

MAINE STATE LEGISLATURE

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SMG
ROFS

Minority

L.D. 865

Date: 5/24/2013

(Filing No. S- 125)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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STATE OF MAINE

SENATE

126TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 290, L.D. 865, Bill, "An Act Regarding Contract Indemnification"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 10 MRSA §1120-A is enacted to read:

§1120-A. Indemnification agreements against public policy

It is against public policy and is void and unenforceable if, notwithstanding any other provision of this chapter, a provision, clause, covenant or agreement contained in, collateral to or affecting a construction contract purports to require a contractor or subcontractor or a contractor's or subcontractor's surety to indemnify the promisee against liability for damages for:

1. Death or bodily injury. Death or bodily injury to persons;

2. Injury to property. Injury to property; or

3. Other loss. Other losses arising from the negligence or willful misconduct of the promisee or the promisee's agents, servants or independent contractors who are directly responsible to the promisee.

Sec. 3. Application. This Act does not apply to any contract entered into before the effective date of this Act.'

SUMMARY

This amendment is the minority report of the committee. It changes the provision in the bill prohibiting certain indemnification agreements by which a contracting party indemnifies itself from liability for damages for death or bodily injury or injury to property or losses arising from its own negligence or willful misconduct to remove a reference to a surety's insurer and also language that includes design defects in the prohibition. It also adds an application section.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



126th MAINE LEGISLATURE

LD 865

LR 1514(02)

An Act Regarding Contract Indemnification

Fiscal Note for Bill as Amended by Committee Amendment **A' (S-125)**
Committee: Labor, Commerce, Research and Economic Development
Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - Highway Fund
Potential current biennium cost increase - Maine Turnpike Authority

Fiscal Detail and Notes

This legislation prohibits certain indemnification agreements in construction contracts and could result in liability for damages caused by contractors or subcontractors being assessed to the Department of Transportation or the Maine Turnpike Authority.