

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

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 necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §17805, sub-§1, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. The original spouse must have been the sole beneficiary of the reduced retirement benefit under section 17804, subsection 3, 4 or 5; and

Sec. 2. 5 MRSA §17805, sub-§1, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 3. 5 MRSA §17805, sub-§1, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 4. 5 MRSA §17805, sub-§1, ¶D is enacted to read:

D. The recipient must have been married to the new spouse for at least 6 months.

Sec. 5. 5 MRSA §17805, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Time and manner of election. The recipient may make the election at any time after the death of his the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and

~~B. Submitting evidence satisfactory to the executive director of the recipient's good health.~~

C. Submitting evidence of the death of the former spouse and date of marriage to the new spouse.

Sec. 6. 5 MRSA §17805, sub-§4 is enacted to read:

4. Effective date of coverage of the new spouse. The effective date of the designation of the new spouse as the recipient's new beneficiary will be the date the request is received or 6 months after the date of remarriage, whichever comes later. The recipient's retirement benefit shall be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

Sec. 7. 5 MRSA §18405, sub-§1, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. The original spouse must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4 or 5; and

Sec. 8. 5 MRSA §18405, sub-§1, ¶¶B and C, as enacted by PL 1985, c. 801, §§5 and 7, are repealed.

Sec. 9. 5 MRSA §18405, sub-§1, ¶D is enacted to read:

D. The recipient shall have been married to the new spouse for at least 6 months.

Sec. 10. 5 MRSA §18405, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Time and manner of election. The recipient may make the election under subsection 1 at any time after the death of his the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and

~~B. Submitting evidence satisfactory to the executive director of the recipient's good health.~~

C. Submitting evidence of the death of the former spouse and date of marriage to the new spouse.

Sec. 11. 5 MRSA §18405, sub-§4 is enacted to read:

4. Effective date of coverage of new spouse. The effective date of the designation of the new spouse as the recipient's new beneficiary will be the date the request is received or 6 months after the date of remarriage, whichever comes later. The recipient's retirement benefit shall be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 14, 1988.

CHAPTER 613

H.P. 1768 — L.D. 2421

AN ACT to Encourage Conservation Investments by Electric Utilities.

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

Sec. 1. 35-A MRSA §102, sub-§6, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

6. Electric plant. "Electric plant" includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, conservation, load management, transmission, delivery or furnishing of electricity for light, heat or power, for public use, and all conduits,

ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power for public use. “Electric plant” includes, but is not limited to, fixtures and personal property on the premises of a utility’s customer, financed in whole or in part by that utility, and found by the commission to constitute a cost-effective investment in conservation or load management. In the case of these conservation or load management investments only, “electric plant” may include property actually owned by the customer or by a party other than the utility. The presence of property on the premises of a customer or other party, which property is included in the rate base of an electric utility as qualifying conservation or load management investment, shall not cause the customer or other party to be determined to be a public utility for any purpose.

Sec. 2. 35-A MRSA §303, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§303. Valuation of property for fixing rates

In determining just and reasonable rates, tolls and charges, the commission shall fix a reasonable value upon all the property of a public utility and upon an electric plant to the extent paid for by the utility on the premises of any of its customers, which is used or required to be used in its service to the public within the State and a fair return on that property. In fixing a reasonable value, the commission shall give due consideration to evidence of the cost of the property when first devoted to public use and the prudent acquisition cost to the utility, less depreciation on each, and any other material and relevant factors or evidence, but the other factors shall not include current value. In making a valuation, the commission may consult reports, records or other information available to it in the office of any state office or board.

Sec. 3. 35-A MRSA §3154, sub-§6 is enacted to read:

6. Conservation investments in rate base. Upon petition by the public utility in any general rate change request pursuant to section 307, filed on or after January 1, 1988, the commission may in its discretion include in the utility’s rate base and permit a fair return on the utility’s rate base, any electric plant to the extent financed by the utility which constitutes a cost effective investment in conservation or load management and which was installed on the premises of a customer.

Sec. 4. 35-A MRSA §3304, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§3304. Control and regulation of generating facilities

Notwithstanding the definition of a public utility or of an electric plant in section 102, a small power production facility and a cogeneration facility, as defined in section 3303, is not deemed a public utility and is not sub-

ject to control or regulation by the commission, except that the commission may treat all or a portion of the equity investment, whether direct or indirect, by an electric utility in a qualifying cogeneration facility or a qualifying small power production facility as public utility property for retail rate-making purposes. Commission determination and regulation of rates of electric utilities, which include purchases of power from a qualifying small power production facility or cogeneration facility, shall not be considered control or regulation of these facilities.

The presence of property on the premises of a qualifying facility, or upon the premises of a partner in or part owner of a qualifying facility, which property has been included in the rate base of an electric utility as qualifying conservation or load management investment, shall not cause the qualifying facility or any partner in or part owner of a qualifying facility to be determined to be a public utility for any purpose.

Effective August 4, 1988.

CHAPTER 614

H.P. 1456 — L.D. 1967

AN ACT to Clarify the Status of Meetings and Records of the Public Utilities Commission Under the Freedom of Access Law.

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

Sec. 1. 35-A MRSA §108, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§108. Commission action; quorum; notice

A majority of the duly appointed commissioners shall constitute a quorum and the act or decision of a majority of commissioners present, if at least a quorum is present, shall be the act or decision of the commission in any formal proceeding before the commission.

Notwithstanding Title 1, section 406, the commission is required to give notice of public proceedings only if the commission will deal with the expenditure of public funds or taxation or will adopt policy at the meeting.

For purposes of this section, the adoption of policy is deemed to include, but is not limited to, a decision to adopt or modify a rule pursuant to Title 5, chapter 375, subchapter II; a decision making an advisory ruling pursuant to Title 5, chapter 375, subchapter III; or a final decision at the conclusion of an adjudicatory proceeding pursuant to Title 5, chapter 375, subchapter IV.

Sec. 2. 35-A MRSA §704, sub-§5 is enacted to read:

5. Confidentiality of customer information. The fol-