

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 11, 2000**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2000**

<b>DEPARTMENT OF EDUCATION</b>	
<b>TOTAL</b>	(\$5,000)
<b>TOTAL APPROPRIATION</b>	\$0

See title page for effective date.

**CHAPTER 79**

**S.P. 892 - L.D. 2311**

**An Act to Authorize School  
Administrative Units to Utilize  
Alternative Delivery Methods for a  
Limited Range and Number of  
School Construction Projects,  
Including the use of an Owner's  
Representative for Certain School  
Construction Projects**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. Resolve 1999, c. 14, §1, first ¶** is amended to read:

**Sec. 1. Adoption. Resolved:** That, notwithstanding the deadlines for adoption set forth in the Maine Revised Statutes, Title 5, section 8072, subsection 8 and section 8073, final adoption of Chapter 64: Maine School Facilities Finance Program and School Revolving Renovation Fund, a provisionally adopted major substantive rule of the Department of Education, and submitted to the Legislature for review pursuant to the Maine Administrative Procedure Act, is authorized with the following amendments.

; and be it further

**Sec. 2. Resolve 1999, c. 14, §2** is enacted to read:

**Sec. 2. Effective date of rule; retroactivity. Resolved:** That notwithstanding the Maine Revised Statutes, Title 5, section 8072, subsection 8, upon final adoption by the Department of Education of Chapter 64: Maine School Facilities Finance Program

and School Revolving Renovation Fund, that rule takes effect immediately and applies retroactively to April 16, 1999.

**Sec. 3. Alternative delivery methods authorized.** A school administrative unit may use design-build, construction-manager-advisor and construction-manager-at-risk methods of construction and the services of an owner's representative under the terms and conditions of this Act.

**Sec. 4. Design-build method.** The design-build method must generally follow those guidelines developed by the Design-Build Institute of America or by the American Institute of Architects / Association of General Contractors or a combined or modified version of one or both of those entities with the final design-build procedures and documents to be determined at the sole discretion of the Department of Administrative and Financial Services, Bureau of General Services.

**Sec. 5. Construction-manager-at-risk method.** The construction-manager-at-risk method must generally follow the format of "Standard Form of Agreement Between Owner and Construction Manager where the Construction Manager is also the Constructor," American Institute of Architects Document A121/CMc and Association of General Contractors Document 565(1991 Edition).

**Sec. 6. Construction-manager-advisor method.** The construction-manager-advisor method, sometimes referred to as the "agent-construction-manager method," must generally follow the standard scope of services employed by the Department of Administrative and Financial Services, Bureau of General Services.

**Sec. 7. Owner's representative.** Owner's representative services must generally follow the standard scope of services employed by the Department of Administrative and Financial Services, Bureau of General Services. During the 5-year pilot program created by this Act, all design-bid-build projects that have qualified pursuant to the Maine Revised Statutes, Title 20-A, chapter 609 and that have total project costs of \$10,000,000 or more require an owner's representative, who must be funded through the state-supported line of the project budget. The owner's representative must be selected in accordance with Title 5, section 1753.

**Sec. 8. Design-bid-build method.** The Maine Revised Statutes, Title 5, section 1743-A and Title 20-A, chapter 609 set forth the traditional competitive design-bid-build method and may not be interpreted to permit alternative delivery methods except as provided in this Act.

**Sec. 9. Eligible projects.** Subject to approval under section 11 of this Act, 3 design-build methods and 3 construction-manager-advisor methods or construction-manager-at-risk methods may be employed for school construction projects that do not exceed \$2,500,000 in total project cost. Two projects in a school administrative unit that exceed \$2,500,000 in total project cost but do not exceed \$10,000,000 in total project cost may utilize the design-build method. Two projects in a school administrative unit that exceed \$2,500,000 in total project cost but do not exceed \$10,000,000 in total project cost may employ the construction-manager-advisor method or the construction-manager-at-risk method. The 10 projects described in this section must be scheduled for completion by 2005, the intent of this law being creation of a 5-year pilot or study program.

**Sec. 10. Procurement.** Except as provided in this Act, all state-funded and locally funded school construction projects must be procured under the provisions of the Maine Revised Statutes, Title 5, section 1743-A and Title 20-A, chapter 609.

**Sec. 11. Approval process.** A school administrative unit seeking to use an alternative delivery method for a school construction project shall apply on an application form developed under section 12 of this Act to the Department of Education and the Department of Administrative and Financial Services, Bureau of General Services for approval of the alternative delivery method prior to commencing the project. Project applications must be evaluated by a review panel composed of representatives of the Department of Education, the Bureau of General Services and others with expertise in education, architecture, construction and engineering.

**Sec. 12. Policies and procedures.** The Commissioner of Education and the Commissioner of Administrative and Financial Services shall adopt policies and procedures to implement the application form and review the evaluation criteria, composition of the review panel, performance measures, contract documents, administrative appeals process and all other matters necessary to implement this Act. The policies adopted must provide that decisions pertaining to prequalification and selection may be appealed only to the Department of Administrative and Financial Services, Bureau of General Services, and that the decision of the Director of the Bureau of General Services or the director's designee is final and may not be appealed. The director or the director's designee shall consult with 2 nonvoting, outside advisors from the design and construction industry. The policies adopted may also include procedures that allow for reimbursement to a school administrative unit for a stipend paid to any design-build team that has been qualified to submit, and that does submit, a proposal. Any such reimbursement must come from

funds in the state-supported line of the project budget and in amounts to be established jointly by the Commissioner of Education and the Commissioner of Administrative and Financial Services.

**Sec. 13. Retroactivity.** Those sections of this Act that amend Resolve 1999, chapter 14 apply retroactively to April 16, 1999.

See title page for effective date.

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## CHAPTER 80

H.P. 1884 - L.D. 2620

### An Act to Amend the Farmington Falls Standard Water District

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, in order for the Farmington Falls Standard Water District to function efficiently and harmoniously, the number of and manner of electing its trustees need to be changed immediately; 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. P&SL 1999, c. 21, §3, first sentence** is repealed and the following enacted in its place:

The board of trustees of the district is composed of 5 trustees, 2 from that part of the Town of Chesterville included in the district, 2 from that part of the Town of Farmington included in the district and one trustee at large to be chosen from either part of the district.