



Maine Municipal
Association

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Testimony of the Maine Municipal Association

In Opposition to

LD 1616 – *An Act To Ensure That Municipalities and Multimunicipal Regions of Every Size and Capacity Have Guidance on Climate Adaptation and Resilience Strategies for Policy, Implementation and Investment Decision Support*

February 28, 2022

Senator Brenner, Representative Tucker and members of the Environment and Natural Resources Committee, my name is Neal Goldberg, and I am providing testimony in opposition to LD 1616 on behalf of MMA.

Protecting threatened natural resources, like a streambed, from harmful stormwater runoff is a worthwhile cause and municipalities are interested in finding a solution to remedy the potential for damage this runoff creates.

This legislation comes at a time when a much larger discussion surrounding the municipal authority to maintain and repair private roads with public funds is already underway. Earlier this month the Committee on State and Local Government (SLG) voted LD 1513 *An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences*, ought to pass with an amendment. Already LD 1513 has generated a substantial amount of public comment, consensus, and progress. The bill, if pursued by the full Legislature, convenes a broad stakeholder group to generate solutions that should address the concerns raised in LD 1616.

Rather than create competing proposals to very similar matters, the specific aspects of road maintenance presented in LD 1616 would benefit from being included in the broader discussion occurring in SLG. MMA encourages the Legislature to reconsider the committee of jurisdiction for the bill given the large overlap with LD 1513. Alternatively, this bill could be converted to a study to determine the full extent of the issue before committing unknown amounts of public resources.

Here is a brief preview of the questions and concerns raised in previous discussions regarding LD 1513, which focuses on roads that share many of the same attributes as the private roads identified in this legislation.

- 1) Does Maine's Constitution permit use of public funds to make improvements on private property? This is especially pertinent because the roads in question are frequently closed to public access.
- 2) Once a municipality services a private road will it be committed to maintaining the road in perpetuity? For some communities this could add up to 40% more miles of historically ill-maintained road to finance.
- 3) To what extent or standard must a private road be maintained?
- 4) Who assumes liability on private roads maintained with public funds?

Speaking more abstractly, this legislation is mixing two matters that should be handled separately. Municipalities are fully involved in and encourage proper stormwater management practices. Local governments are not shying away from that responsibility and MMA's record on other initiatives should be evidence of this commitment to protecting natural resources.

Stormwater threats are an urgent matter. Legislation should single out this threat and not be combined with discussions of government authority, liability, or public versus private.