



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 782

H.P. 589

House of Representatives, March 1, 2011

An Act To Expand Competitive Bidding for Energy Service Contracts with Schools

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative WINTLE of Garland.
Cosponsored by Senator RECTOR of Knox and
Representatives: DAMON of Bangor, DAVIS of Sangerville, DION of Portland, JOHNSON of
Eddington, JOHNSON of Greenville, McKANE of Newcastle, PRESCOTT of Topsham,
Senator: McCORMICK of Kennebec.

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

2 **Sec. 1. 20-A MRSA §15915, sub-§1**, as amended by PL 2005, c. 499, §1, is
3 further amended to read:

4 **1. Initial agreement.** Any school administrative unit may enter into an agreement of
5 up to 15 years with a private party, such as an energy service or 3rd-party financing
6 company, for the design, installation, operation, maintenance and financing of energy
7 conservation or combined energy conservation and air quality improvements at existing
8 school administrative unit facilities. The school administrative unit's costs to enter into
9 such an agreement are not applicable to the unit's school construction project costs, the
10 debt service on which is eligible for subsidy purposes under section 15907. Such an
11 agreement is ~~deemed to be a professional service, which is not~~ subject to the competitive
12 bidding requirements of Title 5, section 1743-A, ~~if the agreement.~~

13 ~~A. Provides for operation or maintenance of the improvement for at least 5 years or~~
14 ~~the entire term of the financing agreement if longer than 5 years;~~

15 ~~B. Requires a guaranty by the contractor that the improvement will meet~~
16 ~~performance criteria set forth in the agreement for at least 5 years or for the entire~~
17 ~~term of the financing agreement if longer than 5 years; and~~

18 ~~C. Has a total contract cost, excluding interest and operating and maintenance costs,~~
19 ~~of less than \$2,000,000 for any school building.~~

20 ~~A school administrative unit may select contractors for these professional services on the~~
21 ~~basis of a request for qualifications or a request for proposals and it is not required to use~~
22 ~~a competitive method set forth in this chapter and Title 5, section 1743-A and Private and~~
23 ~~Special Law 1999, chapter 79. The selection process must include at a minimum a~~
24 ~~request for qualifications or a request for proposals that is advertised in a newspaper of~~
25 ~~general circulation in the school administrative unit and a newspaper of general~~
26 ~~circulation in the City of Augusta. The school administrative unit shall interview not~~
27 ~~fewer than 3 service providers unless a smaller number of service providers responds to~~
28 ~~the request for qualifications or requests for proposals. The performance criteria in the~~
29 ~~agreement is subject to approval by the Department of Administrative and Financial~~
30 ~~Services, Bureau of General Services. A request for qualifications or proposals may not~~
31 ~~contain terms that require service providers to have more than 3 years of experience in~~
32 ~~the energy conservation field or the use of equipment that is not generally available to~~
33 ~~service providers or terms that are otherwise included for the purpose of bias or~~
34 ~~favoritism toward a particular service provider. Objections to the terms of a request for~~
35 ~~qualifications or proposals under this subsection are deemed waived if not delivered in~~
36 ~~writing to the office of the superintendent of schools in that school administrative unit~~
37 ~~within 21 days of the last publication of the newspaper advertisement.~~

38 **SUMMARY**

39 This bill provides that school projects for the design, installation, operation,
40 maintenance and financing of energy conservation or combined energy conservation and

1 air quality improvements at existing school administrative unit facilities are subject to
2 competitive bidding requirements.