

7/1/20

L.D. 1881

Date: 3/3/20 Majority

(Filing No. H- 7/3)

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**ENERGY, UTILITIES AND TECHNOLOGY**

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

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COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1881, Bill, "An Act Regarding Utility-related Fees"

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Amend the bill by striking out the title and substituting the following:

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**'An Act Regarding Public Utility Assessments, Fees and Penalties'**

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

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**'Sec. 1. 35-A MRSA §116, sub-§1**, as amended by PL 2013, c. 600, §1, is further amended to read:

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**1. Entities subject to assessments.** Every transmission and distribution, gas, telephone and water utility and ferry subject to regulation by the commission and every qualified telecommunications provider is subject to an assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for the Public Utilities Commission Regulatory Fund established pursuant to this section. The budget for the Public Utilities Commission Regulatory Fund is subject to legislative review and approval in accordance with subsection 2. The portion of the total assessment applicable to each category of public utility or qualified telecommunications provider is based on an accounting by the commission of the portion of the commission's resources devoted to matters related to each category. The commission shall develop a reasonable and practicable method of accounting for resources devoted by the commission to matters related to each category of public utility or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. Within each category of public utility, the assessment must be apportioned and applied separately to investor-owned utilities and consumer-owned utilities. The portion of the assessment applicable to investor-owned utilities and consumer-owned utilities within each category must be determined based on an accounting by the commission of the portion of the commission's resources devoted to matters related to investor-owned utilities and the portion devoted to matters related to consumer-owned utilities. The commission shall

**COMMITTEE AMENDMENT**

1 determine the assessments annually prior to May 1st and assess each utility or qualified  
2 telecommunications provider for its pro rata share for expenditure during the fiscal year  
3 beginning July 1st. Each utility or qualified telecommunications provider shall pay the  
4 assessment charged to the utility or qualified telecommunications provider on or before  
5 July 1st of each year. Any increase in the assessment that becomes effective subsequent  
6 to May 1st may be billed on the effective date of the act authorizing the increase.

7 A. The assessments charged to utilities and qualified telecommunications providers  
8 under this section are just and reasonable operating costs for rate-making purposes.

9 B. For the purposes of this section, "intrastate gross operating revenues" means:

10 (1) In the case of all utilities except telephone utilities, revenues derived from  
11 filed rates except revenues derived from sales for resale;

12 (2) In the case of a telephone utility, all intrastate revenues, except revenues  
13 derived from sales for resale, whether or not the rates from which those revenues  
14 are derived are required to be filed pursuant to this Title; and

15 (3) In the case of a qualified telecommunications provider, all intrastate revenues  
16 except revenues derived from sales for resale.

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

19 D. The commission may correct any errors in the assessments by means of a credit or  
20 debit to the following year's assessment rather than reassessing all utilities or  
21 qualified telecommunications providers in the current year.

22 E. The commission may exempt utilities or qualified telecommunications providers  
23 with annual intrastate gross operating revenues under \$50,000 from assessments  
24 under this section.

25 For purposes of this section, "qualified telecommunications provider" means a provider  
26 of interconnected voice over Internet protocol service that paid any assessment under this  
27 subsection, whether voluntarily, by agreement with the commission or otherwise, prior to  
28 March 1, 2012.

29 **Sec. 2. 35-A MRSA §116, sub-§8**, as amended by PL 2019, c. 226, §1, is further  
30 amended to read:

31 **8. Public Advocate assessment.** Every utility or qualified telecommunications  
32 provider subject to assessment under this section is subject to an additional annual  
33 assessment on its intrastate gross operating revenues to produce sufficient revenue for  
34 expenditures allocated by the Legislature for operating the Office of the Public Advocate.  
35 The portion of this assessment applicable to each category of public utility or qualified  
36 telecommunications provider is based on an accounting by the Public Advocate of  
37 resources devoted to matters related to each category. The Public Advocate shall develop  
38 a reasonable and practicable method of accounting for resources devoted by the Public  
39 Advocate to matters related to each category of public utility or qualified  
40 telecommunications provider. Assessments on each public utility or qualified  
41 telecommunications provider within each category must be based on the utility's or  
42 qualified telecommunications provider's gross intrastate operating revenues. Within each

1 category of public utility, the assessment must be apportioned and applied separately to  
2 investor-owned utilities and consumer-owned utilities. The portion of the assessment  
3 applicable to investor-owned utilities and to consumer-owned utilities within each  
4 category must be determined based on an accounting by the Public Advocate of the  
5 portion of the resources of the Office of the Public Advocate devoted to matters related to  
6 investor-owned utilities and the portion devoted to matters related to consumer-owned  
7 utilities. The revenues produced from this assessment are transferred to the Public  
8 Advocate Regulatory Fund and may ~~only~~ be used only to fulfill the duties specified in  
9 chapter 17. The assessments charged to utilities and qualified telecommunications  
10 providers under this subsection are considered just and reasonable operating costs for  
11 rate-making purposes. The Public Advocate shall develop a method of accounting for  
12 staff time within the Office of the Public Advocate. All professional and support staff  
13 shall account for their time in such a way as to identify the percentage of time devoted to  
14 public utility and qualified telecommunications provider regulation and the percentage of  
15 time devoted to other duties that may be required by law.

16 A. The Public Advocate shall submit its budget recommendations, using a zero-  
17 based budgeting process or other process or method directed by the State Budget  
18 Officer, as part of the unified current services budget legislation in accordance with  
19 Title 5, sections 1663 to 1666. The assessments and expenditures provided in this  
20 section are subject to legislative approval. The Public Advocate shall make an annual  
21 report of its planned expenditures for the year and on its use of funds in the previous  
22 year. The Public Advocate may also receive other funds as appropriated by the  
23 Legislature.

24 B. The Public Advocate may use the revenues provided in accordance with this  
25 section to fund the Public Advocate and 10 employees and to defray the costs  
26 incurred by the Public Advocate pursuant to this Title, including administrative  
27 expenses, general expenses, consulting fees and all other reasonable costs incurred to  
28 administer this Title.

29 C-1. Funds that are not expended at the end of a fiscal year do not lapse but must be  
30 carried forward to be expended for the purposes specified in this section in  
31 succeeding fiscal years.

32 **Sec. 3. 35-A MRS §120, sub-§2-A is enacted to read:**

33 **2-A. Filing fees and penalties; legislation.** Any filing fees or penalties collected in  
34 the previous year under this Title that have not been adjusted in the previous 5 years. For  
35 filing fees or penalties reported pursuant to this subsection, the commission shall submit,  
36 along with the annual report, draft legislation to adjust the dollar value of the filing fee or  
37 penalty based on the actuarially compounded Consumer Price Index since the fee or  
38 penalty was last adjusted. After receiving the annual report, the committee may report  
39 out a bill based on the draft legislation submitted pursuant to this subsection;

40 **Sec. 4. 35-A MRS §120, sub-§2-B is enacted to read:**

41 **2-B. Commission expenses; investor-owned and consumer-owned utilities.**  
42 Beginning in 2021, for each category of public utility listed in section 116, subsection 1:

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A. The portion of commission resources devoted to matters related to investor-owned utilities and the portion of commission resources devoted to matters related to consumer-owned utilities; and

B. The commission's expenses per dollar of intrastate gross operating revenue for investor-owned utilities and for consumer-owned utilities;

**Sec. 5. 35-A MRSA §708, sub-§4**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**4. Filing fee.** Within 30 days after the application for approval of a reorganization is filed pursuant to subsection 2, the commission may order the applicant to pay a filing fee not to exceed \$50,000, .05% of the estimated total value of the corporation or entity resulting from the proposed reorganization if the commission determines that the application may involve issues ~~which will~~ that would necessitate significant additional costs to the commission, except that if a reorganization would result in the transfer of ownership and control of a public utility or the parent company of a public utility, the commission shall order the applicant to pay to the commission a filing fee in an amount equal to .05% of the estimated total value of the corporation or entity resulting from the proposed reorganization. The applicant may request the commission to waive all or a portion of the filing fee. The commission shall rule on the request for waiver within 30 days. Notwithstanding any other provision of law, filing fees paid as required in this subsection ~~shall~~ must be segregated, apportioned and expended by the commission for the purposes of processing the application. Any portion of the filing fee that is received from an applicant and is not expended by the commission to process the application ~~shall~~ must be returned to the applicant.

**Sec. 6. 35-A MRSA §1702, sub-§6, ¶A** is enacted to read:

A. Beginning in 2021, the annual report must include, for each category of public utility listed in section 116, subsection 1, an accounting of:

(1) The portion of the Public Advocate's resources devoted to matters related to investor-owned utilities and the portion of resources devoted to matters related to consumer-owned utilities; and

(2) The Public Advocate's expenses per dollar of intrastate gross operating revenue for investor-owned utilities and for consumer-owned utilities.

**Sec. 7. Fee and penalty revision.** The Public Utilities Commission shall submit legislation to the First Regular Session of the 130th Legislature to adjust the dollar value of filing fees and penalties required under the Maine Revised Statutes, Title 35-A based on the actuarially compounded Consumer Price Index for each filing fee or penalty since it was enacted or established, rounding to the nearest multiple of \$100 if the filing fee or penalty is below \$10,000 and to the nearest multiple of \$1,000 if the filing fee or penalty is \$10,000 or greater.'

**SUMMARY**

This amendment replaces the bill. The amendment does the following:

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1. It requires the Public Utilities Commission and the Public Advocate, respectively, in calculating assessments charged to public utilities to apportion the assessment within each category of public utility, that is, transmission and distribution, gas, telephone and water, between investor-owned utilities and consumer-owned utilities based on an accounting of the portion of the commission's resources and the Public Advocate's resources, respectively, devoted to matters related to investor-owned utilities and the portion devoted to matters related to consumer-owned utilities.

2. It requires the commission, in its annual report, to report on any filing fees or penalties collected from public utilities in the previous year that have not been adjusted in the previous 5 years and to provide draft legislation to adjust the dollar value of filing fees and penalties based on the actuarially compounded Consumer Price Index for each fee and penalty since the last adjustment.

3. It requires the commission and the Public Advocate to report annually, beginning in 2021, on the portion of resources devoted to matters related to investor-owned utilities and the portion of resources devoted to matters related to consumer-owned utilities and on commission and Public Advocate expenses, respectively, per dollar of intrastate gross operating revenue for investor-owned utilities and consumer-owned utilities.

4. It amends the law governing filing fees for reorganizations of utilities to authorize the commission to order a filing fee of up to .05% of the estimated total value of the reorganization and to require the commission to order payment of a filing fee equal to .05% of the estimated total value of the reorganization if a reorganization would result in the transfer of ownership and control of a public utility or the parent company of a public utility. Under current law the commission may charge a filing fee of up to \$50,000 to an applicant seeking approval for a reorganization.

5. It requires the commission to submit legislation to the First Regular Session of the 130th Legislature to adjust all fees and penalties paid by public utilities based on the actuarially compounded Consumer Price Index for each fee or penalty since enactment.

**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



# 129th MAINE LEGISLATURE

LD 1881

LR 2628(02)

## An Act Regarding Utility-related Fees

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

*A (H-713)*

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### Fiscal Note

Future biennium revenue increase - Other Special Revenue Funds

Minor cost increase - Other Special Revenue Funds

#### Fiscal Detail and Notes

This bill requires the Public Utilities Commission (PUC) and the Office of the Public Advocate (OPA) to apportion the existing assessments collected from public utilities between investor-owned utilities and consumer-owned utilities. It also requires the PUC to report on any filing fees or penalties collected during the previous year that have not been adjusted in the previous five years and to recommend adjustments based on the consumer price index. It also requires the PUC and OPA to include information regarding their activities devoted to investor-owned utilities and consumer-owned utilities in annual reports. Finally, the bill authorizes the PUC to increase filing fees for reorganizations of utilities from \$50,000 to an amount not to exceed 5/100 of 1 percent of the estimated total value of the reorganization.

Recommendations to change the filing fees or penalties based on the consumer price index and changes to the filing fees for reorganizations of utilities will increase Other Special Revenue Funds revenue to the PUC. No estimate of the amount is made at this time. Any additional costs to the PUC and OPA from the activities required in this bill are anticipated to be minor and can be absorbed within existing budgeted resources.