

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act Regarding Labor Contracts for Public Works Projects

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

Sec. 1. 26 MRSA §1304, sub-§5-A is enacted to read:

5-A. Interested party. "Interested party" includes the following:

- A. A bidder, contractor or subcontractor for a public works contract covered by this chapter;
- B. An employee of a bidder, contractor or subcontractor for a public works contract covered by this chapter; and
- C. A taxpayer of an entity awarding a public works contract covered by this chapter.

Sec. 2. 26 MRSA §1312, last ¶, as amended by PL 1997, c. 757, §10, is repealed.

Sec. 3. 26 MRSA §1316 is enacted to read:

§ 1316. Public works contract requirements

This section applies to public works contracts entered into, awarded or renewed after October 1, 2011.

1. Contract documents. The plans, specifications and contract documents for a public works contract awarded under this chapter may not:

- A. Require a bidder, contractor or subcontractor to enter into or comply with an agreement with a labor organization on the same or a related public works project;
- B. Discriminate against a bidder, contractor or subcontractor for refusing to enter into, remain a signatory to or comply with an agreement with a labor organization on the same or a related public works project; or
- C. Require a bidder, contractor or subcontractor to enter into or comply with an agreement that requires an employee of the bidder, contractor or subcontractor, as a condition of employment, to:

(1) Become a member of or become affiliated with a labor organization; or

(2) Over the objection of the employee, pay dues or fees to a labor organization that exceed the employee's share of the labor organization's costs relating to collective bargaining, contract administration or grievance adjustment.

2. Cooperation with the federal National Labor Relations Act. This section does not prohibit an employer or any other person covered by the federal National Labor Relations Act, 29 United States Code, Chapter 7, Subchapter II from entering into agreements or engaging in any other activity protected by law. This section may not be interpreted to interfere with the labor relations of persons covered by the federal National Labor Relations Act.

3. Penalties. The following provisions apply to a violation of this section.

A. An interested party has a cause of action to challenge the award of a public works contract that violates this section.

B. An interested party that prevails in an action under this section is entitled to the following relief:

(1) A declaration that the provisions of the public works contract that violate the applicable statute are void;

(2) Costs and attorney's fees; and

(3) Any other appropriate relief requested by the interested party.

Relief that would interfere with the labor relations of persons covered by the federal National Labor Relations Act, 29 United States Code, Chapter 7, Subchapter II may not be granted under this subsection.

SUMMARY

This bill provides that the plans, specifications and contract documents for a public works project may not require bidders, contractors or subcontractors to enter into or comply with certain agreements with labor organizations. The bill also provides a cause of action to challenge the awarding of a contract that violates these provisions.