

OPPOSE MINORITY REPORT

LD 1810 – An Act to Implement Recommendations of the Committee To Review Issues Dealing with Regulatory Takings

Sponsor: Representative NASS of Acton.

Summary: LD 1810 (as introduced) would allow property owners to seek payments from the State—and, consequently, Maine taxpayers—by claiming any new law or regulation (or a combination of regulations) had reduced the value of their property by 50 percent. The property owner would be allowed to ignore Maine law if the State did not pay. This bill departs from well-settled principles of the U.S. and Maine constitutions. Although municipal zoning was exempted by the bill, towns would not escape problems caused by the “takings” bill. That is why the Maine Municipal Association opposes LD 1810.

Status and Update: The Judiciary Committee voted 8-5 against the original bill and in support of a bipartisan substitute amendment developed by Rep. Brad Moulton (R-York) and Rep. Charles Priest (D-Brunswick). NRCM and the broad conservation community support the Moulton-Priest Majority Report. Five of the Judiciary Committee members support a Minority Report that NRCM strongly opposes. When LD 1810 is considered by the House and Senate, we expect a group of lawmakers to attempt to overturn the Majority Report. They will offer the Minority Report first. We will be working to defeat the Minority Report on LD 1810

Explanation: The LD 1810 Minority Report would impose huge costs to Maine taxpayers, create an unworkable patchwork of land use laws, have major unintended consequences, and foster speculative development schemes.

Huge Costs: The Minority Report would cause major costs for the courts and the Attorney General’s office. Property owners could be paid damages of up to \$400,000 per claim, which could quickly add up to millions.

Waivers Would Pit Neighbor Against Neighbor: The Minority Report allows the State, in closed-door mediation, to waive any provision of state law or agree to pay unappropriated funds from the Treasury, with no judicial review and no requirement that abutters or the municipality be allowed to participate. This extraordinary power to waive Maine laws for some, but not others, would trigger lawsuits. Maine’s laws would become a patchwork, and waivers would pit neighbor against neighbor over the negative results that would arise.

Blocking Laws that Benefit Maine: It would become very difficult for the Legislature to pass future laws that are needed to protect Maine communities and property owners from harmful land uses. For example, state efforts to protect regulate casinos, direct the location of major energy projects, protect water supplies, and establish new landfills and some major economic projects could all trigger compensation claims. Such claims—even if groundless—could force lawmakers to abandon the idea of legislating in these areas to avoid the possible costs.

Benefits for Lawyers and Corporate Interests: LD 1810 Minority Report is so convoluted that it will primarily benefit attorneys, and the corporate special interests who can hire them for the purpose of helping secure loopholes in Maine law that would allow them to pursue development projects that otherwise would be illegal.

The Majority Report would create a Regulatory Fairness Committee that would meet at least twice annually to review whether Maine’s land use laws are causing unanticipated impacts on property owners, and—if so—to initiate legislative solutions.

NRCM opposes the Minority Report on LD 1810, and supports the Majority Report