



Maine Municipal
Association

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Testimony of the Maine Municipal Association

In Opposition to

LD 1340-An Act To Ensure Municipal Compliance with Federal Immigration Laws

May 3, 2021

Senator Baldacci, Representative Matlack and distinguished members of the Joint Standing Committee on State and Local Government, my name is Rebecca Graham, and I am providing testimony in opposition to LD 1340 on behalf of MMA at the direction of our 70-member Legislative Policy Committee.

Federal policy emanates from a nearly self-evident recognition that state and local law enforcement agencies do not have the capacity to fully enforce federal law in addition to state law and municipal ordinances. This separation is, at least in part, a matter of recognizing the reality that local law enforcement officials do not have the training or resources to take on the role, to the full extent permitted by law, of federal immigration agencies.

Town and city officials do not have the legal authority to prohibit or in any way restrict any other government division from conducting any activity outside their municipality's jurisdiction, including the communications with the Department of Homeland Security or other federal agencies.

However, it is important to note that the bill points to a section of federal law that "notwithstands" this authority to communicate with federal authorities if it conflicts with and other federal, state, or local law to the contrary. The section reads:

"IN GENERAL.—Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) ADDITIONAL AUTHORITY OF GOVERNMENT ENTITIES.—Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way

restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual

:(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.

(2) Maintaining such information.

(3) Exchanging such information with any other Federal, State, or local government entity.

This allows municipal officials to voluntarily communicate such information if it does not conflict with their existing disclosure laws, as such communication is subservient to state and local laws.

When an individual has contact with local police, should that individual be flagged or wanted by federal authorities, this is discovered when running the individual through the national database. At that time, the federal agency is the only one who can authorize detention of an individual at a local jail and only does so when they guarantee assuming the cost of detaining that individual and a plan for sending them to a federal facility to await due process.

No officer can detain an individual who has not violated state law and no authority or enforce federal law and no jail has the ability to hold an individual without legal authority.

If federal authorities are unwilling to detain or request the retention of an individual on their flag, there is no reason for municipal police to assume they are in any eminent violation and because of this should be denied any services to which any other resident of a municipality is eligible to receive.

Additionally, immigration law is federal administrative law which changes constantly and would require a significant investment in determining the validity of which documents are acceptable as proof of immigration status. This is not only beyond the scope of municipal officials in enrolling students or vetting applications for general assistance, but also a mandate on municipal government as it significantly expands the duties, record retention requirements and increases the need for training for officials in these positions. This bill requires the mandate preamble should the committee chose to move forward with adoption.

If the federal government were truly concerned that food and housing assistance were inappropriately offered to individuals, they would invest in greater resources to provide the specialist enforcement necessary to support their own enforcement efforts and preempt local and state law to the contrary. As the federal government must also provide these services to individuals who await administrative review of their immigration status, it is unlikely they believe such enforcement is necessary or a proportional drain on public funds.

Additionally, federal law does not intersect with local revenue generation that creates the condition to collect sales and lodging taxes to fill the state's coffers and suggesting that revenue sharing is a condition of enforcing law that municipal officials do not have the authority to enforce strikes officials as an overreach that makes little sense.

This bill creates a mandate for an imagined problem that is not proportionate to the cost of assuming an unnecessary and unneeded mandate. For all these reasons, municipal officials ask you to oppose LD 1340.