



Maine Municipal Association

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Testimony of the Maine Municipal Association

Neither For Nor Against

LD 69 - An Act To Reduce Duplicative Permitting Review for Projects under the Site Location of Development Laws

March 1, 2021

Senator Brenner, Representative Tucker and members of the Environmental and Natural Resource Committee, my name is Rebecca Graham, and I am providing testimony neither for nor against to LD 69 on behalf of MMA's Legislative Policy Committee.

Many larger communities in Maine have decided to take on the extra burden to become a delegated authority for application and enforcement of Maine's environmental rules in their communities. These municipalities often have a local desire to support and employ professionals who can look at development within their borders in a wholistic and often stricter way.

Some of these communities have no choice due to their historic growth, and industrial history that trigger obligations under federal stormwater regulation known as a municipal separate storm sewer system (MS4). This is a publicly-owned system of conveyances (including but not limited to streets, ditches, catch basins, curbs, gutters, and storm drains) that is designed or used for collecting or conveying stormwater and that discharges to surface waters of the State.

Some of the officials in these communities fear the larger acreage threshold will shift enforcement of development activities entirely on to the municipality, or will make it more difficult for delegated communities to obtain compliance or seek support from DEP when they are struggling to address site issues. They desire a more symbiotic relationship with the department and feel the double oversight promotes this partnership.

Many communities in Maine do not have the ability to assume these burdens. It is for this reason municipal officials are neither for nor against this legislation. Local leaders are asking that you carefully consider the drivers of such legislation, not only as it pertains to LD 69, but throughout this session, as members of this Committee are asked to contemplate the merits of proposed initiatives addressing symptoms—rather than problems—will continue. Instead, municipal officials ask that you consider what underlies each legislative request.

Over time, many department functions have been shifted to the local level via new or growing permit obligations. These shifts occur because the department does not have the

staffing resources available to support the decisions made here in this committee. For the past 10 years, decisions made here rarely receive as much of a moral imperative discourse when they hit the appropriations table.

While this bill is relatively small in its impact on Maine communities, many of which do desire or have the ability to appropriately review development, it is deeply important for the committee to recognize that there are vital reasons for duplicative review. The symptom of slow permit response is a direct result of chronic under investment of statewide revenue in support of the Department of Environmental Protection (DEP). This approach not only increases the burden on local governments who are essentially forced to create micro-environmental protection departments due to the over reliance department permits to address information and protection staff shortages, it also structurally underfunds protection activity statewide.

Each permit created shifts data collection and protection activity away from a whole systems approach and on to limited view approach. The imperative for the permittee is to meet their obligation, while further upstream no restrictions are required, or worse, permits are systems of allowable degradation. Environmental protection funded through the most regressive tax system as a permit obligation, collects piece meal data and is as harmful to the environment as it is unfair to the property taxpayer shouldering the burden for municipal boundary limited protections for statewide benefit.

However, without municipal officials and employees providing these vital protection activities on the ground, this state would not meet its federal obligations and there would be no improvement of our historic industrial impact on the waters of the state.

Municipal officials are aware of the future lifts that face our historic main streets which were built with waterways as our highway system. They are increasingly in need of a strong partnership with the DEP to shoulder the burden of rule review from a broader view than municipal boundaries and to share federal permit obligations including state-wide public education to protect Maine's natural resources.

Additionally, Maine's communities need support to interpret and understand how to promote development in sensitive ways that protect both upstream and downstream neighbors. They are seeking to unify messaging between state and local governments and the reform of important state rules to provide clarity and consistency for contractors and developers across the state and in all communities. The Department needs additional staff to accomplish this task and those recommended by the Climate Council.

Lastly, municipalities are partners in protection activity though they shoulder the largest burden of permit obligations in the state. While this bill retains the option for municipalities effected to ask for a department review even below the 10 acre threshold, officials ask that you consider ways to increase the staff for review and municipal support over expanding permitting this session or reducing site law thresholds and keep this symptom-problem approach in mind while reviewing additional legislation this session.