

MAINE STATE LEGISLATURE

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1 (After Deadline)

2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 1355

7
8 H.P. 1030 House of Representatives, March 29, 1983

9 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 27.

10 Speaker laid before the House and on Motion of Representative
Brannigan of Portland, referred to the Committee on Business Legislation.
11 Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Mitchell of Vassalboro.

12 Cosponsors: Representative Diamond of Bangor, Senator Charette of
Androscoggin and Representative Rolde of York.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-THREE
17

18 AN ACT to Permit the Public Advocate to
19 Participate in Insurance Rate Filings.
20

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

23 Sec. 1. 24-A chapter 25-A is enacted to read:

24 CHAPTER 25-A

25 ROLE OF PUBLIC ADVOCATE

26 §2351. Role of Public Advocate

27 The Public Advocate, appointed under Title 35,
28 section 1-A, may represent the public in any rate
29 filing under this Title.

30 §2352. Duties

1 The Public Advocate shall have the same duties
2 and responsibilities in rate filings under this Title
3 as he has before the Public Utilities Commission
4 under Title 35, section 1-A, including, but not
5 limited to:

6 1. Review and investigation. Reviewing, inves-
7 tigating and making appropriate recommendations to
8 the Superintendent of Insurance with respect to the
9 reasonableness of rates charged or proposed to be
10 charged for all types of insurance, and when deemed
11 necessary by the Public Advocate, to intervene in
12 related proceedings before the Superintendent of
13 Insurance;

14 2. Petition for proceedings. Petitioning the
15 Superintendent of Insurance to initiate proceedings
16 to review, investigate and take appropriate action
17 with respect to insurance rates of any insurer when
18 deemed necessary by the Public Advocate;

19 3. Intervention. When deemed necessary by the
20 Public Advocate, in the interest of the public, or
21 any particular group thereof, intervening and appear-
22 ing on their behalf in any proceedings before the
23 Superintendent of Insurance, appeals from orders of
24 the superintendent under this section, or proceedings
25 before state or federal agencies and courts in which
26 the subject matter of the action affects insurance
27 rates in this State, except that the Public Advocate
28 shall not intervene in any proceeding in which the
29 superintendent or his staff is representing a posi-
30 tion substantially similar to that of the Public
31 Advocate, as determined by the Public Advocate; and

32 4. Annual report. Preparing and submitting an
33 annual report of the activities of the Public Advoca-
34 te under this section to the Governor and to the
35 joint standing committee of the Legislature having
36 jurisdiction over business legislation by August 1st
37 of each year, with copies available to any Legislator
38 on request.

39 §2353. Rights of Public Advocate

40 The Public Advocate shall have the same rights
41 under this section as an intervenor and may appeal

1 from orders or decisions of the Superintendent of
2 Insurance to which he has been a party, as other par-
3 ties to a rate filing proceeding.

4 §2354. Copies of filings; reports; other information

5 Rating organizations or insurers shall provide to
6 the Public Advocate copies of all rate filings,
7 reports or other information required to be filed
8 under chapter 25 or which may be submitted to the
9 Superintendent of Insurance, except to the extent
10 this requirement is waived, in writing, by the Public
11 Advocate. The Public Advocate shall have the same
12 right to request data as an intervenor or party under
13 this section and, in addition, may petition the
14 Superintendent of Insurance, for good cause shown, to
15 be allowed such other information as may be necessary
16 to carry out the purposes of this chapter.

17 §2355. Expert witnesses

18 The Public Advocate may employ expert witnesses
19 and pay appropriate compensation and expenses to
20 employ those witnesses.

21 §2356. Additional authority

22 The Public Advocate shall have all the powers and
23 authority granted to him under Title 35, section 1-A,
24 in any proceeding under this chapter.

25 §2357. Funding

26 Every insurance company or association which does
27 business or collects premiums or assessments in the
28 State shall pay to the State Tax Assessor, in addi-
29 tion to the taxes now imposed by law to be paid by
30 that company or association, a tax at a rate not to
31 exceed 2/10ths of 1% of the gross direct premiums for
32 risks written in the State, less the amount of all
33 direct return premiums thereon and all dividends paid
34 to policyholders on direct premiums. This tax shall
35 be paid at the same time and under the same condi-
36 tions as provided for insurance premium taxes as
37 specified in Title 36, section 2521-A. The State Tax
38 Assessor shall pay over all receipts from this tax to
39 the Treasurer of State, who shall maintain them in a

1 separate account for use by the Public Advocate to
2 fulfill the purposes of this chapter until that ac-
3 count totals \$300,000, at which point no further
4 assessments may be made for the duration of the
5 fiscal year. At the beginning of a new fiscal year,
6 the State Tax Assessor shall determine the level of
7 the fund below \$300,000 and shall make appropriate
8 pro rata assessments on all insurance companies or
9 associations subject to this section to bring the
10 level of the fund back to \$300,000. Any excess funds
11 in this account at the close of the fiscal year shall
12 not lapse but shall be carried forward to succeeding
13 years to carry out the purposes of this chapter.

14 Sec. 2. 35 MRSA §1-A, sub-§4, as enacted by PL
15 1981, c. 479, §2, is further amended to read:

16 4. Duties. The duties and responsibilities of
17 the Public Advocate shall be to represent the using
18 and consuming public in matters before the Bureau of
19 Insurance, as specified in Title 24-A, chapter 25-A
20 and within the jurisdiction of the commission,
21 including, but not limited to:

22 A. Reviewing, investigating and making appropri-
23 ate recommendations to the commission with
24 respect to the reasonableness of rates charged or
25 proposed to be charged by any public utility or
26 regulated carrier, and when deemed necessary by
27 the Public Advocate, to intervene in related pro-
28 ceedings before the commission;

29 B. Reviewing, investigating and making appropri-
30 ate recommendations to the commission with
31 respect to the reasonableness and adequacy of the
32 service furnished or proposed to be furnished by
33 any public utility or regulated carrier, and when
34 deemed necessary by the Public Advocate, to
35 intervene in related proceedings before the com-
36 mission;

37 C. Petitioning the commission to initiate pro-
38 ceedings to review, investigate and take appro-
39 priate action with respect to the rates or ser-
40 vice of any public utility or regulated carrier,
41 when deemed necessary by the Public Advocate;

- 1 D. Reviewing, investigating and making appropri-
2 ate recommendations to the commission with
3 respect to any proposal by a public utility or
4 regulated carrier to reduce or abandon service to
5 the public, and when deemed necessary by the
6 Public Advocate, to intervene in related proceed-
7 ings before the commission;
- 8 E. Reviewing, investigating and making appropri-
9 ate recommendations, including alternative analy-
10 ses and plans as necessary, to the commission
11 with respect to the issuance of certificates of
12 public convenience and necessity, and when deemed
13 necessary by the Public Advocate, to intervene in
14 related proceedings before the commission;
- 15 F. Reviewing, investigating and making appropri-
16 ate recommendations to the commission with
17 respect to mergers and consolidations of public
18 utilities and regulated carriers, and when deemed
19 necessary by the Public Advocate, to intervene in
20 related proceedings before the commission;
- 21 G. Reviewing, investigating and making appropri-
22 ate recommendations to the commission with
23 respect to contracts of public utilities or regu-
24 lated carriers with affiliates or subsidiaries,
25 and when deemed necessary by the Public Advocate,
26 to intervene in related proceedings before the
27 commission;
- 28 H. Reviewing, investigating and making appropri-
29 ate recommendations to the commission with
30 respect to securities, regulations and trans-
31 actions of public utilities or regulated car-
32 riers, and when deemed necessary by the Public
33 Advocate, to intervene in related proceedings
34 before the commission;
- 35 I. Investigating complaints affecting the using
36 and consuming public generally, or particular
37 groups thereof, and, where appropriate, make
38 recommendations to the commission with respect to
39 such complaints;
- 40 J. When deemed necessary by the Public Advocate,
41 in the interest of the using and consuming

1 public, or any particular group thereof, inter-
2 vening and appearing on their behalf in any pro-
3 ceedings before the commission, appeals from
4 orders of the commission, or proceedings before
5 state and federal agencies and courts in which
6 the subject matter of the action affects the cus-
7 tomers of any utility doing business in this
8 State, except that the Public Advocate shall not
9 intervene in any proceeding in which the commis-
10 sion staff is representing a position substan-
11 tially similar to that of the Public Advocate, as
12 determined by the Public Advocate; and

13 K. Preparing and submitting an annual report of
14 the activities of the Public Advocate to the Gov-
15 ernor and to the legislative committee having
16 jurisdiction over public utilities by August 1st
17 of each year, with copies available to all legis-
18 lators on request.

19 Sec. 3. 35 MRSA §1-A, sub-§§11 and 12, as
20 enacted by PL 1981, c. 479, §2, are amended to read:

21 11. Conflicts of interest. In addition to the
22 limitations of Title 5, section 18, neither the
23 Public Advocate nor any employee of the Public Advo-
24 cate shall have any official or professional connec-
25 tion or relation with, or hold any stock or securi-
26 ties in any public utility, as defined in section 15,
27 operating within this State, or any carrier regulated
28 by the Public Utilities Commission, or in any insur-
29 ance company, nor shall he render any professional
30 service against any such public utility ~~or,~~ carrier
31 or insurance company, nor shall he be a member of a
32 firm which renders any such service.

33 12. Restriction; repeal. The duties of the
34 Public Advocate are restricted to those relating to
35 matters within the jurisdiction of the Public Utili-
36 ties Commission and the Superintendent of Insurance
37 under Title 24-A. In the event that the selection of
38 the Public Utilities Commission is required by law to
39 be accomplished by any other method than appointment
40 by the Governor, with confirmation by the Legis-
41 lature, ~~the Public Advocate shall be repealed Advo-~~
42 cate's duties regarding public utilities' matters
43 shall be terminated, and the staff working on public

1 utilities' matters and any balance in the budget des-
2 ignated for public utilities' work shall be trans-
3 ferred to the Public Utilities Commission for the
4 remainder of the fiscal year, effective on the date
5 when a quorum of the Public Utilities Commission se-
6 lected by such other method is qualified for office.

7

STATEMENT OF FACT

8 The purpose of this bill is to allow the Public
9 Advocate to participate in insurance rate filings.
10 The bill authorizes the Public Advocate to use all
11 his powers in a rate filing and to investigate or
12 initiate such cases. He may intervene or appeal as
13 an intervenor.

14 The bill also establishes a small tax on all
15 policies written in this State to fund the Public
16 Advocate's activities in this area.

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