



**Testimony of
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Before the Joint Standing Committee on Labor and Housing, In Opposition to LD 1724, An Act to Create a Logging Dispute Resolution Board and to Require Proof of Ownership Documents to be Available within 14 Days of Request

Tuesday, March 8, 2022

Senator Daughtry, Representative Sylvester and members of the Joint Standing Committee on Labor and Housing, my name is Dana Doran, and I am the Executive Director of the Professional Logging Contractors of Maine. The Professional Logging Contractors of Maine (PLC) is a trade association that represents logging and associated trucking contractors throughout the state of Maine. The PLC was formed in 1995 to give independent contractors a voice in a rapidly changing forest industry.

As of 2017, logging and trucking contractors in Maine employed over 3,900 people directly and were indirectly responsible for the creation of an additional 5,400 jobs. This employment and the investments that contractors make contributed \$620 million to the state's economy. Our membership, which includes 200 contractor members and an additional 100 associate members, employs over half of the individuals who work in this industry and is also responsible for 80% of Maine's annual timber harvest.

Thank you for providing me the opportunity to testify on behalf of our membership in opposition to LD 1724, An Act to Create a Logging Dispute Resolution Board and to Require Proof of Ownership Documents to be Available within 14 Days of Request. While we respect the sponsor's intent, and the fact that he represents more than 50 of our members in his district, this bill is nothing that the industry has asked for and it is nothing that we can support now nor in the future.

The forest products industry in Maine was in the midst of a reinvention process until the onset of COVID 19 and the digester explosion at the Jay mill in April 2020. From 2011 to 2016, Maine experienced the closure of five pulp and paper mills and the periodic idling of two wood energy electric facilities. As a result, Maine lost 50 percent of its softwood pulp market and has also seen a two-million-ton reduction of biomass utilization. Between 2014 and 2016, the total economic impact of the forest products industry fell from \$9.8 billion to \$8.5 billion, and more than 5,000 jobs were lost.

As a result of mill closures and curtailments due to COVID 19, Maine suffered a 30% reduction in harvesting capacity and the layoff of nearly 1,000 people in harvesting and hauling. This means that over 11,000 truckloads of wood were not delivered to a Maine mill in 2020. Further, for an industry that is responsible for over \$620 million of direct economic impact each year, this has led to a direct loss of over \$186 million of economic activity.

Making a bad situation worse, last week, the PLC released results of a [survey](#) of its members showing Maine logging companies have seen cost increases averaging 24 percent for parts, equipment, services, and fuel since January 2020.

The PLC asked members to report their increase in costs for 20 goods and services that are vital to logging operations over the period of January 2020 to January 2022. Loggers reported increases ranging from 17-30 percent, with truck and equipment insurance the lowest at 17 percent while oil and lubricants saw the highest increase at 30 percent. Many of the costliest items on the list including heavy equipment tires rose 24-26 percent in cost.

The logging industry cost increases far exceeded an average 8.4 percent increase in costs for American consumers over the same period, [7.5 percent in 2021](#) and [1.4 percent in 2020](#).

The bill before you will not help any of our members with the inflation and lack of markets that they have been struggling with for the last two years.

It will create an open-ended bureaucratic logging dispute resolution board within the executive branch of state government, but it is not clear if the board will hear disputes of landowners, mills, contractors, subcontractors, or the employees of contractors. As written, the resolution board could hear disputes from anyone in the industry, including the employees of our membership. This is not where they want their business activities discussed nor shared with others. As a result, this bill has the potential to be anti-trust and anti-competitive which are both counterintuitive to a free market.

As designed, the resolution Board has three members, one from the Maine Forest Products Council, one from the AFL-CIO (labor union) and one from the State Board of Arbitration. No one on this Board represents the logging industry and its interests.

Resolution boards in the state of Maine (i.e. Maine Labor Relations Board, Maine Workers Comp. Board, Unemployment Commission, and the Maine Human Rights Commission) exist to hear disputes from employees. Why would the logging industry want yet another board to deal with the problems of its employees or to make its contractual relationships with landowners, mills, or other contractors' public knowledge?

Other boards and commissions that do regulate industries (Maine Blueberry Commission, Maine Potato Board, Harness Racing Commission) oversee and regulate businesses, similar to the Maine Forest Service, but are not set up to hear their individual business disputes. Businesses do not have access to any type of resolution board in state government as their current means of recourse is the judicial court system, which is where it should remain.

Additionally, there is already a dispute resolution system set up in the Maine Dept. of Ag., Conservation and Forestry, with the Maine Agricultural and Bargaining Board to hear disputes in this industry. The Maine Agricultural and Bargaining Board Act of 1973 was created so that agricultural businesses, including loggers, can form cooperatives. A cooperative, which is a group of similar businesses that collaborate for negotiation and sales purposes, can use the Maine Ag. Bargaining Board and settle disputes between Cooperatives and the businesses that they work with. Thus, LD 1724 is duplicative and not necessary.

LD 1724 is also riddled with errors and is so poorly written that it will only create more problems than it will solve:

- In section 4, which creates the Labor Dispute Resolution Board (the "Board"), the proposed statutory language is extraordinarily broad and vague, leaving whatever Board may be established with little to no guidance, and unfettered decision-making authority. The bill does not comport with similar laws establishing independent boards such as the Maine Labor Relations Board.
- LD 1724 provides that the purpose of the board is to "hear disputes related to the logging industry . . . and other topics as determined appropriate by the board." *Id.* This language contains no limitation

on the scope of the Board's authority nor any definitions of who the disputes can come from (employees or businesses).

- LD 1724 provides that the Board has “all the powers as are necessary to carry out its functions.” Not only is there no limitation on the scope of its authority, but there is also no limitation on its powers.
- LD 1724 provides that the Board is established as an “independent board within the Department of Labor” and pursuant to 5 M.R.S.A. § 12004-B, which relates to “Arbitration, Mediation, Valuation and Board Appeals.” In describing Arbitration, Mediation, Valuation and Board Appeals, § 12004-B generally provides that the “primary powers of these boards include the holding of hearings; the adoption of rules; the determination, modification or assessment of fees, taxes and penalties; arbitration, conciliation and mediation; the establishment of standards and procedures; and the adjudication of disputes.” Id. Neither § 12004-B or LD 1724 imposes any limits on these powers.
- LD 1724 provides that the Board's purpose is to hear disputes but doesn't give it the authority to decide how disputes should be settled. Further, it provides that the Board will assess “costs of arbitration” against the losing party. However, nothing in the bill requires that arbitration is a preferred or required method of dispute resolution.
- LD 1724 also provides that the Board “may be represented by legal counsel.” State agencies are represented by the Maine Attorney General and may not retain outside counsel without the Attorney General's express approval.

In the end, this is nothing that the logging businesses of this state requested, nor do they want it. It is vital that this bill is voted unanimously Ought Not to Pass by this committee. Thanks for the opportunity to testify on behalf of our membership and I would be happy to answer any questions you might have.