

MAINE STATE LEGISLATURE

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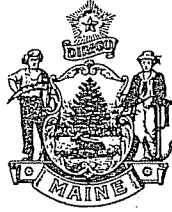


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December 23, 2009

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1643

H.P. 1171

House of Representatives, December 23, 2009

**An Act To Facilitate the Involvement of the Office of the Public
Advocate in the FairPoint Communications Bankruptcy Case**

(EMERGENCY)

Received by the Clerk of the House on December 21, 2009. 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 HINCK of Portland. (GOVERNOR'S BILL)
Cosponsored by Senator HOBBS of York and
Representatives: BERRY of Bowdoinham, DOSTIE of Sabattus, FLAHERTY of Scarborough,
FLETCHER of Winslow, VAN WIE of New Gloucester, Senators: BOWMAN of York,
SHERMAN of Aroostook.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** FairPoint Communications has filed for Chapter 11 bankruptcy protection
4 in United States Bankruptcy Court, Southern District of New York in Manhattan; and

5 **Whereas,** the interests of Maine customers, other users of FairPoint's network in
6 Maine and certain state agencies, including the Department of Public Safety, the Maine
7 Emergency Management Agency and the Office of the Governor, are at risk of being
8 ignored or not given proper consideration by the bankruptcy court if the Office of the
9 Public Advocate, on behalf of Maine telecommunications providers' ratepayers and other
10 Maine public interests, does not have sufficient financial resources to cover the costs
11 necessary to be actively involved in the resolution of the FairPoint bankruptcy
12 proceeding; and

13 **Whereas,** the FairPoint bankruptcy case is currently underway in New York City,
14 and the immediate and active involvement of the Office of the Public Advocate and its
15 bankruptcy attorney is necessary in order to engage in the proceedings and negotiations
16 that will lead to a settlement in the case, either through a settlement agreement or a
17 judgment by the bankruptcy judge; and

18 **Whereas,** without the timely availability of sufficient funds for the Office of the
19 Public Advocate to carry on an active and aggressive effort to advance and protect
20 Maine's public interest in this proceeding, there is a real risk that the resources needed to
21 ensure that the necessary repairs to FairPoint's OSS/BSS back office systems may not be
22 set aside by the bankruptcy court and reserved for these critically important repairs; and

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

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

28 **Sec. 1. Office of the Public Advocate; special assessment on**
29 **telecommunications entities.** Notwithstanding any other provision of law, in fiscal
30 year 2009-10, every telecommunications entity subject to an assessment under the Maine
31 Revised Statutes, Title 35-A, section 116, subsection 8 is subject to an additional
32 assessment on its intrastate gross operating revenues sufficient to produce \$100,000 total.
33 The revenues produced from this assessment are transferred to the Public Advocate
34 Regulatory Fund and may only be used for the costs associated with representing Maine
35 telecommunications ratepayers and Maine's public interests in the FairPoint
36 Communications bankruptcy proceedings in United States Bankruptcy Court, Southern
37 District of New York.

38 **Emergency clause.** In view of the emergency cited in the preamble, this
39 legislation takes effect when approved.

1

SUMMARY

2 This bill authorizes an allocation of \$100,000 to cover costs to be incurred through a
3 contract for legal services to be provided by bankruptcy counsel for the FairPoint
4 Communications bankruptcy proceedings in New York. This bill authorizes the Office of
5 the Public Advocate to impose a special assessment to cover the cost of those legal
6 services only on those telecommunications providers already subject to assessment under
7 the Maine Revised Statutes, Title 35-A, section 116, subsection 8.