

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 493

H.P. 386

House of Representatives, February 10, 2011

An Act To Provide Municipalities with Reciprocal Rights To Rent Space for Street Lights on Utility Poles in Municipal Rights-of-way

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative HARVELL of Farmington. (BY REQUEST)

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

2 **Sec. 1. 35-A MRSA §2518, sub-§6** is enacted to read:

3 **6. Municipal joint use of poles.** On or after July 1, 2012, unless other contractual
4 arrangements are made between a transmission and distribution utility and a municipality,
5 the municipal officers may order a transmission and distribution utility that owns a pole
6 located in a public way or street for which that municipality is the licensing authority to
7 provide space on the pole to the municipality for the installation of a municipally owned
8 street light, subject to the following conditions.

9 A. The transmission and distribution utility may assess the municipality a reasonable
10 rental charge for the use of the pole space. The commission shall by rule or order
11 establish a maximum rental charge that may be assessed by a transmission and
12 distribution utility. The aggregate rental charge assessed to a municipality may not
13 exceed the aggregate fees the municipality receives from the transmission and
14 distribution utility for occupying space in the public way or street.

15 B. The transmission and distribution utility shall either allow the municipality to
16 install the street light or install the street light for the municipality for a fee that
17 reimburses the utility for its costs, as established by the commission by rule or order.
18 If the municipality is allowed to install the street light, the work must be done by a
19 licensed electrician credentialed to perform the installation. The transmission and
20 distribution utility may not require that the street light conform to any standard or
21 code more stringent than those established by applicable state law or rule.

22 C. The transmission and distribution utility may appeal the order of the municipal
23 officers to the commission if the transmission and distribution utility believes the
24 installation would pose an unreasonable safety hazard or would unreasonably
25 interfere with the business of any person with an interest in the wires, cables or
26 appurtenances attached to or located on the pole. Upon receiving the appeal, the
27 commission shall open an appropriate proceeding and if it determines from the
28 evidence presented that the installation would pose an unreasonable safety hazard or
29 would unreasonably interfere with the business of any person with an interest in the
30 wires, cables or appurtenances attached to or located on the pole, the commission
31 may prohibit the municipality from attaching any street light to the pole; otherwise,
32 the commission shall permit the municipality to proceed with its order.

33 The commission may adopt rules to implement this subsection. Rules adopted by the
34 commission under this subsection are routine technical rules as defined in Title 5, chapter
35 375, subchapter 2-A.

36 **Sec. 2. Report.** The Public Utilities Commission shall examine whether persons
37 other than transmission and distribution utilities should be allowed to install and maintain
38 municipally owned street lights and, if so, what training, licensing or credentialing, if any,
39 those persons should be required to possess in order to be able to undertake that work.
40 The commission shall report its findings and recommendations to the Joint Standing
41 Committee on Energy, Utilities and Technology no later than January 2, 2012.

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SUMMARY

2 This bill authorizes municipal officers to order a transmission and distribution utility
3 that owns poles in the municipality's public streets or ways to rent space on those poles
4 for municipal street lights subject to certain conditions.

5 The transmission and distribution utility may assess the municipality a reasonable
6 rental charge for the use of the pole space. The Public Utilities Commission is required
7 to establish by rule or order a maximum rental charge that may be assessed and the
8 aggregate rental charge may not exceed the aggregate fees the municipality receives from
9 the transmission and distribution utility for occupying space in the public way or street.

10 The transmission and distribution utility is required to allow the municipality to
11 install the street lights or to install the street lights for the municipality for a fee
12 established by the commission by rule or order. If the municipality is allowed to install
13 the street lights, the work must be done by a qualified person. The transmission and
14 distribution utility may not require the street lights to conform to any standard or code
15 more stringent than those established by applicable state law or rule.

16 The transmission and distribution utility may appeal the order of the municipal
17 officers to the commission, and if the commission determines that the installation would
18 pose an unreasonable safety hazard or would unreasonably interfere with the business of
19 any person with an interest in the wires, cables or appurtenances attached to or located on
20 the poles, the commission may prohibit the municipality from attaching any street lights
21 to the poles; otherwise, the commission is required to permit the municipality to proceed
22 with its order.

23 The commission is required to examine whether persons other than transmission and
24 distribution utilities should be allowed to install and maintain municipally owned street
25 lights and, if so, what particular training, licensing or credentialing, if any, those persons
26 should be required to possess in order to be able to undertake that work. The commission
27 is required to report its findings and recommendations to the Joint Standing Committee
28 on Energy, Utilities and Technology no later than January 2, 2012.