

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)

DATE: 3/18/94

(Filing No. H- 871)

STATE & LOCAL GOVERNMENT

Reproduced and distributed under the direction of the Clerk of the House.

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

COMMITTEE AMENDMENT "A" to H.P. 1107, L.D. 1494, Bill, "An Act to Require the Utilization of an Owner's Representative on State Government Construction Contracts"

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 §1751, as amended by PL 1993, c. 339, §1, is further amended to read:

§1751. Employment of a clerk-of-the-works

A clerk-of-the-works must be employed to assist in the inspection of the construction of a public improvement when directed by the director. The clerk shall report directly to the professional architect-engineer of record for the project. In addition, the clerk shall provide a report of all correspondence sent or received by the clerk to the owner. The budget for the public improvement must include funding for the clerk. The clerk must be hired through an open advertising and interview process by the owner and the architect-engineer. The clerk candidate recommended by the architect-engineer is subject to approval by both the owner and the director before being hired. The architect-engineer may terminate or impose disciplinary action on the clerk after consultation with the owner. The clerk must possess qualifications of education and experience in construction technology and administration compatible with the needs of the public improvement. The director may adopt rules relative to this section.

COMMITTEE AMENDMENT

R.G.S.

2 Sec. 2. 5 MRSA §1753 is enacted to read:

4 §1753. Employment of owner's representative

6 An owner's representative may be employed to facilitate the
8 construction of a school project under Title 20-A, chapter 609.
10 For purposes of this section, "owner" means the school building
12 committee.

14 1. Representative's relationship to owner. The owner's
16 representative may be an employee of the Bureau of General
18 Services, an employee of the owner or an independent contractor.
20 The owner's representative's responsibility is to act as an
22 advisor to the owner. It is the responsibility of the owner's
24 representative to facilitate open communications among all
26 parties, to help to avoid adversarial interactions and to promote
28 a sense of trust and teamwork in order to accomplish the smooth
30 execution of the project and to see that the project is completed
32 at the lowest possible cost and highest degree of quality and
34 workmanship that are consistent with the plans and specifications
36 for the project.

38 2. Owner's representative qualifications. The owner's
40 representative must be hired by the owner through an open
42 advertising and interview process and is subject to final
44 approval by the Director of the Bureau of General Services.

46 3. Representative's responsibilities. The responsibilities
48 of the owner's representative are, without limitation, to:

50 A. Prepare for and attend meetings with the owner or a
52 committee representing the owner, prepare minutes of those
54 meetings, maintain a noncommercial history of the building
56 project, submit comments on the budget for the project and
58 maintain project files;

60 B. Provide guidance to the owner in the selection of an
62 architect or an engineer in accordance with the architect
64 and engineering services procurement process as administered
66 by the Bureau of General Services;

68 C. Attend a preplanning orientation with the owner,
70 architect and engineer;

72 D. Attend and participate in meetings with the owner,
74 architect and engineer concerning space requirements, design
76 considerations, cost-containment strategies, energy
78 efficiency considerations, any special requirements and also
80 the review of schematic designs and preliminary and final
82 plans;

2 E. Assist the owner in securing the necessary governmental
4 permits or approvals;

6 F. Assist the owner in reviewing bid responses;

8 G. Assist the owner in contract negotiations; and

10 H. Meet with the owner regularly to review and discuss
project progress.

12 The owner may expand or reduce the scope of the owner's
14 representative's responsibilities through a contract, so long as
that contract conforms to the overall relationship established in
16 subsection 1.

18 4. Owner's representative an allowable cost. For purposes
of this section, the owner's representative is a subsidizable
20 cost eligible for subsidy in accordance with Title 20-A, sections
15603 and 15901, only if the local unit pays 50% of the costs of
22 the employment of an owner's representative.

24 5. Report required. A school unit employing an owner's
representative under this section shall provide a report to the
26 Bureau of General Services describing the effectiveness of an
owner's representative to a project and the recommendations for
28 continuation or discontinuation beyond the date of repeal of this
section. The Bureau of General Services shall provide the joint
30 standing committee of the Legislature having jurisdiction over
state and local government matters with an annual report on the
32 employment of an owner's representative, including the written
comments from each school unit that has chosen to employ an
34 owner's representative under this section.

36 6. Sunset. This section is repealed on July 1, 1998. In
its final report, the Bureau of General Services shall provide
38 its recommendations to the Legislature concerning the need for
extending authorization for this section no later than March 1,
40 1998.'

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

44 **'FISCAL NOTE**

46 The additional costs to assist schools that choose to hire
48 owners' representatives and to provide annual reports related to
the effectiveness of owners' representatives can be absorbed by
50 the Bureau of General Services within the Department of
Administrative and Financial Services utilizing existing budgeted
resources.'

2

STATEMENT OF FACT

4

6 This amendment replaces the original bill. The amendment
8 adds a provision for the clerk-of-the-works to be approved by the
10 Director of the Bureau of General Services. The amendment
12 provides school units with the option of hiring an owner's
14 representative, provided that the school unit pays for 50% of the
16 costs of the representative. The amendment requires each
18 participating school unit to provide a report on the
effectiveness of the owner's representative and requires the
Bureau of General Services to report annually to the joint
standing committee of the Legislature having jurisdiction over
state and local government matters. The amendment also adds a
sunset provision to the Maine Revised Statutes, Title 5, section
1753. The amendment also adds a fiscal note to the bill.