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DEPARTMENT OF ENVIRONMENTAL PROTECTION



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**TESTIMONY OF**

**NICHOLAS D. LIVESAY  
DIRECTOR, BUREAU OF LAND RESOURCES**

**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**SPEAKING IN SUPPORT OF L.D. 69  
AN ACT TO REDUCE DUPLICATIVE PERMITTING REVIEW FOR PROJECTS  
UNDER THE SITE LOCATION OF DEVELOPMENT LAW**

**SPONSORED BY REPRESENTATIVE TUCKER**

**BEFORE THE JOINT STANDING COMMITTEE  
ON  
ENVIRONMENT AND NATURAL RESOURCES**

**DATE OF HEARING:**

**MARCH 1, 2021**

Senator Brenner, Representative Tucker, and members of the Committee, I am Nick Livesay, Director of the Bureau of Land Resources within the Department of Environmental Protection. I am here today to speak in support of LD 69.

The Department processes thousands of permit applications a year; roughly two hundred of these are Site Location of Development Law (Site Law) applications. Site Law focuses on larger projects – those defined in law as involving development of state or regional significance. The most common characteristic that qualifies a project for review under Site Law is that the development is a “structure” – as this term is uniquely defined in statute. (38 M.R.S. § 482(6).)

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The term “structure” refers to an area greater than three acres that is proposed to be stripped or graded and not revegetated within a calendar year. Effectively, if a proposed development includes more than three acres of impervious area the development requires a Site Law permit. Subsequent modification of development permitted under Site Law, unless otherwise exempt in statute, requires modification of the original permit.

Many municipalities review the same development under local ordinances. The Legislature has recognized that some of these municipalities are equipped to review Site Law-sized development proposals and that additional, duplicative review by the Department is unnecessary. These municipalities fall into two categories:

1. Those that have sought and obtained “delegated authority” after demonstrating their qualifications and adequacy of resources to the Department (38 M.R.S. § 489-A); and
2. Those that have demonstrated “municipal capacity” by establishing designated growth areas in their municipal comprehensive plan, adopting the statutorily required ordinances, obtaining State approval of their comprehensive plan and ordinances, and showing they poses adequate resources (38 M.R.S. § 488(19)).

LD 69 increases the size of the development proposals for which duplicative Department review and permitting would not be required from 7 to 10 acres of “structure.” Any potential impacts to protected natural resources, such as wetlands and significant wildlife habitat, would continue to be reviewed by the Department under the Natural Resources Protection Act, and potential stormwater impacts would continue to be reviewed by the Department unless the municipality has separately obtained delegated stormwater review authority.

LD 69 An Act to Reduce Duplicative Permitting Reviews for Projects Under the Site Location of Development Law

Testimony of: Nicholas D. Livesay, DEP

Public Hearing: March 1, 2021

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While the total number of projects that would benefit from the changes proposed in LD 69 is relatively small, the Department believes this change would promote a more efficient environmental review process for those projects without environmental sacrifice. The Department is continually under pressure to process permits faster and asked to search for ways to do more with less. Where process improvements can be made, even if incremental, while fulfilling our responsibility to protect Maine's environment, we support those changes. Therefore we support LD 69.

Thank you for the opportunity to provide testimony. I am available to answer questions of the Committee, both now and at work session.

### Municipal Capacity / Delegated Authority Status

Town	Delegated Site	Capacity Site	Capacity SW	Effective Dates, Comments
Auburn	X		X	1/25/89 – Subdivision (L-016027-06-A-N) 9/27/89 – Subdivision & Structure (L-016556-06-A-N) 9/15/08 – Stormwater Capacity reinstated by letter
Bangor	X		X	12/14/88 – Subdivision (L-014163-06-AA-N) 1/27/93 – Subdivision & Structure (L-017638-06-A-N) 9/15/08 – Stormwater reinstated by letter
Biddeford		X		3/9/99 – Subdivision & Structure
Brunswick		X		1/1/97 – Subdivision & Structure
Caribou		X		6/23/98 – Subdivision & Structure
Freeport			X	2/9/99 – Stormwater
Holden		X		10/16/97 – Subdivision & Structure
Kennebunk		X		1/1/97 – Subdivision & Structure
Lewiston	X		X	9/27/89 – Subdivision & Structure (L-016555-06-A-N) 4/23/99 – Stormwater; 9/15/08 stormwater reinstated by letter
Poland		X		10/29/15 - Subdivision and Structure
Portland	X		X	1/27/93 – Subdivision and Structure (L-017695-06-A-N) 3/3/99 – Stormwater
Saco	X		X	9/29/92 – Subdivision & Structure (L-017825-06-A-N) 4/1/99 – Stormwater
Sanford		X		1/1/97 – Subdivision & Structure
Scarborough		X		4/1/14 – Subdivision & Structure
Skowhegan		X		3/9/99 – Subdivision & Structure
Topsham	X		X	6/28/06 – Subdivision & Structure 6/28/06 - Stormwater
Wells		X		1/1/97 – Subdivision & Structure

Towns that no longer have delegation or capacity: Augusta (7/28/99), Belfast (7/28/99), Windham (3/8/08), Yarmouth (6/9/99)