

# MAINE STATE LEGISLATURE

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L.D. 1763

(Filing No. H- 505)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
112TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1253, L.D. 1763, Bill, "AN ACT to Clarify the Surety Bonding Process for Contractors."

Amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 14 MRSA §871, sub-§3, as amended by PL 1985, c. 154, is further amended to read:

3. Surety bonds. Unless specifically exempted by statute, before any contract, exceeding \$25,000 in amount, for the construction, alteration or repair of any public building or other public improvement or public work, including highways, is awarded to any person by the State or by any political subdivision or quasi-municipal corporation, or by any public authority, such person shall furnish to the State or to such other contracting body, as the case may be, the following surety bonds:

A. A performance bond in an amount equal to the full contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof. Such bond shall be solely for the protection of the State or the contracting body awarding the contract, as the case may be; and

B. A payment bond in an amount equal to the full amount of the contract solely for the protection of claimants supplying labor or materials to the contractor or his subcontractor in the prosecution of the work provided for in such contract. The term "materials" shall include rental of equipment.

COMMITTEE AMENDMENT "A" to H.P. 1253, L.D. 1763

1 When required by the contracting authority, the con-  
2 tractor shall furnish bid security in an amount which  
3 the contracting authority considers sufficient to  
4 guarantee that if the work is awarded the contractor  
5 will contract with the contracting agency.

6 The bid security may be in the form of United States  
7 postal money order, official bank checks, cashiers'  
8 checks, certificates of deposit, certified checks,  
9 money in escrow, bonds from parties other than bond-  
10 ing companies subject to an adequate financial stand-  
11 ing documented by a financial statement of the party  
12 giving the surety, bond or bonds from a surety compa-  
13 ny or companies duly authorized to do business in the  
14 State.

15 The bid security may be required at the discretion of  
16 the contracting authority to assure that the contrac-  
17 tor is bondable.

18 The bid securities other than bid bonds shall be re-  
19 turned to the respective unsuccessful bidders. The  
20 bid security of the successful bidder shall be re-  
21 turned to the contractor upon the execution and de-  
22 livery to the contracting agency of the contract and  
23 performance and payment bonds, in terms satisfactory  
24 to the contracting agency for the due execution of  
25 the work.

26 Each such bond shall be executed by a surety company  
27 or companies duly authorized to do business in this  
28 State. In the case of contracts on behalf of the  
29 State, the bonds shall be payable to the State and  
30 deposited with the contracting authority. In the case  
31 of all other contracts subject to this section, the  
32 bonds shall be payable to and deposited with the con-  
33 tracting body awarding the contract.'

34 Further amend the bill in section 3, in the first  
35 paragraph, in the 25th line (page 4, line 14 in L.D.)  
36 by inserting after the words "certain securities" the  
37 following: ', as defined in Title 14, section 871,

COMMITTEE AMENDMENT "A" to H.P. 1253, L.D. 1763

1     subsection 3'

2             Further amend the bill in section 4, in that part  
3 designated "§753." in the first paragraph, in the  
4 20th line (page 5, line 41 in L.D.) by inserting af-  
5 ter the words "certain securities" the following: '  
6 as defined in Title 14, section 871, subsection 3'

7             Further amend the bill in section 4, in that part  
8 designated "§753" by striking out all of the last  
9 sentence and inserting in its place the following:  
10 'The department shall have full power in all matters  
11 relating to the furnishing of bonds by the successful  
12 bidders for the completion of their work and fulfill-  
13 ing of their contracts; and for the protection of the  
14 State and town from all liability arising from damage  
15 or injury to persons or property.'

16

STATEMENT OF FACT

17             The purpose of this amendment is to make techni-  
18 cal changes in the bill. The intent of the bill is to  
19 enable more contractors, particularly smaller con-  
20 tractors, to do business with the State. Since the  
21 purpose of the bill is to allow contractors to use  
22 collateral other than bonds for bidding purposes on-  
23 ly, the phrase "bid surety" is changed to "bid secu-  
24 rity". The phrase "bid surety" implies a bid bond  
25 which is not necessary when a bank cashier's check,  
26 certified check, escrow account or other type of  
27 guaranteed security may be provided.

28             The amendment also strikes the last sentence of  
29 the bill to make the bill consistent with the provi-  
30 sions of Title 14. This same sentence was deleted in  
31 section 3 of the bill, but was inadvertantly left in  
32 section 4.

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