



Maine Municipal
Association

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Testimony of the Maine Municipal Association

In Opposition of

LD 489 - *An Amendment to the Constitution of Maine to
Establish a Right to a Healthy Environment*

March 8, 2021

Senator Brenner, Representative Tucker and members of the Environment and Natural Resource Committee, my name is Neal Goldberg, and I am providing testimony in opposition of LD 489 on behalf of MMA's Legislative Policy Committee.

This bill, if enacted, would inundate municipalities with responsibilities that would impede development and bring costly litigation.

As proposed, this bill is too vague and enables anyone to decree their right to a "healthy environment" has been infringed upon. The bill broadens the scope of environmental impact to such a degree that practically any development or planning decision could be called into question for its impact to the "scenic and healthful qualities of the environment." Because of the amendment's vagueness, municipalities would be held to impossible standards.

Development in Maine's communities occurs best and most equitably when statute clearly defines what is permitted and what is not. LD 489 blurs those lines to the extent that past and future development could be called into question.

The bill opens municipalities to claims of negligence or malfeasance from all parties. Interest groups, businesses, and citizens would be able to initiate litigation against a municipality based off misinterpretations of the bill's ambiguous language. The litigation that occurs as a result is currently unknown, but given the breadth of the rights established under the bill, local expenditures would increase significantly as litigation drags on for years.

Businesses would also be at risk of costly litigation as they may realistically be party to a suit, either as a plaintiff or a defendant.

Finally, municipal officials wonder why the state would abdicate its authority over Maine's environment. This bill would strip the state of the tools necessary to enforce environmental law and simultaneously leave it vulnerable to the same challenges in court that municipalities and businesses fear.

If LD 489 is approved, municipalities will be engulfed in planning decisions with too many unknowns and costly litigation that could either drain local funds or force them to just roll-over to deeper pockets. Future planning could be determined by who wins in court, not by local jurisdictions.

The open-season on case law would last until numerous years' worth of precedent is established. Even then, those rulings and standards could be challenged.