

MAINE STATE LEGISLATURE

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Date: 6/19/2017 Majority

(Filing No. S- 289)

STATE AND LOCAL GOVERNMENT

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STATE OF MAINE

SENATE

128TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 407, L.D. 1213, Bill, "An Act To Protect Taxpayers in the Privatization of State Services"

Amend the bill in section 3 in chapter 21 in §482 in subsection 2 in the 8th line (page 2, line 39 in L.D.) by striking out the following: "State Auditor" and inserting the following: 'Attorney General'

Amend the bill in section 3 in chapter 21 in §482 in subsection 5 in the 2nd to last line (page 4, line 3 in L.D.) by striking out the following: "State Auditor" and inserting the following: 'Attorney General'

Amend the bill in section 3 in chapter 21 in §482 in subsection 8 in the first paragraph in the first line (page 4, line 32 in L.D.) by striking out the following: "State Auditor" and inserting the following: 'Attorney General'

Amend the bill in section 3 in chapter 21 in §482 in subsection 8 in the first paragraph in the 3rd line (page 4, line 34 in L.D.) by striking out the following: "State Auditor" and inserting the following: 'Attorney General'

Amend the bill in section 3 in chapter 21 in §482 in subsection 8 in the last paragraph in the last line (page 5, line 10 in L.D.) by striking out the following: "State Auditor" and inserting the following: 'Attorney General'

Amend the bill in section 3 in chapter 21 in §482 in subsection 9 in the last line (page 5, line 14 in L.D.) by inserting after the following: "1825-B." the following: 'Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill in section 3 in chapter 21 by striking out all of §483 (page 5, lines 15 to 41 in L.D.) and inserting the following:

§483. Review by Attorney General

1. Review by Attorney General. A privatization contract submitted to the Attorney General becomes valid 30 business days after receipt of the certification for the contract required by section 482, subsection 8 unless the Attorney General notifies the agency of

COMMITTEE AMENDMENT

1 an objection to the contract within 30 business days of receipt of the certification. An
 2 objection by the Attorney General under this subsection must be in writing and state
 3 specifically the Attorney General's finding that the agency has failed to comply with one
 4 or more of the requirements of section 482, including that based on independent review
 5 of all the relevant facts the Attorney General finds incorrect any of the information in the
 6 certification required by section 482, subsection 8. The Attorney General may extend the
 7 time for objections for an additional period of 30 business days beyond the original 30
 8 business days by written notice to the agency stating the reason for the extension.

9 **2. Summons by Attorney General.** For the purpose of reviewing an agency's
 10 compliance and certification pursuant to section 482, the Attorney General or the
 11 Attorney General's designee may require by summons the attendance and testimony
 12 under oath of witnesses and the production of books, papers and other records relating to
 13 the review. All provisions of law relative to summonses in Title 14, chapter 203 apply to
 14 a summons under this subsection.

15 **3. Forms; rules.** The Attorney General may prescribe forms and adopt rules to carry
 16 out the provisions of this chapter. Rules adopted pursuant to this subsection are routine
 17 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

18 **4. Finality of Attorney General objection.** An objection of the Attorney General
 19 pursuant to subsection 1 is final and binding, unless the Attorney General in writing
 20 withdraws the objection. If the Attorney General objects to a contract under subsection 1,
 21 the privatization process under section 482 is terminated unless the agency submits a
 22 revised certified contract to the Attorney General within 30 days of the date of the
 23 objection. The Attorney General shall review a revised certified contract in the same
 24 manner as a certified contract under subsection 1.'

SUMMARY

25
 26 This amendment is the majority report of the committee. The amendment requires
 27 the Attorney General, rather than the State Auditor, to conduct the review of privatization
 28 contracts specified in the bill. The amendment identifies the rules authorized to be
 29 adopted as routine technical rules.

**FISCAL NOTE REQUIRED
(See attached)**



128th MAINE LEGISLATURE

LD 1213

LR 1147(02)

An Act To Protect Taxpayers in the Privatization of State Services

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-289)
Committee: State and Local Government
Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund
Potential current biennium savings - General Fund

Fiscal Detail and Notes

This bill will increase the workload of the Department of the Attorney General, the Department of Administrative and Financial Services and any department or agency involved in a privatization contract. The amount of additional General Fund appropriations required to support this increase cannot be estimated at this time and will depend, in part, on the number and complexity of contracts processed.

To the extent that this bill leads to different decisions related to privatization contracts that exceed \$500,000, there may be a fiscal impact. The bill requires any such contracts to cost less than the estimated cost of regular agency employees providing the subject services in the most cost-efficient manner. The employing agency's written analysis of the contract costs must include any transition costs from public to private operation, any additional unemployment and retirement benefits and any costs of monitoring or administering contract performance. While the potential for savings exists, no prediction can be made of the number of instances going forward, nor of the magnitude of savings in such instances, where the required cost comparisons will result in savings to state agencies.