

# OPPOSE

## **LD 614 -- An Act To Expedite the Review of Certain Maine Land Use Regulation Commission and Department of Environmental Protection Applications**

**Sponsor:** Sen. Saviello of Franklin County  
**Co-Sponsors:** Representatives Clark of Millinocket and Cray of Palmyra

**Summary:** The bill requires the Maine Land Use Regulation Commission (LURC) and the Maine Department of Environmental Protection (DEP) to enter into agreements with outside contractors to review subdivision permit applications if either LURC or DEP concludes that it cannot render a decision on the application within established permit processing times.

**Explanation:** This bill would put tremendous pressure on LURC and DEP to make decisions on permit applications within 60 days (or the established permit processing time) regardless of the circumstances of any particular application. The bill makes outsourcing of the permitting process *obligatory* if a decision cannot be rendered within the established deadline.

This requirement also raises serious questions about the appropriate roles of government and the private sector. Environmental consulting firms that are in the business of helping clients get their permits would have an obvious self-interest in helping entities receive their permits. One could easily imagine an increase in legal challenges to permit applications if external firms played a significant role in rendering a judgment about whether a particular application met the appropriate legal standards.

Although existing law allows the DEP Commissioner to enter into agreements with individuals outside of the Department to review applications, it is not clear that this authority was envisioned to include the role of reaching (or recommending) an actual decision on the application. LD 614, however, appears to require that both the review and the permit decision be outsourced if processing of the application is lagging. Taken literally, LD 614 could potentially put individuals who work for outside law firms and consulting firms in the role of deciding whether a Walmart, Casino, or major subdivision should be approved – which seems untenable.

More practically, there is no reason to believe that a private contractor will be speedier. Indeed, if the contract with an external entity is not entered into until after the first 30 days of the review period (as the bill contemplates), then it would be virtually impossible for that private contractor to review the matter in less than the 30 days that remain. There is also the question of who would pay the external contractor. The cost of outsourcing (which is not paid for by the applicant under this bill) would be an added expense for the state, an expense that might be very substantial. The anticipated cost of these outsourced “review” contracts should be reflected in a fiscal note to this bill.

NRCM opposes LD 614 because privatizing the permitting process raises serious issues about accountability, conflict of interest, timeliness of review, and costs.

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