

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

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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:

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

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
1804 AMERICA' POLICY BY THE STATE OF MAINE

LVWD

Sponsor: MCGOWAN
Committee Report: LVWD

SUMMARY: 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:

- a. when the policy is inconsistent with the public interest,
- b. when the cost of U.S. products is unreasonable,
- c. when the supply of U.S. produced and manufactured materials and products are not reasonably available in commercial quantities and of a satisfactory quality, and
- d. petroleum products distributed to the consumer from land-based storage facilities in the U.S.

While the purpose of the bill was not clearly stated in the bill, testimony at the hearing pointed out that the "Buy America" policy would preserve jobs for U.S. citizens. In addition, this policy, it was argued is necessary to maintain expertise and the ability and capacity to produce and manufacture goods and materials in the U.S. which otherwise could be lost to foreign nations. The dependence of the U.S. on foreign sources for goods and materials could seriously hurt the U.S. economy and U.S. security.

Testimony at the hearing, however, concentrated primarily on the difficulty of implementing the bill and the problems of retaliation. One of the problems of the bill concerns the determination of the source of goods and materials. In many cases, it would be difficult for the State Purchasing Agent to determine whether certain products are U.S. or foreign made. Since the state purchases "thousands" of products and materials from vendors and manufacturers whose sources fluctuate significantly, this could create a problem.

Another aspect of this problem relates to the assembling of goods. Some goods are only assembled in the U.S., and the "parts" are manufactured abroad. Do these goods constitute "U.S. made" products. There are also many variations of this same issue.

The problem of retaliation was also presented at the hearing. A previous statutory provision providing preference for Maine products and materials purchased by state government resulted in retaliation against Maine products by other states.

A third issue was raised with respect to the Interstate Commerce Clause and the Foreign Commerce Clause. According to this argument, only Congress has the authority to legislate provisions regarding commerce between states and between states and nations. Opponents to LD 1804 therefore, argued that the bill was unconstitutional.

The major support for the bill came from a construction contracting firm in Bangor that has been confronted, in the owner's opinion, with "illegal competition". The owner argued that Canadian subsidies and sales prices, set below the cost of production in bids for U.S. business, have seriously hurt the firm. The Department of Transportation agreed to work with the Bangor firm to determine how this firm could improve its ability to secure more state contracts.

LD AN ACT TO CREATE THE JOB PROTECTION ACT
1841

P&SL 1985
c. 92

Sponsor: PRAY, Martin, J., Kerry
Committee Report: OTP-AM

S-378 CA H S

SUMMARY: LD 1841 increases the scope of the study to be undertaken by the Joint Select Committee on Economic Development. The bill requires the Select Committee to look at all agencies; including state, region, local, and private; that collect or possess data and information relating to economic growth and development in Maine.

The agencies are required to report the following:

- A. the information and data they collect;
- B. the activities of each agency;
- C. the amount of money they spend, and where the money is spent;
- D. the standards used to provide money to recipients; and
- E. monitoring activities of each agency.

The agencies are required to report the information to the committee on February 28, 1986; and the Select Committee is required to analyze the information and report to the Legislature on April 1, 1986.