

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 476, L.D. 613, Bill, "An Act to Shorten the Appeal Procedure for the State Bidding Process and to Provide Consistent Administration of Appeal Hearings"

Amend the bill in section 1 by striking out all of the first 2 lines (page 1, lines 3 and 4 in L.D.) and inserting in their place the following:

'Sec. 1. 5 MRSA §1825-E, sub-§§1 to 3, as amended by PL 1991, c. 780, Pt. Y, §71, are further amended to read:'

Further amend the bill in section 1 by inserting after subsection 2 the following:

'3. Appeal committee. A committee of 3 members shall hear a petitioner's appeal within 60 days of receipt of the request for an appeal. The Commissioner of Administrative and Financial Services shall appoint the 2 members of an appeal committee, except that persons who have any direct or indirect personal, professional or financial conflict of interest in the appeal or employees of any department affected by the contract may not serve on the appeal committee. The 3rd member is the Director of the Bureau of General Services or the director's designee.

Members of an appeal committee appointed under this section shall meet at the appointed time and place in the presence of the petitioner and such individuals as the petitioner determines necessary for a full and fair hearing. The petitioner may present to the appeal committee any materials the petitioner considers relevant to the appeal.

The appeal committee shall keep a written record of each hearing and shall submit its decision and the reasons for its decision to the Director of the Bureau of General Services in writing no later than 15 days following the hearing of appeal.

COMMITTEE AMENDMENT

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 476, L.D. 613

2 Subject to the requirements of rules adopted under this section
and evidence presented during a hearing of appeal, the appeal
4 committee may decide either to:

- 6 A. Validate the contract award decision under appeal; or
- 8 B. Invalidate the contract award decision under appeal.

10 Except as provided in paragraph B, an appeal committee may not
modify the contract award under appeal, or make a new contract
12 award. Contracts found invalid by an appeal committee under this
subchapter become immediately void and of no legal effect.'

14 Further amend the bill by striking out all of sections 2 and
16 3.

18 Further amend the bill by striking out all of section 4 and
inserting in its place the following:

20 'Sec. 4. 5 MRSA §1825-F, first ¶, as enacted by PL 1989, c. 785,
22 §2, is amended to read:

24 Decisions made by an appeal committee under section 1825-E,
subsection 3, constitute final agency action on the petitioner's
26 appeal for the purposes of judicial review under chapter 375,
subchapter VII. The State Purchasing Agent shall notify a
28 petitioner of a final agency action made under this subchapter in
writing within 10 7 days of the final agency action.
30 Notification of final agency action must include:'

32 Further amend the bill by renumbering the sections to read
consecutively.

34 Further amend the bill by inserting at the end before the
36 statement of fact the following:

38 **FISCAL NOTE**

40 The additional costs to administer a shortened contract
award appeal process and to participate on a contract appeal
42 committee can be absorbed by the Bureau of General Services
within the Department of Administrative and Financial Services
44 utilizing existing budgeted resources.'

46
48 **STATEMENT OF FACT**

50 This amendment reduces the amount of time necessary for the
appeal process to be completed and also changes the makeup of

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 476, L.D. 613

2 the appeals board to include 2 independent persons appointed by
the Commissioner of Administrative and Financial Services and the
4 Director of the Bureau of General Services or the director's
designee. The amendment also adds a fiscal note.

Reported by the Committee on State and Local Government.
Reproduced and distributed under the direction of the Clerk of the
House
5/6/93 (Filing No. H-253)

COMMITTEE AMENDMENT