

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

SECOND REGULAR SESSION
January 3, 2024 to May 10, 2024

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 9, 2024

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

Augusta, Maine
2024

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. 24 MRSA §2510, sub-§2-A, as enacted by PL 1997, c. 680, Pt. D, §4, is amended to read:

2-A. Confidentiality of letters of guidance or concern. Letters of guidance or concern issued by the board pursuant to Title 10, section 8003, subsection 5, paragraph E, or Title 32, section 18325, subsection 3 are not confidential.

Sec. 2. 32 MRSA §18325, sub-§3 is enacted to read:

3. Letters of guidance. In addition to the authority conferred under Title 10, section 8003, subsection 5-A, the board may issue a letter of guidance or concern to a licensee or registrant. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any provision of law to the contrary, a letter of guidance or concern is not confidential. The board may place a letter of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the board in any subsequent action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21.

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

Effective February 29, 2024.

CHAPTER 516
H.P. 1309 - L.D. 2047

An Act to Increase the Expenditure Limit for Informal Bidding Processes and Update References to the Office of Procurement Services

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

PART A

Sec. A-1. 5 MRSA §1825-B, sub-§2, ¶F, as amended by PL 1999, c. 105, §2, is further amended to read:

F. The procurement of goods or services involves expenditures of \$10,000 \$25,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals informal written quotes or bids; or

PART B

Sec. B-1. 1 MRSA §501-A, sub-§2, as enacted by PL 1997, c. 299, §1, is amended to read:

2. Production and distribution. The publications of all agencies, the University of Maine System and the Maine Maritime Academy may be printed, bound and distributed, subject to Title 5, sections 43 to 46. The State Purchasing Agent Chief Procurement Officer may determine the style in which publications may be printed and bound, with the approval of the Governor.

Sec. B-2. 1 MRSA §501-A, sub-§3, as amended by PL 2021, c. 549, §1, is further amended to read:

3. Annual or biennial reports. Immediately upon receipt of any annual or biennial report that is not included in the Maine State Government Annual Report provided for in Title 5, sections 43 to 46, the State Purchasing Agent Chief Procurement Officer shall deliver at least 4 copies of that annual or biennial report to the State Librarian for exchange and library use. The State Purchasing Agent Chief Procurement Officer shall deliver the balance of the number of each such report to the agency that prepared the report.

Sec. B-3. 1 MRSA §501-A, sub-§6, as enacted by PL 1997, c. 299, §1, is amended to read:

6. Forwarding of requisitions. The State Purchasing Agent Chief Procurement Officer, Central Printing central printing service and all other printing operations within State Government shall forward to the State Librarian upon receipt one copy of all requisitions for publications to be printed.

Sec. B-4. 3 MRSA §163, sub-§1, as amended by PL 2003, c. 673, Pt. QQQ, §2, is further amended to read:

1. Executive officers. To act as executive officer of the Legislature when it is not in session and unless the Legislature otherwise orders, the Executive Director shall, with the cooperation of the Secretary of the Senate and the Clerk of the House of Representatives have custody of all legislative property and material, arrange for necessary supplies and equipment through the ~~State Bureau of Purchases~~ Office of Procurement Services, arrange for necessary services, make all arrangements for incoming sessions of the Legislature, have general oversight of chambers and rooms occupied by the Legislature and permit state departments to use legislative property. The Executive Director may sell, in accordance with procedures established by the Legislative Council, unneeded legislative equipment and materials and, with the approval of the President of the Senate and the Speaker of the House of Representatives, dispose of obsolete or unusable equipment and materials through the Bureau of General Services' surplus property program. Proceeds from the sale of unneeded equipment and materials must be credited to the legislative account. The Executive Director has the authority to enter into contracts authorized by the Legislative Council and shall approve accounts and vouchers for payment. A perpetual inventory of all legislative property must be maintained under the supervision of the Legislative Council and an accounting of the inventory must be made to the Legislature upon its request.

Sec. B-5. 5 MRSA §244, 2nd ¶, as enacted by PL 2003, c. 450, §4, is amended to read:

By September 15th of each year, the State Auditor shall schedule a meeting with each joint standing committee of the Legislature having jurisdiction over those departments or agencies in the audit of which the State Auditor has identified findings and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and state and local government matters. The State Auditor shall present an assessment of findings and recommendations of the most recently completed audit performed pursuant to this section, including, but not restricted to, questioned costs and material weaknesses of state programs. The State Auditor shall notify affected state agencies and applicable state central service agency officials, such as, without limitation, the State Controller, State Budget Officer, ~~State Purchasing Agent~~ Chief Procurement Officer and Chief Information Officer, of the meeting time and place.

Sec. B-6. 5 MRSA §1762-A, sub-§1, as enacted by PL 1991, c. 246, §1, is amended to read:

1. ~~Bureau of Purchases~~ Office of Procurement Services. The ~~Bureau of Purchases~~ Office of Procurement Services under chapter 155;

Sec. B-7. 5 MRSA §1812-A, as amended by PL 1989, c. 585, Pt. C, §2, is further amended to read:

§1812-A. Report on purchase of recycled products

The ~~State Purchasing Agent~~ Chief Procurement Officer shall report on or before January 1st of the ~~First Regular Session~~ first regular session of each Legislature to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the State's efforts to purchase supplies and materials composed in whole or in part of recycled materials. The ~~State Purchasing Agent~~ Chief Procurement Officer shall also report on any procurement policies, incentives, educational programs, promotional efforts or other activities undertaken by the ~~Bureau of Purchases~~ Office of Procurement Services to encourage the purchase of those supplies and materials. The ~~State Purchasing Agent~~ Chief Procurement Officer shall include in the report any recommendations to increase or facilitate the purchase of those supplies and materials.

Sec. B-8. 5 MRSA §1812-B, as enacted by PL 1989, c. 585, Pt. C, §3, is amended to read:

§1812-B. Purchasing of paper and paper products

1. Purchase of paper and paper products with recycled material content. Subject to subsection 3, the ~~State Purchasing Agent~~ Chief Procurement Officer shall provide that of the total dollar amount spent in each fiscal year on paper and paper products purchased by the State:

- A. On or after October 1, 1989, not less than 15% ~~shall~~ must be spent on paper and paper products with recycled material content;
- B. On or after October 1, 1991, not less than 30% ~~shall~~ must be spent on paper and paper products with recycled material content; and
- C. On or after October 1, 1993, not less than 50% ~~shall~~ must be spent on paper and paper products with recycled material content.

2. Federal guidelines and cooperative purchases. To qualify as having recycled material content, paper or paper products must have recycled material content ~~which that~~ that meets or exceeds the standards established for that paper or paper product category in Table 1 of the Guideline for Federal Procurement of Paper and Paper Products, 40 Code of Federal Regulations, Part 250. The ~~State Purchasing Agent~~ Chief Procurement Officer shall determine whether a paper or a paper product qualifies. The ~~State Purchasing Agent~~ Chief Procurement Officer may join with other states in making cooperative requests for bids to supply paper and paper products.

3. Bids; price preference. A person who submits a bid for a contract to supply paper or paper products shall certify the percentage and nature of any recycled ~~materials~~ material content in the product subject to bid.

Bids offering paper or paper products with recycled material content that are within 10% of the lowest bid that meets all other specifications may receive up to a 10% price preference. Any bids to supply paper or paper products with recycled material content that exceed by more than 10% the low bid ~~which that~~ meets all other specifications ~~shall may~~ not be considered. If no bids are received on a request for bids ~~which that~~ offer paper or paper products with recycled material content, the ~~State Purchasing Agent~~ Chief Procurement Officer may award the contract to a bidder whose paper or paper product has substandard percentages of or no recycled ~~materials~~ material content.

Sec. B-9. 5 MRSA §1812-D, as amended by PL 2017, c. 475, Pt. A, §4, is further amended to read:

§1812-D. Coordination of procurement information and policies

The ~~Bureau of Purchases~~ Office of Procurement Services shall coordinate with the Department of Transportation, the Department of Agriculture, Conservation and Forestry and the Department of Environmental Protection to develop a central database of information including, but not limited to, procurement policies, market information, technical data and demonstration project results. This data must be compiled annually and provided to local public agencies by the Department of Environmental Protection.

Sec. B-10. 5 MRSA §1812-E, first ¶, as enacted by PL 1991, c. 207, is amended to read:

Except for cars and light duty trucks purchased for law enforcement and other special use purposes as designated by the ~~State Purchasing Agent~~ Chief Procurement Officer, the ~~State Purchasing Agent~~ Chief Procurement Officer may not purchase or lease any car or light duty truck for use by the State or any department or agency of the State unless:

Sec. B-11. 5 MRSA §1815 is amended to read:

§1815. Requisitions required

Except as otherwise provided in chapters 141 to ~~155 154 and this chapter~~ and the rules and regulations adopted ~~hereunder~~ under those chapters and this chapter, services, supplies, materials and equipment ~~shall may~~ be purchased by or furnished to the State ~~Government~~ or any department or agency thereof only upon requisition to the ~~State Purchasing Agent~~ Chief Procurement Officer. The ~~State Purchasing Agent~~ Chief Procurement Officer, or ~~his~~ the officer's authorized representative, shall examine each requisition submitted to ~~him~~ the officer by any department or agency of the State ~~Government~~ and may revise it as to quantity, quality or estimated cost after consultation with the department or agency concerned.

Sec. B-12. 5 MRSA §1816-A, sub-§2, ¶I, as enacted by PL 2003, c. 501, §1 and affected by §3, is amended to read:

I. An equivalent basis for cost comparison between state employee and private contractor provision of services is calculated, as established by rules adopted by the ~~State Purchasing Agent~~ Chief Procurement Officer pursuant to section 1825-B, subsection 11, and it is determined that the private contractor provides the best value.

Sec. B-13. 5 MRSA §1817, as amended by PL 2015, c. 102, §8, is further amended to read:

§1817. Printing of laws

When the Revisor of Statutes has prepared material for a revision of the entire statutes of the State, the revisor shall deliver the revision prepared for printing to the ~~State Purchasing Agent~~ Chief Procurement Officer, who shall contract for the printing, binding and delivery to the State of a sufficient number of volumes to meet the needs of the State and for sale as provided.

Sec. B-14. 5 MRSA §1818 is amended to read:

§1818. Deliveries

Supplies, materials and equipment, purchased or contracted for by the ~~State Purchasing Agent~~, ~~shall~~ Chief Procurement Officer must be delivered by him ~~the officer~~ or by the contractor to the department or agency by which or for whom the same are to be used from time to time as required.

Sec. B-15. 5 MRSA §1819 is amended to read:

§1819. Unlawful purchases

Whenever any department or agency of the State ~~Government, required by pursuant to~~ chapters 141 to ~~155 154 and this chapter~~ and rules and regulations adopted ~~pursuant thereto~~, under those chapters and this chapter applying to the purchase of services, supplies, materials or equipment through the ~~State Purchasing Agent, shall contract~~ Chief Procurement Officer, contracts for the purchase of such services, supplies, materials or equipment contrary to chapters 141 to ~~155 154 and this chapter~~ or the rules and regulations ~~made hereunder~~ adopted under those chapters and this chapter, ~~such that contract shall be is~~ void and ~~have has~~ no effect. If any such department or agency purchases any services, supplies, materials or equipment contrary to chapters 141 to ~~155 154 and this chapter~~ or rules and regulations ~~made hereunder~~ adopted under those chapters and this chapter, the head of ~~such that~~ department or agency ~~shall be is~~ personally liable for the costs thereof, and if ~~such the~~ services, supplies, materials or equipment are so unlawfully purchased and paid for out of state ~~moneys~~ money, the amount thereof may be recovered in the name of the State in an appropriate action instituted therefor.

Sec. B-16. 5 MRSA §1824-B, sub-§1, ¶B, as enacted by PL 2021, c. 332, §4, is amended to read:

B. The ~~director of the division of procurement services~~ Chief Procurement Officer of the Office of

Procurement Services within the Department of Administrative and Financial Services or the ~~director's~~ officer's designee;

Sec. B-17. 5 MRSA §1824-B, sub-§2, as amended by PL 2021, c. 332, §4, is amended to read:

2. Chair. The ~~director of the division of procurement services~~ Chief Procurement Officer of the Office of Procurement Services within the Department of Administrative and Financial Services or the ~~director's~~ officer's designee shall serve as chair of the committee.

Sec. B-18. 5 MRSA §1825-A, sub-§2, as amended by PL 1989, c. 785, §2, is amended to read:

2. Approved equal. "Approved equal" means any goods or service other than specified in the bid proposal that in the opinion of the ~~State Purchasing Agent~~ Chief Procurement Officer is equivalent in character, quality and performance to the goods or service specified in the bid proposal.

Sec. B-19. 5 MRSA §1825-A, sub-§3, as amended by PL 1989, c. 785, §2, is amended to read:

3. Competitive bidding. "Competitive bidding" means the transmission of a written proposal or invitation to bid to at least 3 responsible suppliers that is to be replied to at a stated time. In obtaining competitive bids, if the ~~State Purchasing Agent~~ Chief Procurement Officer finds that 3 responsible bidders are not available, the ~~State Purchasing Agent~~ Chief Procurement Officer may make such exceptions to this subsection as are in the best interests of the State.

Sec. B-20. 5 MRSA §1825-B, sub-§11, as amended by PL 2015, c. 179, §2, is further amended to read:

11. Rulemaking; unfair competition. State departments and agencies may not achieve cost savings due to cost differentials that derive from a bidder's failure to provide health and retirement benefits to its employees. The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules governing the purchase of services and the awarding of grants or contracts for personal services to establish a basis for bid price and cost comparison among businesses that provide health and retirement benefits to their employees and those that do not provide these benefits. The rules must include a methodology for calculating bid price and cost differentials for services provided by businesses and state employees due to the provision of health and retirement benefits for employees. The rules must adjust the bid prices to establish an equivalent basis for bid price and cost comparison among businesses when awarding contracts or grants and between businesses and state employees when determining whether or not a contract or grant is permitted under section 1816-A. These rules must apply to all state departments and agencies. Rules adopted pursuant to this subsection are

routine technical rules as defined in chapter 375, subchapter 2-A.

Sec. B-21. 5 MRSA §1825-B, sub-§12, as amended by PL 2007, c. 193, §1, is amended to read:

12. Vendor's fee. The ~~State Purchasing Agent~~ Chief Procurement Officer may collect a fee in an amount equal to 1% of the bid from a supplier of apparel, footwear or textiles with a winning bid under this section. The ~~State Purchasing Agent~~ Chief Procurement Officer shall apply the fee under this subsection to the costs of implementing and administering the state purchasing code of conduct under section 1825-L, including developing a consortium to monitor and investigate alleged violations of the code of conduct. The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt routine technical rules under chapter 375, subchapter 2-A to carry out the purposes of this subsection.

Sec. B-22. 5 MRSA §1825-B, sub-§14, as amended by PL 2015, c. 179, §2, is further amended to read:

14. Condition of doing business with the State. Notwithstanding any provision of law to the contrary, any purchase by the State of \$100,000 or more of tangible personal property, except for public utility purchases, as defined in Title 36, section 1752, subsection 17, or emergency purchases pursuant to subsection 2, paragraph B, may be made only from a person who is registered as a seller pursuant to Title 36, section 1754-B. As a condition of doing business with the State, the seller must collect, report and remit taxes in accordance with Title 36, Part 3. As provided in this subsection, the State is prohibited from doing business with a person who is not registered as a seller pursuant to Title 36, section 1754-B and is not in compliance with the requirement to collect, report and remit taxes pursuant to Title 36, Part 3. After notification of the award, the seller must provide the ~~State Purchasing Agent~~ Chief Procurement Officer with a valid retailer certificate issued by the State Tax Assessor within 7 business days. If the seller fails to provide the registration certificate within 7 business days, the ~~State Purchasing Agent~~ Chief Procurement Officer may cancel the award and make a new award pursuant to subsection 7. The ~~State Purchasing Agent~~ Chief Procurement Officer shall provide the State Tax Assessor with a copy of all contracts and grants awarded pursuant to this section. The State Tax Assessor shall notify the ~~State Purchasing Agent~~ Chief Procurement Officer if at any time during the term of the contract or grant the person is no longer registered or is not collecting, reporting and remitting taxes in compliance with the requirements of Title 36, Part 3. Until the noncompliance is corrected, the ~~State Purchasing Agent~~ Chief Procurement Officer may withhold any payments to the person.

Sec. B-23. 5 MRSA §1825-C, as amended by PL 2015, c. 179, §3, is further amended to read:

§1825-C. Rulemaking

The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules under this subchapter governing the purchase of services, the awarding of grants or contracts and the procedure by which aggrieved persons may appeal award decisions made by a department or agency of State Government. These rules must be adopted in accordance with the Maine Administrative Procedure Act and apply to all departments and agencies of State Government subject to the authority of the Department of Administrative and Financial Services as set forth in this chapter.

Sec. B-24. 5 MRSA §1825-D, first ¶, as amended by PL 2015, c. 179, §4, is further amended to read:

The ~~State Purchasing Agent~~ Chief Procurement Officer shall make the public aware of contracts and grants for which bids are being requested and the procedure to be used in reviewing bids. Rules adopted under this subchapter must include a clear procedure:

Sec. B-25. 5 MRSA §1825-D, 3rd ¶, as enacted by PL 1989, c. 785, §2, is amended to read:

A department or agency of State Government may not change or substitute the procedures adopted under this subchapter without the ~~State Purchasing Agent~~ Chief Procurement Officer's first adopting those changes or substitutions as rules under this subchapter in accordance with the Maine Administrative Procedure Act, ~~chapter 375~~.

Sec. B-26. 5 MRSA §1825-F, first ¶, as amended by PL 1993, c. 192, §2, is further amended to read:

Decisions made by an appeal committee under section 1825-E, subsection 3 constitute final agency action on the petitioner's appeal for the purposes of judicial review under chapter 375, subchapter ~~VII 7~~. The ~~State Purchasing Agent~~ Chief Procurement Officer shall notify a petitioner of a final agency action made under this subchapter in writing within 7 days of the final agency action. Notification of final agency action must include:

Sec. B-27. 5 MRSA §1825-G, as amended by PL 2015, c. 179, §7, is further amended to read:

§1825-G. Failure to act

Failure or refusal of the ~~State Purchasing Agent~~ Chief Procurement Officer to adopt rules under this subchapter is sufficient grounds for an aggrieved person to request judicial review of agency rulemaking pursuant to section 8058. In the event that a judicial declaration of an invalid rule is made under this section and section 8058, the contract or grant award under appeal becomes immediately void and of no legal effect.

Sec. B-28. 5 MRSA §1825-H, as enacted by PL 1989, c. 785, §2, is amended to read:

§1825-H. Deadline for adoption of rules

The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules implementing this subchapter no later than January 1, 1991.

Sec. B-29. 5 MRSA §1825-K, sub-§3, as enacted by PL 2005, c. 554, Pt. A, §1, is amended to read:

3. Availability of copy of code of conduct. The ~~State Purchasing Agent~~ Chief Procurement Officer shall make a copy of the state purchasing code of conduct available to all bidders subject to this subchapter.

Sec. B-30. 5 MRSA §1825-K, sub-§4, as enacted by PL 2005, c. 554, Pt. A, §1, is amended to read:

4. Affidavit requirement. The ~~State Purchasing Agent~~ Chief Procurement Officer may not accept a bid for the sale of goods covered by this subchapter unless:

A. Prior to the close of the bidding deadline, the bidder has filed with the ~~agent~~ officer a signed affidavit, executed and filed by a person authorized to commit the bidder to the code of conduct, stating:

- (1) That the bidder will comply with the code of conduct;
- (2) That the bidder has furnished a copy of the code of conduct to each supplier at the point of assembly of the goods subject to the bid process and required that each supplier inform the bidder of whether the supplier is in compliance with the code of conduct; and
- (3) That, to the best of the bidder's knowledge, each supplier at the point of assembly of the goods subject to the bid process is in compliance with the code of conduct; and

B. The bidder has submitted a list of the names and addresses of suppliers at the point of assembly of goods subject to the bid process.

Sec. B-31. 5 MRSA §1825-K, sub-§5, as enacted by PL 2005, c. 554, Pt. A, §1, is amended to read:

5. Affidavit update requirement. If, after complying with the filing requirements of this section, a bidder is awarded a contract, that contractor must, during the term of the contract, promptly inform the ~~State Purchasing Agent~~ Chief Procurement Officer of any change in the information furnished in the affidavit submitted at the time of the original bid and must submit a new, updated affidavit that conforms with the requirements of subsection 4.

Sec. B-32. 5 MRSA §1825-L, sub-§1, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is amended to read:

1. Statement of belief; protection of local interests. The affidavit provided by the ~~State Purchasing Agent~~

~~Agent~~ Chief Procurement Officer to bidders for contracts to provide goods covered by this subchapter must include a copy of the following statement:

"Maine is a state that believes employers should fairly compensate hard work, that the health and safety of working people should be protected and that no form of unlawful discrimination or abuse should be tolerated. Maine citizens are aware that laws and regulations designed to safeguard basic tenets of ethical business practice are disregarded in many workplaces, commonly referred to as "sweatshops." State Government purchase of goods made under abusive conditions on behalf of its citizens offends Maine citizens' sense of justice and decency. Moreover, when the State of Maine contracts with vendors whose suppliers profit by providing substandard wages and working conditions, Maine's businesses are put at a competitive disadvantage. Therefore, the State of Maine believes in doing business with vendors who make a good faith effort to ensure that they and their suppliers at the point of assembly adhere to the principles of the State of Maine's purchasing code of conduct.

"In its role as a market participant that procures goods covered by this code, the State of Maine seeks to protect the interests of Maine citizens and businesses by exercising its state sovereignty to spend Maine citizens' tax dollars in a manner consistent with their expressed wishes that the State deal with responsible bidders who seek contracts to supply goods to the State of Maine, and protect legally compliant Maine businesses and workers from unfair competition created by downward pressure on prices and conditions attributable to businesses that violate applicable workplace laws.

"Seeking to protect these local interests through the least discriminatory means available, the State of Maine requires that all bidders seeking contracts to supply the State of Maine with goods covered by this code sign an affidavit stating that they and, to the best of their knowledge, their suppliers at the point of assembly comply with workplace laws of the vendor's or supplier's site of assembly and with treaty obligations that are shared by the United States and the country in which the goods are assembled."

Sec. B-33. 5 MRSA §1825-M, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is amended to read:

§1825-M. Exception

The ~~State Purchasing Agent~~ Chief Procurement Officer may accept and award a bid to a supplier who has not met the requirements provided in section 1825-K if, after reasonable investigation by the ~~State Purchasing~~

~~Agent~~ Chief Procurement Officer, it appears that the required unit or item of supply or brand of that unit or item, is procurable by the State from only that supplier.

Sec. B-34. 5 MRSA §1825-N, as amended by PL 2005, c. 554, Pt. A, §3, is further amended to read:

§1825-N. Support to suppliers of goods and services

The ~~State Purchasing Agent~~ Chief Procurement Officer shall provide to bidders and contractors resources to assist with compliance with the state purchasing code of conduct established in this subchapter. These resources must include a list, easily accessed by the public, of bidders and vendors who have adopted the state purchasing code of conduct.

Sec. B-35. 5 MRSA §1825-O, first ¶, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is amended to read:

The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules under this subchapter governing the award of bids. Those rules must include specific guidelines for vendors to follow in order to comply with the state purchasing code of conduct and criteria for seeking disclosure of names and addresses of vendors' suppliers and suppliers' working conditions.

Sec. B-36. 5 MRSA §1825-P, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is amended to read:

§1825-P. Report

By January 15th of each year, the ~~State Purchasing Agent~~ Chief Procurement Officer shall submit a report to the joint standing committee of the Legislature having jurisdiction over state and local government matters concerning the administrative and fiscal impact of the requirement that vendors comply with the state purchasing code of conduct; the degree of voluntary compliance with the state purchasing code of conduct; the number of vendors who agreed to and the number that declined to comply with the provisions of this subchapter; and any other information relevant to the state purchasing code of conduct.

Sec. B-37. 5 MRSA §1825-Q, as corrected by RR 2005, c. 2, §4, is amended to read:

§1825-Q. Complaints of noncompliance with code of conduct; investigations of complaints

1. Complaints alleging noncompliance. The ~~State Purchasing Agent~~ Chief Procurement Officer shall initiate an investigation to determine whether a violation of the code of conduct has occurred if:

A. The ~~State Purchasing Agent~~ Chief Procurement Officer has independent knowledge that a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct;

B. The contractor informs the ~~State Purchasing Agent~~ Chief Procurement Officer that the contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct;

C. A worker for a contractor or for a supplier at the point of assembly of goods subject to a contract files a written complaint directly with the ~~State Purchasing Agent~~ Chief Procurement Officer stating that the contractor or supplier, to the best of the worker's knowledge, is not in compliance with the code of conduct;

D. A 3rd party established and based outside the United States, on behalf of or on the basis of information from a worker or workers, files directly with the ~~State Purchasing Agent~~ Chief Procurement Officer a signed and dated written complaint stating that, to the best of the 3rd party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct. If possible, the 3rd party's written complaint must be signed and dated under oath before an official authorized to administer oaths; or

E. A 3rd party established and based in the United States, on behalf of or on the basis of information from a worker or workers, files directly with the ~~State Purchasing Agent~~ Chief Procurement Officer a written complaint, signed and dated under oath before an official authorized by applicable law to administer oaths, stating that, to the best of the 3rd party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct.

2. Specificity required. Any complaint made to the ~~State Purchasing Agent~~ Chief Procurement Officer must state with reasonable specificity each reason a party subject to the complaint is allegedly not in compliance with the code of conduct.

3. Notification to party subject to complaint. After receiving a complaint alleging noncompliance with the code of conduct, the ~~State Purchasing Agent~~ Chief Procurement Officer shall contact in a timely manner, in writing and by certified letter, the contractor that is the subject of the complaint or whose supplier is the subject of the complaint.

Sec. B-38. 5 MRSA §1825-R, as enacted by PL 2005, c. 554, Pt. A, §5, is amended to read:

§1825-R. Determinations of noncompliance with code of conduct

1. Relevant information. In making a determination of whether a violation of the code of conduct has occurred, the ~~State Purchasing Agent~~ Chief Procurement Officer may take into account any factors, infor-

mation, sources of information and materials determined reliable and relevant by the ~~State Purchasing Agent~~ Chief Procurement Officer, as determined on a case-by-case basis. The ~~State Purchasing Agent~~ Chief Procurement Officer has specific authority and discretion to employ an independent monitor to investigate a complaint.

2. Determination by ~~State Purchasing Agent~~ Chief Procurement Officer. The determination of whether a party subject to a complaint is in compliance with the code of conduct is solely that of the ~~State Purchasing Agent~~ Chief Procurement Officer.

3. Notice of determination. After rendering a determination under this section, the ~~State Purchasing Agent~~ Chief Procurement Officer promptly shall inform the complainant and contractor in writing.

Sec. B-39. 5 MRSA §1825-S, as amended by PL 2007, c. 193, §3, is further amended to read:

§1825-S. Consequences of noncompliance with code of conduct

1. Action by ~~State Purchasing Agent~~ Chief Procurement Officer. Upon determination of a violation of the code of conduct by a contractor or contractor's supplier at the point of assembly of goods covered by this subchapter, the State, through the ~~State Purchasing Agent~~ Chief Procurement Officer, shall inform the contractor and engage in discussions with the contractor about the violation. The purpose of the discussions is to work in partnership with the contractor to influence the contractor to change its practices or to use its bargaining position with the offending supplier to change the supplier's practices, rather than to cease doing business with the contractor or supplier. The ~~State Purchasing Agent~~ Chief Procurement Officer shall prescribe appropriate measures to ensure compliance with the code of conduct. These measures may include, but are not limited to:

A. Requesting that each party found not to be in compliance with the code of conduct provide continued access to independent monitors, if available;

B. Requesting that each party found not to be in compliance with the code of conduct offer their workers and managers the training and guidelines necessary to bring the workplace into compliance with the code of conduct; and

C. Requesting that each party found not to be in compliance with the code of conduct demonstrate to the ~~State Purchasing Agent~~ Chief Procurement Officer that prescribed changes or improvements have been completed and implemented.

2. Termination of contract. If, in the opinion of the ~~State Purchasing Agent~~ Chief Procurement Officer, a contractor that has been determined as not in compliance with the code of conduct does not make good faith

efforts to change its practices or use its bargaining position with an offending supplier to change the supplier's practices, the ~~State Purchasing Agent~~ Chief Procurement Officer may take appropriate remedial action including, but not limited to, barring the subject contractor from bidding on future state contracts or terminating the State's contract with the contractor. ~~Reference to the~~ The authority given in this subsection must be specifically referenced in the State's contracts with those contractors that are subject to the code of conduct.

Sec. B-40. 5 MRSA §1831, sub-§1, as amended by PL 2023, c. 405, Pt. A, §9, is further amended to read:

1. Adoption of rules. A department or agency of State Government, subject to chapters 141 to 152, purchasing services or awarding grants or contracts that are not subject to the authority of the Department of Administrative and Financial Services, as defined in chapters 153 and 155, shall establish a procedure by which these services are purchased or by which grants or contracts are awarded. This procedure must be adopted in accordance with the Maine Administrative Procedure Act and must be approved by the ~~State Purchasing Agent~~ Chief Procurement Officer prior to the procedure's adoption. The ~~State Purchasing Agent~~ Chief Procurement Officer shall ensure that the rules adopted under this section meet the standards of public notice, administrative review and rights to appeal as set forth in chapter 155, subchapter 1-A. A department or agency of State Government that does not adopt rules under this section is subject to rules adopted by the ~~State Purchasing Agent~~ Chief Procurement Officer under chapter 155, subchapter 1-A.

Sec. B-41. 5 MRSA §1831, sub-§3, as amended by PL 2023, c. 405, Pt. A, §10, is further amended to read:

3. Application. The procedure adopted by a department or agency under this section may be used by the department or agency for any qualifying purchase or award of a contract or grant. This section may not be construed to require the adoption of new procedures for every new purchase, contract or award. This section may not be construed to require the ~~State Purchasing Agent~~ Chief Procurement Officer or the Department of Administrative and Financial Services to approve any contract, grant or award that is not presently approved by the ~~State Purchasing Agent~~ Chief Procurement Officer or the Department of Administrative and Financial Services under chapters 153 and 155.

Sec. B-42. 10 MRSA §1478, sub-§5, as enacted by PL 1985, c. 569, §2, is amended to read:

5. Temporary certification. Any motor vehicle for which there is no current and valid certificate of motor vehicle inspection at the time of sale at a state auction and ~~which that~~ does not pose a serious threat to the

general public, as determined by the ~~Bureau of Purchases~~ Office of Procurement Services from the form required in subsection 2 and from an inspection of the vehicle, may be provided a temporary certificate authorizing the operation of the motor vehicle from the auction site to a point designated by the purchaser.

Sec. B-43. 23 MRSA §52, 2nd ¶, as repealed and replaced by PL 2005, c. 313, §2, is amended to read:

The department has full power to purchase all supplies, materials and equipment that are incidental to, or necessary for, project-specific construction, improvement or maintenance of transportation infrastructure. The purchase of supplies, materials and equipment for nonproject-specific purposes must be made through the ~~State Purchasing Agent~~ Chief Procurement Officer as provided by law. For the purposes of this section, unless the context otherwise indicates, "project-specific" means relating to a specific location for a limited duration, as opposed to perennial, nonlocation-specific activities. The department may be consulted by and shall, without charge, advise municipal officers and road commissioners on the subject of construction, improvement and maintenance of public highways, bridges and other structures. The department shall whenever practicable give preference in employment to the inhabitants of the town in which such highways are located.

Sec. B-44. 28-A MRSA §83-C, sub-§3, as amended by PL 2021, c. 658, §56, is further amended to read:

3. Purchase. Oversee the wholesale purchase and storage of spirits for sale in the State. Spirits delivered to the wholesale spirits provider and stored at a warehouse designated by the commission under section 81 are the property of the spirits supplier. Spirits become the property of the bureau upon removal from the warehouse for shipment to an agency liquor store. Spirits delivered to an agency liquor store become the property of the licensee upon receipt of delivery. The wholesale spirits provider at no time takes legal title to any spirits delivered to the warehouse. The bureau may buy and have in its possession spirits for sale to the public. The bureau shall buy spirits directly and not through the ~~State Purchasing Agent~~ Chief Procurement Officer. All spirits must be free from adulteration and misbranding;

Sec. B-45. 34-A MRSA §1403, sub-§11, as enacted by PL 1999, c. 583, §4, is amended to read:

11. Contracting agent. The chief administrative officer is the contracting agent for all sales of articles from a correctional facility and for all other contracts made on behalf of the correctional facility except those made by the ~~State Purchasing Agent~~ Chief Procurement Officer.

A. All contracts must be made in the manner prescribed by the commissioner.

B. A contract may not be accepted by the chief administrative officer, unless the contractor gives satisfactory security for its performance.

C. An employee of the correctional facility may not be directly or indirectly interested in any contract.

Sec. B-46. 34-A MRSA §3004, sub-§1, as amended by PL 1991, c. 314, §28, is further amended to read:

1. Contract actions. Actions founded on any contract made with the ~~State Purchasing Agent~~ Chief Procurement Officer, or with any official of the department under the authority granted by the ~~State Purchasing Agent~~ Chief Procurement Officer, on behalf of a correctional or detention facility may be brought by the official making the contract or the official's successor in office.

Sec. B-47. 34-B MRSA §1404, sub-§1, as corrected by RR 2019, c. 2, Pt. B, §89, is amended to read:

1. Contract actions. Actions founded on any contract made with the ~~State Purchasing Agent~~ Chief Procurement Officer, or with any official of the department under the authority granted by the ~~State Purchasing Agent~~ Chief Procurement Officer, on behalf of any of the state institutions may be brought by the official making the contract or that official's successor in office.

Sec. B-48. 35-A MRSA §1908, as enacted by PL 2013, c. 369, Pt. B, §1, is amended to read:

§1908. Exemption from ~~State Purchasing Agent~~ Chief Procurement Officer rules

Notwithstanding any ~~other~~ provision of law to the contrary, agreements and contracts entered into pursuant to this chapter are not subject to the competitive bid requirements of the ~~State Purchasing Agent~~ Chief Procurement Officer.

Sec. B-49. 35-A MRSA §3210-C, sub-§3, as amended by PL 2023, c. 77, §7, is further amended by amending the 2nd blocked paragraph to read:

The commission may enter into contracts for interruptible, demand response or energy efficiency capacity resources. These contracts are not subject to the rules of the ~~State Purchasing Agent~~ Chief Procurement Officer. In a competitive solicitation conducted pursuant to subsection 6, the commission shall allow transmission and distribution utilities to submit bids for interruptible or demand response capacity resources.

Sec. B-50. 35-A MRSA §3212, sub-§2, as amended by PL 1999, c. 577, §4 and c. 578, §1, is further amended by amending the 3rd blocked paragraph to read:

Notwithstanding Title 5, section 1831, the commission is not subject to rules adopted by the ~~State Purchasing~~

~~Agent~~ Chief Procurement Officer in conducting the competitive bidding process required under this section.

Sec. B-51. 35-A MRSA §10105, sub-§4, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

4. ~~Purchasing agent~~ Chief Procurement Officer rules. Notwithstanding Title 5, section 1831, the trust is not subject to rules adopted by the ~~State Purchasing Agent~~ Chief Procurement Officer in selecting service providers pursuant to this chapter. The trust shall consider delivery of programs by means of contracts with service providers that participate in competitive bid processes for providing services within individual market segments or for particular end uses.

Sec. B-52. 35-A MRSA §10110, sub-§3, as enacted by PL 2009, c. 372, Pt. B, §3, is amended by amending the first blocked paragraph to read:

In accordance with section 10105, the trust is not subject to rules adopted by the ~~State Purchasing Agent~~ Chief Procurement Officer in selecting service providers pursuant to this subsection. The board shall adopt rules establishing procedures governing the selection of service providers under this subsection. The board shall consult with the ~~State Purchasing Agent~~ Chief Procurement Officer in developing the rules.

Sec. B-53. 36 MRSA §191, sub-§2, ¶JJ, as amended by PL 2009, c. 361, §12, is further amended to read:

JJ. The disclosure to the ~~State Purchasing Agent~~ Chief Procurement Officer of a person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection 14;

Sec. B-54. 36 MRSA §4372-A, sub-§7, as amended by PL 1999, c. 616, §6, is further amended to read:

7. Hearings; disposition; deposit of funds. At a hearing, other than a default proceeding, the court shall hear evidence, make findings of fact, enter conclusions of law and file a final order from which the parties have the right of appeal. When cigarettes are ordered forfeited, the final order must provide for the disposition of the cigarettes by the State Tax Assessor by public auction or by the ~~State Purchasing Agent~~ Chief Procurement Officer. Proceeds must be deposited in the General Fund. Cigarettes described in section 4366-C, subsection 1 must be destroyed by the State Tax Assessor in a manner that prevents their reintroduction into the marketplace.

Sec. B-55. 36 MRSA §4404-C, sub-§7, as enacted by PL 2005, c. 627, §11, is amended to read:

7. Hearings; disposition; deposit of funds. At a hearing other than a default proceeding, the court shall hear evidence, make findings of fact, enter conclusions of law and file a final order to which the parties have

the right of appeal. When tobacco products are ordered forfeited, the final order must provide for the disposition of the tobacco products by the assessor by public auction or by the ~~State Purchasing Agent~~ Chief Procurement Officer. Proceeds must be deposited in the General Fund. Tobacco products described in section 4404-B, subsection 1 must be destroyed by the assessor in a manner that prevents their reintroduction into the marketplace.

See title page for effective date.

CHAPTER 517

S.P. 665 - L.D. 1660

An Act to Ensure Proper Regulation of Chemical Plastic Processing

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

Sec. 1. 38 MRSA §1303-C, sub-§2-C is enacted to read:

2-C. Chemical plastic processing. "Chemical plastic processing" means the processing of plastic waste using chemical or molecular methods into basic raw materials, feedstock chemicals, fuel for combustion, waxes or lubricants. "Chemical plastic processing" does not include plastic-to-plastic recycling.

Sec. 2. 38 MRSA §1303-C, sub-§19-D is enacted to read:

19-D. Plastic. "Plastic" means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain, including material derived from either petroleum or a biologically based polymer, such as corn or other plant sources.

Sec. 3. 38 MRSA §1303-C, sub-§19-E is enacted to read:

19-E. Plastic-to-plastic recycling. "Plastic-to-plastic recycling" means the production from plastic waste of new plastic material, designed to be used as industrial feedstock in place of raw material for the manufacture of new products made of or containing plastic, by processing the plastic waste in a manner that, in producing the new plastic material:

A. Retains the chemical structure of the plastic waste; or

B. Deconstructs the plastic waste into molecular precursors or intermediates and then reconstitutes the precursors or intermediates into plastic polymers using methods that result exclusively in the production of new plastic material.

"Plastic-to-plastic recycling" does not include chemical plastic processing.

Sec. 4. 38 MRSA §1303-C, sub-§32-A, as enacted by PL 2007, c. 583, §1, is amended to read:

32-A. Solid waste processing facility. "Solid waste processing facility" means a land area, structure, equipment, machine, device, system or combination thereof, other than an incineration facility, that is operated to reduce the volume or change the chemical or physical characteristics of solid waste. "Solid waste processing facility" includes but is not limited to a facility that processes plastic waste through chemical plastic processing and a facility that employs shredding, baling, mechanical and magnetic separation or composting or other stabilization technique to reduce or otherwise change the nature of solid waste.

Sec. 5. 38 MRSA §1310-N, sub-§5-A, ¶B, as amended by PL 2023, c. 283, §1, is further amended by amending subparagraph (2) to read:

(2) A solid waste processing facility that generates residue requiring disposal shall recycle or process into fuel for combustion through methods other than chemical plastic processing all waste accepted at the facility to the maximum extent practicable, but in no case at a rate less than 50%. For purposes of this subsection, "recycle" ~~includes~~ does not include chemical plastic processing and does include, but is not limited to, plastic-to-plastic recycling; the reuse of waste generated within the State as defined in section 1303-C, subsection 40-A, paragraph C; the recovery of metals from waste; the use of waste or waste-derived product as material substitutes in construction; and the use of waste as boiler fuel substitutes.

At least 50% of the waste that a solid waste processing facility characterizes as recycled under this subparagraph must have been reused or recycled by the facility through methods other than placement of the waste in a solid waste landfill, except that a solid waste processing facility that was in operation during calendar year 2018, that accepts exclusively construction and demolition debris and that accepted more than 200,000 tons of such debris in calendar year 2018 shall:

- (a) Reuse or recycle at least 15% of such debris through methods other than placement in a solid waste landfill by July 1, 2024;
- (b) Reuse or recycle at least 20% of such debris through methods other than placement in a solid waste landfill by July 1, 2025;
- (c) Reuse or recycle at least 30% of such debris through methods other than placement in a solid waste landfill by July 1, 2026;