



Committee on Environment and Natural Resources
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

March 3, 2021

RE: LD 390, An Act Regarding the Mapping of Shoreland Zones

Dear Senator Brenner, Representative Tucker, and Members of the Committee:

Thank you for the opportunity to share testimony in opposition to LD 390, An Act Regarding the Mapping of Shoreland Zones, on behalf of Maine Audubon and our 30,000 members and supporters.

LD 390 seeks to clarify the definitions and guidelines used by municipalities in developing maps and land use controls related to shoreland zoning. Maine's Mandatory Shoreland Zoning Act was created to protect natural resources and human health and safety in areas in close proximity to specific wetlands and waterways. Currently, the Act requires municipalities to adopt, administer, and enforce local ordinances that regulate land use activities in the shoreland zone. If a municipality has not adopted its own shoreland zoning ordinance, the state adopts their model ordinance for that municipality.

The goal of this bill is to create clear and operable language for the development of municipal shoreland zoning maps based on widely available and best available datasets. Creating clear definitions, distances for use in determining applicability, and identifying datasets for mapping would significantly improve the ability of municipalities to create maps, enforce associated ordinances, and in turn protect the valuable resources that the Act seeks to protect. Maine Audubon believes that these are worthy and necessary goals.

However, LD 390 is not the right avenue to achieve these goals. While the National Wetlands Inventory (NWI) data and Strahler stream definitions are widely available and are some of the best available wetland and stream spatial datasets, they are far from perfect. They would create a good foundation, but the bill as written does not provide guidance on mapping areas where these datasets are inaccurate, such as the use of field-delineated wetland boundaries. Additionally, the proposal to exclude from the resource protection zone lots where less than 2,500 square feet of the lot would be zoned as resource protection would make clear mapping more, rather than less, difficult. This provision could leave neighbors on a local waterbody subject to different regulatory oversight and could reduce the overall protections in these resource protection zones.

Maine Audubon believes that the best way to achieve the goals sought by this bill would be to not leave shoreland mapping at the feet of individual municipalities to interpret, implement, and enforce on their own. Instead, we believe that comprehensive planning and mapping at the state level would address numerous natural resource challenges more efficiently and effectively over

time. Municipalities could improve or supplement statewide shoreland zoning maps with additional local knowledge, but base maps would be consistent across the state and would at least provide clear, basic resource protection for all municipalities. Such protections wouldn't be left only to the towns that can afford the costs for individual map creation. Maine Audubon has heard from towns who spend \$10,000 to \$20,000 each time they need to develop new maps. This cost is prohibitively high for many municipalities, but is nonetheless often taken on due to concerns that utilizing existing maps would leave the municipality legally vulnerable as a result of the wide variability in how such maps can be interpreted.

As spatial mapping resources improve and become more accessible, the idea of using Geographic Information System (GIS) data for regulatory purposes has become more commonplace around the world. With good datasets and clear provisions for data gaps, Maine could benefit significantly from the advantages GIS mapping can provide. However, the necessary GIS resources must be accessible, up-to-date, and well-maintained and this requires a commitment to provide and support these resources. This is a service and a cost that Maine Audubon believes the state should strongly consider taking on for all municipalities in order to improve implementation of the shoreland zoning act, to more equitably distribute costs, and to achieve the land use planning and climate resilience goals outlined in Maine's recently adopted Climate Action Plan.¹

Improving the language of the Mandatory Shoreland Zoning Act in order to create clear definitions, data to be used, and distances for applicability is much needed. However, we do not believe LD 390 addresses this need correctly, therefore we do not support this bill. We encourage the Administration to address some of the concerns raised here and by municipalities and local citizens in order to improve implementation and enforceability of the Act for greater natural resource protection.

Sincerely,



Sarah A. Haggerty
Conservation Biologist/GIS Manager

¹ See *Maine Won't Wait*, A Four-Year Climate Action Plan, December 2020, pp. 83-89.