

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1257

S.P. 378

In Senate, March 22, 2011

An Act Regarding Labor Contracts for Public Works Projects

Reference to the Committee on State and Local Government suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator PLOWMAN of Penobscot.

Cosponsored by Senators: MASON of Androscoggin, THOMAS of Somerset, Representatives: CRAFTS of Lisbon, HARVELL of Farmington, TIMBERLAKE of Turner.

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

2 **Sec. 1. 26 MRSA §1304, sub-§5-A** is enacted to read:

3 **5-A. Interested party.** "Interested party" includes the following:

4 A. A bidder, contractor or subcontractor for a public works contract covered by this
5 chapter;

6 B. An employee of a bidder, contractor or subcontractor for a public works contract
7 covered by this chapter; and

8 C. A taxpayer of an entity awarding a public works contract covered by this chapter.

9 **Sec. 2. 26 MRSA §1312, last ¶**, as amended by PL 1997, c. 757, §10, is repealed.

10 **Sec. 3. 26 MRSA §1316** is enacted to read:

11 **§1316. Public works contract requirements**

12 This section applies to public works contracts entered into, awarded or renewed after
13 October 1, 2011.

14 **1. Contract documents.** The plans, specifications and contract documents for a
15 public works contract awarded under this chapter may not:

16 A. Require a bidder, contractor or subcontractor to enter into or comply with an
17 agreement with a labor organization on the same or a related public works project;

18 B. Discriminate against a bidder, contractor or subcontractor for refusing to enter
19 into, remain a signatory to or comply with an agreement with a labor organization on
20 the same or a related public works project; or

21 C. Require a bidder, contractor or subcontractor to enter into or comply with an
22 agreement that requires an employee of the bidder, contractor or subcontractor, as a
23 condition of employment, to:

24 (1) Become a member of or become affiliated with a labor organization; or

25 (2) Over the objection of the employee, pay dues or fees to a labor organization
26 that exceed the employee's share of the labor organization's costs relating to
27 collective bargaining, contract administration or grievance adjustment.

28 **2. Cooperation with the federal National Labor Relations Act.** This section does
29 not prohibit an employer or any other person covered by the federal National Labor
30 Relations Act, 29 United States Code, Chapter 7, Subchapter II from entering into
31 agreements or engaging in any other activity protected by law. This section may not be
32 interpreted to interfere with the labor relations of persons covered by the federal National
33 Labor Relations Act.

34 **3. Penalties.** The following provisions apply to a violation of this section.

1 A. An interested party has a cause of action to challenge the award of a public works
2 contract that violates this section.

3 B. An interested party that prevails in an action under this section is entitled to the
4 following relief:

5 (1) A declaration that the provisions of the public works contract that violate the
6 applicable statute are void;

7 (2) Costs and attorney’s fees; and

8 (3) Any other appropriate relief requested by the interested party.

9 Relief that would interfere with the labor relations of persons covered by the federal
10 National Labor Relations Act, 29 United States Code, Chapter 7, Subchapter II may not
11 be granted under this subsection.

12 **SUMMARY**

13 This bill provides that the plans, specifications and contract documents for a public
14 works project may not require bidders, contractors or subcontractors to enter into or
15 comply with certain agreements with labor organizations. The bill also provides a cause
16 of action to challenge the awarding of a contract that violates these provisions.