which includes the towns of Raymond, Casco, Frye Island and a part of Poland.

According to the Maine Department of Environmental Protection, water clarity has a direct economic impact on property values and local economies[1]. The state of Maine taxpayers combined with community-based organizations spend millions of dollars a year on projects to clean up invasive species, to decrease pollution including run-off, and to protect the quality of our lakes, ponds, rivers and streams. That is why when a property owner or contracted agent violates the laws meant to protect Maine's water, it impacts all of us.

Through Maine's Shoreland Zoning Law and Chapter 1000 Rules (last updated in 2015)[2], the state has delegated both the ability for municipalities to be more protective of the resource and has set minimum standards for that protection. Local Code Enforcement is tasked with making sure the rules are adhered to. Over the last few years, some significant barriers to that enforcement have been identified. This bill was developed to assist municipalities in overcoming some of those barriers, particularly the tactics employed by deep-pocketed violators who benefit from lengthy court battles against municipalities, especially smaller more rural towns, who may not have the resources to match.

In my district we are fortunate enough to have Sebago Lake, Thomas Pond, Coffee Pond, Parker Pond, Pleasant Lake, Thompson Lake, Crescent Lake, Panther Pond, Notched Pond, Raymond Pond, Panther Run, and the Tenney River. There are hundreds of miles of shoreline to protect. The folks who do this work on behalf of taxpayers and everyone who loves to fish, paddle, swim, listen to the loons and drink clean water, deserve to have the tools they need to enforce existing laws.

LD 2101 does not create new shoreland zoning protections. It does not change the laws around what types of development and construction can be done in the shoreland zone – it does not make additional restrictions. What it does is allow municipalities to deny additional permitting on a property with a violation until that violation has been resolved. This disincentivizes the

unfortunate practice of using a violation and minimal fines as a cost of doing business when the value of a property increases as a result of a violation.

I would suggest, however, that because of the way shoreland zone is defined, that lines 30 and 31 of the bill might be amended to “for the purposes of this subsection shoreland zone is the same as defined in Title 38, Chapter 3, ss435”. Which would provide consistency in the definition.

I also hope this Committee will consider amending the bill to create a fund that could be accessed by municipalities to help defray the cost of litigation by municipalities when they must pursue violations in court. Small towns rarely have the resources to pursue litigation and this can lead to settlements that do not fully address the seriousness of a violation because a property owner may have more money than a town and drawing a matter out in court in hopes that the municipality will eventually settle because of lack of resources. This happens. A fund could be designed in a way that it would be paid back when a lawsuit is won. I suggest that it could be housed in the same place that a program like the Community Resilience Partnership is housed because the relationships with municipalities already exist there.

We have Shoreland Zoning laws to protect the quality of Maine’s lakes, ponds and rivers because they are so incredibly important to our traditional way of life, to our local and regional economies and to our health. Those who knowingly and egregiously flout those laws because they want a better view or a bigger beach are stealing something precious from all of us. I urge the committee to pass this very important bill so our municipalities have the tools they need to protect Maine’s water resources on behalf of all of us.

Family lore says I first dipped my toes in Sebago Lake when I was 2 weeks old. My grandfather built our family camp in 1956 so he would have a place to stay so he could fish for landlocked salmon. He took me fishing and my mom taught me how to swim, just like so many generations before and since. I have seen the water quality change over time, but we know better how to protect the lake. We have the rules – let’s give our CEOs the tools.

Thank you for your time and attention.

[1] <https://www.maine.gov/dep/water/lakes/research.html>

[2] <https://www.maine.gov/dep/land/slz/>