

MAINE STATE LEGISLATURE

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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1272, L.D. 1750, Bill, "An Act To Improve the Ability of Water Utilities To Maintain a Contingency Allowance"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 35-A MRSA §6105, sub-§4, ¶E, as corrected by RR 1991, c. 2, §131, is amended to read:

E. To provide for a contingency reserve-fund allowance as provided in section 6112; and

Sec. 2. 35-A MRSA §6112, as renumbered by RR 1991, c. 1, §49, is amended to read:

§6112. Contingency allowance

1. Annual contingency allowance. A consumer-owned water utility may provide for an annual contingency allowance by including in rates an-amount-up-to-5%-of-the-revenues-required-to-operate-the-water-utility.--Each-year-any-contingency-allowance, which-may-not-exceed-5%-of-the-prior-year's-total-revenue, must be-credited-to-a-contingency-reserve-fund.--Other-revenue-may-not be-credited-to-the-accout, the amounts as follows:

COMMITTEE AMENDMENT

2 A. For a utility with total annual revenues up to \$85,000,
4 an amount up to 10% of the revenues required to operate the
 utility; and

6 B. For a utility with total annual revenues in excess of
8 \$85,000, an amount up to 5% of the revenues required to
 operate the utility.

10 ~~2. --- Contingency reserve fund maximum. --- The maximum amount~~
12 ~~that may be accumulated in a contingency reserve fund is as~~
 ~~follows:~~

14 ~~A. --- For utilities with annual revenues of up to \$125,000,~~
16 ~~the maximum amount is 25% of the most recent year's annual~~
 ~~revenues;~~

18 ~~B. --- For utilities with annual revenues between \$125,001 and~~
20 ~~\$250,000, the maximum amount is 15% of the most recent~~
 ~~year's annual revenues plus \$12,500;~~

22 ~~C. --- For utilities with annual revenues between \$250,001 and~~
24 ~~\$375,000, the maximum amount is 5% of the most recent year's~~
 ~~annual revenues plus \$37,500; and~~

26 ~~D. --- For utilities with annual revenues in excess of~~
28 ~~\$375,000, the maximum amount is 15% of the most recent~~
 ~~year's annual revenues.~~

30 ~~Any contingency allowance collected when the contingency reserve~~
32 ~~fund is at the maximum amount permitted must be credited to the~~
 ~~unappropriated retained earnings account and treated in the same~~
34 ~~manner as any other surplus produced by a consumer-owned utility.~~

36 ~~3. --- Use of contingency reserve fund. --- The contingency~~
38 ~~reserve fund may be used only to pay for operating losses~~
 ~~resulting from insufficient revenues to meet operating expenses~~
40 ~~and debt service costs, including, but not limited to, principal~~
 ~~and interest repayment.~~

42 3-A. Authorized uses; commission review. This section does
 not:

44 A. Authorize a consumer-owned water utility to expend
46 amounts collected pursuant to this section for any purposes
 other than those allowed under this Title; or

48 B. Exempt any expenditures from review by the commission in
50 accordance with this Title.

2 ~~4. --- Transition. --- Any contingency reserve fund accumulated~~
3 ~~and expended prior to January 1, 1991 may not be considered in~~
4 ~~determining whether a utility has reached its maximum amount~~
5 ~~under subsection 2.~~

6 **5. Commission review.** If the commission determines that ~~a~~
7 ~~water utility's contingency reserve fund has reached the maximum~~
8 ~~that may be accumulated under subsection 2 and that the utility~~
9 ~~is accumulating the consumer-owned water utility has accumulated~~
10 in its unappropriated retained earnings account an amount that is
11 inconsistent with just and reasonable rates, the commission may,
12 pursuant to chapter 13, order the utility to reduce its rates to
13 the appropriate level either in the form of temporary rate
14 adjustments, credits or reduction in rates.

16 **6. Public hearing on excesses.** If a consumer-owned water
17 utility in each of 3 consecutive years collects through rates
18 under subsection 1 an amount, in the case of a utility with up to
19 \$85,000 total annual revenues, greater than 10% of the utility's
20 annual operating expenses or, in the case of a utility with
21 greater than \$85,000 total annual revenues, an amount equal to or
22 greater than 7% of the utility's total annual operating expenses,
23 the water utility shall:

24
25 A. Immediately No later than July 1st of the calendar year
26 following the end of the 3rd consecutive year of
27 over-collection, notify all of its customers in writing of
28 the over-collection and of the time and place where the
29 utility will hold a public hearing on the matter; and

30
31 B. Hold a public hearing no less than 10 days and no more
32 than 30 days after sending the notice required under
33 paragraph A. During the hearing the water utility shall:

- 34
35 (1) Detail the extent of the over-collection;
- 36
37 (2) Provide opportunity for any customer to testify or
38 question the officials on any matter relating to the
39 utility's financial situation; and
- 40
41 (3) Explain and provide copies of the provisions of
42 section 1302 and section 6104, subsection 7.

44 **Sec. 3. 35-A MRSA §6113, sub-§1,** as enacted by PL 1993, c. 30,
45 §1, is amended to read:

46
47 **1. Water supply protection fund.** A consumer-owned water
48 utility may establish a water supply protection fund to which a
49 sum may be credited annually from surplus funds. The annual
50 credit may not exceed 5% of the prior year's total revenue. If

2 ~~the utility has established a contingency reserve fund pursuant~~
3 ~~to section 6112, the utility may not credit any amount to the~~
4 ~~water supply protection fund unless the contingency reserve fund~~
5 ~~has reached its maximum pursuant to section 6112, subsection 2.~~

6

8 SUMMARY

10 This amendment replaces the bill but preserves the substance
11 of many of the bill's provisions. As in the bill, the amendment
12 eliminates the requirement that consumer-owned water utilities
13 establish a separate fund to collect contingency allowance
14 collections. The amendment permits a contingency allowance of up
15 to 10% of revenues for small utilities with total annual revenues
16 of no more than \$85,000. It specifies that amounts collected
17 through the allowance may be spent only for purposes for which
18 other revenues may lawfully be spent and clarifies that all such
19 expenditures are subject to Public Utilities Commission review.
20 It preserves a provision of existing law that if a utility
21 collects amounts that the Public Utilities Commission determines
22 to be inconsistent with just and reasonable rates, the commission
23 may require rate reductions or credits. It preserves the current
24 law's requirement that if a utility over-collects under its
25 allowance for 3 consecutive years, it must notify its ratepayers
26 and hold a public hearing. It provides that such notice to
27 ratepayers must be provided no later than July 1st of the
28 calendar year following the 3rd consecutive year of
over-collection. It also removes or changes, as appropriate,
references to the contingency fund in other sections of law.

FISCAL NOTE REQUIRED
(See attached)

**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1750

**An Act To Improve the Ability of Water Utilities to Maintain a
Contingency Allowance**



LR 2519(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Utilities and Energy

Fiscal Note Required: Yes

Fiscal Note

Minor savings - Other Special Revenue Funds