



PO Box 301, Albion, ME 04910
207-505-0737
info@PreserveRuralMaine.org
www.PreserveRuralMaine.org

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Testimony in Opposition to LD 838, “An Act to Establish the Maine Clean Energy Authority”

Senator Lawrence, Representative Sachs, and distinguished members of the Joint Standing Committee on Energy, Utilities and Technology,

My name is Tanya Blanchard, and I am the founder and President of Preserve Rural Maine, an organization that works to preserve the communities, cultures, and environment of Rural Maine. I respectfully submit this testimony in opposition to LD 838 unless it is substantially amended to restore oversight, accountability, and property-rights protections.

At its core, LD 838 establishes an unelected, self-directed authority with extraordinarily broad powers and minimal legislative or public oversight. The bill grants what can only be described as sweeping authority to a limited-member board that is explicitly not subject to administrative direction by any department, commission, board, or agency of the State. In an era when the public is deeply concerned about accountability and checks on government power, this structure raises serious concerns.

Redundancy and Mission Creep

The stated purpose of the proposed Maine Clean Energy Authority is largely redundant. Promoting clean energy goals, reducing emissions, increasing renewable generation, and minimizing costs to ratepayers are already core responsibilities of the Public Utilities Commission, the Department of Energy Resources, and the Office of the Public Advocate.

Additionally, Maine is already engaged in substantial transmission and grid planning efforts. These include integrated grid planning processes currently underway and recent legislation such as **LD 197**, enacted last year, which directed in-depth analysis of Maine’s transmission infrastructure. Creating a new authority to perform overlapping functions risks confusion, inefficiency, and unnecessary expansion of government, especially when those processes are not yet complete.

Also, while the bill’s language references “creating high-quality jobs,” it is worth noting that nowhere in the Maine Constitution is there a mandate assigning the State the role of job creator. That responsibility belongs to the private sector operating within a fair, transparent regulatory framework.

Board Composition and Conflicts of Interest

The seven-member board proposed under LD 838 is heavily weighted toward entities already involved in transmission development: state energy offices, the Public Advocate, transmission utilities, and

construction labor unions. Notably absent are representatives of small residential landowners, rural municipalities, small and large businesses, forestry, agriculture, wildlife management, tourism, or financial experts with experience in bond ratings and public finance.

This imbalance creates the appearance—and the risk—of regulatory capture. Without explicit and enforceable conflict-of-interest and recusal requirements, the public may reasonably conclude that decisions are being made by parties with direct financial or institutional interests in the outcomes.

Excessive Terms and Weak Accountability

Board members are appointed to six-year terms and may be removed only for gross misconduct. Given the scope of authority granted to this body, these terms are excessive. Shorter terms—such as three years, which mirror those of the Maine Connectivity Authority—would provide a necessary safeguard and allow for periodic legislative reassessment.

Unlimited Staffing and Compensation

LD 838 places no limits on the number of employees the Authority may hire or on their compensation. This absence of guardrails exposes taxpayers and ratepayers to open-ended financial risk with no clear mechanism for cost control.

Extraordinary Powers Over Land and Property

Perhaps most concerning, the Authority is empowered not merely to recommend transmission corridors, but to **identify and establish them**.

The bill grants eminent domain authority while explicitly excluding key protections found in Title 35-A, section 3136. These exclusions remove safeguards related to:

- Protection of homes and private property,
- The requirement for a Certificate of Public Convenience and Necessity prior to condemnation,
- Full compensation for property taken, and
- Other procedural protections enacted through bipartisan consensus and unanimously approved by this Committee in prior legislation.

This carve-out undermines years of careful work to balance infrastructure needs with private property rights.

Additionally, the Authority may acquire property at little or no cost and later dispose of it, potentially for financial gain, while remaining exempt from property taxes. This shifts the tax burden onto municipalities and residents, forcing higher local taxes to make up for removed property from municipal tax rolls.

Lack of Transparency and Oversight

While the Authority is required to use a “competitive process” for infrastructure projects, the bill includes no meaningful transparency, reporting, or public disclosure requirements for those processes.

Moreover, the Authority is empowered to adopt rules deemed “routine technical rules.” This classification eliminates public hearings, legislative review, and meaningful oversight of the Authority’s rulemaking—despite the significant impact those rules may have on communities, landowners, and ratepayers.

Workforce Mandates Detached from Reality

The bill mandates that 25% of workers on Authority-funded projects be apprentices, despite well-documented workforce shortages in the trades. The legislation offers no accommodation for situations where apprentices are unavailable, effectively penalizing employers and delaying projects through no fault of their own.

Conclusion

LD 838 creates a powerful, lightly regulated authority with broad financial, regulatory, and eminent domain powers; limited public accountability; insufficient representation; and significant risk to property owners, municipalities, and ratepayers. Maine’s clean energy goals can and should be pursued through existing institutions that are subject to legislative oversight, constitutional constraints, and public accountability.

For these reasons, I respectfully urge the Committee and the Legislature to **vote Ought Not to Pass on LD 838**.

However, if the committee chooses to move forward with this bill, there are some extensive modifications that can be made which might make this bill more palatable.

These include:

- Make the Authority **advisory only**, not empowered to establish corridors
- Require that all planning recommendations flow through the PUC and existing integrated grid planning processes
- Explicitly prohibit the Authority from bypassing CPCN requirements
- Require **PUC approval** of any financing model
- Mandate **ratepayer impact analysis** before bonds or financing are authorized
- Prohibit any financing that shifts risk to taxpayers or municipalities
- Add an independent **bond and credit-rating expert** to the board
- Expand the board to include small residential real property owners, experts in forestry, wildlife, agriculture and tourism, small municipality representatives, and small business owners
- Reduce board terms to 3 years
- Add strict, enforceable **recusal and ethics provisions** for board members
- Require **confirmation hearings** for board appointments
- Add **mandatory transparency and public reporting** of bids, scoring criteria, and contract awards
- Require legislative notification and public posting before contracts are executed

- Include conflict-of-interest and recusal rules with enforcement teeth
- Ensure coordination is **formalized through existing agencies**, not concentrated in a new independent authority
- Clarify that coordination does **not override PUC jurisdiction**

- Reclassify all Authority rules as **major substantive rules**, requiring:
 - Public hearings
 - Legislative review
 - The ability for modification or rejection

In addition, there is **no version** of this bill that Preserve Rural Maine can support **without restoring full Title 35-A protections**.

Minimum required changes:

- Restore **all CPCN requirements**
- Restore full compensation and homeowner protections
- Prohibit the Authority from exercising eminent domain directly
- Limit eminent domain authority to utilities already subject to PUC oversight

Thank you for your time and consideration.

Tanya Blanchard

President
Preserve Rural Maine