

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 214

H.P. 173

House of Representatives, January 21, 2003

An Act to Streamline Utility Consumer Advocacy

Reference to the Committee on State and Local Government suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GLYNN of South Portland.

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

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Sec. 1. 2 MRSA §6, sub-§2, as amended by PL 2001, c. 708, §1, is further amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

- Superintendent of Financial Institutions;
- State Tax Assessor;
- Superintendent of Insurance;
- Executive Director of the Maine Consumer Choice Health Plan;
- Associate Commissioner for Programs, Department of Behavioral and Developmental Services;
- Associate Commissioner of Administration, Department of Behavioral and Developmental Services;
- Associate Commissioner for Systems Operations, Department of Behavioral and Developmental Services;
- Deputy Commissioner, Department of Administrative and Financial Services;
- Associate Commissioner for Adult Services, Department of Corrections;
- Associate Commissioner for Juvenile Services, Department of Corrections;
- ~~Public-Advocate;~~
- Chief Information Officer; and
- Associate Commissioner for Legislative and Program Services, Department of Corrections.

Sec. 2. 3 MRSA §959, sub-§1, ¶P, as amended by PL 2001, c. 439, Pt. EEEE, §2, is further amended to read:

P. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall use the following list as a guideline for scheduling reviews:

~~(1)--Public-Advocate-in-1997~~

2 (2) Board of Directors, Maine Municipal and Rural
Electrification Cooperative Agency in 1999;

4 (3) Public Utilities Commission in 1999; and

6 (4) The Emergency Services Communication Bureau within
the Department of Public Safety in 2001.

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9 **Sec. 3. 5 MRSA §3327, sub-§1, ¶D**, as enacted by PL 2001, c.
10 630, §1, is repealed.

12 **Sec. 4. 7 MRSA §2954-B, sub-§5**, as enacted by PL 1985, c. 42,
13 §2, is amended to read:

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15 **5. Select Committee on Milk Pricing.** There shall must be a
16 Select Committee on Milk Pricing consisting of ~~10~~ 9 members to
17 advise the study panel on the design of the study and on the
18 options and policies to be evaluated. The committee shall ~~be~~ is
19 composed of 3 members of the House of Representatives, appointed
20 by the Speaker of the House of Representatives, one of whom shall
21 represent each political party; 2 members of the Senate,
22 appointed by the President of the Senate, one of whom shall ~~be~~ is
23 chosen to represent each political party; and 3 members named by
24 the Governor, one of whom shall ~~be~~ is knowledgeable of the dairy
25 processing industry, one of whom shall ~~be~~ is knowledgeable of
26 milk retailing and one milk producer who is knowledgeable of
27 marketing systems. ~~The Public Advocate or his designee shall also~~
28 ~~serve on the committee, representing consumer interests.~~ The
29 Commissioner of Agriculture, Food and Rural Resources shall serve
30 ex officio as ~~chairman~~ chair of the committee.

32 **Sec. 5. 24-A MRSA §2387-A**, as enacted by PL 1991, c. 885,
Pt. B, §12 and affected by §13, is repealed.

34 **Sec. 6. 35-A MRSA §114, sub-§3**, as enacted by PL 1987, c. 141,
Pt. A, §6, is amended to read:

38 **3. In camera inspection.** Upon request by the commission
39 staff, ~~the Public Advocate~~ or intervenor in a matter before the
40 commission or upon the commission's own motion and for good cause
41 shown, the commission may order a public utility to produce for
42 in camera inspection by the commission or hearing examiner the
43 records designated confidential under subsection 1. The employee
44 whose records are the subject of such a request shall must be
45 notified by the commission of the request and shall must be given
46 the opportunity to be heard before an order to produce is
47 issued. If the commission or hearing examiner determines after
48 in camera inspection that a record is reasonably relevant to the
49 matter before it and that production of the record is not unjust
50 or unlawful and that the materiality of the record outweighs any

2 harm to the employee from its disclosure, the commission or
3 hearing examiner may order that the record be made a part of the
4 discovery or evident aspects of the proceedings, subject to the
5 terms and conditions that are just, due consideration being given
6 to the privacy interests of the employee involved.

7 **Sec. 7. 35-A MRSA §116, sub-§8**, as amended by PL 2001, c. 28,
8 §1, is repealed.

9 **Sec. 8. 35-A MRSA §1310, sub-§1, ¶A**, as amended by PL 1997, c.
10 691, §4 and affected by §10, is further amended to read:

11 A. In any commission proceeding in which standards under
12 the United States Public Utilities Regulatory Policies Act
13 of 1978, United States Code, Title 16, Section 2601, et
14 seq., are implemented, the commission may order the utility
15 to compensate the intervenor for reasonable attorney's fees,
16 expert witness fees and other reasonable costs incurred in
17 preparation and advocacy of the intervenor's position
18 whenever the commission finds that:

19 (1) The position of the intervenor is not adequately
20 represented by the ~~Office of the Public Advocate or the~~
21 Public Utilities Commission staff;

22 (2) The intervenor substantially contributed to the
23 approval, in whole or in part, of a position advocated
24 by the intervenor in the commission proceeding, except
25 that, if no commission advocacy staff is appointed to a
26 proceeding, the intervenor must be likely to contribute
27 substantially to the conduct of the commission
28 proceeding and to assist in the resolution of the
29 issues raised in the proceeding; and

30 (3) Participation in the proceeding by the intervenor
31 would impose a significant financial hardship on the
32 intervenor.

33 **Sec. 9. 35-A MRSA c. 17**, as amended, is repealed.

34 **Sec. 10. 35-A MRSA §3502, sub-§§1 and 2**, as amended by PL 1999,
35 c. 398, Pt. A, §86 and affected by §§104 and 105, are further
36 amended to read:

37 **1. Public hearing.** A consumer-owned transmission and
38 distribution utility that elects to set rates under this section
39 may not increase or decrease any rate, toll or charge without
40 first holding a public hearing at which ~~the Public Advocate and~~
41 any customer of the consumer-owned transmission and distribution

utility may present testimony and may question the officials present regarding the proposed rate change.

2. Notification. The consumer-owned transmission and distribution utility shall, at least 30 days prior to the hearing, publish a notice of the amount of the proposed rate change, the percent of change for each customer class and the hearing, including the date, time, place and purpose of the hearing, in a newspaper of general circulation in the area encompassed by the consumer-owned transmission and distribution utility. In addition, 60 days prior to the hearing, the consumer-owned transmission and distribution utility shall notify the commission ~~and the Public Advocate~~ of its intent to change rates, tolls or charges.

Sec. 11. 35-A MRSA §3502, sub-§3, ¶E, as amended by PL 1993, c. 589, §3, is repealed.

Sec. 12. 35-A MRSA §3502, sub-§5, as amended by PL 1999, c. 398, Pt. A, §86 and affected by §§104 and 105, is further amended to read:

5. Supporting materials. The consumer-owned transmission and distribution utility shall file a copy of all materials supporting the proposed rate change with the commission ~~and the Public Advocate~~, at least 30 days prior to the hearing. A copy of all material supporting the proposed rate change must be made available to customers for examination at the offices of the consumer-owned transmission and distribution utility for at least 30 days prior to the hearing. The consumer-owned transmission and distribution utility shall promptly provide any relevant additional material or information requested by a customer or by the commission ~~or by the Public Advocate~~.

Sec. 13. 35-A MRSA §6104, sub-§2, as amended by PL 1995, c. 255, §8, is further amended to read:

2. Utilities that elect to set rates under this section. Consumer-owned water utilities that elect to set rates under this section may not increase or decrease any rate, toll or charge without first holding a public hearing at which ~~the Public Advocate~~ ~~and~~ any customer may testify and may question the officials present regarding the proposed rate change.

Sec. 14. 35-A MRSA §6104, sub-§3, as amended by PL 1995, c. 255, §9, is further amended to read:

3. Notice of proposed rate change and hearing. The consumer-owned water utility shall, at least 14 days prior to the hearing, publish a notice of the proposed rate change and the

2 hearing, including the date, time, place and purpose of the
3 hearing, in a newspaper of general circulation in the area
4 encompassed by the consumer-owned water utility and give one
5 notice of the proposed rate change and the date, time, place and
6 purpose of the hearing to each of its customers. The published
7 and individual notices must include a statement describing the
8 amount of the rate change and the percentage change for each
9 customer class, the customer's right to request information
10 relating to the present and proposed rates, the right to an open
11 and fair hearing and the right to further hearings before the
12 commission, ~~and the availability of assistance from the Public~~
13 ~~Advocate.~~ The published and individual notices must inform
14 customers that they can petition the commission to investigate
15 the proposed rate change and must include a statement that
16 signatures on petitions filed pursuant to subsection 7 are
17 invalid unless accompanied by the printed names and addresses of
18 the signers. The published and individual notices must also
19 inform customers that the utility will, upon request, provide
20 customers with petition forms that include space for signatures
21 and the printed names and addresses of the signers. Copies of
22 the notice must be sent to the commission ~~and the Public Advocate~~
23 at least 14 days prior to the hearings.

24 **Sec. 15. 35-A MRSA §6104, sub-§4-A,** as amended by PL 1995, c.
25 255, §11, is further amended to read:

26
27 **4-A. Supporting materials.** The water utility shall file a
28 copy of all materials supporting the proposed rate change with
29 the commission ~~and the Public Advocate,~~ at least 30 days prior to
30 the hearing. A copy of all material supporting the proposed rate
31 change ~~shall~~ must be made available to customers for examination
32 at the offices of the utility for at least 30 days prior to the
33 hearing. The utility shall promptly provide any readily
34 available relevant additional material or information requested
35 by a customer, or the commission ~~or the Public Advocate.~~

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37 **Sec. 16. 35-A MRSA §8704, sub-§1,** as amended by PL 2001, c.
38 377, §3, is further amended to read:

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40 **1. Membership.** The advisory council consists of ~~12~~ 11
41 members as follows:

42
43 A. The Director of the Division of Deafness, Bureau of
44 Rehabilitation Services, Department of Labor, or a designee;

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46 B. The Chair of the Advisory Committee to the Division of
47 Deafness established by Title 5, section 12004-I, subsection
48 40, or a designee;

2 C. One member from the Public Utilities Commission,
appointed by the commissioners; and

4 ~~D. One member from the office of the Public Advocate,~~
~~appointed by the Public Advocate, and~~

6 E. Eight members appointed by the Governor as follows:

8 (1) One member from the Governor Baxter School for the
10 Deaf;

12 (2) One member from a statewide association for the
deaf;

14 (3) One member from a center on deafness;

16 (4) One member from a company providing
18 telecommunications relay service in this State;

20 (5) One member of a telephone association in this
State;

22 (6) Two members from the general public who must rely
24 on TTYs for telecommunications; and

26 ~~7.~~ (7) One member representing a cellular or wireless
28 service provider.

30 **Sec. 17. 38 MRSA §1453-A, sub-§6**, as amended by PL 1997, c.
700, §8, is further amended to read:

32 **6. Staff assistance.** The Department of Human Services and
34 the department shall provide assistance to the commission in the
conduct of its business. The State Nuclear Safety Advisor and
36 ~~the Public Advocate~~ shall provide consultation as requested.

38 **Sec. 18. Attorney General and Public Utilities Commission to present
plan.** By November 1, 2003, the Attorney General, in consultation
40 with the Public Utilities Commission, shall develop and present
to the Legislature a report, together with any necessary
42 implementing legislation, regarding which functions, if any, of
the former Office of the Public Advocate need to continue to be
44 performed and by whom they should be performed. The assessment
must also provide an accounting of all funds remaining in the
46 Public Advocate account, suggestions for what should be done with
those funds and whether an assessment should be instituted to
48 fund any functions of the former Office of the Public Advocate
that the Attorney General believes should be continued.

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SUMMARY

4 This bill abolishes the Office of the Public Advocate. It
6 directs the Attorney General, in consultation with the Public
8 Utilities Commission, to develop and present to the Legislature a
10 report, together with any necessary implementing legislation,
12 regarding which functions, if any, of the former Office of the
14 Public Advocate need to continue to be performed and by whom they
 should be performed. The assessment must also provide an
 accounting of all funds remaining in the Public Advocate account,
 suggestions for what should be done with those funds and whether
 an assessment should be instituted to fund any functions of the
 former Office of the Public Advocate that the Attorney General
 believes should be continued.