

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

putes, the department shall return documents submitted by unsuccessful proposers upon request. The request for proposals may also provide for a stipend upon specified terms to unsuccessful proposers that submit proposals conforming to all material request-for-proposals requirements as determined by the department.

5. Low-bid award. If the basis of the award is lowest cost, then each proposal must be submitted by the proposer to the department in 2 separate components, a sealed technical proposal and a sealed price proposal. These 2 components must be submitted simultaneously. The department shall first review technical proposals for responsiveness. The department shall award the contract to the proposer that submits a responsive proposal with the lowest price, if the proposal meets all material request-for-proposals requirements as determined by the department.

6. Best-value award. If the basis of the award is best value, then each proposal must be submitted by the proposer to the department in 2 separate components, a sealed technical proposal and a sealed price proposal. These 2 components must be submitted simultaneously.

The department shall open first each technical proposal and evaluate and score it based on the quality criteria contained in the request for proposals. The request for proposals may provide that the range between the highest and lowest quality score of responsive technical proposals must be limited to an amount certain. During this evaluation process, the price proposals must remain sealed and all technical proposals are confidential.

After completion of the review for responsiveness, the department shall publicly open and read each price proposal associated with each responsive technical proposal. The department shall calculate the overall value rating for each proposal, which is the total price divided by the quality score. The department shall award the contract to the proposer with the lowest price per quality score point, if the proposal meets all material request-for-proposals requirements as determined by the department.

7. Procurement disputes. The request for proposals must provide for resolution of disputes that may arise before award of the contract by including a dispute review board procedure in accordance with the department's standard specifications. Except in extraordinary circumstances as determined by the department, including emergency work or situations in which delay could result in the loss of funding, the request for proposals must include a provision that requires that the procurement process be suspended pending final resolution of such disputes. In cases involving such extraordinary circumstances when suspension of the procurement process does not occur,

proposers that are not selected may seek monetary damages directly related to such nonselection.

See title page for effective date.

CHAPTER 649

H.P. 1102 - L.D. 1565

An Act To Amend the Laws Governing the Misclassification of Construction Workers

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

Sec. 1. 39-A MRSA §105-A, sub-§5 is enacted to read:

5. Stop-work orders. In addition to any penalty imposed under section 324, subsection 3, if after a hearing the executive director determines that a hiring agent or construction subcontractor has knowingly failed to secure the payment to that hiring agent's or construction subcontractor's employees of the compensation provided for by this Act, the executive director or the executive director's designee shall issue a stop-work order pursuant to this subsection. The issuance of a stop-work order by the executive director or the executive director's designee constitutes final agency action.

A. A hiring agent or construction subcontractor must receive at least 3 business days' notice of a hearing regarding a stop-work order. The executive director or the executive director's designee shall stay the issuance of a stop-work order if the hiring agent or subcontractor provides evidence acceptable to the executive director or the executive director's designee that the hiring agent or subcontractor has provided and will continue to provide workers' compensation coverage for the employees of that hiring agent or subcontractor or for the individuals whose status as employees or independent contractors is in question. Providing such coverage may not be evidence at the hearing that the hiring agent or subcontractor was required to do so under this Act.

B. If the executive director or the executive director's designee finds at the hearing that the hiring agent or construction subcontractor knowingly failed to provide a workers' compensation insurance policy, the executive director or the executive director's designee shall issue a stop-work order effective immediately on the conclusion of the hearing to that hiring agent or construction subcontractor at the construction site at which the executive director or executive director's designee has determined a violation occurred, unless the hiring agent or subcontractor has provided cover-

age and will continue to do so pursuant to paragraph A.

C. A stop-work order issued pursuant to this subsection remains in effect until the executive director or the executive director's designee issues an order releasing the stop-work order upon finding that the hiring agent or construction subcontractor has come into compliance with the requirements of this subsection and has paid any penalty assessed under section 324, subsection 3 or has entered into a penalty payment agreement with the board.

D. A stop-work order issued pursuant to this subsection against a hiring agent or construction subcontractor applies to any successor firm, corporation or partnership of the hiring agent or construction subcontractor in the same manner as it applies to the hiring agent or construction subcontractor.

E. Any payment or performance bond issued on or in relation to a construction project subject to a stop-work order may not cover any exposure arising out of or during the shutdown of that project.

For purposes of this subsection, a violation is considered knowing if the hiring agent or construction subcontractor has previously obtained workers' compensation insurance and the insurance has been cancelled or the insurance has not been continued or renewed; has been notified in writing by the board of the need for workers' compensation insurance; or has had one or more previous violations of the requirement to secure the payment to that hiring agent's or construction subcontractor's employees of the compensation provided for by this Act.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

WORKERS' COMPENSATION BOARD

Administration - Workers' Compensation Board 0183

Initiative: Allocates funds to enhance enforcement of laws prohibiting the misclassification of workers by establishing one Management Analyst II position at range 24 and one Auditor III position at range 25. Notwithstanding any other provision of law, the Management Analyst II position and the Auditor III position must be funded from the Workers' Compensation Board's reserve account pursuant to the Maine Revised Statutes, Title 39-A, section 154, subsection 6, paragraph B.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	0.000	2.000

Personal Services	\$0	\$161,773
OTHER SPECIAL	\$0	\$161,773
REVENUE FUNDS TOTAL		

See title page for effective date.

**CHAPTER 650
S.P. 747 - L.D. 1832**

**An Act To Amend the Laws
Governing the Election of
Androscoggin County
Commissioner District Budget
Committee Members**

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

Whereas, new Androscoggin County budget committee members will be chosen in June and changes are necessary to reflect the current commissioner districts; 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. 30-A MRSA §723, sub-§1, ¶D, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

D. The votes of each municipality shall be multiplied by the figure next to the municipality's name as follows:

(1) For Commissioner District Number One:

- (a) Durham, 975;
- (b) Greene, 1176;
- (c) Leeds, 577;
- (d) Lisbon, 2619;
- (e) Livermore, 607;
- (f) Livermore Falls, 931;
- (g) Sabattus, 1294;
- (h) Turner, 1435; and