

MAINE STATE LEGISLATURE

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MAJORITY
UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 759, L.D. 1042, Bill, "An Act To Ensure Proper Funding of the Public Utilities Commission"

Amend the bill by striking out the title and substituting the following:

'An Act To Ensure Proper Funding of the Public Utilities Commission and the Public Advocate'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary that the Public Utilities Commission and the Public Advocate have sufficient funds to carry out their statutory obligations during fiscal year 2004; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

COMMITTEE AMENDMENT

2 **Sec. 1. 35-A MRSA §116, sub-§1**, as amended by PL 2001, c. 136,
§1, is further amended to read:

4 **1. Utilities subject to assessments.** Every transmission
and distribution, gas, telephone and water utility and ferry
6 subject to regulation by the commission is subject to an
assessment on its intrastate gross operating revenues to produce
8 no more than ~~\$4,918,000~~ \$5,505,000 in revenues annually. ~~The~~
~~commission shall increase the assessment to produce an additional~~
10 ~~\$218,000 during fiscal year 2001-02 and an additional \$587,000~~
~~during fiscal year 2002-03.~~ The commission shall assess
12 transmission and distribution utilities at a rate sufficient to
produce ~~\$3,370,000 and~~ \$3,772,000 annually. ~~The commission shall~~
14 assess all other utilities at a rate sufficient to produce
~~\$1,548,000~~ \$1,733,000 annually. ~~The commission shall increase~~
16 ~~the assessment of transmission and distribution utilities to~~
~~produce an additional \$218,000 during fiscal year 2001-02 and an~~
18 ~~additional \$402,000 during fiscal year 2002-03.~~ ~~The commission~~
~~shall increase the assessment of all other utilities to produce~~
20 ~~an additional \$100,000 during fiscal year 2001-02 and an~~
~~additional \$185,000 during fiscal year 2002-03.~~ The commission
22 shall determine the assessments annually prior to May 1st and
assess each utility for its pro rata share for expenditure during
24 the fiscal year beginning July 1st. Each utility shall pay the
assessment charged to the utility on or before July 1st of each
26 year. Any increase in the assessment that becomes effective
subsequent to May 1st may be billed on the effective date of the
28 act authorizing the increase.

30 A. The assessments charged to utilities under this section
are just and reasonable operating costs for rate-making
32 purposes.

34 B. For the purposes of this section, "intrastate gross
operating revenues" means intrastate revenues derived from
36 filed rates, except revenues derived from sales for resale.

38 C. Gas utilities subject to the jurisdiction of the
commission solely with respect to safety are not subject to
40 any assessment.

42 D. The commission may correct any errors in the assessments
by means of a credit or debit to the following year's
44 assessment rather than reassessing all utilities in the
current year.

46 E. The commission may exempt utilities with annual
48 intrastate gross operating revenues under \$50,000 from
assessments under this section.

50

2 **Sec. 2. 35-A MRSA §116, sub-§8, ¶C-1**, as amended by PL 2001, c.
28, §1, is further amended to read:

4 C-1. Except as specified in this subsection, funds that are
6 not expended at the end of a fiscal year do not lapse but
8 must be carried forward to be expended for the purposes
10 specified in this section in succeeding fiscal years; but,
12 with the exception of funds carried forward from fiscal year
14 ~~1996-97 to fiscal year 1997-98 and with the exception of~~
16 ~~funds carried forward at the end of fiscal year 2000-01~~
18 2002-03 and fiscal year ~~2001-02~~ 2003-04 for use in the
20 following fiscal year, unexpended funds in excess of 10% of
22 the total annual assessment authorized in this section must,
24 at the option of the Public Advocate, either be presented to
26 the Legislature in accordance with paragraph A for
28 reallocation and expenditure or used to reduce the utility
30 assessment in the following fiscal year. In the case of
32 funds carried forward from fiscal year ~~1996-97 to fiscal~~
34 ~~year 1997-98 and funds carried forward from fiscal year~~
36 ~~2000-01~~ 2002-03 and fiscal year ~~2001-02~~ 2003-04 for use in
38 the following fiscal year, 100% of these funds may be
40 expended for the purposes specified in this section.

24 **Sec. 3. PL 2001, c. 136, §2** is amended to read:

26 **Sec. 2. Use of unexpended funds.** Notwithstanding the Maine
28 Revised Statutes, Title 35-A, section 116, subsection 5, the
30 Public Utilities Commission may expend in fiscal year ~~2001-02~~
32 2003-04 and fiscal year ~~2002-03~~ 2004-05, for the purposes
34 specified in Title 35-A, section 116, subsection 4, 100% of any
36 unexpended funds remaining at the end of the prior fiscal year.
38 Treatment of funds not expended at the end of fiscal year ~~2002-03~~
40 2004-05 is governed by Title 35-A, section 116, subsection 5.

36 **Sec. 4. Report and authority to report legislation.** No later than
38 January 1, 2004, the Public Utilities Commission shall submit to
40 the Joint Standing Committee on Utilities and Energy a report
42 describing the commission's activities during fiscal year 2003-04
44 and the extent to which the assessment authorized in the Maine
46 Revised Statutes, Title 35-A, section 116 limits the commission's
48 ability to fulfill its statutory responsibilities. The
 commission shall also examine and report on the appropriateness
 of the apportionment of the assessment between transmission and
 distribution utilities and other utilities. The Joint Standing
 Committee on Utilities and Energy may report out legislation to
 the Second Regular Session of the 121st Legislature relating to
 the commission's assessments under Title 35-A, section 116.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.'

SUMMARY

This amendment, which is the majority report of the Joint Standing Committee on Utilities and Energy, replaces the bill and amends the title to reflect the content of the amendment. This amendment does the following:

1. Authorizes the Public Utilities Commission to assess public utilities to fund the commission's budget on a going forward basis at the same rate as was authorized for the 2004 fiscal year;

2. Authorizes the Public Utilities Commission and the Public Advocate to carry forward 100% of unspent funds at the end of fiscal years 2003 and 2004;

3. Directs the Public Utilities Commission to report to the Joint Standing Committee on Utilities and Energy by January 1, 2004 its activities for the prior fiscal year and its evaluation of the adequacy of the assessment and the appropriateness of the current apportionment of the assessment among utilities; and

4. Authorizes the Joint Standing Committee on Utilities and Energy to report out legislation relating the to the Public Utilities Commission assessment to the Second Regular Session of the 121st Legislature.

FISCAL NOTE REQUIRED
(See attached)



**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1042

**An Act To Ensure Proper Funding of the Public Utilities Commission
and the Public Advocate**

LR 1462(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Utilities and Energy

Fiscal Note Required: Yes

Majority Report

Fiscal Note

Undetermined current biennium cost increase - Other Special Revenue Funds
Undetermined current biennium revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

This bill increases the cap on the Public Utilities Commission's assessment by \$587,000 from \$4,918,000 to \$5,505,000. The assessment cap is the maximum amount of funds that the commission may collect from utilities to maintain its current programs. No adjustments to current allocations are required at this time. This bill also authorizes the use of unexpended funds remaining at the end of the prior year by the Public Utilities Commission and the Public Advocate for fiscal years 2003-04 and 2004-05. Costs associated with a report on the commission's activities and its evaluation of the adequacy of the assessment can be absorbed by the Public Utilities Commission utilizing existing budgeted resources.