

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 695

H.P. 507

House of Representatives, March 4, 2021

An Act To Allow Municipal Utility Expansion under Certain Conditions

Received by the Clerk of the House on March 2, 2021. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BERRY of Bowdoinham.

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

2 **Sec. 1. 35-A MRSA §2102, sub-§1**, as amended by PL 2011, c. 623, Pt. A, §17, is
3 further amended to read:

4 **1. Approval required.** Except as provided in subsection 2 and in section 4507, a
5 public utility may not furnish any of the services set out in section 2101 in or to any
6 municipality in or to which another public utility is furnishing or is authorized to furnish a
7 similar service without the approval of the commission. For a municipal power district
8 created under chapter 39, commission approval required under this subsection is limited to
9 a commission determination that the procedures prescribed in chapter 39 for the creation
10 of a municipal power district have been complied with and that there is no proven net harm
11 to other ratepayers associated with the loss of customers by the transmission and
12 distribution utility that will result from the commission's approval of the district under this
13 subsection. The commission may condition approval upon the submission of a bond or
14 other financial security if the commission determines that such a requirement is necessary
15 to ensure that a public utility has the financial ability to meet its obligations under this Title.

16 **Sec. 2. 35-A MRSA §3903, sub-§4**, as enacted by PL 1987, c. 141, Pt. A, §6, is
17 amended to read:

18 **4. Favorable vote.** If a majority of the legal votes cast on this question favor
19 incorporation, a municipal power district may be created for that municipality under this
20 chapter upon declaration of the vote by the municipal officers, provided that the total
21 number of votes cast for and against the incorporation equals or exceeds 40% of the total
22 votes cast in that municipality for all candidates for Governor at the previous gubernatorial
23 election. If not, the proposed district is not created at that time. Upon certification of a
24 favorable vote by the municipal officers, the commission shall approve formation of the
25 district if the commission finds that formation would be in conformance with the
26 requirements of this Title chapter. Upon approval by the commission, the district is created
27 and the commission shall file certification of that approval with the Secretary of State.

28 **Sec. 3. 35-A MRSA §3903, sub-§5** is enacted to read:

29 **5. Transfer of property; payment of just compensation.** When a municipal power
30 district is created under this section and approved by the commission under this section and
31 section 2102, the transmission and distribution utility furnishing service in that
32 municipality must conform to that municipal decision and facilitate the transfer of property.
33 The municipal power district shall pay the transmission and distribution utility just
34 compensation, as determined by the commission, for the property of the transmission and
35 distribution utility.

36 **Sec. 4. 35-A MRSA §3904, sub-§4**, as enacted by PL 1987, c. 141, Pt. A, §6, is
37 amended to read:

38 **4. Favorable vote.** If, in each municipality, a majority of the legal votes cast on this
39 question favor incorporation, a municipal power district may be created for those
40 municipalities under this chapter upon declaration of the vote of the municipal officers,
41 provided that the total number of votes cast in each municipality for and against the
42 incorporation equals or exceeds 40% of the total votes cast in the municipality for all
43 candidates for Governor at the previous gubernatorial election. Upon certification of a
44 favorable vote by the municipal officers, the commission shall approve formation of the

1 district if the commission finds that formation would be in conformance with the
2 requirements of this ~~Title~~ chapter. Upon approval by the commission, the district is created
3 and the commission shall file certification of that approval with the Secretary of State.

4 **Sec. 5. 35-A MRSA §3904, sub-§5** is enacted to read:

5 **5. Transfer of property; payment of just compensation.** When a municipal power
6 district is created under this section and approved by the commission under this section and
7 section 2102, the transmission and distribution utility furnishing service in those
8 municipalities must conform to those municipal decisions and facilitate the transfer of
9 property. The municipal power district shall pay the transmission and distribution utility
10 just compensation, as determined by the commission, for the property of the transmission
11 and distribution utility.

12 SUMMARY

13 This bill limits the approval by the Public Utilities Commission of a municipal power
14 district's proposal to furnish service in a municipality or municipalities in which another
15 utility is already furnishing service to the commission's determination that there is no
16 proven net harm to other ratepayers associated with the loss of customers by the
17 transmission and distribution utility and that the municipal power district was created in
18 conformance with the Maine Revised Statutes, Title 35-A, chapter 39, which includes a
19 favorable municipal vote to create the district.

20 It specifies that the transmission and distribution utility furnishing service in the
21 municipality or municipalities where a municipal power district is created and approved by
22 the commission must facilitate the transfer of property and be provided just compensation,
23 as determined by the commission, for that property.