

MAINE STATE LEGISLATURE

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HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 692, L.D. 959, Bill, "An Act to Clarify the Standard for Cause in the Request for Proposal Process for the Department of Mental Health, Mental Retardation and Substance Abuse Services"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 34-B MRSA §1208, sub-§6, as enacted by PL 1989, c. 432, is repealed and the following enacted in its place:

6. Rules. The commissioner shall adopt rules for competitive bidding of contracts for existing services for all client groups served by the department in accordance with this subsection and any applicable provisions of this Title and Title 5, chapter 521. Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

A. Rules adopted pursuant to this subsection must ensure:

(1) The stability of the provider system;

(2) The protection to the extent possible of consumers who are provided services through the authority of the department; and

(3) The verification of the nonservice revenue portion of proposed budgets submitted by current and prospective providers.

B. Rules adopted pursuant to this subsection must provide

2 for good cause for competitive bidding of contracts for
3 existing services and must provide for:

4 (1) A definition of "good cause" that includes:

6 (a) Failure of the current provider to adhere to
7 program, policy or performance criteria contained
8 in any law, rule or contractual agreement
9 concerning community agency service providers;

10 (b) Failure of the current provider to correct
11 deficiencies, improve services or reduce costs in
12 a manner reasonably requested by the department;

13 (c) A material change in circumstances that may
14 affect the current provider's ability to provide
15 services, including, but not limited to, loss of
16 licensure, insolvency or loss of nondepartment
17 funding;

18 (d) Repeated substantiated complaints or
19 grievances involving violations of rights of
20 consumers of services;

21 (e) Noncompliance with contract provisions that
22 incorporate the terms of any court order or
23 settlement agreement; or

24 (f) Other reasonable cause as provided by rule;

25 (2) Notice at least 90 days prior to the issuance of a
26 request for proposals to the current provider and an
27 opportunity for an appeal by the current provider, to
28 be filed within 30 days of notice of intent to request
29 proposals, that includes a timely hearing and final
30 agency action within that 90-day period;

31 (3) When the time for an appeal has expired,
32 publication in one or more newspapers in circulation in
33 the service area of the department's intention to
34 request competitive bids, the date on which bidding
35 will commence and a description of the services,
36 population and geographic areas affected. Public
37 notice must invite public comment; and

38 (4) Public access to public comments regarding the
39 bidding process and a consumer impact statement that
40 includes a statement of the basis for the good cause
41 decision.

2 C. The department may consider in the competitive bidding
3 process only those providers who possess sufficient
4 facilities, trained staff and appropriate licensure,
5 certification or accreditation.'

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SUMMARY

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 This amendment replaces the bill. It places into law the
11 procedures and grounds to be used when the Department of Mental
12 Health, Mental Retardation and Substance Abuse Services
 undertakes to place out for competitive bidding a contract for
13 existing services. It contains provisions on good cause,
14 protection of consumers of services and qualifications of
15 prospective bidders.

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