## MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

### FIRST REGULAR SESSION-1991

Legislative Document

No. 1752

S.P. 666

In Senate, May 1, 1991

Reference to the Committee on Banking and Insurance suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator BALDACCI of Penobscot

#### STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-ONE

An Act to Reduce the Health Care Cost Burden on Maine Consumers and Taxpayers.

Comment of the commen

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	Be it enacted by the People of the State of Maine as follows:
2	OC NATIONA - 1C ·
4	26 MRSA c. 16 is enacted to read:
4	CHAPTER 16
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•	MEDICAL BENEFITS IN PUBLIC WORKS
8	CONSTRUCTION CONTRACTS
10	§1331. Contract specifications for construction of public works
	to specify hospitalization and medical insurance benefits
12	mba saasisisatisas saa saab samastitivalu kid muhlig
14	The specifications for each competitively bid public contract for the construction, alteration or repair, including
17	painting or decorating, of public buildings or public works must
16	specify the hospitalization and medical insurance benefits to be
	furnished to each type of employee necessary to perform the
18	contract work. In ascertaining the rate of benefits, the minimum
1	standard is the rates contained in local area nondiscriminatory
20	negotiated contracts between organizations that represent
• •	employees and contractors, that are current to within 90 days
22	from the proposed bid advertisement date. The specifications for
24	the contracts must:
e z	1. Schedule of benefits. Include a schedule of the
26	specified hospitalization and medical insurance benefits as a sum
	certain in dollars and cents;
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• •	2. Identify contractor; subcontractors. Mandate the
30	contractor to whom the contract is awarded and any subcontractor
32	under the contractor to pay not less than the specified benefits to all employees employed by them in the performance of the
J 2	contract;
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	3. Payment of liquidated damages. Provide that the
36	contractor pay to the bureau for each employee of the contractor
	or of any subcontractor who performs any portion of the contract
38	work \$200 as liquidated damages for each calendar day, or portion
40	of each calendar day, that such employee is furnished less than the specified benefits;
40	the specified benefits;
42	4. Posting requirement. Provide that the contractor and
	each subcontractor post in a conspicuous place on the site where
44	the contract work is performed:
46	A. The schedule of the specified benefits for each type of
	employee;
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	B. The amount of liquidated damages for any failure to pay
50	such benefits; and

- C. The name and address of the responsible official in the bureau to whom complaints should be submitted;
- 5. Withholding of accrued payments. Provide that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the party awarding the contract to pay to employees employed in the performance of the contract work by the contractor, or any subcontractor, the difference between the benefits required by the contract to be furnished to employees and the amounts received by such employees;
- 6. Record keeping. Require the contractor and each subcontractor to keep accurate written records signed under oath as true and correct showing the names, social security numbers and craft classifications of all employees performing work on the contract, the hours and fractions of hours for every type of work performed by each employee, the rate for each type of work and the actual benefits provided to each employee. A copy of the records must be kept at the job site and must be open at all reasonable hours to the inspection of the bureau; and
- 7. Nontermination. Provide that a contractor or subcontractor may not terminate an employee performing work on the contract because of the employee's filing a complaint regarding payment of benefits.

#### §1332. Administrative hearing

Upon receipt of a written complaint that a contractor or subcontractor failed to pay the benefits required by the contract, the director shall appoint a hearing officer and fix a time for an administrative hearing on the complaint. A notice of hearing must be served on the contractor or subcontractor against whom the complaint is made and on the complainant. The hearing shall submit proposed written findings and officer recommendations together with a transcript of the hearing to the director within a reasonable time after conclusion of the hearing. The director must determine whether the contractor of subcontractor failed to comply with the specifications as alleged. If the director's determination is that the contractor or subcontractor failed to comply, the noncomplying contractor or subcontractor is prohibited from bidding or otherwise participating in public contracts for the construction, alteration or repair, including painting and decorating, of public buildings or public works for a period of 3 years.

#### §1333. Exceptions

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	Sections 1331 and 1332 do not apply to public contracts	for
2	construction or alteration that are federally funded or that	
	otherwise subject to the provisions of the Davis-Bacon Act	, 40
4	United States Code, Section 276(a).	

#### §1334. Existing contracts

8 Sections 1331 and 1332 do not apply to any contract for which authority to advertise for bids has been obtained prior to the effective date of chapter.

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#### STATEMENT OF FACT

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This bill is intended to address the problem of the State's uninsured construction workers by requiring that contracts for the construction of public works provide for hospitalization and medical insurance benefits for all employees employed in the performance of the public contract. The bill adopts hospitalization and medical insurance benefit rates in contracts negotiated between organizations representing contractors labor as the minimum benefit rates required to be paid on public construction contracts. The bill requires assessment liquidated damages of \$200 per day for failure to pay the required benefits and provides for a 3-year debarment from bidding in public contracts when a contractor is found to have failed to pay the required benefits.

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