



STATE OF MAINE
OFFICE OF THE STATE TREASURER

39 State House Station, Augusta, ME 04333-0039

www.maine.gov/treasurer

HENRY E.M. BECK, ESQ.
State Treasurer

GREGORY OLSON
Deputy Treasurer

May 20, 2021

Senator Mark Lawrence, Chair
Representative Seth Berry, Chair
Joint Standing Committee on Energy and Utilities

-Via Electronic Delivery-

Testimony Neither For Nor Against LD 1708

Senator Lawrence, Representative Berry and Honorable Members:

Regarding LD 1708, we share the following comments to assist in your deliberations:

1. ***We thank Rep. Berry for including sections 4004 and 4006 in the bill.*** We urge use of the specific phrase “not a general obligation or moral obligation of the State” as appropriate.
2. Should LD 1708 be enacted, we of course would be happy to provide counsel to the company’s board as proposed in subsection 11 of section 4003.
3. The language of the bill calls for tax-exempt financing of the public power company. It would be in the interest of this initiative that that language remains in the bill. The sponsor is well aware, and the Committee should keep in mind that the Rostenkowski rule would likely make initial financing of a public power entity taxable. Refinancing could occur later. Determination of tax status of debt like this is fact- specific and the issuer must meet several requirements.
4. It is our preliminary opinion that mere enactment of the bill is not a dispositive credit risk for the State, but of course, things must go well with operation of a public power company. It is likely that a public power company would be of informal interest to rating agencies in the same way other large policy initiatives are of interest such as Medicaid expansion, funding for education, tax rates etc. Section 4004 is key in this regard.
5. During deliberations in the 129th Legislature and since, there have been questions about how a proposal like LD 1708 would affect the State’s bonding capacity. If language is clear that liabilities of the Company are not liabilities of the State, there will be no effect on the so-called 5% rule for general obligation debt. Further, there have been many questions about the “state ceiling” under Section 363 of Chapter 9 of Title 10. It is the opinion of the State’s bond counsel, who has a loyalty and duty to the State, not proponents or opponents of the bill, that the state ceiling would not be affected by issuance of debt by a public power company. To assure exemption from the ceiling, legal arrangements involving the company and acquired property would need to be effectuated.

We thank the Committee for your attention.