

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1860

H.P. 1354

House of Representatives, April 16, 2014

**An Act To Provide for Temporary Commissioners at the Public
Utilities Commission**

(EMERGENCY)

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RUSSELL of Portland. (GOVERNOR'S BILL)

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

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

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

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

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

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

16 **§108-B. Lack of quorum; temporary appointment**

17 If the commission is unable to maintain a quorum for reasons as described in
18 subsection 1, the Governor shall appoint 3 alternate commissioners who may serve as
19 temporary commissioners in accordance with this section.

20 **1. Selection of alternate commissioners.** If 2 or more commissioners, due to a
21 conflict of interest, disability or other reason, are unable to serve in a proceeding, which
22 results in the commission being unable to maintain a quorum as provided under section
23 108-A, the commission shall report this information to the Governor and post this
24 information on its publicly accessible website. Once the Governor is notified of the lack
25 of a quorum for a particular proceeding, the Governor shall appoint 3 alternate
26 commissioners, each of whom may serve as a temporary commissioner in that particular
27 proceeding. All appointed alternate commissioners must be retired judges or justices who
28 are subject to review by the joint standing committee of the Legislature having
29 jurisdiction over public utilities matters and to confirmation by the Legislature. Once the
30 alternate commissioners are confirmed by the Legislature, the commission shall, in a
31 transparent manner, randomly assign from the alternate commissioners one alternate
32 commissioner to be the first alternate commissioner, one alternate commissioner to be the
33 2nd alternate commissioner and one alternate commissioner to be the 3rd alternate
34 commissioner and send this information to the Governor. Following the receipt of this
35 information, the Governor shall appoint alternate commissioners as temporary
36 commissioners in the assigned order, until the number of temporary commissioners
37 needed to reach a quorum is reached. If, for good cause, an alternate commissioner is
38 unable to serve as a temporary commissioner, the Governor shall appoint the next
39 assigned alternate as a temporary commissioner.

1 2. Service for duration of proceeding. Once appointed as a temporary
2 commissioner to serve in a proceeding, the temporary commissioner shall serve for the
3 length of time for which there is otherwise no quorum for the proceeding.

4 3. Compensation. In the event of a temporary appointment under this section, the
5 commission shall provide administrative support to the temporary commissioner and
6 compensate the temporary commissioner for the hours spent at the commission working
7 on a proceeding at an hourly rate that is computed by dividing the annual salary of a
8 commissioner, established in Title 2, section 6-A, subsection 2, by 2,080 hours.

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

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

15 **SUMMARY**

16 This bill authorizes the Governor to appoint, subject to confirmation by the
17 Legislature, 3 individuals to be alternate commissioners of the Public Utilities
18 Commission on a case by case basis whenever 2 or more commissioners, due to a conflict
19 of interest, disability or other reason, are unable to serve in a proceeding, which results in
20 the commission being unable to maintain a quorum.