

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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

J.S. McCarthy Company
Augusta, Maine
1997

Services determined was not in compliance at the time the initial bid was submitted.

Sec. 2. 5 MRSA §1825-B, sub-§§9 and 10, as enacted by PL 1995, c. 387, §1, are amended to read:

9. Determination of best-value bidder. In determining the ~~lowest responsible~~ best-value bidder, the Director of the Bureau of General Services or any department or agency of the State shall, for the purpose of awarding a contract, add a percent increase on the bid of a nonresident bidder equal to the percent, if any, of the preference given to that bidder in the state in which the bidder resides.

10. List of state preferences published. The Director of the Bureau of General Services on or before January 1st of each year shall publish a list of states that give preference to in-state bidders with the percent increase applied in each such state. The Director of the Bureau of General Services or any department or agency of the State may rely on the names of states and percentages as published in determining the ~~lowest responsible~~ best-value bidder without incurring any liability to any bidder.

Sec. 3. 5 MRSA §1825-D, sub-§1-A is enacted to read:

1-A. Request for information. For requesting information from bidders that includes, but is not limited to, the degree to which the bidder meets or exceeds various state and federal regulatory requirements and any other state fiscal impact;

See title page for effective date.

CHAPTER 264

H.P. 577 - L.D. 768

An Act to Clarify the Right of a Real Estate Broker to a Lien on Land, Improvements or Structures

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

Sec. 1. 10 MRSA §3251, as amended by PL 1993, c. 137, §1, is further amended to read:

§3251. Lien established

Whoever performs labor or furnishes labor or materials, including repair parts of machines used, or performs services as a surveyor, an architect or an engineer, or as a real estate licensee, or as an owner-renter, owner-lessor, or owner-supplier of equipment used in erecting, altering, moving or repairing a house,

building or appurtenances, including any public building erected or owned by any city, town, county, school district or other municipal corporation, or in constructing, altering or repairing a wharf or pier, or any building thereon, including the surveying, clearing, grading, draining, excavating or landscaping of the ground adjacent to and upon which any such objects are constructed, or in selling any interest in land, improvements or structures, by virtue of a contract with or by consent of the owner, has a lien thereon and on the land on which it stands and on any interest such owner has in the same, to secure payment thereof, with costs. If the owner of the building has no legal interest in the land on which the building is erected or to which it is moved, the lien attaches to the building, and if the owner of the wharf or pier has no legal interest in the land on which the wharf or pier is erected, the lien attaches to the wharf or pier, and in either case may be enforced as provided. If the owner of such land, building, wharf or pier, so contracting, is a minor or married woman, such lien exists and such minority or coverture does not bar a recovery in any proceeding brought to enforce it.

See title page for effective date.

CHAPTER 265

S.P. 424 - L.D. 1345

An Act to Amend the Public Accountancy Laws

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

Sec. 1. 32 MRSA §12201, first ¶, as enacted by PL 1987, c. 489, §2, is amended to read:

As used in this ~~section~~ chapter, unless the context indicates otherwise, the following terms have the following meanings.

Sec. 2. 32 MRSA §12228, sub-§3, as enacted by PL 1987, c. 489, §2, is amended to read:

3. Education requirement. The education requirement for a certificate, which must be met ~~no later than 120 days after~~ before an applicant ~~sits~~ is eligible to apply for the examination prescribed in subsection 4, ~~shall be a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board.~~ is as follows:

A. During the 5-year period immediately following October 1, 1997, a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board; and

B. After October 1, 2002, at least 150 semester hours of education, including a minimum 4-year baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include basic courses in accounting and auditing determined to be appropriate under board rules. Rules adopted by the board pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 3. 32 MRSA §12228, sub-§4, as amended by PL 1995, c. 353, §23, is further amended to read:

4. Examination; administration. The examination to be passed as a condition for the granting of a certificate must be in writing, must be held twice a year and must be the ~~Uniform Certified Public Accountant Examination prepared by the Board of Examiners of the American Institute of Certified Public Accountants or any other examination approved by the board~~ test the applicant's knowledge of the subjects of accounting and auditing and such other related subjects as the board may specify by rule. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A. The time for holding the examination must be fixed by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade required of an applicant for a certificate, except that the board, to the extent possible, shall see to it that the grading of the examination and the passing grades are uniform with those applicable in all other states. The board may make the use of all or any part of the Uniform Certified Public Accountant Examination and the Advisory Grading Service of the American Institute of Certified Public Accountants or any other examination approved by the board and may contract with 3rd parties to perform such administrative services with respect to the examination as it considers appropriate to assist it in performing its duties under this section.

Sec. 4. 32 MRSA §12228, sub-§5, as amended by PL 1995, c. 353, §24, is repealed and the following enacted in its place:

5. Examination; passing. An applicant is required to pass all sections of the examination provided for in subsection 4 in order to qualify for a certificate. The passing grade for each section is 75%. If, at a given sitting of the examination, an applicant passes 2 or more but not all sections, then the applicant is given credit for those sections that the applicant has passed and need not sit for reexamination in those sections, if:

A. At that sitting the applicant wrote all sections of the examination for which the applicant does not have credit;

B. The applicant attained a minimum grade of 50% on each section taken at that sitting;

C. The applicant passes the remaining sections of the examination within 6 consecutive examinations given after the one at which the first sections were passed;

D. At each subsequent sitting at which the applicant seeks to pass any additional sections, the applicant writes all sections for which the applicant does not have credit; and

E. In order to receive credit for passing additional sections in any such subsequent sitting, the applicant attains a minimum grade of 50% on sections taken at that sitting.

Sec. 5. 32 MRSA §12228, sub-§§7 and 8, as enacted by PL 1987, c. 489, §2, are amended to read:

7. Waiver. The board may, in particular cases, waive or defer any of the requirements of subsections 5 and 6 regarding the circumstances in which the various ~~parts~~ sections of the examination must be passed upon a showing that, by reason of circumstances beyond the applicant's control, ~~he~~ the applicant was unable to meet that requirement.

8. Administration fee. The board may charge, or provide for a 3rd party administering the examination to charge, each applicant a fee in an amount prescribed by the board by rule for each ~~part~~ section of the examination or reexamination taken by the applicant.

Sec. 6. 32 MRSA §12228, sub-§10, as amended by PL 1993, c. 634, Pt. C, §1, is further amended by amending the first paragraph to read:

10. Experience. ~~The~~ During the 5-year period immediately following October 1, 1997, the applicant shall show that the applicant has had 2 years of experience in the practice of public accountancy or its equivalent, meeting requirements prescribed by the board by rule; or, if the applicant's educational qualifications ~~comprise a baccalaureate degree meeting the requirements set out in subsection 3~~ include, a ~~master's~~ masters degree conferred by a college or university approved by the board ~~and one year of experience,~~ then only one year of experience in that practice or its equivalent is required. After October 1, 2002, for initial issuance of a certificate under this subsection, an applicant shall demonstrate 2 years of experience that was under the direction of a licensee under this subchapter and shall meet the other

requirements prescribed by the board by rule. The applicant's experience must include the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule. Board rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. To the extent the applicant's experience is as an auditor engaged in the examination of financial statements for the Department of Audit or as a revenue agent or similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Taxation, the applicant receives credit at the rate of 50% toward the experience required by this subsection. To the extent the applicant's experience is as an examiner engaged in financial examinations for the Bureau of Insurance, the applicant receives credit under this subsection if that experience meets the following standards:

See title page for effective date.

CHAPTER 266

S.P. 416 - L.D. 1337

An Act to Amend the Laws Relating to Education

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

Sec. 1. 5 MRSA §937, as amended by PL 1995, c. 560, Pt. F, §§2 and 3, is further amended to read:

§937. Department of Education

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Education. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter:

- A. Deputy Commissioner;
- ~~B. Deputy Commissioner;~~
- F. Director, Planning and Management Information;
- G. Federal and State Education Program Coordinator; and

~~H. Executive Director, Interdepartmental Council, with the approval of the other commissioners of the Interdepartmental Council.~~

J. Director of Special Projects and External Affairs.

Sec. 2. 20-A MRSA §203, sub-§1, as amended by PL 1995, c. 560, Pt. F, §§9 and 10, is further amended to read:

1. Commissioner's appointments. The following officials are appointed by and serve at the pleasure of the commissioner:

- A. Deputy Commissioner;
- ~~B. Deputy Commissioner;~~
- F. Director, Planning and Management Information;
- G. Federal and State Education Program Coordinator; and
- ~~H. Executive Director, Interdepartmental Council, with the approval of the other commissioners of the Interdepartmental Council.~~

J. Director of Special Projects and External Affairs.

Sec. 3. 20-A MRSA §1407, sub-§2, as amended by PL 1983, c. 364, §5, is further amended to read:

2. Expense of keeping the school open. If the voters vote to keep the school open, the member municipality ~~shall be~~ is liable for ~~any some~~ additional expense for actual local operating costs, and transportation costs, ~~and minor capital costs as defined in section 15503, 15603 which exceed by 10% the expense of the district for the operating costs, transportation costs, and minor capital costs as compared on a per pupil basis in the base year.~~ The determination of costs ~~shall be~~ is subject to the approval of the commissioner. The cost to be borne by the town voting to keep an elementary school open is the amount that would be saved if the school were closed less the state operating subsidy for the students that attend the elementary school. Any additional costs ~~which that~~ must be borne by the member municipality ~~shall~~ must be part of the article presented to the voters at the meeting to determine whether the school should remain open.

Sec. 4. 20-A MRSA §2902, sub-§6, ¶E, as amended by PL 1985, c. 797, §23, is further amended to read:

- E. Maintain adequate, safely protected records; ~~and~~