

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

CHAPTER 553

S.P. 699 - L.D. 1784

AN ACT to Clarify Set-back Requirements under the Shoreland Zoning Law.

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

38 MRSA §436, sub-§5, as reallocated by PL 1985, c. 481, Pt. A, §24, is amended to read:

5. Structure. "Structure" means anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, exclusive of fences. Notwithstanding any provisions in a local ordinance to the contrary, all new principal and accessory structures shall meet the set-back requirements from normal high watermark of any water body, except structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls. This subsection is not intended to prohibit a board of appeals from granting a variance to the set-back requirements in compliance with Title 30, section 4963, subsection 3, nor is it intended to prohibit the expansion of a nonconforming use or structure where otherwise allowed by ordinance.

Effective July 16, 1986.

CHAPTER 554

H.P. 1253 - L.D. 1763

AN ACT to Clarify the Surety Bonding Process for Contractors.

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

Sec. 1.. 5 MRSA §1745, as repealed and replaced by PL 1977, c. 303, §2, is amended to read:

§1745. Advertisement for sealed proposals

The trustees, commissioners or other persons in charge of any public improvement in an amount in ex-

cess of \$25,000, which is subject to chapters 141 to 155 shall, after consultation with the Director of Public Improvements, advertise for sealed proposals not less than 2 weeks in such papers as the Governor may direct. The last advertisement shall be at least one week before the time named therein for the closing of such bids. Sealed proposals for any public improvements shall be addressed to the trustees, commissioners or such other persons having the construction in charge and shall remain sealed until opened at the time and place stated in the advertisement or as the Governor may direct.

No contract in an amount in excess of \$25,000, shall be awarded unless the faithful performance thereof shall be secured by a bond in the penal sum of not less than 20% of the amount of the contract, payable to the State and deposited with the Treasurer of State.

Sec. 2. 14 MRSA §871, sub-§3, as amended by PL 1985, c. 154, is further amended to read:

3. Surety bonds. Unless specifically exempted by statute, before any contract, exceeding \$25,000 in amount, for the construction, alteration or repair of any public building or other public improvement or public work, including highways, is awarded to any person by the State or by any political subdivision or quasi-municipal corporation, or by any public authority, such person shall furnish to the State or to such other contracting body, as the case may be, the following surety bonds:

A. A performance bond in an amount equal to the full contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof. Such bond shall be solely for the protection of the State or the contracting body awarding the contract, as the case may be; and

B. A payment bond in an amount equal to the full amount of the contract solely for the protection of claimants supplying labor or materials to the contractor or his subcontractor in the prosecution of the work provided for in such contract. The term "materials" shall include rental of equipment.

When required by the contracting authority, the contractor shall furnish bid security in an amount which the contracting authority considers sufficient to

guarantee that if the work is awarded the contractor will contract with the contracting agency.

The bid security may be in the form of United States postal money order, official bank checks, cashiers' checks, certificates of deposit, certified checks, money in escrow, bonds from parties other than bonding companies subject to an adequate financial standing documented by a financial statement of the party giving the surety, bond or bonds from a surety company or companies duly authorized to do business in the State.

The bid security may be required at the discretion of the contracting authority to assure that the contractor is bondable.

The bid securities other than bid bonds shall be returned to the respective unsuccessful bidders. The bid security of the successful bidder shall be returned to the contractor upon the execution and delivery to the contracting agency of the contract and performance and payment bonds, in terms satisfactory to the contracting agency for the due execution of the work.

Each such bond shall be executed by a surety company or companies duly authorized to do business in this State. In the case of contracts on behalf of the State, the bonds shall be payable to the State and deposited with the contracting authority. In the case of all other contracts subject to this section, the bonds shall be payable to and deposited with the contracting body awarding the contract.

Sec. 3. 23 MRSA §453, first ¶, as amended by PL 1985, c. 86, §1, is further amended to read:

The department shall prepare all engineering plans and specifications for materials, construction and workmanship which it considers necessary for the complete construction of the bridge structure, approaches and for maintenance of traffic and, as soon as practicable after being advised that the municipal officers are authorized to raise the town's share of the estimated cost of such construction, shall requisition the county and city or town for their respective portions of the estimated cost of construction as provided in section 452, and except as otherwise provided in this section, advertise for bids for the construction of the bridge in 2 or more public newspapers printed wholly or in part in the State, and in one public newspaper printed wholly or in part in the

county in which the proposed work is to be done, if any such newspaper is so printed in such county. Such advertisement shall state the place where the bidders may examine or obtain the plans and specifications, and the time and place where the bids for such work will be received by the department. Each bidder must accompany his bid with a good and sufficient bid bond in favor of the State for the benefit of the department, executed by a corporate surety authorized to do business in the State, or certain securities, as defined in Title 14, section 871, subsection 3, payable to the Treasurer of State, for an amount which the department considers sufficient to guarantee that if the work is awarded to him, he will contract with the department for its due execution. "Securities" shall include official bank checks, cashier's checks, certified checks, certificates of deposit or United States postal money orders. Such securities shall be returned to the respective unsuccessful bidders. The security or bond of the successful bidder shall be returned to him upon the execution and delivery to the department of his contract and his bond with sufficient sureties, in terms satisfactory to the department for the due execution of such work. All bids so submitted shall be publicly opened, read and posted at the time and place stated in such advertisement. The department shall have the right to reject any and all bids if in its opinion good cause exists therefor, but otherwise it shall award the contract to the lowest responsible bidder. Any town may submit bids for bridge construction within its limits and shall be subject to all requirements prescribed for other contractors, except that no bond need be required of it. The department may provide for the construction of the bridge on a day labor basis, or with approval of the Governor, by contract without advertising for bids. The department shall have full power in all matters relating to the furnishing of bonds by the successful bidders for the completion of their work and fulfilling of their contracts. These bonds shall protect fully the State, county and town from all liability arising from damage or injury to persons or property as a result of the contractor's operations. The county commissioners of any county where a bridge is built or rebuilt in any unorganized township are authorized and required to assess upon said township such sums as may be required to build or rebuild said bridge according to the last state valuation. This expense shall be added to their assessment on said township for repairs authorized by section 4051, which assessment shall create a lien upon said township for the amount thereof as effectually as is now provided in relation to repairs on county roads. The portion of such expense to

be assessed in any one year shall be determined by the county commissioners, but in no case shall the total expense be distributed over a period of more than 5 years. That portion of said assessment which is for building or rebuilding said bridge shall be set down in the assessment in distinct items in a separate column and shall be enforced as is provided in section 4104.

Sec. 4. 23 MRSA §753, as amended by PL 1985, c. 86, §2, is further amended to read:

§753. Contracts for construction

The department shall have full power in the letting of all contracts for the construction of all state highways and other work under its jurisdiction, except as otherwise provided. The department shall make all surveys, plans, estimates, specifications and contracts for all proposed work and shall, except as otherwise provided in chapters 1 to 19, advertise for bids for the same in 2 or more public newspapers printed wholly or in part in the State, and in one public newspaper printed wholly or in part in the county where the proposed work is to be done, if any such newspaper is so printed in such county. Such advertisement shall state the place where the bidders may examine the plans and specifications, and the time and place where the bids for such work will be received by the department. Each bidder must accompany his bid with a deposit of a good and sufficient bid bond in favor of the State for the benefit of the department, executed by a corporate surety authorized to do business in the State, or certain securities, as defined in Title 14, section 871, subsection 3, payable to the Treasurer of State, for an amount which the department considers sufficient to guarantee that if the work is awarded to him, he will contract with the department for its due execution. "Securities" shall include official bank checks, cashier's checks, certified checks, certificates of deposit or United States postal money orders. Such securities shall be returned to the respective unsuccessful bidders. The security or bond of the successful bidder shall be returned to him upon the execution and delivery to the department of his contract and his bond with sufficient sureties, in terms satisfactory to the department for the due execution of such work. All bids so submitted shall be publicly opened and read at the time and place stated in such advertisement. The department shall have the right to reject any and all bids, if in its opinion good cause exists, but otherwise it shall award the contract to the lowest responsible bidder. Any town may submit

bids for state highway construction within its limits, and shall be subject to all requirements prescribed for other contractors, except that no bond need be required of it. The department may construct state highways by day labor without advertising for bids; and may, with the approval of the Governor, award contracts for state highways without advertising for bids, if the same shall be for the best interest of the State. The department shall have full power in all matters relating to the furnishing of bonds by the successful bidders for the completion of their work and fulfilling of their contracts, and for the protection of the State and town from all liability arising from damage or injury to persons or property.

Effective July 16, 1986.

CHAPTER 555

H.P. 1049 - L.D. 1525

AN ACT to Establish a Maine-New Hampshire Boundary Commission.

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

Sec. 1. 5 MRSA c. 12 is enacted to read:

CHAPTER 12

MAINE-NEW HAMPSHIRE BOUNDARY COMMISSION

§251. Commission established

The Maine-New Hampshire Boundary Commission as established by Title 5, section 12004, subsection 11, shall be composed of 5 members: One appointed by the Governor; one Senate member representing York County to be appointed by the President of the Senate; one member from the House of Representatives representing York County to be appointed by the Speaker of the House of Representatives; the Commissioner of the Department of Marine Resources; and the Commissioner of the Department of Conservation.

§252. Tenure of office

The member appointed by the Governor shall hold office as a member of the commission as long as the