

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 475

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H.P. 355

House of Representatives, February 9, 1995

**An Act to Revise the Bidding Process for Department of Transportation Projects.**

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Received by the Clerk of the House on February 7, 1995. Referred to the Committee on Transportation and ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GATES of Rockport.  
Cosponsored by Representative: CHARTRAND of Rockland, Senator: PINGREE of Knox.

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

Sec. 1. 23 MRSA §753, first ¶, as amended by PL 1985, c. 554, §4, is further amended to read:

The department ~~shall-have~~ has full power in the letting of all contracts for the construction of all state highways and other work under its jurisdiction, except as otherwise provided. The department shall make all surveys, plans, estimates, specifications and contracts for all proposed work and shall, except as otherwise provided in chapters 1 to 19, advertise for bids for the same in 2 or more public newspapers printed wholly or in part in the State, and in one public newspaper printed wholly or in part in the county where the proposed work is to be done, if any such newspaper is so printed in such county. ~~Sueh~~ The advertisement ~~shall~~ must state the place where the bidders may examine the plans and specifications, and the time and place where the bids for ~~sueh~~ the work will be received by the department. Each bidder must accompany ~~his~~ the bid with a deposit of a good and sufficient bid bond in favor of the State for the benefit of the department, executed by a corporate surety authorized to do business in the State, or certain securities, as defined in Title 14, section 871, subsection 3, payable to the Treasurer of State, for an amount ~~whieh~~ that the department considers sufficient to guarantee that, if the work is awarded to ~~him~~ the bidder, ~~he~~ the bidder will contract with the department for its due execution. All bids so submitted ~~shall~~ must be publicly opened and read at the time and place stated in such advertisement. The department ~~shall-have~~ has the right to reject any and all bids, if in its opinion good cause exists, but otherwise it shall award the contract to the lowest responsible bidder except as provided in section 753-A. Any town may submit bids for state highway construction within its limits, and ~~shall~~ be is subject to all requirements prescribed for other contractors, except that no bond need be required of it. The department may construct state highways by day labor without advertising for bids; and may, with the approval of the Governor, award contracts for state highways without advertising for bids, if the same ~~shall-be-for~~ is in the best interest of the State.

Sec. 2. 23 MRSA §753-A is enacted to read:

**§753-A. Contracts to in-state companies**

When an out-of-state company submits the lowest accepted bid in accordance with section 753 and an in-state company submits an accepted bid within 3% of the lowest bid, the department shall award the contract to the in-state company. For the purposes of this section, "in-state company" means a company that has been organized under the laws of the State and has been in existence in the State for one year or longer prior to bidding upon the contract and that has its principal office and place of business

2 in the State. For the purposes of this section, "accepted bid"  
3 means any bid not rejected under section 753.

4  
5 **STATEMENT OF FACT**

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7 This bill directs the Department of Transportation to award  
8 construction contracts to in-state companies when an in-state  
9 company has submitted a bid within 3% of the lowest bid and the  
10 lowest bid has been submitted by an out-of-state company. This  
11 bill does not change the department's authority to reject a bid  
12 for good cause.