

MAINE STATE LEGISLATURE

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(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1181

H. P. 993

House of Representatives, March 9, 1981

Referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kany of Waterville.

Cosponsors: Senator Trafton of Androscoggin, Representative Dexter of Kingfield and Representative Weymouth of West Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Create the Office of Energy and the Public Advocate.

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

Sec. 1. 2 MRSA § 6, sub-§ 3, last ¶, as repealed and replaced by PL 1977, c. 697, § 1, is amended to read:

Director, State Planning Office; **and**

Sec. 2. 2 MRSA § 6, sub-§ 3, as last amended by PL 1979, c. 488, § 2, is further amended by adding at the end a new paragraph to read:

The Public Advocate.

Sec. 3. 2 MRSA § 6, sub-§ 6, last ¶, as enacted by PL 1979, c. 579, § 2, and c. 651, § 2, is amended to read:

Members, Maine Employment Security Commission; **and**

Sec. 4. 2 MRSA § 6, sub-§ 6, as last amended by PL 1979, c. 651, § 2, is further amended by adding at the end a new paragraph to read:

Assistant to the Commissioner, Public Utilities Commission.

Sec. 5. 5 MRSA § 5003, as enacted by PL 1973, c. 770, § 2, is repealed.

Sec. 6. 35 MRSA § 1, first ¶, 5th and 6th sentences, as amended, are repealed and the following enacted in their place:

The commission shall appoint a secretary and, with the approval of the Attorney General, a general counsel.

Sec. 7. 35 MRSA § 1, first ¶, 7th sentence, as amended by PL 1965, c. 91, § 2, is repealed as follows:

~~It shall appoint, subject to the Personnel Law, an assistant secretary~~

Sec. 8. 35 MRSA § 1, first ¶, as last amended by PL 1975, c. 771, § 390, is further amended by adding after the 7th sentence a new sentence to read:

The commission shall retain one confidential professional assistant for each commissioner who serves at the pleasure of that commissioner, as well as clerical staff to serve the members of the commission.

Sec. 9. 35 MRSA § 1, first ¶, 9th sentence, as amended by PL 1965, c. 91, § 2, is repealed as follows:

~~The assistant secretary shall assist the secretary in the performance of his duties, and in the absence of the secretary shall have the same powers as the secretary~~

Sec. 10. 35 MRSA § 1, 2nd ¶, as amended by PL 1975, c. 771, § 392, is repealed and the following enacted in its place:

The salaries of the clerical staff of the members of the commission shall be subject to the Personnel Law. The commissioners and all employees shall receive actual expenses when traveling on official business.

Sec. 11. 35 MRSA § 1-A is enacted to read:

§ 1-A. Office of Energy and the Public Advocate

1. Appointment of the Public Advocate. The Office of Energy and the Public Advocate shall be headed by the Public Advocate appointed by the Governor and who shall serve at the pleasure of the Governor.

2. Other staff of the Office of Energy and the Public Advocate. In addition to the Public Advocate, the Office of Energy and the Public Advocate shall consist of such other professional, administrative, technical and clerical personnel as may be necessary in order for it to represent the using and consuming public, as provided in subsection 4. All such personnel shall be appointed, supervised and directed by the Public Advocate. The Office of Energy and the Public Advocate is not subject to the supervision, direction or control of the chairman or members of the commission.

3. Salaries and compensation. Except for the Public Advocate, the salaries and compensation of all such personnel of the Office of Energy and the Public Advocate shall be subject to the Personnel Law.

4. Duties. It shall be the duties and responsibilities of the Office of Energy and the Public Advocate to:

A. Carry out the responsibilities of State Government relating to energy resources planning and development as defined in Title 5, sections 5004 and 5005 and as were carried out by the former Office of Energy Resources;

B. Review, investigate and make appropriate recommendations to the commission with respect to the reasonableness of rates charged or proposed to be charged by any public utility or carrier and with respect to the consistency of the rates with such state energy policy as may be in effect at the time, pursuant to Title 5, section 5005, subsection 1, paragraph B, as well as the protection of public health and safety;

C. Intervene on behalf of the using and consuming public, in all commission proceedings affecting the rates or service of any public utility or carrier;

D. Review, investigate and make appropriate recommendations to the commission with respect to the service furnished or proposed to be furnished by any public utility or carrier;

E. When deemed necessary by the Public Advocate in the interest of the using and consuming public, petition the commission to initiate proceedings to review, investigate and take appropriate action with respect to the rates or service of any public utilities or carrier;

F. Intervene on behalf of the using and consuming public in all certificates of convenience and necessity applications filed, and present alternative analyses and plans as may be necessary;

G. Intervene on behalf of the using and consuming public in all proceedings wherein any public utility proposes to reduce or abandon service to the public;

H. Investigate complaints affecting the using and consuming public generally which are directed to the commission, members of the commission or the Office of Energy and the Public Advocate and, where appropriate, make recommendations to the commission with respect to such complaints;

I. Make studies and recommendations to the commission with respect to standards, regulations, practices or service of any public utility as may be required;

J. When deemed necessary by the Public Advocate, in the interest of the using and consuming public, intervene in commission proceedings with respect to transfers of franchises, mergers, consolidations and combinations of public utilities;

K. Review, investigate and make appropriate recommendations to the commission with respect to contracts of public utilities with affiliates of subsidiaries;

L. When deemed necessary by the Public Advocate, in the interest of the using

and consuming public, advise the commission with respect to securities, regulations and transactions of public utilities;

M. Upon request, employ the resources of the Office of Energy and the Public Advocate to furnish to the commission or its members such information and reports, to conduct such investigations, to act on behalf of the commission and to provide such other assistance as may reasonably be required in order to supervise and control the public utilities of the State as may be necessary to carry out the laws providing for their regulation, provided that this is not inconsistent with other duties and responsibilities of the Office of Energy and the Public Advocate described in this section and as determined by the Public Advocate; and

N. Prepare and submit annual reports of the activities of the Office of Energy and the Public Advocate to the Governor by August 1st each year.

5. Appeal from commission orders. The Public Advocate representing the Office of Energy and the Public Advocate has the same rights of appeal from commission orders or decisions as other parties to commission proceedings.

6. Expert witnesses. The Public Advocate may, on his own initiative or at the request of the commission, employ expert witnesses for participation in commission proceedings and pay appropriate compensation and expenses to employ such witnesses.

7. Expenses of the Office of Energy and the Public Advocate. The Public Advocate, within established budgetary limits and as allowed by law, shall authorize and approve travel, subsistence and related necessary expenses of the Public Advocate or members of the staff of the Office of Energy and the Public Advocate, incurred while traveling on official business.

8. Assistance and information from utilities. All information and other assistance necessary to carry out the purposes of this section and as may be required to be provided to the commission shall be provided to the Public Advocate by the utilities.

Sec. 12. 35 MRSA § 2, first sentence, as amended by PL 1979, c. 734, § 14, is further amended to read:

In addition to the limitations of Title 5, section 18, no member or employee of said the commission, or of the Office of Energy and the Public Advocate, shall may have any official or professional connection or relation with or hold any stock or securities in any public utility, as defined in section 15, operating within this State, nor shall may he render any professional service against any such public utility nor shall may he be a member of a firm which shall render any such service.

Sec. 13. 35 MRSA § 17, sub-§ 1, first sentence, as enacted by PL 1979, c. 427, is amended to read:

Every electric, gas, telegraph, telephone and water utility subject to regulation

by the commission shall be subject to an assessment of not more than .2% of the intrastate gross operating revenues of each utility to produce no more than ~~\$150,000~~ \$300,000 in revenue annually.

Sec. 14. 35 MRSA § 17, sub-§ 4, as amended by PL 1979, c. 663, § 218, is repealed and the following enacted in its place:

4. Use of funds. The revenues derived from this assessment shall be used to defray, in part, the costs of the Office of Energy and the Public Advocate.

Sec. 15. Transition provisions. In creating a public staff, the Public Advocate shall draw upon the current personnel positions within the Public Utilities Commission. The only exceptions shall be those positions designated as the commissioner's staff in sections 5 to 9, the secretary, general counsel, assistants to the commissioner and clerical staff. All other Public Utilities Commission positions and all Office of Energy Resources positions shall, become positions of the Office of Energy and the Public Advocate. The chairman of the commission and the Public Advocate shall, by mutual agreement subject to the approval of the Governor, propose initial budgets based on a redistribution of funds previously allocated to the commission and the Office of Energy Resources.

Sec. 16. Revision clause.

1. Wherever in the Revised Statutes the words "Office of Energy Resources" appear or reference is made to that name, they shall be amended to read and mean "Office of Energy and the Public Advocate."

2. Wherever in the Revised Statutes the words "Director of the Office of Energy Resources" appear or reference is made to that name, they shall be amended to read and mean "the Public Advocate."

STATEMENT OF FACT

This bill creates the Office of Energy and the Public Advocate whose functions are to represent the consuming public's interest in all regulatory decisions and activities relating to public utilities and to perform the duties of the Office of Energy and Resources. In particular, it shall represent the public interest during utility rate increases and structure proceedings, proceedings dealing with the quality of utility service and any proposals by utilities to abandon service.

The Public Advocate shall be appointed by the Governor to direct and supervise the office. Neither the Public Advocate nor the office would be subject to the control, direction or supervision of the commission. The office shall be comprised of the existing personnel positions within the Public Utilities Commission and of the Office of Energy Resources. The Commission will perform its quasi-judicial functions with a small staff.

Additional special revenues to be raised in accordance with section 13 will be applied to funding the Office of Energy and the Public Advocate, releasing General Fund money to fund the 7 additional personnel required by the commission. The expected additional special revenues are \$150,000.