

# MAINE STATE LEGISLATURE

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R.O.S.

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Date: 4/4/06  
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L.D. 2060  
(Filing No. H-948)

3 **Utilities and Energy**

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5 **STATE OF MAINE**  
6 **HOUSE OF REPRESENTATIVES**  
7 **122ND LEGISLATURE**  
8 **SECOND REGULAR SESSION**

9 COMMITTEE AMENDMENT "A" to H.P. 1456, L.D. 2060, "Resolve, Regarding  
10 Legislative Review of Portions of Chapter 895: Underground Facility Damage  
11 Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission "

12 Amend the resolve by striking out all of section 1 and inserting in its place the  
13 following:

14 **'Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 895:  
15 Underground Facility Damage Prevention Requirements, a provisionally adopted major  
16 substantive rule of the Public Utilities Commission that has been submitted to the  
17 Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375,  
18 subchapter 2-A, is authorized only if:

19 **1. Preliminary investigation.** In section 7(B)(1) a new provision is added to  
20 provide the following:

21 A. That the commission staff shall engage in a preliminary investigation regarding  
22 any potential violation of the Dig Safe Law or rules;

23 B. That the preliminary investigation must include a good faith effort to contact the  
24 potential violator and afford that person an opportunity to discuss the matter prior to  
25 the issuance of a notice of probable violation; and

26 C. That nothing in the new provision precludes the issuance of a notice of probable  
27 violation if a person cannot be located with reasonable effort or fails to respond to a  
28 communication from the staff;

29 **2. Informal review.** In section 7(B)(2)(a) it is clarified that the informal review  
30 consists of an informal conference or an analysis of the respondent's written reply;

31 **3. Recommended decision.** In section 7(B)(3)(a) it is provided that, following the  
32 informal conference or the waiver of the informal conference, the commission staff  
33 member shall issue in writing a recommended decision indicating whether or not the  
34 respondent has violated the Dig Safe Law or the rules and the basis for that conclusion,  
35 and the recommended disposition; and

**COMMITTEE AMENDMENT**

R.O.S.

COMMITTEE AMENDMENT 'A' to H.P. 1456, L.D. 2060

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**4. Technical changes.** Any technical changes to the rule necessary to accomplish the changes described in this resolve are made.

The commission is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.'

**SUMMARY**

This amendment authorizes the Public Utilities Commission to finally adopt portions of Chapter 895: Underground Facility Damage Prevention Requirements, a provisionally adopted major substantive rule that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, as long as certain changes are made relating to commission enforcement proceedings. The changes require the commission to hold a preliminary investigation prior to issuing a notice of probable violation. The changes are those specified in the document submitted to the Joint Standing Committee on Utilities and Energy entitled "Amendment to Chapter 895, Underground Facility Damage Prevention Requirements Developed by the Public Utilities Commission and the Telephone Association of Maine in response to the March 23, 2006 directive of the Utilities and Energy Committee."

**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



Approved: 04/02/06 *MAC*

# 122nd MAINE LEGISLATURE

LD 2060

LR 3228(02)

**Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Utilities and Energy**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - Other Special Revenue Funds