

MAINE STATE LEGISLATURE

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Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 1
CONSTITUTION

Titles 1 to 10



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
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CHAPTER 153

PUBLIC IMPROVEMENTS

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SUBCHAPTER I

POWERS; BIDS AND CONTRACTS GENERALLY

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§ 1741. Definitions

Whenever the words "public improvement" or "public improvements" shall appear in chapters 141 to 155 they shall be held to mean and include the construction, major alteration or repair of buildings or public works now owned or leased or hereafter constructed, acquired or leased by the State of Maine or any department, officer, board, commission or agency thereof, or constructed, acquired or leased, in whole or in part with state funds. Nothing in this section shall apply to the construction, improvement or repair of any and all ways, roads or bridges with appurtenances which, by law, are under the supervision of the State Highway Commission.

The word "person" as used in section 1741 and sections 1745 to 1750 shall mean and include any individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever.

R.S.1954, c. 16, § 49; 1957, c. 340, § 1.

§ 1742. Powers and duties

The Department of Finance and Administration, through the Bureau of Public Improvements, shall have authority:

1. Programs. To require the development of over-all long range public improvement programs for all departments and agencies of the State Government and to coordinate and present recommendations pertaining thereto to the Governor, the Governor-elect, the State Budget Officer and the Legislature;

1961, c. 101, § 6.

2. Inspection. To regularly inspect state owned and leased buildings in the State and report to the controlling department head whatever construction, repairs, alterations and improvements are deemed necessary. If the Commissioner of Finance and Administration considers it advisable, he shall make a similar report to the Governor and Council;

3. Advise. Upon request to advise all state departments and agencies in connection with engineering and architectural questions and matters pertaining to any and all public improvements;

1959, c. 299, § 1.

4. Review. To review the operation and maintenance of state owned and leased buildings and property and to make recommendations with respect thereto to the Commissioner of Finance and Administration and controlling department or agency head concerned;

5. Data. To prepare, at the request of the Governor and Council or the Legislature, data pertaining to existing or proposed public improvements;

6. Approve selection of architects and engineers. To approve the selection of qualified practicing Maine registered architects and engineers in the planning and supervision of construction and public improvements;

1959, c. 299, § 2.

7. Approve plans for public improvements. To approve all proposals, plans, specifications and contracts for public improvements which require their submission to the Governor and Council for their final approval and acceptance;

8. Inspection. To inspect materials, equipment, methods used and changes in plans in making public improvements, and

inspect public improvements during the course of construction or repair, and make such recommendations as may be indicated to the architect or engineer, when employed, and to the controlling department or agency head. The architect or engineer when employed shall provide adequate inspection of materials, equipment, methods and changes in plans on all projects under his supervision;

1961, c. 234, § 1.

9. Recommendations. To require prompt inspection upon the completion of any public improvement and to make recommendations promptly for the acceptance or rejection thereof to the authority which approved the execution of the project;

1959, c. 122, § 1.

10. Inventory. To make or require an inventory of all removable equipment belonging to the State Government and keep it current;

11. Listing of real estate. To require the listing of real estate belonging to or under lease to the State Government, showing controlling agency, location, metes and bounds, cost or rental rate and when acquired or rented;

12. Demolish obsolete buildings. To demolish or otherwise dispose of buildings and appurtenances, excluding land, belonging to the State that have become hazards, obsolete or are unjustifiably expensive to maintain. Such demolition or other disposal shall be on the recommendation of the department or agency head having jurisdiction over the buildings and appurtenances concerned and under such terms and conditions as deemed by the Governor and Council to be in the best interests of the State;

1963, c. 283.

13. File of plans. To collect and maintain a complete and accurate file of drawings showing plans of location and situation of all public improvements;

14. Records. To collect and maintain records of construction costs and progress of all public improvements;

15. Supervision of State House and grounds. To have general supervision of the State House and the public grounds, buildings and property connected with the State House, and to make repairs and alterations in and about such grounds and buildings;

1959, c. 299, § 4.

16. Control public park in Augusta. To control and maintain all that portion of the State lands situated in the City of Augusta and lying between State Street on the west and the location of the Maine Central Railroad Company on the east which is now or hereafter may be designated as a public park;

17. Food service. To provide, with the consent of the Governor and Council, food service in the State office buildings located at the seat of government and elsewhere in the State as may be determined by the Governor and Council;

18. Assign rooms. To assign rooms in all buildings used by the State for offices and determine the occupancy thereof in such manner as the public service may require;

19. Facilities required by State. To lease or approve the leasing of grounds, buildings, facilities and office space required by departments and agencies of the State Government. No lease shall be for a period of more than 10 years;

1961, c. 82.

20. Utility services. To purchase or contract or approve the purchasing or contracting for telephone, telegraph, electric, water, sewage and gas services for any and all departments and agencies of the State Government;

21. Rules and regulations. To make rules and regulations, subject to the approval of the Commissioner of Finance and Administration for the purposes of carrying out this subchapter.

The head of any agency, board, commission or department of the State Government, not otherwise exempted by law, who contemplates any public improvement, shall first obtain the approval of the State Director of Public Improvements for such work. This paragraph is not intended to restrict the head of any agency, board, commission or department of the State Government from making emergency repairs to any State owned building, public work or property or any property under lease to the State Government which is under his supervision and control whenever it appears that such repairs are immediately necessary to prevent injury to persons or further damage to such buildings or property.

R.S.1954, c. 16, §§ 1, 16, 35; c. 62, §§ 4, 5; 1955, c. 456, § 1; 1957, c. 340, § 1; 1959, c. 122, § 1; c. 299, §§ 1-4; 1961, c. 82; c. 101, § 6; c. 234, § 1; 1963, c. 283.

§ 1743. Competitive bids

Any contract for any public improvement involving a total cost of more than \$3,000, except contracts for professional, architectural and engineering services, shall be awarded by a system of competitive bidding in accordance with chapters 141 to 155 and such other conditions and restrictions as the Governor and Council may from time to time prescribe.

No agency of the State shall enter into any contract for a public improvement, nor shall any of its instrumentalities enter into any contract for buildings or public works, with a general contractor unless the contract shall provide that the prime contractor shall not subcontract more than 80% of the total bid price.

R.S.1954, c. 16, § 43; 1957, c. 340, § 1; 1961, c. 234, § 2; 1963, cc. 118, 164.

§ 1744. Preference for Maine granite

Whenever any public work is to be undertaken or repaired by contract by the State or any county or municipality, or any public building is to be erected or repaired, not under contract by the State or any county or municipality, in which concrete may be used, Maine granite shall be set up as an alternative construction material and the officials of the State, county or municipality shall require alternate bids to be offered, one based on the use of concrete, and the other on the use of Maine granite on all or such part of the building or other project as may be deemed expedient from an engineering standpoint.

R.S.1954, c. 16, § 51; 1957, c. 340, § 1.

§ 1745. Advertisements for sealed proposals; bond

The trustees, commissioners or other persons in charge of any public improvement which is subject to chapters 141 to 155 shall, after consultation with the State Purchasing Agent and the State Director of Public Improvements, advertise for sealed proposals not less than 2 weeks in such papers as the Governor and Council may direct. The last advertisement shall be at least one week before the time named therein for the closing of such bids. Sealed proposals submitted in accordance with such advertisements shall be addressed to the trustees, commissioners or such other persons having the construction in charge and shall remain sealed until opened in the presence of a committee of the

Executive Council at such time as the Governor and Council may direct.

No contract shall be awarded unless the faithful performance thereof shall be secured by a bond in the penal sum of not less than 20% of the amount of the contract, payable to the State, and deposited with the Treasurer of State.

R.S.1954, c. 16, § 44; 1957, c. 340, § 1.

§ 1746. Retention of part of contract price

In any contract awarded for any public improvement the State shall withhold 5% of the money due the contractor until the project under the contract has been accepted by or for the State, except that when the contract has been substantially completed the State may, upon request, further reduce the amounts withheld if it deems it desirable and prudent.

1959, c. 122, § 2.

§ 1747. Questionnaire as pre-bid qualification

In order to facilitate the work of any public official, it shall be lawful for said official to require, from any person proposing to bid on public work duly advertised, a standard form of questionnaire and financial statement, containing a complete statement of the person's financial ability and experience in performing public work, before furnishing such person with plans and specifications for the proposed public work advertised.

R.S.1954, c. 16, § 45; 1957, c. 340, § 1.

§ 1748. Procedure if answers unsatisfactory

Whenever the public official is not satisfied with the sufficiency of the answers contained in such standard questionnaire and the financial statement of such persons, he may refuse to furnish such persons with plans and specifications on public work duly advertised, and the bid of any person to whom plans and specifications have not been issued may be disregarded.

R.S.1954, c. 16, § 46; 1957, c. 340, § 1.

§ 1749. Procedure for contractor

Any contractor, after being notified of his classification by the public official and being dissatisfied therewith, may request a hearing before the public official and present such further evi-

dence with respect to his financial responsibility, plant and equipment or experience as might tend to justify in his opinion a higher classification. After hearing the additional evidence, the public official may in his discretion change the classification of the contractor.

R.S.1954, c. 16, § 47; 1957, c. 340, § 1.

§ 1750. Penalties

Any contractor who makes or causes to be made any incomplete, false or fraudulent statement in the documents required by section 1747 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 nor more than \$1,000; or in the case of an individual or officer or employee charged with the duty of preparing such documents for a person, firm, copartnership, association or corporation, by imprisonment for not more than 6 months, or by both.

R.S.1954, c. 16, § 48; 1957, c. 340, § 1.

SUBCHAPTER II

PUBLIC WAYS AND PARKING AREAS

Sec.

1771. Definitions.

1772. Rules and regulations.

1773. Special officers; powers and duties; cooperation.

1774. Jurisdiction.

1775. Fines and costs of court.

1776. Offenses not covered by rules and regulations.

§ 1771. Definitions

The words "public way" or "public ways," when used in this subchapter, shall be held to mean all roads and driveways on lands maintained by the State at the seat of government.

The words "parking area" or "parking areas," when used in this subchapter, shall be held to mean all lands maintained by the State at the seat of government which may be designated as parking areas by the State Director of Public Improvements.

1959, c. 33, § 13.

§ 1772. Rules and regulations

The State Director of Public Improvements is authorized and empowered to make and enforce rules and regulations, subject to the approval of the Governor and the Commissioner of Finance and Administration, governing the use of public ways and parking areas maintained by the State at the seat of government. Said rules and regulations shall become effective upon deposit of a copy thereof with the Secretary of State, who shall forward a copy thereof attested under the Great Seal of the State to the District Court for Southern Kennebec.

1959, c. 33, § 13; 1963, c. 402, § 9.

§ 1773. Special officers; powers and duties; cooperation

The State Director of Public Improvements is authorized and empowered to appoint and employ, subject to the Personnel Law, special police officers for the purpose of enforcing rules and regulations made pursuant to section 1772.

The powers and duties of the special police officers so appointed and employed shall be to patrol all of the public ways and parking areas subject to this subchapter, enforce rules and regulations made under section 1772, arrest any violator thereof and prosecute any offender against the same.

The State Police, sheriffs and deputy sheriffs, constables and police officers of the City of Augusta shall, so far as possible, cooperate with the special police officers appointed and employed under this section in the enforcement of rules and regulations made pursuant to section 1772.

1959, c. 33, § 13.

§ 1774. Jurisdiction

The District Court for Southern Kennebec shall have jurisdiction in all proceedings brought under this subchapter, which court shall take judicial notice of all rules and regulations adopted pursuant to section 1772. In any prosecution for violation of any rule and regulation, the complaint may allege the offense as in prosecutions under a general statute and need not recite the rule or regulation.

1959, c. 33, § 13; 1963, c. 402, § 10.

§ 1775. Fines and costs of court

Any person found guilty of violating any rule or regulation made pursuant to section 1772 shall, upon conviction, pay a fine and costs of court as follows:

1. **First offense.** For the first offense in any calendar year, a fine of \$1 plus the costs of court;

2. **Second offense.** For the 2nd offense in any calendar year, a fine of \$2 plus the costs of court;

3. **Subsequent offense.** For each offense in excess of 2 in any calendar year, a fine of \$5 plus the costs of court.

Notwithstanding any other law, the fines and costs of court paid under this section shall inure to the City of Augusta.

1959, c. 33, § 13

§ 1776. Offenses not covered by rules and regulations

Offenses not covered by the rules and regulations made under section 1772 shall be dealt with as otherwise provided by law.

1959, c. 33, § 13.