

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1748

H.P. 1285

House of Representatives, March 27, 2001

An Act to Implement Recommendations of the Commission to Study Economically and Socially Just Policies for Foreign Investments and Foreign Purchasing by the State.

Reported by Representative BAGLEY for the Commission to Study Economically and Socially Just Policies for Foreign Investments and Foreign Purchasing by the State pursuant to Resolve 1999, chapter 135.

Reference to the Joint Standing Committee on State and Local Government suggested and printing ordered under Joint Rule 218.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

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

4 **Sec. 1. 5 MRSA c. 155, sub-c. I-B is enacted to read:**

6 **SUBCHAPTER I-B**

8 **PURCHASING CODE OF CONDUCT**

10 **§1825-K. Bidders to adopt purchasing code of conduct as part of bid process; affidavit required**

12 The State Purchasing Agent may not accept a bid as governed
14 by subchapter I-A unless the supplier of the goods or services
16 subject to the bid process has filed with the agent a signed
18 affidavit, provided by the State Purchasing Agent stating that
20 the supplier will comply with the state purchasing code of
22 conduct established under section 1825-L. The State Purchasing
24 Agent shall make a copy of the state purchasing code of conduct
26 available to all bidders.

28 **§1825-L. State purchasing code of conduct**

30 **1. Provision of affidavit; statement of belief.** The State
32 Purchasing Agent shall provide suppliers of goods and services
34 who submit bids as part of the competitive bidding process with
36 an affidavit as required by this subchapter. That affidavit must
38 include a copy of the following statement of belief:

40 "Maine is a state that believes employers should fairly
42 compensate hard work, that the health and safety of working
44 people should be protected and that no form of unlawful
46 discrimination or abuse should be tolerated. The State of
48 Maine's objective is to utilize the State's purchasing power
to influence those from whom the State procures products and
services to:

Embrace high standards of ethical behavior;

Assume a leadership role in socially responsible business
practices;

Encourage openness and disclosure with regard to labor
practices;

Utilize tools for self-evaluation, certification and
external monitoring to demonstrate socially responsible
business practices;

Comply with all applicable laws and regulations;

2 Treat their employees fairly and with dignity and respect to
4 promote their welfare and improve their quality of life; and

6 Be socially responsible citizens in the countries and
8 communities in which they operate.

10 The State of Maine believes in doing business with vendors
12 who, upon continued discovery of continuing abusive
14 conditions at a particular work site of their own or a
16 supplier, will use their influence to correct conditions,
18 rather than cease to do business with the site."

20 **2. Business practices; requirements.** A company contracted
22 by the State to supply goods and services shall adopt and adhere
24 to business practices in accordance with this subsection. A
26 company shall:

28 A. Embrace high standards of ethical business behavior and
30 demonstrate commitment to those standards through rigorous
32 practice. Those high standards include, at a minimum,
34 trustworthiness, integrity, honesty, respect for human
36 dignity and respect for human life.

38 B. Comply with all laws, rules and regulations in the
40 locations where the vendor operates and conducts business
42 and may not knowingly operate in violation of any such law
44 or regulation.

46 C. Maintain its facilities in compliance with all
48 applicable environmental protection laws and treaties. In
50 the absence of applicable laws, the vendor shall always act
in a manner that is consistent with the preservation and
protection of the environment.

3. Employment practices; requirements. A company
contracted by the State to supply goods and services shall adopt
and adhere to employment practices in accordance with this
subsection. A company:

A. Shall allow for sufficient discretionary time away from
the workplace and respect the need for rest, family and
personal time. Mandatory working hours must be in
compliance with the local laws, including appropriately
compensated overtime;

B. Shall ensure that wages paid for a standard working week
meet at least legal or industry standards, whichever is
higher, are subject to no illegal deductions and are always
sufficient to meet the basic needs of personnel;

2 C. May not knowingly use suppliers who employ workers under
4 the legal employment age as designated by local laws or as
6 designated by United Nations standards, whichever is
higher. If workers are found to be underage, vendors shall
provide means for remediation and education;

8 D. May not knowingly use suppliers of either raw materials
10 or finished products that have been produced by labor that
is forced, bonded, indentured or involuntary prison labor;

12 E. Shall recognize and respect the legal rights of
14 employees to free association and recognize and associate
16 with the representative of the company's employees' choice
18 and may not subject its employees to harassment,
20 intimidation or retaliation in their efforts to freely
associate. Where the right to freedom of association and
collective bargaining is restricted under law, a company
subject to this subsection shall facilitate and may not
hinder the development of parallel means for independent and
free association and bargaining;

22 F. Shall provide equal opportunity in employment, must be
24 committed to responsible business practices with absolute
26 regard for human rights and shall promote an atmosphere free
from discrimination;

28 G. May not discriminate against women, particularly with
30 regard to pregnancy, maternity leave, age or marital status;

32 H. Must have demonstrated concern for and commitment to the
health and safety of its employees; and

34 I. Shall ensure that all personnel are provided appropriate
36 training and guidelines that will enable employees to apply
38 the code of conduct established in subsection 1 in their
work. Workers who are covered by the code of conduct must
be made aware of the code and the implementation procedures.

40 **§1825-M. Exception**

42 The State Purchasing Agent may accept and award a bid to a
44 supplier who has not met the requirements provided in section
46 1825-K if, after reasonable investigation by the State Purchasing
Agent, it appears that the required unit or item of supply or
brand of that unit or item, is procurable by the State from only
that supplier. This section is repealed January 31, 2004.

48 **§1825-N. Support to suppliers of goods and services**

2 The State Purchasing Agent shall provide to bidders and
4 those who have been awarded contracts resources to assist with
6 compliance with the state purchasing code of conduct established
8 in this subchapter. These resources must include a list, easily
 accessed by the public, of bidders and vendors who have adopted
 the state purchasing code of conduct.

10 **§1825-O. Rulemaking**

12 The State Purchasing Agent shall adopt rules under this
14 subchapter governing the award of bids. Those rules must include
16 specific guidelines for vendors to follow in order to comply with
 the state purchasing code of conduct and criteria for seeking
 disclosure of names and addresses of vendors' suppliers and
 suppliers' working conditions.

18 Rules adopted under this section are major substantive rules
20 as defined in chapter 375, subchapter II-A.

22 **§1825-P. Report**

24 By January 15th of each year, the State Purchasing Agent
26 shall submit a report to the joint standing committee having
28 jurisdiction over state and local government matters concerning
30 the administrative and fiscal impact of the requirement that
32 vendors comply with the state purchasing code of conduct; the
 degree of voluntary compliance with the state purchasing code of
 conduct; the number of vendors who agreed to and the number that
 declined to comply with the provisions of this subchapter; and
 any other information relevant to the state purchasing code of
 conduct.

34 **Sec. 2. Resolve 1999, c. 135, §4-A is enacted to read:**

36 **Sec. 4-A. Assess implementation. Resolved:** That the commission
38 shall have at least 2 meetings in September and October 2002 to
40 assess the progress of implementation of the commission's
 recommendations regarding economically and socially just
 purchasing policies by the State; and be it further

42 **Sec. 3. Commission to Study Economically and Socially Just Policies**
44 **for Foreign Investments by the State; established.** The Commission to
46 Study Economically and Socially Just Policies for Foreign
 Investments by the State is established and referred to in this
 section as the "commission."

48 **1. Commission membership; appointments.** The commission
 consists of 10 members:

- 2 A. Two members from the Senate, the first appointed by the
4 President of the Senate, and the 2nd appointed by the
 President Pro Tempore;
- 6 B. Two members from the House of Representatives appointed
8 by the Speaker of the House of Representatives, one of whom
 is a member of a political party that does not hold a
10 majority of seats in that body;
- 12 C. Two members from groups involved in social investments,
 one appointed by the President of the Senate and one
14 appointed by the Speaker of the House;
- 16 D. Two members from groups involved in human rights issues,
 one appointed by the President of the Senate and one
18 appointed by the Speaker of the House;
- 20 E. One representative of the Maine State Retirement System,
 appointed by the Governor; and
- 22 F. One member of the public appointed by the Governor.

24 All appointments must be completed no later than October 1, 2001.

26 **2. First meeting; chairs.** The first named Senate member is
28 the Senate chair and the first named House member is the House
 chair of the commission. When the appointment of all members of
30 the commission is completed, the commission chairs shall call and
 convene the first meeting of the commission no later than October
32 31, 2001.

34 **3. Duties.** The commission shall study the subject of
 economically and socially just policies for foreign investment by
36 the State. The commission shall evaluate the foreign investment
 policies of other states. In its report under subsection 6, the
38 commission shall propose standards for investment in foreign
 companies by the State, taking into consideration such factors as
40 the use of child labor and the existence of exploitation of
 workers and unhealthy working conditions. The commission shall
42 make recommendations with regard to whether the State should
 invest in foreign companies that oppress or mistreat their
44 workers. The commission shall identify the possible positive and
 negative impacts of proposed standards on Maine workers, Maine
46 small businesses and Maine taxpayers.

48 **4. Staff assistance.** Upon approval of the Legislative
 Council, the Legislative Council staff shall provide necessary
 staffing services to the commission.

2 legislative members and
expenses for other eligible
4 members of the Commission to
Study Economically and
6 Socially Just Policies for
Foreign Investments by the
State and the services of a
8 consultant and to print the
required report.

10

12 **LEGISLATURE**
TOTAL

\$6,105

14

SUMMARY

16

18 This bill implements the recommendations of the Commission
to Study Economically and Socially Just Policies for Foreign
Investments and Foreign Purchasing by the State. This bill
20 amends the commission's implementing legislation to require the
commission to meet in September and October 2002 to assess the
22 implementation of its recommendations.

24

This bill requires suppliers of goods and services to the
State to comply with a purchasing code of conduct in order to be
26 considered in the competitive bidding process. The bill requires
the State Purchasing Agent to provide resources to bidders to
28 assist them with compliance with the code of conduct. The State
Purchasing Agent is required to adopt rules governing the award
30 of bids and to report annually to the joint standing committee
having jurisdiction over state and local government matters.

32

34 This bill also creates a new commission to study and
establish economically and socially just policies for foreign
investment by the State.

36