

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 868

H.P. 619

House of Representatives, February 16, 2005

### An Act To Ensure Equity in Funding

(EMERGENCY)

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Reference to the Committee on Utilities and Energy suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BLISS of South Portland.  
Cosponsored by Senator BARTLETT of Cumberland and  
Representative: FLETCHER of Winslow.

2           **Emergency preamble.** Whereas, acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** the Public Utilities Commission and the Public  
Advocate rely on assessments for their annual budgets; and

8           **Whereas,** this legislation affects the levels of income from  
specific sources; and

10  
12           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
14 necessary for the preservation of the public peace, health and  
safety; now, therefore,

16  
18           **Be it enacted by the People of the State of Maine as follows:**

20           **Sec. 1. 35-A MRSA §116, sub-§1,** as amended by PL 2003, c. 272,  
§1, is further amended to read:

22           **1. Utilities subject to assessments.** Every transmission  
and distribution, gas, telephone and water utility and ferry  
24 subject to regulation by the commission is subject to an  
assessment on its intrastate gross operating revenues to produce  
no more than \$5,505,000 in revenues annually. ~~The commission~~  
26 ~~shall assess transmission and distribution utilities at a rate~~  
~~sufficient to produce \$3,772,000 annually.~~ ~~The commission shall~~  
28 ~~assess all other utilities at a rate sufficient to produce~~  
30 \$1,733,000 annually. The commission shall develop a method of  
accounting for the time spent by the commission and its  
32 professional and support staff on issues related to the  
categories of public utilities as described in section 102,  
34 subsection 13. The commission shall determine the assessments  
for each category of utility based on the results of that  
36 accounting. Within each utility category, assessments on the  
utilities in that category must be based on gross intrastate  
38 operating revenues. The commission shall determine the  
assessments annually prior to May 1st and assess each utility for  
40 its pro rata share for expenditure during the fiscal year  
beginning July 1st. Each utility shall pay the assessment  
42 charged to the utility on or before July 1st of each year. Any  
increase in the assessment that becomes effective subsequent to  
44 May 1st may be billed on the effective date of the act  
authorizing the increase.

46  
48           A. The assessments charged to utilities under this section  
are just and reasonable operating costs for rate-making  
purposes.

50

2 B. For the purposes of this section, "intrastate gross  
operating revenues" means intrastate revenues derived from  
4 filed rates, except revenues derived from sales for resale.

6 C. Gas utilities subject to the jurisdiction of the  
commission solely with respect to safety are not subject to  
8 any assessment.

10 D. The commission may correct any errors in the assessments  
by means of a credit or debit to the following year's  
12 assessment rather than reassessing all utilities in the  
current year.

14 E. The commission may exempt utilities with annual  
intrastate gross operating revenues under \$50,000 from  
16 assessments under this section.

18 **Sec. 2. 35-A MRSA §116. sub-§8**, as amended by PL 2003, c. 272,  
§2 and c. 505, §12, is further amended to read:

20 **8. Public Advocate assessment.** Every utility subject to  
22 assessment under this section is subject to an additional annual  
assessment on its intrastate gross operating revenues to produce  
24 sufficient revenue for expenditures allocated by the Legislature  
for operating the Office of Public Advocate. This additional  
26 assessment is calculated in the same manner as assessments made  
by the commission pursuant to subsection 1. The revenues  
28 produced from this assessment are transferred to the Public  
Advocate Regulatory Fund and may only be used to fulfill the  
30 duties specified in chapter 17. The assessments charged to  
utilities under this subsection are considered just and  
32 reasonable operating costs for rate-making purposes. The Public  
Advocate shall develop a method of accounting for staff time  
34 within the Office of Public Advocate. All professional and  
support staff shall account for their time in such a way as to  
36 identify the percentage of time devoted to public utility  
regulation and the percentage of time devoted to other duties  
38 that may be required by law.

40 A. The Public Advocate shall submit its budget  
recommendations as part of the unified current services  
42 budget legislation in accordance with Title 5, sections 1663  
to 1665. The assessments and expenditures provided in this  
44 section are subject to legislative approval. The Public  
Advocate shall make an annual report of its planned  
46 expenditures for the year and on its use of funds in the  
previous year. The Public Advocate may also receive other  
48 funds as appropriated by the Legislature.

50 B. The Public Advocate may use the revenues provided in  
accordance with this section to fund the Public Advocate and

2 9 employees and to defray the costs incurred by the Public  
Advocate pursuant to this Title, including administrative  
4 expenses, general expenses, consulting fees and all other  
reasonable costs incurred to administer this Title.

6 C-1. Except as specified in this subsection, funds that are  
not expended at the end of a fiscal year do not lapse but  
8 must be carried forward to be expended for the purposes  
specified in this section in succeeding fiscal years; but,  
10 with the exception of funds carried forward from fiscal year  
2002-03 and fiscal year 2003-04 for use in the following  
12 fiscal year, unexpended funds in excess of 10% of the total  
annual assessment authorized in this section must, at the  
14 option of the Public Advocate, ~~either~~ be either presented to  
the Legislature in accordance with paragraph A for  
16 reallocation and expenditure or used to reduce the utility  
assessment in the following fiscal year. In the case of  
18 funds carried forward from fiscal year 2002-03 and fiscal  
year 2003-04 for use in the following fiscal year, 100% of  
20 these funds may be expended for the purposes specified in  
this section.

22 **Sec. 3. Public Utilities Commission study.** Beginning on the  
24 effective date of this Act, the Public Utilities Commission shall  
account for the time spent by the commission and all other  
26 professional and support staff on energy supply issues,  
including, but not limited to, regional supply issues, standard  
28 offer proceedings and oversight of competitive energy providers,  
and report the accounting results to the Joint Standing Committee  
30 on Utilities and Energy no later than March 1, 2006. The  
committee is authorized to report out a bill based on the results  
32 of this study.

34 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.  
36

38 **SUMMARY**

40 This bill requires the Public Utilities Commission to  
develop a method of accounting for the time spent by the  
42 commission and its professional and support staff on energy  
supply issues and report the accounting results by March 1, 2006  
44 to the Joint Standing Committee on Utilities and Energy. The  
bill also requires annual assessments for the operation of the  
46 Office of Public Advocate to be calculated in the same manner as  
assessments made by the Public Utilities Commission.