

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1750

H.P. 1272

House of Representatives, December 22, 2003

An Act To Improve the Ability of Water Utilities To Maintain a Contingency Allowance

Submitted by the Public Utilities Commission pursuant to Joint Rule 204.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Utilities and Energy pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BLISS of South Portland.
Cosponsored by Senator HALL of Lincoln and
Representatives: CUMMINGS of Portland, MARLEY of Portland, THOMPSON of China.

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

2
4 **Sec. 1. 35-A MRSA §6112, sub-§1**, as enacted by PL 1991, c. 221, §2, is amended to read:

6 **1. Annual contingency allowance.** A consumer-owned water utility may provide for an annual contingency allowance by including in rates an amount up to 5% of the revenues required to operate the water utility. ~~Each year any contingency allowance, which may not exceed 5% of the prior year's total revenue, must be credited to a contingency reserve fund. Other revenue may not be credited to the account.~~

14 **Sec. 2. 35-A MRSA §6112, sub-§§2 to 4**, as enacted by PL 1991, c. 221, §2, are repealed.

16 **Sec. 3. 35-A MRSA §6112, sub-§5**, as enacted by PL 1991, c. 221, §2, is amended to read:

20 **5. Commission review.** If the commission determines that a ~~water utility's contingency reserve fund has reached the maximum that may be accumulated under subsection 2 and that the utility is accumulating~~ the utility has accumulated in its unappropriated retained earnings account an amount that ~~is inconsistent with just and reasonable rates~~ exceeds 30% of its gross annual revenues, the commission may, pursuant to chapter 13, order the utility to reduce its rates to the appropriate level either in the form of temporary rate adjustments, credits or reduction in rates.

30 **Sec. 4. 35-A MRSA §6112, sub-§6**, as enacted by PL 1991, c. 221, §2, is repealed.

34 **Sec. 5. 35-A MRSA §6112, sub-§7** is enacted to read:

36 **7. Reporting requirements.** If a water utility in each of 3 consecutive years collects through rates an amount equal to or greater than 7% more than the utility's total annual operating expenses plus any contractual appropriations, the water utility shall notify the commission as part of its annual reporting requirements.

42 **Sec. 6. 35-A MRSA §6113, sub-§1**, as enacted by PL 1993, c. 30, §1, is amended to read:

46 **1. Water supply protection fund.** A consumer-owned water utility may establish a water supply protection fund to which a sum may be credited annually from surplus funds. The annual credit may not exceed 5% of the prior year's total revenue. If

2 ~~the utility has established a contingency reserve fund pursuant~~
3 ~~to section 6112, the utility may not credit any amount to the~~
4 ~~water supply protection fund unless the contingency reserve fund~~
5 ~~has reached its maximum pursuant to section 6112, subsection 2.~~

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7 **SUMMARY**

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9 This bill removes the constraint that a consumer-owned water
10 utility may use its contingency reserve allowance only for
11 operating expenses and debt service costs and eliminates the need
12 to maintain a separate contingency reserve account. The bill
13 replaces accumulation limitations that trigger review by the
14 Public Utilities Commission with a single accumulation trigger
15 that is consistent with elimination of the separate contingency
16 fund. The bill replaces a public hearing requirement with a
17 requirement to report to the commission if certain limitations
18 are reached.