

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

---

Legislative Document

No. 679

---

S.P. 220

In Senate, February 4, 1997

**An Act to Authorize the Department of Transportation to Use  
Design-build Contracting for Development of a New Bath-Woolwich  
Bridge.**

(EMERGENCY)

---

Submitted by the Department of Transportation pursuant to Joint Rule 204.  
Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator SMALL of Sagadahoc.  
Cosponsored by Representative MAYO of Bath and  
Senators: HARRIMAN of Cumberland, KILKELLY of Lincoln, Representatives: ETNIER of  
Harpwell, PEAVEY of Woolwich, RINES of Wiscasset, SAVAGE of Union, WINGLASS of  
Auburn.

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** this legislation must be enacted immediately in  
order to safeguard \$38,000,000 in federal transportation funds  
that the United States Congress could otherwise rescind; and

8  
10           **Whereas,** the Legislature has determined that the timely  
development of a new bridge between Bath and Woolwich is  
necessary to avoid continuing high maintenance costs related to  
12 the existing Carlton Bridge and costs to the traveling public and  
related businesses; and

14  
16           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
18 necessary for the preservation of the public peace, health and  
safety; now, therefore,

20           **Be it enacted by the People of the State of Maine as follows:**

22           **Sec. 1. Definitions.** As used in this Act and unless otherwise  
24 indicated, the following terms have the following meanings.

26           1. "Bath-Woolwich Bridge" means a new bridge that will span  
the Kennebec River between the City of Bath and the Town of  
28 Woolwich near the existing Carlton Bridge, together with the Bath  
approach to the bridge.

30           2. "Department" means the Department of Transportation.

32           3. "Major participant" means a firm that would have a major  
34 role in the design or construction of the Bath-Woolwich Bridge  
including the legal entity that will execute the contract with  
36 the department and that will be a single point of responsibility  
for all obligations under the contract, the legal entity  
38 responsible for construction and related work, the legal entity  
responsible for design and related work and any other participant  
40 designated by the department as a "major participant" in the  
request for qualifications.

42           4. "Work" means the furnishing of all labor, materials,  
44 equipment, supplies, services, personnel and all incidentals  
needed to complete the design and construction of the  
46 Bath-Woolwich Bridge and all warranty work.

48           **Sec. 2. Design-build contracting authorized.** Notwithstanding any  
other provision of law, the department may use design-build  
50 contracting as specified in this Act to contract

with a single entity for the work. Design-build contracting under this Act involves a 2-phase competitive process:

1. A prequalification phase for the purpose of selecting firms based upon their qualifications and experience that will subsequently receive a request for proposals; and

2. A proposal phase for the purpose of selecting the proposal that represents the best overall value to the State as determined by the department.

The department shall give public notice of a request for qualifications in at least 2 public newspapers that are distributed wholly or in part in the State and in at least one construction industry trade publication that is distributed nationally. The department shall issue a request for qualifications to all firms requesting one in accordance with the instructions in that notice. In the request for qualifications, the department may require that all major participants and related firms submit information demonstrating their relevant design and construction qualifications and experience, financial capacity, capability of obtaining performance and payment bonds and insurance coverages specified by the department, ability to comply with all applicable federal, state and local laws and regulations and such other qualifications that the department considers to be in the best interest of the State. The department may investigate and verify all information submitted. All financial information, trade secrets or other information customarily regarded as confidential business information submitted to or obtained by the department during the contracting process set forth in this Act is confidential. The department shall evaluate and rate all firms submitting responsive statements of qualifications. Based upon such ratings, the department shall select firms to receive requests for proposals and the department's selection decisions are final and are not subject to review or appeal. The department may select any number of firms, provided that if the department fails to receive at least 2 responsive submissions from firms considered qualified by the department, the department shall readvertise the project.

The department shall issue a request for proposals to all prequalified firms. The request for proposals shall set forth the scope of work, contract specifications, work requirements and other requirements that have a substantial impact on the cost of the work as determined by the department. The request for proposals must also set forth criteria to be used to determine whether proposals are responsive and a description of the criteria and procedures to be used to evaluate proposals. Proposals must consist of 2 separate components to be submitted to the department simultaneously but separately; a sealed design-build proposal and a sealed lump sum price proposal. The

2 department shall evaluate and score responsive design-build  
3 proposals based upon criteria that may include quality of design,  
4 constructability, long-term maintenance costs, aesthetics, local  
5 impact, traveler and other user costs and other factors that the  
6 department considers to be in the best interest of the State.  
7 The department shall then publicly open and read responsive lump  
8 sum price proposals and divide each price by the score of that  
9 firm's design-build proposal, yielding an overall value rating  
10 for each firm. The department shall award the contract to the  
11 firm with the lowest responsive overall value rating and the  
12 department's award decision is final and is not subject to review  
13 or appeal. The request for proposals may provide for the payment  
14 of a stipend upon specified terms to unsuccessful firms that  
15 submit responsive proposals.

16 This Act ratifies and confirms all actions taken by the  
17 department to date in furtherance of a design-build contract for  
18 the Bath-Woolwich Bridge. The department may terminate, at any  
19 time and in its sole discretion, terminate the contracting  
20 process set forth in this Act if in the best interest of the  
21 State.

22 **Emergency clause.** In view of the emergency cited in the  
23 preamble, this Act takes effect when approved.

26

## 28 SUMMARY

29 This bill authorizes the Department of Transportation to use  
30 the design-build method of contracting for development of a  
31 proposed new Bath-Woolwich Bridge, thus safeguarding  
32 approximately \$38,000,000 in federal transportation funds. Under  
33 the design-build contracting method, a single contract is awarded  
34 to a qualified firm for both the design and construction phases  
of a project.