

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 364

6
7 S.P. 124

In Senate, February 1, 1985

8 Reference to the Committee on Transportation suggested and ordered
9 printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Danton of York.

Cosponsored by Representative McPherson of Eliot and Representative
11 Callahan of Mechanic Falls.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Allow the Use of Bid Bonds on State
18 Highway Projects.
19

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

22 23 MRSA §753, as amended by PL 1975, c. 771,
23 §252, is further amended to read:

24 §753. Contracts for construction

25 The department shall have full power in the let-
26 ting of all contracts for the construction of all
27 state highways and other work under its jurisdiction,
28 except as otherwise provided. The department shall
29 make all surveys, plans, estimates, specifications
30 and contracts for all proposed work and shall, except
31 as otherwise provided in chapters 1 to 19, advertise
32 for bids for the same in 2 or more public newspapers
33 printed wholly or in part in the State, and in one
34 public newspaper printed wholly or in part in the
35 county where the proposed work is to be done, if any

1 such newspaper is so printed in such county. Such ad-
2 vertisement shall state the place where the bidders
3 may examine the plans and specifications, and the
4 time and place where the bids for such work will be
5 received by the department. Each bidder must accom-
6 pany his bid with an official bank check, a cashier's
7 check, a certified check, a certificate of deposit or
8 a United States postal money order a deposit of a
9 good and sufficient bid bond in favor of the State
10 for the benefit of the department, executed by a cor-
11 porate surety authorized to do business in the State,
12 or certain securities, payable to the Treasurer of
13 State, for an amount which the department considers
14 sufficient to guarantee that, if the work is awarded
15 to him, he will contract with the department for its
16 due execution. "Securities" shall include official
17 bank checks, cashier's checks, certified checks, cer-
18 tificates of deposit or United States postal money
19 orders. Such checks or money orders securities or
20 bonds shall be returned to the respective unsuccess-
21 ful bidders. The check or money order security or
22 bond of the successful bidder shall be returned to
23 him upon the execution and delivery to the department
24 of his contract and his bond with sufficient sure-
25 ties, in terms satisfactory to the department for the
26 due execution of such work. All bids so submitted
27 shall be publicly opened and read at the time and
28 place stated in such advertisement. The department
29 shall have the right to reject any and all bids, if
30 in its opinion good cause exists, but otherwise it
31 shall award the contract to the lowest responsible
32 bidder. Any town may submit bids for state highway
33 construction within its limits, and shall be subject
34 to all requirements prescribed for other contractors,
35 except that no bond need be required of it. The de-
36 partment may construct state highways by day labor
37 without advertising for bids; and may, with the ap-
38 proval of the Governor, award contracts for state
39 highways without advertising for bids, if the same
40 shall be for the best interest of the State. The de-
41 partment shall have full power in all matters relat-
42 ing to the furnishing of bonds by the successful bid-
43 ders for the completion of their work and fulfilling
44 of their contracts, and for the protection of the
45 State and town from all liability arising from damage
46 or injury to persons or property.

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STATEMENT OF FACT

2 Current laws allow the use of bonds for bid secu-
3 rity on all construction contracts awarded by the
4 State, except for those contracts awarded by the De-
5 partment of Transportation. Bid security, in the
6 form of cash, checks or bonds, is required for most
7 construction bidding and provides to the owner a
8 guarantee that the bidder will enter into a contract
9 for the amount submitted or risk forfeiture of the
10 security. Bid bonds are provided at no cost to the
11 contractor and provide a larger guarantee to the
12 awarding authority. For example, the state's largest
13 guarantee is a cashier's check for \$75,000, whereas
14 bid bonds are generally written for 5% to 10% of the
15 bid amount. This bill allows the use of bid bonds
16 and, as a result, improves the contractor's cash
17 flow, provides the Department of Transportation with
18 a larger bid deposit, while at the same time reduces
19 administrative costs.

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