

# MAINE STATE LEGISLATURE

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MAJORITY  
STATE AND LOCAL GOVERNMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1285, L.D. 1748, Bill, "An Act to Implement Recommendations of the Commission to Study Economically and Socially Just Policies for Foreign Investments and Foreign Purchasing by the State"

Amend the bill in section 1 by striking out all of the 2nd and 3rd lines (page 1, lines 5 and 7 in L.D.) and inserting in their place the following:

'SUBCHAPTER I-B

STATE PURCHASING CODE OF CONDUCT FOR SUPPLIERS OF APPAREL, FOOTWEAR OR TEXTILES'

Further amend the bill in section 1 by striking out all of those parts designated "§1825-K." and "§1825-L." and inserting in their place the following:

'§1825-K. Application of state purchasing code of conduct to certain bidders seeking contracts as part of competitive bid process; affidavit required

This subchapter applies to competitive bids for sale of apparel, footwear or textiles pursuant to subchapter I-A. The State Purchasing Agent may not accept a bid for the sale of goods covered by this subchapter unless the bidder has filed with the agent a signed affidavit stating that the bidder will comply with the state purchasing code of conduct established under section 1825-L and that, to the best of the bidder's knowledge, the supplier at the point of assembly of the goods subject to the bid process is in compliance with the state purchasing code of conduct. The State Purchasing Agent shall make a copy of the state purchasing code of conduct available to all bidders.

R. 9. 2.

§1825-L. State purchasing code of conduct

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1. Statement of belief; protection of local interests. The affidavit provided by the State Purchasing Agent to bidders for contracts to provide goods covered by this subchapter must include a copy of the following statement:

"Maine is a state that believes employers should fairly compensate hard work, that the health and safety of working people should be protected and that no form of unlawful discrimination or abuse should be tolerated. Maine citizens are aware that laws and regulations designed to safeguard basic tenets of ethical business practice are disregarded in many workplaces, commonly referred to as "sweatshops." State Government purchase of goods made under abusive conditions on behalf of its citizens offends Maine citizens' sense of justice and decency. Moreover, when the State of Maine contracts with vendors whose suppliers profit by providing substandard wages and working conditions, Maine's businesses are put at a competitive disadvantage. Therefore, the State of Maine believes in doing business with vendors who make a good faith effort to ensure that they and their suppliers at the point of assembly adhere to the principles of the State of Maine's purchasing code of conduct.

"In its role as a market participant that procures goods covered by this code, the State of Maine seeks to protect the interests of Maine citizens and businesses by exercising its state sovereignty to spend Maine citizens' tax dollars in a manner consistent with their expressed wishes that the State deal with responsible bidders who seek contracts to supply goods to the State of Maine, and protect legally compliant Maine businesses and workers from unfair competition created by downward pressure on prices and conditions attributable to businesses that violate applicable workplace laws.

"Seeking to protect these local interests through the least discriminatory means available, the State of Maine requires that all bidders seeking contracts to supply the State of Maine with goods covered by this code sign an affidavit stating that they and, to the best of their knowledge, their suppliers at the point of assembly comply with workplace laws of the vendor's or supplier's site of assembly and with treaty obligations that are shared by the United States and the country in which the goods are assembled."

2. Employment and business conduct; requirements. With respect to goods covered by this subchapter, a company

2 contracting with the State to supply those goods shall adopt and  
3 adhere to employment and business practices in accordance with  
4 this subsection. A company shall:

5 A. Comply with all applicable wage, health, labor,  
6 environmental and safety laws, legal guarantees of freedom  
7 of association, building and fire codes and laws relating to  
8 discrimination in hiring, promotion or compensation on the  
9 basis of race, disability, national origin, gender, sexual  
10 orientation or affiliation with any political,  
11 nongovernmental or civic group except when federal law  
12 precludes the State from attaching the procurement  
13 conditions provided in this subchapter.

14 B. Comply with all human and labor rights treaty  
15 obligations that are shared by the U.S. and the country in  
16 which the goods are assembled. These may include  
17 obligations with regard to forced labor, indentured labor,  
18 slave labor, child labor, involuntary prison labor, physical  
19 and sexual abuse and freedom of association.

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21 3. Consequences of noncompliance with purchasing code of  
22 conduct. Upon determination of a violation of the state  
23 purchasing code of conduct by a vendor or vendor's supplier at  
24 the point of assembly of a good covered by this subchapter, the  
25 State, through the State Purchasing Agent, shall inform the  
26 vendor and engage in discussions with the vendor about the  
27 violation. The purpose of the discussions is to work in  
28 partnership with the vendor to influence the vendor to change its  
29 practices or to use its bargaining position with the offending  
30 supplier to change its practices, rather than to cease doing  
31 business with the vendor or supplier. The State Purchasing Agent  
32 shall prescribe appropriate measures for the vendor to take in  
33 order to comply with the code of conduct. These steps may  
34 include, but are not limited to:

35 A. Requesting disclosure of names and addresses of  
36 suppliers at the point of assembly and suppliers' working  
37 conditions;

38 B. Requesting that suppliers at the point of assembly  
39 provide access to independent human rights monitors; and

40 C. Requesting that suppliers at the point of assembly offer  
41 their workers the training and guidelines necessary to bring  
42 the workplace into compliance with the state purchasing code  
43 of conduct.

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45 In making a determination of a violation of the purchasing code  
46 of conduct, the State Purchasing Agent shall take into account  
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2 all relevant, reliable information available, including but not  
3 limited to information provided by the vendor or the supplier at  
4 the point of assembly, reports from reputable national and  
5 international organizations, documented media reports and  
6 creditable information provided from local groups or  
7 organizations.'

8 Further amend the bill in section 1 in that part designated  
9 "~~§1825-M.~~" in the first paragraph by striking out all of the last  
10 underlined sentence (page 3, line 47 in L.D.)

11 Further amend the bill in section 3 in subsection 1 by  
12 striking out all of paragraphs A to F (page 5, lines 2 to 22 in  
13 L.D.) and inserting in their place the following:

14 'A. Two members from the Senate, the first appointed by the  
15 President of the Senate, and the 2nd appointed by the  
16 President Pro Tempore;

17 B. Two members from the House of Representatives appointed  
18 by the Speaker of the House of Representatives, one of whom  
19 is a member of a political party that does not hold a  
20 majority of seats in that body;

21 C. The Treasurer of State or the Treasurer of State's  
22 designee;

23 D. One member from a group involved in social investments,  
24 appointed by the President of the Senate;

25 E. One member from a group involved in human rights issues,  
26 appointed by the Speaker of the House;

27 F. One member who represents the retail sales sector of the  
28 state economy appointed by the President Pro Tempore of the  
29 Senate;

30 G. One member representing the labor movement in the State  
31 appointed by the Speaker of the House; and

32 H. One member of the public appointed by the Governor.'

33 Further amend the bill by striking out all of section 4 and  
34 inserting in its place the following:

35 '**Sec. 4. Appropriation.** The following funds are appropriated  
36 from the General Fund to carry out the purposes of this Act.

37 2001-02

38 2002-03

11-1-88

2 **ADMINISTRATIVE AND FINANCIAL**  
4 **SERVICES, DEPARTMENT OF**

6 **Division of Purchases**

8	Positions - Legislative Count	(1.000)	(1.000)
	Personal Services	\$18,210	\$25,850
	All Other	41,370	15,900

10 Provides funds for the  
12 salary, fringe benefits,  
14 overhead and one-time  
16 start-up costs of a 30-hour  
18 per week Procurement and  
20 Contracting Specialist  
22 position and for consulting  
24 services to evaluate major  
26 contracts and provide state  
and vendor training,  
development of a publicly  
accessible site on the  
Internet, and required  
upgrades to the current  
purchasing system.

28 **DEPARTMENT OF ADMINISTRATIVE**  
**AND FINANCIAL SERVICES**  
30 **TOTAL**

<u>\$59,580</u>	<u>\$41,750</u>
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32 **LEGISLATURE**

34 **Commission to Study Economically**  
**and Socially Just Policies for**  
36 **Foreign Investments by the State**

38	Personal Services	\$660	\$880
	All Other	5,150	2,250

40 Provides funds for the per  
42 diem and expenses of  
44 legislative members and other  
eligible members of the  
46 Commission to Study  
Economically and Socially  
Just Policies for Foreign  
Investments by the State and  
48 to print the required report.

50 **LEGISLATURE**  
52 **TOTAL**

<u>\$5,810</u>	<u>\$3,130</u>
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**TOTAL APPROPRIATIONS** \$65,390 \$44,880'

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

	<b>2001-02</b>	<b>2002-03</b>
<b>10 APPROPRIATIONS/ALLOCATIONS</b>		
12 General Fund	\$65,390	\$44,880

The Division of Purchases within the Department of Administrative and Financial Services will require additional General Fund appropriations of \$59,580 and \$41,750 in fiscal years 2001-02 and 2002-03, respectively, for the salary, fringe benefits, overhead and one-time start-up costs of a 30-hour per week Procurement and Contracting Specialist position beginning October 1, 2001 to administer the provisions of a purchasing code of conduct. Funds are also provided for consulting services to evaluate major contracts and provide state and vendor training, development of a publicly accessible site on the Internet and required upgrades to the current purchasing system.

The Legislature will require additional General Fund appropriations of \$5,810 in fiscal year 2001-02 and \$3,130 in fiscal year 2002-03 for the per diem and expenses of legislative members and other eligible members of the Commission to Study Economically and Socially Just Policies for Foreign Investments by the State and to print the required report.

The additional costs associated with providing staffing assistance to the commission during the interim between legislative sessions can be absorbed by the Legislature utilizing existing budgeted resources. If an extension of the reporting deadline is granted and the commission requires staffing assistance during the legislative session, the Legislature may require an additional General Fund appropriation to contract for staff services.'

**SUMMARY**

This amendment is the majority report of the Joint Standing Committee on State and Local Government. It clarifies the application of the state purchasing code of conduct established in the bill. As amended, the code covers purchases by the State Purchasing Agent on behalf of state agencies for footwear,

H. of S.

COMMITTEE AMENDMENT "A" to H.P. 1285, L.D. 1748

2 apparel and textiles valued at over \$2,500 under the state  
3 competitive bidding law. The amendment also revises the  
4 statement of belief that is the basis for the purchasing code and  
5 that is part of the affidavit required from bidders in the bill.  
6 The amended statement of belief more clearly states to potential  
7 bidders on covered state contracts the harm to Maine businesses  
8 and workers caused by competition from vendors and suppliers who  
9 fail to meet the basic tenets of ethical business and employment  
10 practices. The amendment also clarifies that the code applies to  
11 vendors who wish to contract with the State for covered goods.  
12 It requires those businesses to sign an affidavit that they and,  
13 to the best of their knowledge, their suppliers at the point of  
14 assembly comply with local laws and with any applicable treaty  
15 obligations in the production of goods being offered for sale to  
16 the State. Should the State Purchasing Agent from reliable  
17 information determine that a violation of the code has occurred,  
18 the amendment directs the agent to continue the contract but to  
19 work cooperatively with the vendor to cure the vendor's or the  
20 supplier's violations. An ongoing exemption is provided from the  
21 requirements of the bill if the State Purchasing Agent finds that  
22 needed goods covered by the law are available only from a vendor  
23 who is not in compliance with the code.

24 The amendment also makes changes in the membership of the  
25 commission established in the bill to study ethical foreign  
26 investment practices by the State and adds an appropriation  
section and fiscal note to the bill.

**COMMITTEE AMENDMENT**