

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1120

S.P. 340

In Senate, March 7, 2019

An Act To Protect Consumers from Price Gouging by Utility Companies

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CHENETTE of York.
Cosponsored by Representative SYLVESTER of Portland and
Senator: MIRAMANT of Knox, Representatives: ACKLEY of Monmouth, BAILEY of Saco,
RYKERSON of Kittery.

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

2 **Sec. 1. 2 MRSA §6-A**, as amended by PL 2015, c. 8, §1, is further amended to
3 read:

4 **§6-A. Salaries of commissioners and certain employees of the Public Utilities**
5 **Commission**

6 The salaries of the commissioners and certain employees of the Public Utilities
7 Commission ~~shall be~~ are as follows.

8 **1. Chair; members.** The salary of the chair and other members of the commission
9 is equal to ~~the salary of the Chief Justice of the Superior Court as established pursuant to~~
10 ~~Title 4, section 4, subsection 2-A and section 102, subsection 1~~ the state average annual
11 wage adjusted for inflation as determined by the Department of Administrative and
12 Financial Services based on United States Department of Labor, Bureau of Labor
13 Statistics data.

14 ~~**2. Commission members.** The salary of members of the commission is equal to the~~
15 ~~salary of an Associate Justice of the Superior Court as established pursuant to Title 4,~~
16 ~~section 102, subsections 2 and 2-A.~~

17 **3. Other employees.** The salaries of the following employees are within salary
18 range 53:

- 19 A. General counsel;
- 20 B. Director of telephone and water utility industries;
- 21 C. Administrative Director;
- 22 D. Director of electric and gas utility industries; and
- 23 E. Director of consumer assistance and safety.

24 **3-A. Other employees; range 35.** The salaries of the following employees are
25 within salary range 35:

- 26 A. Assistant administrative director.

27 **5. Retirement contribution.** The State shall pay the mandatory retirement
28 contribution required by Title 5, section 17701; for commissioners who elect to become
29 members of the Maine Public Employees Retirement System. Payment ~~shall~~ must be
30 made as provided in Title 5, section 17702. A commissioner may elect at the time of
31 appointment to receive a 5% salary increase instead of state payment of the retirement
32 contribution.

33 Membership in the Maine Public Employees Retirement System is optional.

34 **Sec. 2. 35-A MRSA §105**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to
35 read:

1 **§105. Appointment**

2 **1. Appointment.** The Governor shall appoint 3 members to the Public Utilities
3 Commission. The appointments ~~shall be~~ are subject to review by the joint standing
4 committee of the Legislature having jurisdiction over public utilities matters and to
5 confirmation by the Legislature. Members of the commission shall devote full time to
6 their duties. The commissioners serve at the pleasure of the Governor.

7 ~~**2. Term.** The commissioners shall serve for terms of 6 years.~~

8 ~~A. Each term shall end on March 31st of the 6th year of the term. The terms shall be~~
9 ~~staggered so that one ends in 1987 and every 6 years thereafter, one ends in 1989 and~~
10 ~~every 6 years thereafter, and one ends in 1991 and every 6 years thereafter.~~

11 ~~B. A commissioner may continue to serve beyond the end of this term until a~~
12 ~~successor is appointed and qualified.~~

13 ~~C. Any vacancy occurring in the commission shall be filled by appointment for the~~
14 ~~unexpired portion of the term.~~

15 **Sec. 3. 35-A MRSA §108-B, sub-§3,** as enacted by PL 2013, c. 554, §1, is
16 amended to read:

17 **3. Compensation.** In the event of a temporary appointment under this section, the
18 commission shall provide administrative support to the temporary commissioner and
19 compensate the temporary commissioner for the hours spent at the commission working
20 on a proceeding at an hourly rate that is computed by dividing the annual salary of a
21 commissioner, established in Title 2, section 6-A, subsection ~~2~~ 1, by 2,080 hours.

22 **Sec. 4. 35-A MRSA §301, sub-§4,** as amended by PL 1993, c. 506, §1, is further
23 amended to read:

24 **4. Determining rates.** In determining just and reasonable rates, the commission:

25 A. Shall provide such revenues to the utility as may be required to perform its
26 public service and to attract necessary capital on just and reasonable terms; ~~and~~

27 B. Shall, to a level within the commission's discretion, consider whether the utility
28 is operating as efficiently as possible and is utilizing sound management practices,
29 including the treatment in rates of executive compensation; ~~and~~

30 C. Shall limit rate increases to less than 10% in any 12-month period.

31 **Sec. 5. 35-A MRSA §302,** as enacted by PL 1987, c. 141, Pt. A, §6, is amended to
32 read:

33 **§302. Limitations on rates**

34 The following expenses, whether paid directly or indirectly, through reimbursement
35 or otherwise, incurred by a public utility ~~shall~~ may not be included or incorporated in
36 operating expenses:

1 **1. Contributions to political groups or candidates.** Contributions or gifts to
2 political candidates, political parties, political or legislative committees or any committee
3 or organization working to influence referendum petitions or elections; and

4 **2. Costs associated with errors or mistakes.** Costs associated with errors or
5 mistakes incurred by a public utility when the utility is determined by the commission to
6 be responsible for the error or mistake by the utility's own admission or after commission
7 investigation.

8 **Sec. 6. 35-A MRSA §1701, sub-§1-A,** as enacted by PL 2009, c. 399, §2, is
9 amended to read:

10 **1-A. Appointment of the Public Advocate; removal.** This subsection governs the
11 appointment, ~~term of service~~ and removal of the Public Advocate.

12 A. The Governor shall appoint the Public Advocate, subject to review by the joint
13 standing committee of the Legislature having jurisdiction over public utilities matters
14 and to confirmation by the Legislature. The Public Advocate serves at the pleasure of
15 the Governor.

16 ~~B. The Public Advocate shall serve for a 4-year term of office, beginning on~~
17 ~~February 1, 2013 and every 4 years thereafter.~~

18 ~~C. The Public Advocate may continue to serve beyond the end of the 4-year term~~
19 ~~until a successor is appointed and qualified.~~

20 ~~D. Any vacancy occurring must be filled by appointment for the unexpired portion of~~
21 ~~the term.~~

22 E. Any willful violation of this chapter by the Public Advocate constitutes sufficient
23 cause for removal of the Public Advocate by the Governor, on the address of both
24 branches of the Legislature or by impeachment pursuant to the Constitution of Maine,
25 Article IX, Section 5.

26 **Sec. 7. 35-A MRSA §3195, sub-§2,** as amended by PL 2003, c. 45, §1, is further
27 amended to read:

28 **2. Just and reasonable rates.** In determining the reasonableness of any rate-
29 adjustment mechanism established under this subchapter, the commission shall apply the
30 standards of section 301 to ensure that the rates resulting from the implementation of the
31 mechanism are just and reasonable and subject to the limitations of section 302. Prior to
32 the adoption of a new or replacement alternative rate plan or renewal of any existing
33 alternative rate plan, the commission shall, in order to ensure that rates at the starting
34 point of the plan are just and reasonable, conduct a revenue requirement and earnings
35 review pursuant to the standards of section 301. In conducting such a review under this
36 subsection, the commission, at its discretion, may conduct the review in a manner
37 designed to minimize the cost of the review to ratepayers.

1

SUMMARY

2 This bill changes the positions of the members of the Public Utilities Commission,
3 currently 6-year terms, and the Public Advocate, currently a 4-year term, to positions
4 serving at the pleasure of the Governor. It also changes the compensation of the members
5 of the Public Utilities Commission to be set at the average annual wage in the State;
6 current law sets compensation of the chair of the commission at the salary of the Chief
7 Justice of the Superior Court and the other commissioners at the salary of an Associate
8 Justice of the Superior Court.

9 The bill requires the commission, in the determination of utility rates, to limit rate
10 increases to less than 10% in any 12-month period. The bill also prohibits costs
11 associated with errors or mistakes that are the responsibility of a utility from being
12 included or incorporated in operating expenses in the commission's determination of rates
13 or rate-adjustment mechanisms.