

# OFFICE OF POLICY AND LEGAL ANALYSIS

Date: March 4, 2021  
To: Transportation Committee  
From: Sam Praver, Legislative Analyst

## **LD 311 – An Act To Require Third-party Certification for Persons Undertaking Corrosion Prevention and Mitigation Projects for Public Water Supply and Wastewater Infrastructure and Bridges**

### **SUMMARY:**

This bill requires the adoption of rules by the Department of Health and Human Services and the Department of Transportation governing projects costing \$50,000 or more consisting of corrosion prevention and mitigation for bridges, public water supply infrastructure and public wastewater infrastructure. Rules adopted pursuant to this legislation must include establishing a process for ensuring that corrosion prevention and mitigation activities are performed in accordance with established corrosion prevention and mitigation standards, requiring the use of personnel who are industry-trained and industry certified in corrosion prevention and mitigation methods and requiring plans to prevent environmental degradation that might result from corrosion prevention and mitigation activities.

### **TESTIMONY:**

**Proponents:** *Sen. Chipman, Pres. Jackson, International Union of Painters and Allied Trades District Council*

- This bill is about public safety
- Meant to address the issue of corrosion that causes structural deficiencies on Maine bridges
- Would require the application of a protective coating system on bridges and that the upkeep and repair be done by industry-trained and industry-certified corrosion prevention experts who will follow federal and state lead abatement requirements
- This bill is in direct response to the 2016 incident while repainting the bridge at Deering Avenue in Portland
- The cost of these requirements is outweighed by the fact that it will extend the life of bridges by slowing the pace of corrosion and decay

**Opponents:** *MaineDOT, MTA, Maine Water Utilities Association, Maine Rural Water Association, Maine Water Environment Association, American Institute of Steel Construction, Casco Bay Steel Structures Inc.*

- MaineDOT already has a detailed process standards and significant safeguards for corrosion prevention that make this bill unnecessary
- MaineDOT requires contractors and subcontractors to be qualified in accordance with the SSPC, the industry standard for the removal and application of protective coatings, and contractors are required to have quality control personnel trained and certified by NACE, the industry standard for corrosion prevention and mitigation
- The issue related to the Deering Avenue bridge was already addressed by the Transportation Committee during the 128<sup>th</sup> and 129<sup>th</sup> by voting ONTP on similar bills.
- MaineDOT investigated the allegations regarding the Deering Avenue bridge and did not find they were supported by the facts
- Maine Turnpike Authority believes the bill is unnecessary as it is already a requirement within their contract specifications that contractor's quality control personnel are NACE and SSPC certified.

**Wastewater Infrastructure Portion:** The wastewater utilities portion of the bill would create a regulator structure that unduly delays infrastructure improvements and increases the administrative burden on wastewater systems. Those testifying on this part of the bill did not believe such changes are necessary as corrosion control methods would be a part of the plan approval and specification process already (see file for additional testimony on this aspect of the bill)

**CURRENT STATUTE OR LAW:**

Current law does not impose a similar requirement on MaineDOT rulemaking.

**TECHNICAL ISSUES:**

- This bill directs the department to adopt routine technical rules in allocated language and provides specific requirements for what those rules must contain. However, those specific requirements are drafted in unallocated language. The requirements in the unallocated portion of the bill should be allocated if the committee would like them to apply in future rule makings or repeals.

- As drafted this bill may potentially apply to bridges outside the jurisdiction of MaineDOT rulemaking, as “bridges wholly or partly under the control of the State” may include municipal bridges.

**NOTES:**

- During the public hearing the sponsor indicated he’d prefer to remove the portions of the bill related to public water supply infrastructure and public wastewater infrastructure.

- As drafted the rulemaking required in this bill would impact Maine Turnpike Authority as well, because construction or reconstruction of the turnpike must be performed in a fashion generally consistent with applicable MaineDOT standards. ([23 MRS §1966, sub-§2](#)) “Reconstruction” would include repainting. ([23 MRS §1964, sub-§7](#))

**FISCAL IMPACT:**

Preliminary fiscal impact information not available at the time of writing.