

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1685

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S. P. 532

In Senate, April 2, 1973

Referred to the Committee on Legal Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Berry of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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AN ACT Relating to the Selection of Architects, Engineers  
and Land Surveyors.

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

R. S., T. 5, c. 156, additional. Title 5 of the Revised Statutes is amended by adding a new chapter 156 to read as follows:

CHAPTER 156  
SELECTION OF ARCHITECTS, ENGINEERS  
AND LAND SURVEYORS

§ 1851. Purpose; finding of fact

The Legislature finds it to be in the best interests of the public health, safety and welfare and of good fiscal management to seek the most qualified and competent individuals and firms, at fair and reasonable compensation, to provide professional services to the State, its agencies, municipalities or political subdivisions. The provisions of this chapter are intended to set forth a procedure providing for selection of such individuals and firms on the basis of demonstrated competence and qualification for the type of professional services required.

§ 1852. Definitions

As used in this chapter, unless the context otherwise clearly indicates, the following words shall have the following meanings.

1. Agency. "Agency" shall mean the State of Maine or any of its departments, bureaus, counties, municipalities or any political subdivision of the State of Maine.

2. Firm. "Firm" shall mean any individual, partnership, corporation, association or any other legal entity permitted by law to practice architecture, engineering or land surveying in the State of Maine.

3. Professional services. "Professional services" shall mean those services within the scope of practice of architecture, engineering or land surveying as defined by the laws of the State of Maine.

§ 1853. Basis for qualification

Each agency shall adopt reasonable rules and regulations for the evaluation of any firm, providing to such agency professional services, such evaluation to include past experience of the firm or the key personnel thereof in previous work; the adequacy of the staff of the firm for the contemplated work in terms of the size and training of the staff; the availability of specialized equipment or services which may be necessary to perform the work; the financial standing of the firm to enable it to carry out the work in a fiscally sound manner; the current work commitment of the firm and its ability to meet the time required for its work commitments. In making such evaluations the agency may inquire of the clients of the firm and the references provided by the firm to verify or establish the firm's qualifications.

§ 1854. Basis for selection

The agency shall meet with as many firms as the agency deems appropriate for the scope, complexity and professional nature of the contemplated project. Such meetings shall include a review of the program, design criteria, alternate methods of approach and other relevant technical considerations concerning the project being undertaken by the agency. Based on the foregoing discussion the agency shall then select the firm which, in its opinion, has the best qualifications and shall negotiate a contract with such firm at a price which the agency deems fair and reasonable. In making a determination as to reasonableness of compensation, the agency shall consider the estimated value of services to be rendered, together with the scope of complexity and professional nature thereof. If at any time the agency determines that it is unable to negotiate a satisfactory contract with a firm considered to be the most qualified, negotiations with such firm shall be formally terminated. The agency shall then undertake negotiations with the next most qualified firm and if negotiations with such firm do not result in a contract to perform the work contemplated, the agency shall proceed to negotiate with other firms in the order of their qualification until the negotiation procedure has resulted in a satisfactory agreement to undertake the contemplated work.

§ 1855. Existing contracts unimpaired

Nothing in this chapter shall affect the validity or effect of any contract in existence on the effective date hereof.

§ 1856. Exclusive

This chapter provides an exclusive means for the selection of architects, engineers and land surveyors and any state or municipal statute, law or ordinance providing for selection of architects, engineers and land surveyors on

a bid basis or other basis will not apply to the subject matter contained in this chapter.

§ 1857. Exclusion

This chapter does not apply to construction contracts or similar contracts which may include professional services.

STATEMENT OF FACT

The Legislature finds it to be in the best interest of the public health, safety and welfare and of good fiscal management to seek the most qualified and competent individuals and firms, at fair and reasonable compensation, to provide professional services to the State, its agencies, municipalities or political subdivisions. To this end, a procedure is herein set forth providing for selection of such individuals and firms on the basis of demonstrated competence and qualification for the type of professional services required.