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TO: Potentially Interested Parties
FROM: Bob Lenna, Executive Director
DATE: March 28, 2011
RE: Proposed Legislation

Attached please find a copy of LD 1153, "An Act to Regulate the Bonded Indebtedness of the State". This proposed legislation, as drafted by the State Treasurer and introduced by Senator Thibodeau, has been referred to the Appropriations Committee for its public hearing some time later in this Legislative session.

As printed, the bill in section 3 subsection 1603 would establish the standard in Maine law that all bond sales, regardless of issuer, underlying borrower, or bond resolution used, must be sold in a competitive bond sale model unless approval to use another sale model, such as the negotiated sale model used by ninety percent of the tax exempt revenue bond market since 2008, is granted by the State Treasurer. The Maine Municipal Bond Bank and Maine Health and Higher Educational Facilities Authority (MHHEFA) plan to testify in opposition to this subsection of the proposed legislation.

Also, the Bond Bank and MHHEFA have been informed by the Office of the Governor that it is their current intention to amend section 3, subsection 1602, to require that all bond sales that use a capital reserve fund with a moral obligation make up provision, as has been used by the Bond Bank for all of its bond sales since 1972 and by MHHEFA for almost all its bond sales since 1991, would be required to go out for state wide referendum approval prior to the issuance of any bonds. As there is no state general fund money or other state taxpayer dollars involved in these bond sales, the Bond Bank and MHHEFA would testify against such an amendment to the proposed legislation should it be introduced.

The legislation as drafted, and certainly if amended in the way that has been suggested concerning state wide referendum requirements, constitutes the single most significant piece of legislation affecting the ability of Maine local governments and non-profit organizations to borrow in the national tax exempt bond market since the creation of the Bond Bank and MHHEFA in 1972. Were either of these provisions to become law the Bond Bank and MHHEFA believe that there would be a substantial impact on the cost of tax exempt borrowing to meet capital needs as well as on the ability of eligible borrowers to have knowledgeable and ready access to the national tax exempt bond market.

Naturally, each organization that makes use of tax exempt bonds must make its own determination on the impact of these proposed changes on its cost of capital, but given the significance of these proposed alterations in Maine law as it has operated for the last forty years, the Bond Bank and MHHEFA wanted to bring them to your attention so that you would have the opportunity to undertake such an analysis for yourself.