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MAINE COUNTY COMMISSIONERS ASSOCIATION

LD 434 An Act To Clarify the Bonding Authority of Counties for Capital Maintenance Projects

March 3, 2021

Chair Baldacci, Chair Matlack, and members of the Joint Standing Committee on State and Local Government, my name is Stephen Gorden and in addition to serving as chair of the board of commissioners for Cumberland County, I am writing today in my role as board president of the Maine County Commissioners Association. We appreciate the opportunity to provide testimony to the Committee in support of LD 434.

About MCCA. Briefly, the Maine County Commissioners Association was established in 1890 to assist Maine's county government in providing vital services to Maine citizens in a responsive, efficient, and credible manner. The Association is based in Augusta and currently represents 15 of Maine's 16 counties and is governed by a board with representation from each participating county.

Our position on LD 434. First, many thanks to Rep. Martin for bringing this bill forward. This bill is modeled on charter language for Cumberland County, and if adopted, will help Maine's counties ensure that public facilities are maintained in the most efficient manner.

Routine capital maintenance is prudent. All counties have facilities that require large on-going maintenance projects. Some of these projects should be capitalized, as they have extended periods of life of 20 years or longer (i.e. roofs, complete window and door replacements, electrical upgrades, HVAC system replacements, etc.). That work is best done through scheduling, as the resource approaches the end of their life rather than after failure due to deferred maintenance. Regular facility maintenance is prudent because lack of investment ultimately leads to structural damage, a risk of collapse, and the potential for personal injury.

Capital expenditures by counties, even for routine maintenance, generally require voter approval. Presently, unless otherwise provided in a county's charter, if a county wishes to obtain *any* capital through borrowing, it must go to the voters with a referendum requesting such capital. Such referendum questions are time-consuming and costly for counties to manage, and these costs are ultimately borne by county taxpayers. These costs are present whether the referendum is for a major capital project or for relatively minor, routine maintenance projects necessary to preserve the structural integrity of county facilities.

County expenditures are established by elected officials. The precise path that a county budget takes before passage varies somewhat from county to county, but all counties are governed by elected county commissioners with authority over their county budgets. As a public body, all county commissioner meetings are public, publicized under the Freedom of Access Act, and all votes must be taken publicly and are recorded. Many counties also have budget committees comprised of municipal or elected officials who play an important role in setting county budgets, including determining whether or how much capital to borrow in any given year. This process ensures that county budgets and borrowing are undertaken in a transparent manner with careful consideration of the interests of local residents.

LD 434 creates a limited safe harbor for routine capital maintenance borrowing. Under the bill, when counties engage in small borrowing to support routine capital maintenance projects, as long as the amount of annual borrowing is below a threshold expressed as a percentage of the total property valuation of the county, the borrowing would not need to be sent out to voter referendum, which will save county taxpayers money. Here are some key points for the Committee to consider in support of LD 434.

1. **Minimizing deferred maintenance on county facilities.** A key goal of LD 434 is to better enable counties to invest in routine capital maintenance projects, including jail facilities, court facilities, emergency communications facilities, or registries of deeds and probate. Without making regular investments in the upkeep of these facilities, these facilities will deteriorate and become even more expensive to keep up. The prudent step is to limit the amount of deferred maintenance.
2. **Efficiency.** Given that all counties must invest in routine capital maintenance projects, it does not make sense to require counties to invest in costly and inefficient voter initiatives to support investment in small capital projects that will not only have a de minimus financial impact on the cost of county government, but may even cost county taxpayers more if the borrowing does not occur.
3. **Uniformity.** Many municipalities governed by councils have charter provisions allowing them to engage in small, routine capital maintenance borrowing below a certain dollar threshold keyed to the property valuation of the local government. This bill would ensure that all Maine counties have the same basic rules for small capital maintenance borrowing.

Conclusion. We hope this information is helpful to the Committee as it considers LD 434, and we hope the Committee will see fit to give this bill a favorable “ought to pass” report.

Respectfully submitted,

Stephen T. Gorden

Stephen Gorden
President

cc: Commissioner Brian Hobart, Chair, MCCA Legislative Committee
James I. Cohen, Verrill Dana, LLP, MCCA Legislative Counsel