

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1279

S. P. 439

In Senate, March 12, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

Cosponsors: Representative Jacques of Waterville, Representative McGowan of Pittsfield and Representative G. Diamond of Windham.

STATE OF MAINE

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

AN ACT to Restructure the Public Utilities Commission.

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

Sec. 1. Short title; purpose. This Act shall be known as the Maine Utility Regulatory Reform Act. Its purposes are to:

1. Improve the efficiency of regulation of public utilities;
2. Heighten consumer confidence in the regulatory process by establishing an independent and objective commission and staff and an effective public advocate to protect the consumers' interests; and
3. Provide an independent commission to plan for Maine's energy future, with an emphasis on maximum feasible utilization of renewable resources.

Sec. 2. 35 MRSA § 1, as last amended by PL 1975, c. 771, §§ 390 to 392, is repealed and the following enacted in its place:

§ 1. Public Utilities Commission

1. Membership; term. The Public Utilities Commission shall consist of 5 members appointed by the Governor, subject to review by the Joint Standing Committee on Public Utilities and to confirmation by the Legislature from time to

time upon the expiration of the term of the several members who shall serve full time in that position for terms of 4 years; provided, that the term of the commissioners now serving shall terminate on the effective date of this Act and the Governor shall appoint 5 commissioners, one to serve a one-year term, one to serve a 2-year term, one to serve a 3-year term and 2 to serve 4-year terms. Any vacancy occurring in the commission shall be filled by appointment for the unexpired portion of the term in which that vacancy occurs. One member of the commission shall be designated by the Governor as chairman.

In appointing commissioners, the Governor shall select persons who have had experience in matters normally addressed by the commission.

2. **Removal; recall.** The Governor, subject to affirmative vote by the Joint Standing Committee on Public Utilities, unless reversed by a vote of 2/3 of the Senate, may remove any commissioner for cause including, without limitation, misconduct, inefficiency, incompetence in the conduct of his office, neglect of duty or malfeasance in office, after written notice to that commissioner of the charges against him and an opportunity for a hearing before that joint standing committee.

Upon the filing with the Secretary of State of petitions, signed by that number of registered voters equal to 10% of those voting in the last gubernatorial election, requesting the recall of any commissioner or commissioners for cause including, without limitation, misconduct, inefficiency, incompetence in conduct of his office, neglect of duty or malfeasance in office, the Governor shall request the Joint Standing Committee on Public Utilities to review the charges. After written notice to the commissioner of the charges against him and the opportunity for a hearing, the commissioner or commissioners shall be recalled upon an affirmative vote of the Joint Standing Committee on Public Utilities, unless reversed by vote of 2/3 of the Senate.

3. **Authority; duties.** The commission shall have such jurisdiction, authority and duties as have been vested in the Public Utilities Commission as established by statute.

4. **Organization.** The commission shall adopt and have a seal and be provided with an office in which its records shall be kept. The commission shall appoint a secretary, an assistant secretary and a director of transportation. It shall appoint, with the approval of the Attorney General, a general counsel. The secretary shall keep a full and minute record of the proceedings of the commission which shall be open to public inspection at all times. 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. The secretary shall have authority to certify to all official acts of the commission, administer oaths, issue subpoenas and issue all processes, notices, orders or other documents necessary to the performance of the duties of the commission. The commission shall have custody and control of all records, maps and papers pertaining to the offices of the former Board of Railroad Commissioners and the former State Water Storage Commission.

5. **Commission staff.** The commission may appoint a staff executive director, to serve at the pleasure of the commission, and, subject to the Personnel Law, such other personnel, with knowledge or experience in accounting, business, engineering, finance and law as may be necessary to advise it in the conduct of its business, all to be provided for in an appropriation by the Legislature. The Consumer Assistance Division of the commission as previously established shall be part of this staff.

The staff shall serve as independent, impartial and objective advisers to the commissioners and to the public advocate and his staff.

The commissioners and all employees shall receive actual expenses in traveling on approved official business. The budget of the commission shall be reviewed by the Joint Standing Committee on Public Utilities before being submitted to the Appropriations Committee of the Legislature.

6. **Acceptance of goods, services and funds; agreements.** The commission may apply for and accept on behalf of the State any goods, services or funds, including grants, bequests, gifts or contributions from any person, corporation or government, including the Government of the United States.

The commission may enter into such agreements with other state government agencies, governmental agencies of other states and of the United States and of other countries, and with private persons and organizations, as will promote the objectives of the commission.

7. **Costs and expenses.** All assessments collected pursuant to section 17, shall be used to help defray the costs and expenses of the commissioners and the independent advisory staff and shall not be used for the funding of the office of the public advocate.

8. **Appointment of panel to hear cases.** The chairman of the commission may appoint a panel of up to 3 commissioners to hear any case before the commission. No adversary hearing shall be conducted without at least one commissioner being present.

Sec. 3. 35 MRSA § 3, is repealed and the following enacted in its place:

§ 3. **Rules and regulations; assistance**

The commission may employ such expert, professional or other assistance as is necessary in making investigations or in otherwise carrying out chapters 1 to 17. The commission may make all necessary rules and regulations consistent with statutory authority. This rule making shall be done during the regular sessions of the Legislature except when necessary to avoid an immediate threat to public health, safety and general welfare. The Joint Standing Committee on Public Utilities shall be notified of public hearings on rule making and shall be allowed full participation in the proceedings. When it is necessary for the Joint Standing Committee on Public Utilities to participate in rule-making proceedings when the

Legislature is not in session, they shall be paid compensation and expenses in accordance with Title 3, section 2 for attending any meetings or hearings.

Sec. 4. 35 MRSA §§ 18 and 19 are enacted to read:

§ 18. Public advocate

1. **Appointment; term.** The Governor shall appoint a public advocate, at a salary to be fixed by the Governor, to serve for a term of 4 years. The public advocate shall apply his full effort to the duties of the office and may not be actively engaged in any other occupation, practice, profession or business.

2. **Appearance on behalf of ratepayers, customers and the public.** The public advocate may appear on behalf of ratepayers, customers and the public in all hearings before the commission, in appeals from the orders of the commission and in all suits and actions in any court which may involve rates for service, services extension and contracts for service, applications of utilities for authority to issue securities, applications for mergers and sales and all other proceedings including, without limitation, proceedings before the federal agencies and suits and actions in which the subject matter of the action affects the customers of any utility doing business in this State.

3. **Personnel.** The public advocate shall be entitled to employ and fix the compensation, with the approval of the Governor and the Joint Standing Committee on Public Utilities, such other personnel as may be necessary to carry out the duties of his office. The compensation of the public advocate and staff shall be paid from an appropriation made for that purpose by the Legislature.

§ 19. Maine Commission on Energy Future

1. **Membership; duties.** There is created the Maine Commission on Energy Future, consisting of 10 members, each to serve for a 2-year term. The commission shall serve in an advisory capacity to the Executive Department and shall not be considered a board or commission of any state agency or authority. Serving as members of the commission shall be the Chairman of the Public Utilities Commission; the public advocate; the Director of the Office of Energy Resources; the Director of the State Planning Office; one of the chief executive officers of the 3 largest electric utilities in the State; a representative of an electric cooperative or municipal utility; a small power producer or a cogenerator; a representative of the gas industry; and 2 members at large, any member not specifically identified in this section to be appointed by the Governor. The commission shall conduct studies and shall transmit to the Governor biennially a public report including, without limitation, the following:

A. Projection of the demand for electrical energy and natural gas in the State for the succeeding 5, 10 and 15-year period;

B. A plan for the securing of a sufficient supply to meet projected demand, with maximum feasible utilization of renewable resources;

C. Identification of any expected increases in the capacity within the State to generate or transmit electrical energy and natural gas; and

D. Recommendations to the Governor and the Legislature for any administrative or legislative actions which, in the view of the commission, are necessary to carry out the intent of this section.

2. Chairman. The Governor shall appoint one of the members of the commission to be its chairman.

STATEMENT OF FACT

This bill would create a 5-person Public Utilities Commission to replace the present 3-person commission.

With the addition of 2 more commissioners, the Public Utilities Commission would be able to handle its work load by having panels of up to 3 members assigned to each case. The terms of the commissioners would be shortened from 7 years to 4 years, and commissioners would be subject to recall for misconduct, inefficiency, incompetence, neglect of duty or malfeasance in office by action initiated either by the Governor or 10% of the voters.

In addition, the independent office of a public advocate would be created to represent the interests of ratepayers, customers and the public in all matters before the commission. There would also be established a Maine Commission on Energy Future to forecast energy demands and to make recommendations for meeting those demands.