

# MAINE STATE LEGISLATURE

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Date: 3/3/14

L.D. 1619  
(Filing No. H-645)

**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
126TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1191, L.D. 1619, Bill, "An Act To Amend the Law Governing Conflicts of Interest with Respect to the Public Utilities Commission"

Amend the bill by striking out the title and substituting the following:

**'An Act To Provide for a Quorum at the Public Utilities Commission'**

Amend the bill by inserting after the title and before the enacting clause the following:

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

**Whereas,** there is currently a proceeding before the Public Utilities Commission for which a quorum is not available; and

**Whereas,** the proceeding cannot be decided without a quorum and a delay in the case could be detrimental to all parties; and

**Whereas,** in order to maintain a quorum at the commission, the appointment process and confirmation process proposed in this legislation must commence as soon as possible; and

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

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 35-A MRSA §108-B** is enacted to read:

**COMMITTEE AMENDMENT**

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**§108-B. Lack of quorum; temporary appointment**

The Governor shall appoint 3 alternate commissioners who may serve as temporary commissioners in accordance with this section.

**1. Selection of alternate commissioners.** The Governor shall appoint 3 people to serve as alternate commissioners. The appointments are subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature. The term of an alternate commissioner is for 3 years.

**2. Special appointment of temporary commissioner.** If 2 or more commissioners, due to a conflict of interest, disability or other reason, are unable to serve in a proceeding, which results in the commission being unable to maintain a quorum as provided under section 108-A, the commission shall report this information to the Governor and post this information on its publicly accessible website. Once the Governor is notified, the commission shall, in a transparent manner, randomly assign from the alternate commissioners appointed under subsection 1 one alternate commissioner to be the first alternate commissioner, one alternate commissioner to be the 2nd alternate commissioner and one alternate commissioner to be the 3rd alternate commissioner and send this information to the Governor. Following the receipt of this information, the Governor shall appoint the first alternate commissioner as a temporary commissioner. If, for good cause, the first alternate commissioner is unable to serve, the Governor shall appoint the 2nd alternate commissioner as a temporary commissioner. If, for good cause, the first and 2nd alternate commissioners are unable to serve, the Governor shall appoint the 3rd alternate commissioner as a temporary commissioner.

**3. Service for duration of proceeding.** Notwithstanding the terms established in subsection 1, once appointed as a temporary commissioner to serve in a proceeding, the temporary commissioner shall serve for the length of time for which there is otherwise no quorum for the proceeding.

**4. Compensation.** In the event of a temporary appointment under this section, the commission shall provide administrative support to the temporary commissioner and compensate the temporary commissioner based on hours served at the same rate of compensation as that of a commissioner.

**5. Authority.** A temporary commissioner appointed pursuant to this section is subject to all laws applicable to and has such authority with respect to the proceeding as a commissioner. An alternate commissioner who is not appointed as a temporary commissioner has no authority with respect to any proceedings of the commission.

**6. Vacancy.** In the event of a vacancy on the list of alternate commissioners, the Governor shall appoint an alternate commissioner to fill the unexpired portion of the term.

**Sec. 2. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 35-A, section 108-B, subsection 1, the terms of the initial alternate commissioners appointed pursuant to Title 35-A, section 108-B are staggered as follows: one alternate commissioner serves for a term of one year; one alternate commissioner serves for a term of 2 years; and one alternate commissioner serves for a term of 3 years.

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

**SUMMARY**

This amendment is the unanimous report of the Joint Standing Committee on Energy, Utilities and Technology and replaces the bill. This amendment authorizes the Governor to appoint, subject to confirmation by the Legislature, 3 individuals to be alternate commissioners of the Public Utilities Commission. An alternate commissioner is randomly selected to be appointed a temporary commissioner to a proceeding at the Public Utilities Commission if a quorum is not available due to conflict of interest, disability or other reason.

**FISCAL NOTE REQUIRED**

**(See attached)**



Approved: 02/27/14 *MCC*

# 126th MAINE LEGISLATURE

LD 1619

LR 2328(02)

**An Act To Amend the Law Governing Conflicts of Interest with Respect to the Public Utilities  
Commission**

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

**Committee: Energy, Utilities and Technology**

**Fiscal Note Required: Yes**

*A (H-645)*

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## Fiscal Note

Current biennium cost increase - Other Special Revenue Funds

### Fiscal Detail and Notes

The bill requires the Governor to appoint 3 people to serve as alternate commissioners to the Public Utilities Commission (PUC) in order to maintain a quorum. These alternate commissioners will be appointed as temporary commissioners and serve for the length of time that there would be no quorum without them. The temporary commissioners will be compensated at \$55.55 per hour, the same rate as a commissioner. It cannot be predicted at this time how many hours of additional compensation the PUC will pay to temporary commissioners going forward. There is currently a proceeding before the PUC where no quorum can be reached. The PUC has resources available to accommodate the additional cost of temporary commissioners.