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Date: (Filing No. H-)

EDUCATION AND CULTURAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1152, L.D. 1593, Bill, “An Act To Support Infrastructure Improvements in Schools”

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 20-A MRSA §15915, sub-§1, as repealed and replaced by PL 2011, c. 279, §1, is amended to read:

1. Initial agreement for energy conservation improvements. A school administrative unit may enter into an agreement of up to 20 years with an energy services company. For the purposes of this section, "energy services company" means a company or 3rd-party financing company that provides design, installation, operation, maintenance and financing of locally funded energy conservation improvements, air quality improvements or combined energy conservation and related air quality improvements at existing school administrative unit facilities. The school administrative unit's costs to enter into such an agreement are not applicable to the unit's school construction project costs, the debt service on which is eligible for subsidy purposes under section 15907. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

- A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years;
- B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and
- C. Has a total contract cost, excluding private or federal grant funds, interest and operating and maintenance costs, of less than ~~\$2,500,000~~ \$10,000,000 for any school building or project.

A school administrative unit may select an energy services company on the basis of a request for qualifications or a request for proposals, and it is not required to use a competitive method set forth in this chapter and Title 5, section 1743-A and Private and

COMMITTEE AMENDMENT

1 Special Law 1999, chapter 79. The selection process must include at a minimum a
2 request for qualifications or a request for proposals that is advertised in a newspaper of
3 general circulation in the school administrative unit and a newspaper of general
4 circulation in the City of Augusta. The deadline for receipt of requests for qualifications
5 or requests for proposals may not be less than 15 days from the last day the advertisement
6 was published. The school administrative unit shall establish an interview committee,
7 which must include the superintendent of the school administrative unit and at least one
8 school board member. The interview committee shall interview not fewer than 3 energy
9 services companies unless a smaller number of energy services companies responds to the
10 request for qualifications or request for proposals. A request for qualifications or a
11 request for proposals may not contain terms that require an energy services company to
12 have more than 3 years of experience in the energy conservation field, a minimum
13 number of prior projects or project references or membership in or accreditation from a
14 regional, national or international association of energy services companies or to use
15 equipment that is not generally available to energy services companies or terms that are
16 otherwise included for the purpose of bias or favoritism toward a particular energy
17 services company.

18 Objections to the terms of a request for qualifications or a request for proposals under this
19 subsection are deemed waived if not delivered in writing to the office of the
20 superintendent of schools in that school administrative unit within 7 days of the last
21 publication of the newspaper advertisement. If an objection is received, the school board
22 shall conduct a hearing on the objection within 14 days of its receipt. The school board
23 shall allow interested energy services companies to speak at the hearing and shall issue a
24 decision to either validate or invalidate the request for qualifications or the request for
25 proposals within 7 days of the close of the hearing. A decision by the school board in
26 response to an objection is a final government action subject to appeal to the Superior
27 Court.'

28 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
29 section number to read consecutively.

30 SUMMARY

31 This amendment amends the definition of "energy services company" to mean a
32 company or 3rd-party financing company that provides design, installation, operation,
33 maintenance and financing of locally funded energy conservation improvements, air
34 quality improvements or combined energy conservation and related air quality
35 improvements at existing school administrative unit facilities. This amendment also
36 increases the cap on the total contract cost, excluding private or federal grant funds,
37 interest and operating and maintenance costs, for which an agreement is deemed to be a
38 professional service, which is not subject to competitive bidding requirements, to
39 \$10,000,000.