

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

FIRST SPECIAL SESSION
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

**PRIVATE AND SPECIAL LAWS OF THE STATE OF MAINE
AS PASSED AT
THE FIRST REGULAR SESSION OF THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
1997**

CHAPTER 1

S.P. 152 - L.D. 470

**An Act to Increase Security at the
Maine State Prison**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses will become due and payable prior to July 1, 1997; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Appropriation. The following funds are appropriated from the General Fund for the fiscal year ending June 30, 1997 to the department listed to carry out the purposes of this Act.

1996-97

**CORRECTIONS,
DEPARTMENT OF**

State Prison

Positions - Legislative Count	(9,000)
Personal Services	\$104,940

Provides for the appropriation of funds to establish 9 Guard positions for the remainder of fiscal year 1996-97 due to growth in medium-custody inmates.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective February 10, 1997.

CHAPTER 2

S.P. 220 - L.D. 679

**An Act to Authorize the Department
of Transportation to Use Design-
build Contracting for Development
of a New Bath-Woolwich Bridge**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation must be enacted immediately in order to safeguard \$38,000,000 in federal transportation funds that the United States Congress could otherwise rescind; and

Whereas, the Legislature has determined that the timely development of a new bridge between Bath and Woolwich is necessary to avoid continuing high maintenance costs related to the existing Carlton Bridge and costs to the traveling public and related businesses; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Definitions. As used in this Act and unless otherwise indicated, the following terms have the following meanings.

1. "Bath-Woolwich Bridge" means a new bridge that will span the Kennebec River between the City of Bath and the Town of Woolwich near the existing Carlton Bridge, together with the Bath approach to the bridge.

2. "Department" means the Department of Transportation.

3. "Major participant" means a firm that would have a major role in the design or construction of the Bath-Woolwich Bridge including the legal entity that will execute the contract with the department and that will be a single point of responsibility for all obligations under the contract, the legal entity responsible for construction and related work, the legal entity responsible for design and related work and any other participant designated by the department as a "major participant" in the request for qualifications.

4. "Work" means the furnishing of all labor, materials, equipment, supplies, services, personnel and all incidentals needed to complete the design and construction of the Bath-Woolwich Bridge and all warranty work.

Sec. 2. Design-build contracting authorized. Notwithstanding any other provision of law, the department may use design-build contracting as specified in this Act to contract with a single entity for the work. Design-build contracting under this Act involves a 2-phase competitive process:

1. A prequalification phase for the purpose of selecting firms based upon their qualifications and experience that will subsequently receive a request for proposals; and

2. A proposal phase for the purpose of selecting the proposal that represents the best overall value to the State as determined by the department.

The department shall give public notice of a request for qualifications in at least 2 public newspapers that are distributed wholly or in part in the State and in at least one construction industry trade publication that is distributed nationally. The department shall issue a request for qualifications to all firms requesting one in accordance with the instructions in that notice. In the request for qualifications, the department may require that all major participants and related firms submit information demonstrating their relevant design and construction qualifications and experience, financial capacity, capability of obtaining performance and payment bonds and insurance coverages specified by the department, ability to comply with all applicable federal, state and local laws and regulations and such other qualifications that the department considers to be in the best interest of the State. The department may investigate and verify all information submitted. All financial information, trade secrets or other information customarily regarded as confidential business information submitted to or obtained by the department during the contracting process set forth in this Act is confidential. The department shall evaluate and rate all firms submitting responsive statements of qualifications. Based upon such ratings, the depart-

ment shall select firms to receive requests for proposals and the department's selection decisions are final and are not subject to review or appeal. The department may select any number of firms, provided that if the department fails to receive at least 2 responsive submissions from firms considered qualified by the department, the department shall readvertise the project.

The department shall issue a request for proposals to all prequalified firms. The request for proposals shall set forth the scope of work, contract specifications, work requirements and other requirements that have a substantial impact on the cost of the work as determined by the department. The request for proposals must also set forth criteria to be used to determine whether proposals are responsive and a description of the criteria and procedures to be used to evaluate proposals. Proposals must consist of 2 separate components to be submitted to the department simultaneously but separately; a sealed design-build proposal and a sealed lump sum price proposal. The department shall evaluate and score responsive design-build proposals based upon criteria that may include quality of design, constructability, long-term maintenance costs, aesthetics, local impact, traveler and other user costs and other factors that the department considers to be in the best interest of the State. The department shall then publicly open and read responsive lump sum price proposals and divide each price by the score of that firm's design-build proposal, yielding an overall value rating for each firm. The department shall award the contract to the firm with the lowest responsive overall value rating and the department's award decision is final and is not subject to review or appeal. The request for proposals may provide for the payment of a stipend upon specified terms to unsuccessful firms that submit responsive proposals.

This Act ratifies and confirms all actions taken by the department to date in furtherance of a design-build contract for the Bath-Woolwich Bridge. The department may terminate, at any time and in its sole discretion, the contracting process set forth in this Act if in the best interest of the State.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective February 20, 1997.
