

# 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)

1 (EMERGENCY)  
2 (After Deadline)  
3 FIRST REGULAR SESSION  
4

---

5 ONE HUNDRED AND TWELFTH LEGISLATURE  
6

---

7 Legislative Document

No. 1564

---

9 H.P. 1075

House of Representatives, May 23, 1985

10 Approved for introduction by a majority of the Legislative Council  
11 pursuant to Joint Rule 27.

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

EDWIN H. PERT, Clerk

Presented by Representative Hayden of Durham.

13 Cosponsored by Senator Gill of Cumberland, Senator Clark of  
Cumberland and Representative Lisnik of Presque Isle.

---

14 STATE OF MAINE  
15

---

16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-FIVE  
18

---

19 AN ACT to Provide Expanded Markets for  
20 Products and Services from  
21 Rehabilitation Facilities and Work  
22 Centers.  
23

---

24 **Emergency preamble.** Whereas, Acts of the Legisla-  
25 ture do not become effective until 90 days after ad-  
26 journment unless enacted as emergencies; and

27 Whereas, there is a need to strengthen existing  
28 statutes which attempt to expand employment opportu-  
29 nities for disabled persons; and

30 Whereas, legislation is urgently needed to accom-  
31 plish that goal by providing expanded markets for  
32 products and services from rehabilitation facilities  
33 and work centers; and

34 Whereas, in the judgment of the Legislature,  
35 these facts create an emergency within the meaning of

1 the Constitution of Maine and require the following  
2 legislation as immediately necessary for the preser-  
3 vation of the public peace, health and safety; now,  
4 therefore,

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

7 Sec. 1. 5 MRSA c. 155, first 2 lines are re-  
8 pealed and the following enacted in its place:

9 CHAPTER 155

10 PURCHASES

11 SUBCHAPTER I

12 GENERAL PROVISIONS

13 Sec. 2. 5 MRSA §1816, sub-§11, as enacted by PL  
14 1981, c. 495, is repealed.

15 Sec. 3. 5 MRSA c. 155, sub-c. II is enacted to  
16 read:

17 SUBCHAPTER II

18 PRODUCTS AND SERVICES FROM REHABILITATION  
19 FACILITIES AND WORK CENTERS

20 §1826-A. Purpose and intent

21 The Legislature finds that the goal of  
22 intergrating disabled persons into all aspects of  
23 community life is enhanced by providing expanded mar-  
24 kets for products and services of work centers. The  
25 Legislature further believes that work centers pro-  
26 vide a valuable means of transitional employment for  
27 the State's disabled population and for some, such as  
28 the most severely disabled persons, they may offer  
29 the only opportunities available for long-term, gain-  
30 ful employment.

31 In order to assure continued opportunities for  
32 disabled persons to obtain this employment through  
33 work centers, it is the intent of the Legislature to  
34 provide reliable and steady income and job opportuni-

1 ties to work centers. It is the purpose of this section and sections 1826-B to 1826-D to ensure that  
2 some portion of state purchases for commodities and  
3 services be available to work centers.  
4

5 §1826-B. Definitions

6 As used in this subchapter, unless the context  
7 indicates otherwise, the following terms have the  
8 following meanings.

9 1. Disabled person. "Disabled person" means an  
10 individual who has a physical or mental disability  
11 which substantially limits one or more major life ac-  
12 tivities, has a record of such impairment or is  
13 perceived to have such an impairment.

14 2. Work center. "Work center" means a rehabili-  
15 tation facility or that part of a rehabilitation fa-  
16 cility engaged in production or service operation for  
17 the primary purpose of providing gainful employment  
18 as an interim step in the rehabilitation process for  
19 those who cannot be absorbed readily in the competi-  
20 tive labor market or during such time as employment  
21 opportunities for them in the competitive labor mar-  
22 ket do not exist. For the purposes of sections 1826-A  
23 to 1826-D, a work center shall meet the following  
24 conditions:

25 A. Is certified as a regular work program or  
26 work activity center by the wage and hour divi-  
27 sion of the United States Department of Labor or  
28 by the State Department of Labor;

29 B. Has complied with occupational health and  
30 safety standards required by the laws of the  
31 United States or this State;

32 C. Employs during the fiscal year in commodity  
33 production or service provision disabled persons  
34 at a quota of not less than 66% of the total  
35 hours of direct labor on all production, whether  
36 or not government related; and

37 D. Has, or is part of, an ongoing placement pro-  
38 gram which includes at least preadmission evalua-  
39 tion and annual review to determine each worker's

1 capability for normal competitive employment and  
2 maintenance of liaison with the appropriate com-  
3 munity services for the placement in the employ-  
4 ment of any of its workers who may qualify for  
5 that placement.

6 §1826-C. Work Center Purchases Committee

7 1. Committee established. There is established  
8 the Work Center Purchases Committee, consisting of  
9 the State Purchasing Agent, the Director of the Bu-  
10 reau of Rehabilitation, a representative of the De-  
11 partment of Mental Health and Mental Retardation, a  
12 representative of work centers, a disabled person and a  
13 representative of the business community.

14 2. Appointments; terms; compensation. The mem-  
15 bers of the Work Center Purchases Committee shall be  
16 appointed by and shall serve at the pleasure of the  
17 Governor. All members of the committee shall serve  
18 without compensation, except for reimbursement of  
19 necessary expenses incurred in the performance of  
20 their duties. The 3 agencies of the State Government  
21 that are represented on the committee shall absorb  
22 any necessary expenses.

23 3. Powers and duties. The powers and duties of  
24 the Work Center Purchases Committee shall include the  
25 following:

26 A. Develop and use a work center purchases  
27 schedule, pursuant to subsection 4;

28 B. Develop and carry out procedures for standard  
29 competitive bidding for the products and services  
30 on the work center purchases schedule pursuant to  
31 subsection 5;

32 C. Award contracts, pursuant to subsection 6;

33 D. Develop and implement procedures for appeal-  
34 ing decisions of the committee;

35 E. Develop and, when necessary, implement proce-  
36 dures to ensure that any member of the committee  
37 who has an actual or potential conflict of inter-  
38 est with respect to any contract under considera-

1 tion by the committee is prohibited from taking  
2 any action on that contract in his capacity as a  
3 committee member; and

4 F. Issue rules, pursuant to the Maine Adminis-  
5 trative Procedure Act, Title 5, chapter 375, to  
6 carry out the purpose and intent of this subchap-  
7 ter.

8 4. Work center purchases' schedule. The Work  
9 Center Purchases Committee shall develop and use a  
10 work center purchases' schedule. The committee shall:

11 A. Identify and develop a list of all products  
12 and services purchased or scheduled to be pur-  
13 chased by State Government;

14 B. Identify and develop a list of all work cen-  
15 ters in the State, including a description of the  
16 products and services work centers are currently  
17 providing or have recently provided and including  
18 an assessment of the products and services that  
19 work centers are capable of providing, but have  
20 not recently provided; and

21 C. Develop from the information obtained in par-  
22 agraphs A and B a work center purchases' schedule  
23 which describes all products and services to be  
24 purchased by the State which, in the view of the  
25 committee, could be provided by work centers. In  
26 developing this schedule, the committee shall  
27 give consideration to the abilities of work cen-  
28 ters to meet contract requirements and to meet  
29 generally excepted quality control standards and  
30 any potential technical assistance that may be  
31 required to enable a work center to compete fair-  
32 ly for contracts, pursuant to this subchapter.

33 5. Competitive bidding. The Work Center Pur-  
34 chases Committee shall develop procedures for compet-  
35 itive bidding by eligible work centers only for  
36 products and services identified on the work center  
37 purchase schedule. Any product or service on the  
38 schedule for which no bids are received from a work  
39 center shall be put out to general bid by the State  
40 Purchasing Agent, in accordance with his standard  
41 rules and procedures. If only one work center bid is

1 received, the committee shall review the bid and make  
2 a determination regarding the fairness of the price  
3 and terms of the proposed contract. If the committee  
4 determines that the work center should not be awarded  
5 this bid, the contract shall be offered for standard  
6 competitive bid by the State Purchasing Agent through  
7 normal rules and procedures.

8 6. Award of contracts; fair price. The Work Cen-  
9 ter Purchases Committee shall have final determina-  
10 tion in awarding contracts to work centers through  
11 the competitive bidding process. The committee's  
12 judgment shall prevail in the determination that the  
13 price and contract terms are fair and reasonable both  
14 to the work center and to the State. In determining a  
15 fair price, the committee shall ensure the ability of  
16 the work center to recover the costs of labor, mate-  
17 rial, equipment, overhead and delivery.

18 7. Assignment of contracts. The Work Center Pur-  
19 chases Committee shall ensure that contracts awarded  
20 to work centers may not be assigned to any other ven-  
21 dor, except as may be necessary to complete the con-  
22 tracts, because of extraordinary events beyond the  
23 control of the work centers. Any additional costs in-  
24 curring because of these assignments shall be borne by  
25 the work center as a normal cost of doing business.

26 §1826-D. Sunset

27 This subchapter is repealed effective July 1,  
28 1988, unless reenacted. The Bureau of Rehabilitation,  
29 in cooperation with the Bureau of Purchases and the  
30 Department of Mental Health and Mental Retardation,  
31 shall report to the Legislature, no later than Febru-  
32 ary 1, 1988, on the effectiveness of this subchapter  
33 in fulfilling its purposes.

34 Emergency clause. In view of the emergency cited  
35 in the preamble, this Act shall take effect when ap-  
36 proved.

1

STATEMENT OF FACT

2           The purpose of this bill is to strengthen the ex-  
3           isting state law which attempts to expand employment  
4           opportunities for disabled persons through the state  
5           purchasing system.

6           The bill establishes a Work Center Purchases Com-  
7           mittee which consists of the State Purchasing Agent,  
8           the Director of the Bureau of Rehabilitation, a rep-  
9           resentative of the Department of Mental Health and  
10          Mental Retardation, a representative of work centers,  
11          a disabled person and a representative of the busi-  
12          ness community. The 3 agencies represented on the  
13          committee will absorb the committee's costs.

14          The committee has the authority to issue rules in  
15          order to accomplish its work. The committee has the  
16          following duties to:

17                Develop a work center purchases' schedule which  
18                describes the products and services to be purchased  
19                by the State that could be provided by work centers;

20                Develop procedures for competitive bidding by el-  
21                igible work centers for products and services on the  
22                work center purchase schedule;

23                Ensure that price and contract terms are fair  
24                both to the State and to the work center;

25                Award contracts to work centers through the com-  
26                petitive bidding procedures developed for work cen-  
27                ters; and

28                Ensure that when a work center does not success-  
29                fully bid on a contract, the contract will be offered  
30                through standard competitive bid by the State Pur-  
31                chasing Agent.

32          This bill has fiscal implications in 3 areas.

33                First, there will be minor costs associated with  
34                the work of the Work Center Purchases Committee. Rea-  
35                sonable expenses of the committee's members will be  
36                absorbed by the 3 state agencies involved: The Bureau



1 of Purchases, the Bureau of Rehabilitation and the  
2 Department of Mental Health and Mental Retardation.  
3 These expenses are not expected to exceed \$1,500 per  
4 year. In addition, these 3 agencies will devote staff  
5 time to the work of the committee. No new staff are  
6 needed by any of the agencies.

7 Second, there is a miniscule financial impact on  
8 business and industrial firms who bid on state con-  
9 tracts. The total amount of state funds that go into  
10 contracts is around \$60,000,000 per year. At present,  
11 only 3 work centers have state contracts and the to-  
12 tal value of their contracts is less than \$75,000.  
13 With this bill, it is expected that the total value  
14 of contracts to work centers will not exceed \$200,000  
15 in the near future. Two hundred thousand dollars is  
16 only .3% of \$60,000,000.

17 Third, there is the issue of multiple  
18 subsidization. Work centers already receive some pub-  
19 lic dollars from state agencies, like the Bureau of  
20 Rehabilitation and Bureau of Mental Retardation,  
21 which purchase client training services from the work  
22 centers. Clients who complete training either find  
23 work in the competitive labor market or look to the  
24 work centers to provide employment on contract work.  
25 When there is no or insufficient contract work, cli-  
26 ents may be terminated from the work center or they  
27 may go on a waiting list for a state funded day ac-  
28 tivity program. In either case, the state's invest-  
29 ment in training is wasted. This bill can create more  
30 employment for disabled people and move more clients  
31 out of the more expensive day activity programs.  
32 Thus, there is a strong justification for providing  
33 another source of state funding to work centers.

34

3441050785