MAINE STATE LEGISLATURE

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STATE OF MAINE

ONE HUNDRED AND TWELFTH LEGISLATURE SECOND REGULAR SESSION

JOINT STANDING COMMITTEE ON

STATE GOVERNMENT

BILL SUMMARY



MAY 1986

PREPARED BY:

Edward Potter, Legislative Analyst

OFFICE OF POLICY AND LEGAL ANALYSIS
STATE HOUSE, STATION 13 AUGUSTA, MAINE 04333
(207) 289-1670



HELEN T. GINDER, DIRECTOR **GILBERT W. BREWER** DAVID C. ELLIOTT MARTHA E. FREEMAN JERI B. GAUTSCHI CHRISTOS GIANOPOULOS WILLIAM T. GLIDDEN, JR.

STATE OF MAINE HAVEN WHITESIDE, ASST. DIRECTOR OFFICE OF POLICY AND LEGAL ANALYSIS **ROOM 101/107** STATE HOUSE STATION 13 AUGUSTA, MAINE 04333 TEL.: (207) 289-1670

JULIE S. JONES JOHN B. KNOX EDWARD POTTER MARGARET J. REINSCH LARS H. RYDELL JOHN R. SELSER ANDREA L. COLNES, RES. ASST.

ONE HUNDRED AND TWELFTH LEGISLATURE SECOND REGULAR SESSION

JOINT STANDING COMMITTEE BILL SUMMARIES MAY 1986

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature, covering the Second Regular Session of the 112th Legislature. The summaries are arranged by LD number under each committee.

All Amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor if it is a floor amendment or the designation "CA" if it is a committee amendment. If the amendment was adopted in the House, the letter H appears after the sponsor. If it was adopted in the Senate, the letter S appears.

Final action for each bill is listed to the right of the title. If final House action and Senate action differ, both are listed.

Key to Committee Reports and Floor Action:

Ought to Pass OTP Ought to Pass in New Draft OTP-ND Ought to Pass in New Draft, New Title OTP-ND-NT Ought to Pass as Amended OTP-AM Ought Not to Pass ONTP Leave to Withdraw LVWD Indefinitely Postponed INDEF PP

The Committe redraft of the bill, LD2047, which has been enacted into law as P.L. 1986, chapter 569, is intended to provide information to purchasers of vehicles at state auctions. According to the new law, the State is exempt from liability for any vehicles sold at auction, but the vehicles must be inspected at least 6 months before the auction, and any deficiencies must be listed on the vehicle. Any vehicle which does not pass inspection but does not pose a serious threat to the safety of the general public may obtain a temporary certification for operation from the state auction to a designated destination point.

LD

AN ACT TO CLARIFY THE SURETY BONDING PROCESS 1763 FOR CONTRACTORS

PL 1985 c. 554

Sponsor: LACROIX, Boutilier, Cote, Descoteaux

Committee Report: OTP-AM

H-505 CA H S

SUMMARY: LD 1763 makes consistent the surety bonding provisions relating to public works. Prior to adoption of the bill, surety bonding provisions appeared in Title 5 (Bureau of Public Improvements), Title 14 (Civil Actions), and in title 23 (Department of Transportation). These various provisions were not consistent.

LD 1763 also "opens" the door to other forms of securities for bid proposals provided to BPI, the Department of Transportation, etc. Currently, only bonds are acceptable securities. LD 1763 expands the types of securities to U.S. Postal Money Orders, official bank checks, certificates of deposit, escrow accounts, etc.

Prior to enactment of the act the State of Maine required a contractor who presents a bid proposal on a state contract to post a bid bond to provide the state assurance that the contractor, if awarded the contract, will sign the contract and complete the project. There have been occasions when a contractor, who has 30 days to sign the contract, has returned the contract unsigned, and accepted another contract that will produce a greater return to the contractor than the state contract.

If there is a significant inflation rate or if the second bidder has accepted other contracts, the state incurs a loss as a result of another bid request process unless there is a surety bond to protect the state. In many cases, insurance companies charge their contractor client very little for a bid bond because they usually will obtain the contractor's business for the performance bond and the payment bond if the contractor's bid is successful. Bid bonds are returned to unsuccessful bidders.

The total cost of the performance, payment, and bid bonds to a contractor for a project is usually between 1/2 and 1% of total project costs, according to BPI. The bid bond required by BPI is usually in the amount of 5% of total project costs. The bid bond is returned to the contract winner when that contractor secures the other required bonds.

The new law authorizes a contracting agency to require a contractor to post a bid bond to assure "bondability." This provision is aimed primarily at subcontractors who provide bids to contractors, usually within a week from the time the bids are opened. If the subcontractor provides another type of security, it takes roughly a month to get bonded. This delay could create very serious difficulties for the contractor and the state which are ready to start the project as soon as the contract is signed. The bid bond indicates whether the subcontractor can get a bond.

While the use of other securities (other than bonds) for bid securities will help small and new contractors who may have problems obtaining a bond, these contractors are still required to post performance and payment bonds once they are awarded the contract. If a contractor who uses a cashier's check as security for bidding purposes, is awarded a contract, but cannot obtain a performance or payment bond, the contractor and the state will be in a serious predicament.

LD AN ACT TO AUTHORIZE ADOPTION OF A 'BUY AMERICA' POLICY BY THE STATE OF MAINE

LVWD

Sponsor: MCGOWAN

Committee Report: LVWD

<u>SUMMARY:</u> LD 1804 proposes to require the State Purchasing Agent to purchase or lease only U.S. mined, produced, and manufactured products and materials. The exceptions to this policy are: