

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1340

H.P. 994 House of Representatives, April 23, 1987
Reference to the Committee on Utilities suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative JACKSON of Harrison.
Cosponsored by Representatives ROLDE of York, WEBSTER of
Cape Elizabeth and Senator TWITCHELL of Oxford.

STATE OF MAINE

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

1 AN ACT to Limit the Authority of the Public
2 Utilities Commission to Regulate
3 Municipal or Quasi-municipal Water
4 Utilities with Less than 1,000
5 Customers.
6

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

9 Sec. 1. 35 MRSA §72, as amended by PL 1985, c.
10 629, §4, is repealed and the following enacted in its
11 place:

12 §72. Municipal and quasi-municipal water companies

13 1. Application of this section. Notwithstanding
14 section 69, municipal and quasi-municipal corpora-
15 tions which are water companies within the definition

1 of section 15, subsection 25, shall be subject to the
2 suspension, investigation, hearing and rate substitu-
3 tion provisions of section 69 under the conditions
4 specified in this section.

5 2. Rates; hearing. Municipal and quasi-municipal
6 water corporations which elect to set rates under
7 this section shall not file with the commission or
8 increase any rate, toll or charge without first hold-
9 ing a public hearing at which any person, firm or
10 corporation which pays those rates, tolls or charges
11 to the municipal or quasi-municipal water corpora-
12 tions may testify and question the officials present
13 regarding such proposed increase. The municipal or
14 quasi-municipal water corporation as described in
15 this section shall, at least 14 days prior to the
16 hearing, publish a notice of the proposed rate in-
17 crease and the hearing, including the date, time,
18 place and purpose of the hearing, in a newspaper of
19 general circulation in the area encompassed by the
20 municipal or quasi-municipal water corporation. In
21 addition, each municipal or quasi-municipal water
22 corporation shall give one notice of the proposed
23 rate increase and the date, time and place of the
24 hearing to each of its ratepayers. The published and
25 individual notices shall include a statement describ-
26 ing the amount of the increase and the percentage in-
27 crease for each customer class and copies shall be
28 sent to the commission at least 14 days prior to the
29 hearings. Except for small municipal or quasi-municipal
30 water utilities which choose exemption under
31 subsection 5 from investigation by the commission, at
32 the commencement of each hearing held pursuant to
33 this section, the municipal or quasi-municipal water
34 corporation shall inform those present that the rate
35 increase may be investigated by the Public Utilities
36 Commission in accordance with this section. The wa-
37 ter utility shall file its changed rates with the
38 commission within 30 days of the public hearing, but
39 not sooner than 10 days following the public hearing.

40 3. Effective date. Subject to the notice and
41 waiver requirements of section 64, water utilities
42 electing to set rates under this section may estab-
43 lish an effective date for any rate change of at
44 least one month, but not more than 9 months, from the
45 date the rates are filed with the commission.

1 4. Appeal; commission review. Except for a municipal or quasi-municipal water utility which serves
2 fewer than 1,000 customers and which chooses exemption
3 under subsection 5, if, within 30 days of the
4 public hearing, 15% of the customers of the municipal
5 or quasi-municipal water corporation or 1,000 customers,
6 whichever is fewer, file with the treasurer of
7 the corporation and with the Public Utilities Commission
8 petitions demanding a review of the rate changes
9 by the Public Utilities Commission, the rate change
10 may be suspended, investigated, reviewed and changed
11 in accordance with section 69, except that no suspension
12 order issued by the commission pursuant to section
13 69 may be effective for a period greater than 9
14 months from the date the rate changes were filed. If
15 the number of signatures on the petitions is 1,000 or
16 if the number of signatures on the petitions equals
17 or exceeds 15% of the customers indicated on the water
18 utility's most recent annual report on file with
19 the Public Utilities Commission, the commission may
20 suspend the rate change pursuant to section 69. The
21 commission shall notify the water utility of any such
22 suspension. The water utility shall have 10 days
23 from receipt of notice to notify the commission
24 whether it intends to contest any aspect of the validity
25 of the petitions, after which it shall lose that right.
26 If the water utility notifies the commission in a timely
27 fashion that it wishes to contest the validity of the
28 petitions, the commission shall schedule the matter for
29 hearing. It shall hold the hearing and issue its decision
30 on the validity of the petitions within 30 days of
31 notification by the water utility that it intends to
32 contest the validity of the petitions. If the commission
33 finds the petitions to be invalid, it shall lift its order
34 of suspension.
35

36 5. Exemption for small municipal or quasi-municipal
37 water utilities. Any municipal or quasi-municipal
38 water utility which serves fewer than 1,000 customers
39 is exempt from the requirements of this section upon
40 notice to the commission by the governing board of the
41 utility. Any municipal or quasi-municipal water utility
42 which does not continue under Public Utilities Commission
43 regulation shall continue to file rates and supporting
44 documents with the commission for information purposes.
45 This subsection does not prohibit a municipal or quasi-municipal
46 water

1 utility which serves fewer than 1,000 customers from
2 continuing under regulation by the commission under
3 subsection 4.

4 Prior to filing a notice of exemption in accordance
5 with this subsection, the trustees shall conduct a
6 public hearing within the district at which any voter
7 of the district or any person, firm or corporation
8 which is a customer may testify and question the
9 trustees regarding the proposed exemption. The util-
10 ity shall, at least 14 days prior to the hearing,
11 publish a notice of the proposed exemption and the
12 date, time and place of the hearing in a newspaper of
13 general circulation in the district. The utility
14 shall, at least 14 days prior to the hearing, give
15 the time and place of the hearing to each of its
16 ratepayers and to the commission.

17 6. Review of rates under section 69. Nothing in
18 this section may prohibit a municipal or quasi-munic-
19 ipal water corporation from petitioning the Public
20 Utilities Commission for review pursuant to section
21 69 in the first instance.

22 7. Correction of errors. Upon review of a rate
23 filing made pursuant to this section, the Public
24 Utilities Commission may order the municipal or qua-
25 si-municipal water corporation to correct any mathe-
26 matical or clerical errors.

27 Sec. 2. 35 M RSA §176 is enacted to read:

28 §176. Exemption for small municipal or quasi-munic-
29 ipal water utilities

30 1. Exemption available. Any municipal or quasi-
31 municipal water utility which serves fewer than 1,000
32 customers is exempt from the requirements of sections
33 171 to 174 upon notice to the commission by the gov-
34 erning body of the utility.

35 2. Hearing prior to exemption. Prior to filing
36 a notice of exemption in accordance with this sec-
37 tion, the trustees shall conduct a public hearing
38 within the district at which any voter of the dis-
39 trict or any person, firm or corporation which is a
40 customer may testify and question the trustees re-

1 garding the proposed exemption. The utility shall,
2 at least 14 days prior to the hearing, publish a notice
3 of the proposed exemption and the date, time and
4 place of the hearing in a newspaper of general circulation
5 in the district. The utility shall, at least
6 14 days prior to the hearing, give one notice of the
7 proposed exemption and the date, time and place of
8 the hearing to each of its ratepayers and to the commission.
9

10 3. Public hearing prior to debt issuance. Any
11 municipal or quasi-municipal water utility which
12 chooses exemption from the requirements of sections
13 171 to 174, shall not issue stocks, bonds, notes or
14 other evidences of indebtedness, payable at periods
15 more than 12 months after the date of issuance with-
16 out first holding a public hearing at which any voter
17 of the district or any person, firm or corporation
18 which pays rates, tolls or charges to the utility may
19 testify and question the trustees regarding the pro-
20 posed increase. The utility shall, at least 14 days
21 prior to the hearing, publish a notice, including the
22 date, time, place and purpose of the hearing, in a
23 newspaper of general circulation in the district.
24 The utility shall give one notice of the proposed is-
25 sue and the date, time and place of the hearing to
26 each of its ratepayers. The published and individual
27 notices shall include a statement describing the
28 amount of the issue and the amount of any rate in-
29 crease that will be required to service the debt in
30 question for each customer class and copies shall be
31 sent to the commission at least 14 days prior to the
32 hearings.

33 Water utilities electing to proceed under this sec-
34 tion may establish an effective date for any debt is-
35 suance at least one month, but not more than 3
36 months, from the date of the public hearing.

37 4. Requirement. Any water utility which chooses
38 exemption from the requirements of sections 171 to
39 174, shall be subject to all the requirements of
40 chapter 262 and shall continue to file information
41 concerning debt issuance with the commission.

42 5. Regulation may continue. This section does
43 not prohibit any small municipal or quasi-municipal

1 water utility which serves fewer than 1,000 customers
2 and which does not choose exemption under subsection
3 1, from continuing under regulation by the commission
4 in accordance with sections 171 to 174.

5 Sec. 3. 35 MRSA §296 is amended by adding at the
6 end a new paragraph to read:

7 Any municipal or quasi-municipal water utility
8 with fewer than 1,000 customers which does not elect
9 to continue under regulation by the commission both
10 for rates under section 72 and for financing under
11 section 176 is exempt from this section.

12 Sec. 4. 35 MRSA §3226, as amended by PL 1981, c.
13 541, is repealed and the following enacted in its
14 place:

15 §3226. Conformity with private and special laws

16 The provisions of this chapter shall govern all
17 water districts formed on or after January 1, 1982,
18 and all municipal or quasi-municipal water utilities
19 which, in accordance with section 72 or 176, choose
20 not to be regulated by the commission. Except for
21 municipal or quasi-municipal water utilities which
22 choose not to be regulated by the commission, this
23 chapter does not apply to water districts formed be-
24 fore January 1, 1982, except that section 3223, sub-
25 sections 4 and 5, shall apply to those districts.
26 Any portion of the charter of those districts which
27 is contrary to those subsections is repealed.

1

STATEMENT OF FACT

2 Under present law, municipal and quasi-municipal
3 water companies may elect to set their own rates,
4 without Public Utilities Commission review, but the
5 lesser of 1,000 customers 15% of the customers may
6 petition for Public Utilities Commission review of
7 those rates. Section 1 of this bill will authorize
8 exemption from rate regulation by the Public Utili-
9 ties Commission for those municipal and quasi-muni-
10 cipal water utilities which serve less than 1,000 cus-
11 tomers, unless they choose to continue under Public
12 Utilities Commission regulation. In addition, under
13 section 2, those small water utilities would be re-
14 moved from Public Utilities Commission regulation of
15 the issuance of stocks, bonds and notes unless they
16 choose to continue under Public Utilities Commission
17 regulation. Under section 3, any utility which does
18 not choose to continue under Public Utilities Commis-
19 sion regulation of both rates and financing would al-
20 so be exempted from Public Utilities Commission in-
21 vestigation under the Maine Revised Statutes, Title
22 35, section 296. Section 4 applies the general pro-
23 cedural requirements of Title 35, chapter 262 to any
24 utility which chooses deregulation.

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