



## **Testimony of Matt Marks Against of LD 875**

*An Act To Protect Taxpayers in the Privatization of Services and To Establish the State  
Procurement Review Committee*

Joint Standing Committee on State and Local Government

April 30, 2021

Senator Baldacci, Representative Matlack, and distinguished members of the Joint Standing Committee on State and Local Government, my name is Matt Marks; I am a resident of Scarborough and CEO of AGC Maine.

AGC Maine is concerned with several of the provisions of this bill. First, the Committee process established in the bill has the potential to slow work when the seasonal nature is already challenging. The construction season is constrained by the bidding timelines, where contractors are often weeks from a start date when a project is awarded. Before describing the specific sections, we wonder if this bill is really geared towards construction contracts? To our knowledge we haven't encountered a situation where agency employees wanted to compete with the services provided by our members.

In the text of the bill, we have several questions;

- Line 10 of Page 1, Exemptions: The language states "Bureau of General Services" can provide exemptions. Still, we suggest adding the "Maine Department of Transportation" and other agencies that would adhere to this new law.
- Line 27 of Page 2: "Privatization Contract": We are not clear how this would be applied in a practical sense. For example, a bridge that has a private maintenance contract existing today could continue to use private services. But will a bridge maintained by MaineDOT employees be subject to this new process, or does the exclusion of one bridge allow that for all? Additionally, does section 2 create a mandate that any information technology contracts need to be approved by the labor union?
- Line 28 of Page 2: "Privatization Contract:" Section 2 includes the Department of Administrative and Financial Affairs, but it doesn't have the same provisions for other agencies.
- Line 36 of Page 2, "Privatization of services:" Section 2 creates a minimum wage scenario that appears to be complicated. On a given construction project, the number of employees can range from a few to hundreds. How will the "Department" match

classifications, and what agency will be responsible for that comparison?

- Line 29 of Page 3, Collective bargaining agreement amendment: This section allows for employees under a state CBA to provide an alternative to a public bid until the bid date occurs. We are concerned about the costs associated with the bid and suggest this process take place before any advertised bid.
- Line 15, Section 5, Page 4: We are not sure how this process would work in our industry. It appears contractors would have to entertain hiring state employees if they are awarded a project.
- Line 19, Section 6, Page 4: The pre-qualification process administered by MaineDOT for all construction work performed for an agency requires adherence to civil rights policies.

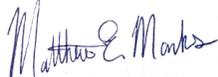
The new process will create delays in the process of moving projects from a work plan to bid packets and a signed contract. It's also imperative that the Committee be aware of the restrictive "work windows" established by regulators that approve the work that can be completed during certain times of the year. Creating a new Committee to review each contract will further delay projects, and we do not see the necessity. We have heard from other states that have a procurement review board similar to this process. They are slow to release work. Routine bids should not be subject to this process. It's unnecessary.

Second, we are not confident what legal entity would be competing for work. For example, if the Department of Transportation released a bid opportunity to repair bridge decks, could the state employee's union compete with that bid? What would be the legal entity, and would it subject that legal entity to the exact requirements for safety, civil rights, and education/training requirements? Also, doesn't that create a very high level of insecurity amongst the bidding firms?

The way this bill is written, the language allows for bidding, which has a cost, and then it could be overturned. Agencies are struggling to receive more than one bid for projects; creating more risk is not going to help that process.

Generally speaking, we suspect the intent is not related to the routine construction projects and would prefer they continue on the same process in place today. We are not aware of specific concerns related to procurement for construction services.

Respectfully submitted by,



Matt Marks, AGC Maine