

Testimony submitted after May 9th Hearing

My name is Susan Mackenzie Andersen. I am a member of the Boothbay Community School District where I attended school through grade 12, graduating in 1966. My parents moved to the region in 1952 to establish a small free enterprise business, Andersen Design, that designed and made ceramics and taught those skills on the job to the women who used to work in the fish packing industry. The original school charter, which is now being repealed and replaced, was created in 1953.

I am also an independent researcher and have studied the Maine economic development policy put into place in 1976, with a stated mission to “eliminate municipal referendums on municipal bonds, as provided by the Home Rule Amendment, as is written in the Governor’s Report of 1976, obtainable from the Maine Legislative Library.

Home Rule is a roots-up approach to government. The centrally managed economy is top-down government. In theory each should be a check on the other which is why a municipality should never relinquish its home rule rights as is being done in LD 1786 as amplified in the testimony by those advocating for its enactment. The only substantive description about the new charter given in those testimonies was “We are aligning it with state law” My testimony went into what is problematic with state law, which can be somewhat amended by the municipal home rule authority that the boards are ready to relinquish with the replacement district school charter.

I have been narrating the story of Maine’s incremental transition from a Home Rule State in 1969 to a centrally managed corporate state in 2023 for many years, most recently in my Substack Newsletter, [The Individual vs the Empire](#).

Previous to the May 9 hearing, I submitted a much longer testimony that goes into greater depth about the state laws that this local charter is simply accepting, not just the current state laws but any additional state laws enacted in the future. The fact that it is said in so many words that our local school educational charter is aligned with state law is to relinquish our home rule authority, which even state law, including Title 20 Chapter 105, states that when there is a conflict between private and special law and state law that private and special law takes priority. This is because we are a Home Rule State and state law is governed by the Maine Constitution. It is stated in Title 20 Chapter 104 because the Maine Constitution applies to our local school charter.

§1752. Districts formed by private and special Acts of the Legislature If the provisions of this chapter conflict with the provisions of any private and special Act of the Legislature which created a community school district, then the provisions of the private and special Act shall control. [PL 1981, c. 693, §§ 5, 8 (NEW).]

In addition, I submitted a shorter testimony to be spoken at the hearing.

As I watched the public hearing, many, if not all of those testifying in favor of enacting this charter repeatedly told that the boards all agreed on it and even that three lawyers approved the school charter which was otherwise only described as “aligned with state law”. What I did not hear was that the boards had the approval of the inhabitants of the municipalities. There was no mention of what is in state law and by extension the local charter, or even what is in the replacement charter other than it is “aligned with state law”.

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And yet it is the inhabitants of the municipality to whom the Maine Constitution grants “the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character. “

I was the minority if not the only person testifying in the status of inhabitant of the municipality, rather than a board member or officer of the Town government. Those testifying in favor of enacting the replacement charter seem to feel that their status as board members and municipal officers gave them greater authority than their status as inhabitants of the municipality, but pursuant to the Maine Constitution that is not true. It is the School District that has the authority to amend the charter, not the boards and officers, who could certainly guide the process, but not rule it. The fact that many people seem unaware of this is a reason why the Maine Constitution should be taught in our public school system. Teaching about our Maine Constitution is not in state law and so it should be in our local school charter.

The missing testimony from inhabitants of the municipalities is not surprising since I did not know about the session due to it being publicly posted where all can see it, but due to many years of researching Maine statutes I was able to figure out that the charter could be found in Maine Bill Search and from there I pursued how to submit testimony.

As an inhabitant of Boothbay, I am accustomed to being barred by local leadership from participating in my community. I could tell many stories in evidence but suffice it to say that soon after **An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions was enacted** as an emergency act, I saw posted on the Boothbay Town Office website the following notice:

Town of Boothbay Administrative Code Committee

The Town of Boothbay is seeking applicants for an Administrative Code Committee that will work on updating and making adjustments to the code that had last been updated in 2012. Interested applicants may pick up application at the office. Questions can be directed to Dan Bryer by phone: 633-2051 ext. 10, or by email: townmanager@townofboothbay.org.

I requested an application by email and received no reply, so I stopped by the Town office to pick up an application where I was told by the Town Manager that no such committee existed. Later Selectman Chuck Cunningham wrote that he participated in the Administrative Code Committee when he was running for re-election.

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Having read HP1489 I was aware at that time that the state was forming a ten-year planning commission that would supervise the development of municipal ordinances by committee. To qualify one must be a non-profit partnering with another non-profit organization. Such a qualification excludes the free enterprise sector- which by definition is a for-profit enterprise which is neither subsidized by the government nor a for-profit subsidiary of a non-profit corporation. The Boothbay Town selectmen have a long history of closing down free enterprises whatever chance they get, as I documented [here](#), telling among other stories, of how the Town selectmen closed down Stimson's boatyard, an independent boat builder who is no longer located in Boothbay.

That there is a heated cultural war on the Boothbay Peninsula between developers and the local historical community is no secret, highlighted by the Battle of the Airbnb Barons against the East Side Water Front Park, (an unofficial name invented by author based on an unverified assumption)

As a member of the free enterprise sector and a mere inhabitant of the municipality I am used to being barred from participation in the political process in this home rule state. I thank you for reading my testimony and considering my point of view within the political conversation in my town and state.

My previous testimonies went into why I do not agree that the Boothbay School District should relinquish its home rule authority over our school charter and accept state central management of our local educational system.

Now I want to say more about what I think should be included in our local school charter.

Once again, I repeat my first point.

- The boards and administrative authorities do not have the power and authority to amend the school charter. The Maine Constitution does not grant that authority to the school district committee. The authority to amend charters is derived from the Maine Constitution and granted to the inhabitants of the municipality pursuant to the Home Rule Amendment of 1969. The boards derive their authority from the Maine Revised Statutes, [Title 20-A, chapter 105](#), created in 1981. The process of trying to move this charter through has bypassed the true authority in amending a charter, the inhabitants of the municipality. Most, if not all of those testifying in favor of the charter did so in their capacity as members of the boards or administrative government and did not acknowledge their true authority as inhabitants of the municipality.
- There is no need to include words in the school charter that say it is aligned with state law, as that is a given, unless the local charter specifically rejects state law and replaces state law with its own municipal law. By including words to the effect that the charter will be aligned with state law, it is as if to say that the Boothbay School District is abdicating its duties, responsibilities, and rights to create its own school charter, except

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that the Boothbay School District, the authority with the power to amend the charter is not so doing, since Title 20-A Chapter 105 [§1601. Definitions](#). states that a community school district means “a school administrative unit consisting of the inhabitants of and the territory within 2 or more municipalities.”, and the inhabitants of the municipalities were not a part of the process and were not given an opportunity to vote on the charter before it was sent to the Legislature. Words stating that our charter is aligning with state law should be struck out.

- No where in Title 20, Chapter 105 of State law is it required that our Maine Constitution be taught in our public educational system. I submit that this should be included in our local charter, stating, at least, in secondary school.

- I propose that our school charter prohibit the use of conditional gifts and require that all donations to the public schools be made as tax-deductible contributions. I have explained in my original long testimony why I think this is important.

- I propose that in no way will our public school system be operated as a business.
 - This means that the public school system will be prohibited from making claims to ownership of intellectual property over projects using the facilities, based on ownership of the facilities as is in place at the University of Maine.
 - Nor shall any services offered by our public school district require that they be paid in royalties.
 - Nor shall the public educational system be used to train a workforce for a specific corporation, be it a state corporation such as the Maine Space Program, or a private corporation. Training general skills that can be applied to these industries as well as others is fine, but using the public school system for job training for a specific corporation is an abuse of the system and unfair to the greater economy which must subsidize such job training even as it creates a disproportionate advantage for the subsidized business over the subsidizing businesses and community in the greater economy. That is called taxation without representation.
 - The public charter should include a preamble that expresses a philosophy of a holistic education that gives the student a background in many areas to prepare the student in making their own career choices. This is the only purpose for which the public educational system serves the whole community and thus the common welfare that justifies public funding of public education.
 - And in closing I note the use of that term “common welfare” in the preamble to the Maine Constitution, a slight modification of the US Constitution which uses the term “general welfare”. I submit that by the time the Maine Constitution was formed, the interpretative latitude of the modifier “general” was proven to be

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problematic and so the more succinct “common” replaced it. Common means shared by all in common-as distinct from special interests.

Thank you for taking these thoughts and concerns into consideration.

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