

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1439

H.P. 1051

House of Representatives, April 2, 2019

**An Act To Ensure Quality, Safety and Accountability on Public
Construction Projects**

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SYLVESTER of Portland.

Cosponsored by Representatives: ACKLEY of Monmouth, COLLINGS of Portland, DUNPHY of Old Town, EVANGELOS of Friendship, FOLEY of Biddeford, HANDY of Lewiston, KESSLER of South Portland.

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

2 **Sec. 1. 26 MRSA §1317** is enacted to read:

3 **§1317. Project labor agreements**

4 **1. Policy.** It is declared to be the policy of the State to encourage public authorities
5 to consider requiring the use of project labor agreements in connection with large-scale
6 construction projects in order to promote economy and efficiency in state procurement.

7 **2. Definitions.** As used in this section, unless the context otherwise indicates, the
8 following terms have the following meanings.

9 A. "Labor organization" means an organization of any kind, or an agency or
10 employee representation committee or plan, in which employees participate and that
11 exists for the purpose, in whole or in part, of dealing with employers concerning
12 grievances, labor disputes, wages, rates of pay, hours of employment or conditions of
13 work.

14 B. "Large-scale construction project" means a construction project of which the total
15 cost to the State is \$10,000,000 or more.

16 C. "Project labor agreement" means a prehire collective bargaining agreement with
17 one or more labor organizations that establishes the terms and conditions of
18 employment for a specific construction project and is an agreement described in 29
19 United States Code, Section 158(f).

20 **3. Project labor agreement may be required.** A public authority may require a
21 project labor agreement as follows.

22 A. When awarding a contract in connection with a large-scale construction project,
23 or obligating funds pursuant to such a contract, a public authority may, on a project-
24 by-project basis, require the use of a project labor agreement by a contractor if use of
25 such an agreement will:

26 (1) Advance the State's interest in achieving economy and efficiency in State
27 procurement by producing labor-management stability and ensuring compliance
28 with laws governing safety and health, equal employment opportunity, labor and
29 employment standards and other matters; and

30 (2) Be consistent with law.

31 B. If a public authority determines under paragraph A that the use of a project labor
32 agreement will satisfy the criteria in subparagraphs (1) and (2), the public authority
33 may, if appropriate, require that every contractor or subcontractor on the project
34 agree, for that project, to negotiate or become a party to a project labor agreement
35 with one or more appropriate labor organizations.

36 **4. Terms.** A project labor agreement reached pursuant to this section must:

1 A. Bind all contractors and subcontractors on the construction project through the
2 inclusion of appropriate specifications in all relevant solicitation provisions and
3 contract documents;

4 B. Allow all contractors and subcontractors to compete for contracts and
5 subcontracts without regard to whether they are otherwise parties to collective
6 bargaining agreements;

7 C. Contain guarantees against strikes, lockouts and similar job disruptions;

8 D. Set forth effective, prompt and mutually binding procedures for resolving labor
9 disputes arising during the term of the project labor agreement;

10 E. Provide other mechanisms for labor-management cooperation on matters of
11 mutual interest and concern, including productivity, quality of work, safety and
12 health; and

13 F. Fully conform to all relevant state and federal statutes, rules and regulations.

14 **5. Limitations.** Nothing in this section may be construed to:

15 A. Require a public authority to use a project labor agreement on any construction
16 project;

17 B. Preclude the use of a project labor agreement in circumstances not covered by this
18 section;

19 C. Require contractors or subcontractors to enter into a project labor agreement with
20 any particular labor organization; or

21 D. Impair or otherwise affect authority granted by law to a public authority.

22 **6. Application; rights or benefits.** This section must be implemented consistent
23 with applicable law and subject to the availability of state funding. This section does not
24 create any right or benefit, substantive or procedural, enforceable at law or in equity by
25 any party against the State, its departments, agencies or entities, its officers, employees or
26 agents or any other person.

27 **Sec. 2. Report.** The Department of Labor, in consultation with the Commissioner
28 of Administrative and Financial Services, the Department of Transportation and the
29 Maine Turnpike Authority, shall submit to the joint standing committee of the Legislature
30 having jurisdiction over labor matters a report no later than January 1, 2021 with
31 recommendations about whether broader use of project labor agreements, as defined in
32 the Maine Revised Statutes, Title 26, section 1317, with respect to both construction
33 projects undertaken under state contracts and construction projects receiving state
34 financial assistance, would help to promote the economical, efficient and timely
35 completion of such projects.

36 **Sec. 3. Application.** This Act applies to all solicitations for contracts issued on or
37 after the effective date of this Act.

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SUMMARY

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This bill encourages the State to use project labor agreements for large-scale state-funded construction projects of \$10,000,000 or more. A project labor agreement is a prehire collective bargaining agreement with one or more labor unions that establishes the terms and conditions of employment for a specific construction project.

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