

MAINE STATE LEGISLATURE

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HUMAN RESOURCES

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

COMMITTEE AMENDMENT "A" to H.P. 1354, L.D. 1820, Bill, "An Act to Encourage Effective Use of State Resources"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, changes in mental health contracting procedures will enhance efficiency and save scarce service delivery resources; and

Whereas, in order to enjoy enhanced efficiency immediately, contracting procedures currently in effect in the Department of Mental Health and Mental Retardation must be amended; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 34-B MRSA §3604, sub-§3, ¶E, as enacted by PL 1991, c. 452, §1, is amended to read:

COMMITTEE AMENDMENT

2 E. Any new contract must be awarded through a
request-for-proposal procedure and any contract of \$150,000
4 \$500,000 per year or more that is renewed must be awarded
through a request-for-proposal procedure at least every -6-
8 years, except for the following.

6
8 (1) Renewal contracts for a provider are not subject
to the request-for-proposal procedure requirement if
10 all contracts executed with that provider under this
subsection are performance-based contracts.

12 (2) Notwithstanding subparagraph (1), the department
shall subject a contract to a request-for-proposal
14 procedure when necessary to comply with paragraph G.

16 **Sec. 2. 34-B MRSA §3604, sub-§3, ¶G is enacted to read:**

18 G. A contract under this subsection that is subject to
renewal must be awarded through a request-for-proposal
20 procedure if the department determines that:

22 (1) The provider has breached the existing contract;

24 (2) The provider has failed to correct deficiencies
cited by the department;

26 (3) The provider is inefficient or ineffective in the
28 delivery of services and is unable or unwilling to
improve its performance within a reasonable time; or

30 (4) The provider can not or will not respond to a
32 reconfiguration of service delivery requested by the
department.

34 **Sec. 3. 34-B MRSA §6203, sub-§1, ¶¶J and K, as enacted by PL**
36 **1991, c. 452, §4, are amended to read:**

38 J. Require that any new contract for mental health services
be awarded through a request-for-proposal procedure and any
40 contract for mental health services of \$150,000 \$500,000 per
year or more that is renewed be awarded through a
42 request-for-proposal procedure at least every -6- 8 years;
and , except for the following.

44
46 (1) Renewal contracts for a provider are not subject
to the request-for-proposal procedure requirement if
48 all contracts executed with that provider under this
subsection are performance-based contracts.

(2) Notwithstanding subparagraph (1), the department shall subject a contract to a request-for-proposal procedure when necessary to comply with paragraph L;

K. Establish a procedure to obtain assistance and advice from consumers of mental health services regarding the selection of contractors when requests for proposals are issued for mental health services; and

Sec. 4. 34-B MRSA §6203, sub-§1, ¶L is enacted to read:

L. Require that a contract under this subsection that is subject to renewal be awarded through a request-for-proposal procedure if the department determines that:

(1) The provider has breached the existing contract;

(2) The provider has failed to correct deficiencies cited by the department;

(3) The provider is inefficient or ineffective in the delivery of services and is unable or unwilling to improve its performance within a reasonable time; or

(4) The provider can not or will not respond to a reconfiguration of service delivery requested by the department.

Sec. 5. PL 1991, c. 452, §5 is repealed.

Sec. 6. Phase-in period. Notwithstanding the Maine Revised Statutes, Title 34-B, section 3604, subsection 3, paragraph E and section 6203, subsection 1, paragraph J, the Commissioner of Mental Health and Mental Retardation shall establish a schedule to ensure that, of the contracts subject to those provisions, 1/2 are subject to the request-for-proposal process in calendar year 1994, 1/4 in calendar year 1996 and 1/4 in calendar year 1998.

Sec. 7. Effect on current requests for proposals. Notwithstanding sections 1 to 6 of this Act, requests for proposals issued by the Department of Mental Health and Mental Retardation under Public Law 1991, chapter 452 that are in progress on the effective date of this Act are subject to the following provisions.

1. The Department of Mental Health and Mental Retardation shall complete the request-for-proposal process for those contracts that are for \$500,000 or more per year.

2. The Department of Mental Health and Mental Retardation shall cancel the request-for-proposal process for those contracts that are for less than \$500,000 per year.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

FISCAL NOTE

The Department of Mental Health and Mental Retardation will realize some minor savings from no longer having to issue requests for proposals for certain mental health contracts.

STATEMENT OF FACT

This amendment replaces the original bill. It differs from the original bill as follows.

1. The original bill addressed contracting procedures for both the Department of Mental Health and Mental Retardation and the Office of Substance Abuse. The amendment addresses only the Department of Mental Health and Mental Retardation.

2. The original bill repealed the requirement that contracts of \$150,000 or more be subject to a request-for-proposal process every 6 years. The amendment retains the requirement, but increases the threshold to \$500,000 and reduces the frequency to every 8 years. In addition, the amendment waives the request-for-proposal procedure for any provider who has entered into performance-based contracts.

3. The original bill allowed the Department of Mental Health and Mental Retardation and the Office of Substance Abuse to issue a request for proposal when certain conditions existed and required them to develop a client impact statement as part of that process. The amendment requires the Department of Mental Health and Mental Retardation to issue a request for proposal under certain conditions and does not require an impact statement.

4. The amendment adds an emergency preamble and clause to the bill and clarifies that the contracts involved in the Department of Mental Health and Mental Retardation's current round of requests for proposals continue in that process only if they are for \$500,000 or more. The amendment also adds a fiscal note to the bill.