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Testimony of the Maine Municipal Association

In Opposition to

LD 261 - An Act Regarding the Authority of Municipalities to Regulate Timber Harvesting

March 17, 2025

Senator Talbot Ross, Representative Pluecker, and esteemed members of the Agriculture, Conservation, and Forestry Committee, my name is Rebecca Graham, and I am here on behalf of the Maine Municipal Association's Legislative Policy Committee (LPC) to strongly oppose LD 261, An Act Regarding the Authority of Municipalities to Regulate Timber Harvesting.

Our LPC is composed of municipal officials from across Maine, elected by their peers to represent communities with vastly different enforcement resources and capacities. This bill imposes an unfunded mandate on municipalities, requiring a mandate preamble, and exacerbates long-standing challenges stemming from a lack of state agency support. While timber harvesting ordinances already exist, municipalities have been criticized due to inadequate staffing and the absence of a central database to track and coordinate these ordinances.

In 2020 and 2021, MMA worked with state and industry stakeholders to study this issue in response to a similar bill modeled on American Legislative Exchange Council (ALEC) language. That effort confirmed that the core problem is not municipal regulation, but a lack of technical assistance from state agencies and centralized repository for clear communication of existing ordinances. The solution then — and now — is more robust state support to help municipalities properly submit, review, and administer their ordinances, not to restrict or undermine local authority.

Instead of addressing these real issues, LD 261 would retroactively invalidate ordinances going back to 1990 if they are deemed inconsistent with a town's comprehensive plan — regardless of whether such a plan even existed at the time. This would expose municipalities to lawsuits long after legal challenges should have expired, well beyond records retention requirements, and referencing periods when basic municipal communications — let alone digital records — were nonexistent. It would wipe out decades of carefully crafted local policy, throwing municipal planning into chaos.

Section 1 — Timber Harvesting Definition:

This section is deeply problematic. It would classify timber harvesting as non-harvesting — and therefore beyond regulation — if the land is developed within five years of cutting. This is unworkable and unenforceable: no town board can predict land use five years into the future. Requiring municipalities to wait five years to know if they can regulate a harvest defeats the purpose of timber harvesting ordinances, which address immediate issues like erosion control and tree size. Developers could easily exploit this loophole by claiming future development, undercutting vital environmental protections.

Section 2, Subsection E.1 — State Certification of Ordinances:

This new requirement flips the current balance of state and municipal authority. Today, municipalities adopt ordinances and submit them to the state for comment — with adoption resting on local decision-making. LD 261 would require state certification before any ordinance could be adopted, preventing towns from taking innovative or locally tailored approaches. Worse, if the state refuses or delays action, municipalities would bear the burden of suing for approval — an unnecessary and costly hurdle. This requirement would demand significant state and local resources, triggering a fiscal note for both.

Shoreland Zoning Context — Misalignment with Existing Law:

LD 261 conflicts directly with existing shoreland zoning law (38 M.R.S. § 438-A & 438-B), which already requires municipalities to regulate timber harvesting in line with one of three state-sanctioned options — none of which tie back to 1990 ordinances. The relevant baseline date is December 31, 2005, not 1990. Towns have already made these choices, in compliance with clear statutory paths, and LD 261 would upend that established process. That map is available here and indicates the department already knows the vast majority of towns have adopted statewide standards.
https://www.maine.gov/dacf/mfs/rules_regs/docs/sws_town_status_map.pdf

Section 2, Subsection E.2 — Misplaced Comprehensive Plan Requirement:

LD 261 would also require timber harvesting ordinances to be consistent with a comprehensive plan — a standard never before applied to ordinances that regulate town-wide activities like timber harvesting. Comprehensive plans are typically required for zoning ordinances that limit specific uses in specific areas, not broad ordinances like timber harvesting standards. This new requirement would force costly and unnecessary plan updates in communities that had no previous need for them — imposing significant fiscal burdens with no added benefit.

Practical Implications — Unnecessary and Harmful:

For municipalities that have already followed complex legal processes to establish fair and responsible ordinances, LD 261 represents an unjustified rollback of local authority. The Maine Forest Service already maintains a publicly available map of municipal timber harvesting standards, showing that most towns follow state standards. If an ordinance is missing, the department can simply contact that town — no legislation needed.

Finally, LD 261 ignores meaningful, practical solutions proposed last session, such as improving public notice via the state website or bolstering technical assistance through the Maine Office of Community Affairs (MOCA) — targeted approaches that would actually address stakeholder concerns. Instead, LD 261 appears designed to advance a "Right to Timber Harvest" agenda at the expense of local control and public interest.

For these reasons, Maine municipalities urge you to reject LD 261. Instead, we ask the committee to focus on the real issues identified by stakeholders—by directing resources to MOCA or implementing previously recommended reforms. Let's prioritize solutions that strengthen municipal-state collaboration rather than dismantling local control for the benefit of a few at the expense of Maine communities and property taxpayers for an unnecessary process with no local benefit.