

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1820

H.P. 1342

House of Representatives, February 14, 2012

**An Act To Implement Recommendations To Provide Additional
Flexibility for Funding Infrastructure Improvements for Water
Utilities**

Reported by Representative FITTS of Pittsfield for the Joint Standing Committee on Energy, Utilities and Technology pursuant to Public Law 2011, chapter 106, section 2.

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

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

2 **Sec. 1. 35-A MRSA §6105, sub-§4, ¶E**, as amended by PL 2003, c. 529, §1, is
3 further amended to read:

4 E. To provide for a contingency allowance as provided in section 6112; ~~and~~

5 **Sec. 2. 35-A MRSA §6105, sub-§4, ¶F**, as enacted by PL 1989, c. 59, §3, is
6 amended to read:

7 F. To provide for rate adjustments to reflect the cost of anticipated construction of
8 plants or facilities required by the 1986 amendments to the United States Safe
9 Drinking Water Act, Public Law 93-523, or related projects, ~~provided except~~ that
10 rates established under this paragraph ~~shall~~ are not be subject to section 6104-; and

11 **Sec. 3. 35-A MRSA §6105, sub-§4, ¶G** is enacted to read:

12 G. To provide for recovery of the amounts necessary to fund the replacement of
13 water system infrastructure. Those funds must be deposited in a capital reserve
14 account and used in accordance with section 6107-A.

15 **Sec. 4. 35-A MRSA §6107-A** is enacted to read:

16 **§6107-A. Funding for infrastructure improvements for water utilities**

17 Notwithstanding chapter 3, a water utility may fund infrastructure improvements
18 through recovery in rates or the establishment of a surcharge in accordance with this
19 section and rules adopted by the commission.

20 **1. Recovery in rates.** A water utility may recover in rates the amounts necessary to
21 fund the future replacement of water system infrastructure. Those funds must be
22 deposited in a capital reserve account.

23 **2. Commission review of capital reserve account.** If the commission determines
24 pursuant to section 1302 or 1303 that a water utility has accumulated in its capital reserve
25 account an amount that is inconsistent with just and reasonable rates pursuant to section
26 301 or 6105, the commission may order the water utility to set its rates to the appropriate
27 level by a temporary or long-term rate adjustment or credit to customers.

28 **3. Infrastructure replacement surcharge.** A water utility may establish and file,
29 pursuant to section 310, a temporary surcharge to allow recovery of the costs of
30 completed replacement or repairs of water system infrastructure. The temporary
31 surcharge may continue until the water utility's next rate case under chapter 3 or rate
32 filing pursuant to section 6105.

33 If a water utility elects to institute an infrastructure replacement surcharge pursuant to this
34 subsection, the water utility shall file the proposed surcharge with a justification for the
35 implementation of the surcharge with the commission no less than 90 days before the
36 effective date of the surcharge. The commission shall investigate the surcharge in
37 accordance with section 1303 to determine if the surcharge is just and reasonable. The

1 commission shall approve the surcharge if it is determined to be just and reasonable. The
2 commission shall deny the surcharge if it is determined not to be just and reasonable.

3 **4. Limitations.** A water utility may not expend amounts collected pursuant to this
4 section for any purpose other than infrastructure improvements in accordance with this
5 section and rules adopted by the commission. Nothing in this section may be construed
6 to exempt any expenditure by a water utility from review by the commission in
7 accordance with this Title.

8 **5. Rules.** The commission shall adopt rules to implement this section, including but
9 not limited to rules governing the types of projects that are eligible for recovery under
10 this section, the maximum amount of funds that may be recovered through rates or
11 surcharges, the authorized uses of those funds and reporting requirements and procedures
12 to ensure that this section is being implemented in a manner that is consistent with just
13 and reasonable rate-making principles. Rules adopted under this subsection are routine
14 technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

15 SUMMARY

16 This bill is reported out by the Joint Standing Committee on Energy, Utilities and
17 Technology pursuant to Public Law 2011, chapter 106, section 2. As required by the
18 public law, the Public Utilities Commission submitted to the committee its report
19 regarding additional flexibility for funding infrastructure improvements by consumer-
20 owned water utilities on January 15, 2012. This bill incorporates proposed changes to the
21 law as suggested by the commission.

22 The committee is reporting out the bill for the sole purpose of turning the
23 commission's conclusions from the report into a printed bill that can be referred to the
24 committee for an appropriate public hearing and subsequent processing in the normal
25 course. The committee is taking this action to ensure clarity and transparency in the
26 legislative review of the report's conclusions and recommendations.