

# MAINE STATE LEGISLATURE

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OK  
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L.D. 1254

(Filing No. H-543 )

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

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1254, Bill, "An Act Concerning State Transactions with Businesses in Northern Ireland"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the State Finance Law in Relation to Purchases from Corporations Conducting Business in Northern Ireland'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 5 MRSA §1824-A is enacted to read:

§1824-A. Nondiscrimination in employment in Northern Ireland

1. Fair employment principles. For the purposes of this section "fair employment principles" means those principles relating to nondiscrimination in employment and freedom of workplace opportunity that would require employers doing business in Northern Ireland to:

A. Increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;

B. Take steps to promote adequate security for the protection of employees at the workplace;

C. Ban provocative religious or political emblems from the workplace;

**COMMITTEE AMENDMENT**

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1254

2 D. Publicly advertise all job openings and make special  
recruitment efforts to attract applicants from  
4 underrepresented religious groups;

6 E. Establish layoff, recall and termination procedures that  
do not in practice favor a particular religious group;

8 F. Abolish all job reservations, apprenticeship  
10 restrictions and differential employment criteria that  
discriminate on the basis of religion;

12 G. Develop training programs that will prepare substantial  
14 numbers of current employees from underrepresented religious  
groups for skilled jobs, including the expansion of existing  
16 programs and the creation of new programs to train, upgrade  
and improve the skills of workers from underrepresented  
18 religious groups;

20 H. Establish procedures to access, identify and actively  
recruit employees from underrepresented religious groups  
22 with potential for further advancement; and

24 I. Appoint a senior management staff member to oversee  
affirmative action efforts and develop a timetable to ensure  
26 full implementation.

28 2. Applicability. If there is a contractor who will  
contract to supply goods, services or construction of comparable  
30 quality at a comparable price, a state agency may not contract  
for the supply of goods, services or construction with any  
32 contractor who does not stipulate to the following:

34 A. That the contractor and any individual or legal entity  
in which the contractor holds a 10% or greater ownership  
36 interest and any individual or legal entity that holds a 10%  
or greater ownership interest in the contractor either has  
38 no business operations in Northern Ireland; or

40 B. That the contractor and individuals and entities whose  
ownership interest is described in paragraph A agree to take  
42 lawful steps in good faith to conduct any business  
operations they have in Northern Ireland in accordance with  
44 the fair employment principles set forth in section 1, and  
that they shall permit independent monitoring of their  
46 compliance with these fair employment principles.

48 In the case of contracts let by competitive sealed bidding,  
whenever the lowest responsible bidder has not stipulated to the  
50 conditions set forth in this section and another bidder who has  
stipulated to these conditions has submitted a bid within 5% of

2 the lowest responsible bid for a contract to supply goods,  
3 services or construction of comparable quality, the contracting  
4 entity shall refer the bids to the Director of the Bureau of  
5 General Services. The director shall determine, in accordance  
6 with applicable laws and rules, that it is in the best interest  
7 of the State that the contract be awarded to another other than  
8 the lowest responsible bidder.

9  
10 In the case of contracts let by other than competitive sealed  
11 bidding for goods or services involving an expenditure of an  
12 amount greater than \$10,000 or for construction involving an  
13 amount greater than \$15,000, the contracting entity may not award  
14 to a proposed contractor who has not stipulated to the conditions  
15 set forth in this section unless the entity seeking to use the  
16 goods, services or construction determines that the goods,  
17 services or construction are necessary for the entity to perform  
18 its functions and there is no other responsible contractor who  
19 will supply goods, services or construction of comparable quality  
20 at a comparable price. This determination must be made in writing  
21 and is a public document.

22 3. Violation of agreement. Upon receiving information that  
23 a contractor who has made the stipulations required by this  
24 section is in violation, the contracting entity shall review the  
25 information and offer the contractor an opportunity to respond.  
26 If the contracting entity finds that a violation has occurred, it  
27 shall take action as may be appropriate and provided for by law,  
28 rule or contract, including, but not limited to, imposing  
29 sanctions, seeking compliance, recovering damages, declaring the  
30 contractor in default and seeking debarment or suspension of the  
31 contractor.

32  
33 4. Exemptions. As used in this section, the term "contract"  
34 does not include contracts with governmental and nonprofit  
35 organizations, contracts awarded pursuant to emergency  
36 procurement procedures or contracts, resolutions, indentures,  
37 declarations of trust or other instruments authorizing or  
38 relating to the authorization, issuance, award, sale or purchase  
39 of bonds, certificates of indebtedness, notes or other fiscal  
40 obligations, provided that the policies of this section must be  
41 considered when selecting a contractor to provide financial or  
42 legal advice, and when selecting managing underwriters in  
43 connection with those activities.

44  
45 The provisions of this section do not apply to contracts for  
46 which the State or other contracting entities receive funds  
47 administered by the United States Department of Transportation,  
48 except to the extent that Congress has directed that the United  
States Department of Transportation not withhold funds from

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1254

2 states and localities that choose to implement selective  
3 purchasing policies.

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#### FISCAL NOTE

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8 The Department of Administrative and Financial Services will  
9 incur some minor additional costs to review contracts to  
10 determine that contractors stipulate that they will attempt to  
11 abide by the intent of fair employment principles. These costs  
12 can be absorbed within the department's existing budgeted  
13 resources.'

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#### STATEMENT OF FACT

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18 The amendment replaces the original bill. It removes the  
19 reference to the MacBride Principles and instead uses fair  
20 employment principles, which closely follow the MacBride  
21 Principles with the exception that protection to and from the  
22 workplace is removed. The amendment requires contractors for  
23 service to stipulate that they will make a good faith attempt to  
24 abide by the intent of the fair employment principles. This  
25 amendment adds a fiscal note to the bill.

Reported by the Majority of the Committee on State and Local  
Government  
Reproduced and distributed under the direction of the Clerk of the  
House  
6/2/93 (Filing No. H-543)