

# MAINE STATE LEGISLATURE

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L.D. 1959

Date: 4-20-2022

(Filing No. H-1043)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 697,  
L.D. 1959, "An Act To Ensure Transmission and Distribution Utility Accountability"

Amend the amendment by inserting after the title the following:

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

**'An Act Regarding Utility Accountability and Grid Planning for Maine's Clean Energy Future'**

Amend the amendment in section 1 in subsection 1-A in the 2nd line (page 1, line 15 in amendment) by inserting after the following: "rules" the following: 'for utilities with over 50,000 customers'

Amend the amendment in section 1 in subsection 1-A by inserting after paragraph E the following:

'E. Annually, the commission shall evaluate the data provided by a transmission and distribution utility in accordance with paragraph E for the prior calendar year to determine if the standards established by the commission pursuant to this section have been met.'

Amend the amendment in section 1 in subsection 1-A in paragraph H in the first line (page 2, line 12 in amendment) by striking out the following: "Once every 3 years, the" and inserting the following: 'The'

Amend the amendment in section 1 in subsection 1-A by inserting after paragraph H the following:

'Nothing in this subsection prohibits the commission from establishing service quality standards for transmission and distribution utilities with fewer than 50,000 customers.'

Amend the amendment in section 1 in subsection 1-A by relettering the paragraphs to read consecutively.

Amend the amendment by striking out all of section 5 and inserting the following:

**'Sec. 5. 35-A MRSA §1508-A, sub-§1, ¶E is enacted to read:**

E. In accordance with section 301, subsection 1-A, paragraph G, the commission shall impose an administrative penalty on a transmission and distribution utility in an amount

# HOUSE AMENDMENT

1 that does not exceed \$1,000,000 or 10% of its annual gross revenue received from  
 2 ratepayers in the State, whichever amount is less, that fails to meet a standard  
 3 established by the commission pursuant to section 301, subsection 1-A in the previous  
 4 calendar year. Each calendar year that the transmission and distribution utility fails to  
 5 meet the standard constitutes a separate offense. The commission shall use the  
 6 proceeds from the penalty imposed under this paragraph to assist low-income  
 7 customers.'

8 Amend the amendment by striking out all of section 6 and inserting the following:

9 'Sec. 6. 35-A MRSA §1513 is enacted to read:

10 **§1513. Divestiture of underperforming transmission and distribution utility**

11 The commission shall initiate an adjudicatory proceeding, on its own motion or at the  
 12 request of the Public Advocate, in accordance with this section to determine whether  
 13 divestiture of an investor-owned transmission and distribution utility is warranted if the  
 14 utility consistently fails to meet the service standards established in section 301, subsection  
 15 1-A, consistently fails to meet the requirements of section 301, subsection 1 or is unable to  
 16 fulfill its statutory duties as a public utility because it is financially impaired. If, at the  
 17 conclusion of the adjudicatory proceeding, the commission determines that divestiture of a  
 18 transmission and distribution utility is warranted, the commission shall order divestiture of  
 19 or by the utility in accordance with this section:

20 **1. Determination by the commission.** The commission shall order the owner of the  
 21 transmission and distribution utility to divest the utility if the acquisition of the utility from  
 22 a qualified buyer:

23 A. Will result, over the long term, in net benefits to ratepayers in the form of lower  
 24 rates or better service than the rates and service provided by the transmission and  
 25 distribution utility;

26 B. Is for a fair and reasonable purchase price negotiated by a qualified buyer and the  
 27 transmission and distribution utility or as determined by the Superior Court in  
 28 accordance with subsection 2;

29 C. Demonstrates that the qualified buyer has sufficient financial and technical  
 30 capability, expertise and experience to own and operate the utility and the ability to  
 31 comply with all of the legal requirements, including but not limited to achievement of  
 32 policies pursuant to Title 38, section 576-A and section 577, subsection 1, of a  
 33 transmission and distribution utility; and

34 D. Will benefit ratepayers as determined in accordance with section 708, subsection  
 35 2, paragraph C, subparagraph (2).

36 **2. Superior Court review.** Notwithstanding any other provision of this Title, a  
 37 transmission and distribution utility may apply by petition to the Superior Court of  
 38 Kennebec County to determine a fair and reasonable price that provides just compensation  
 39 for the sale of the transmission and distribution utility or its assets if the qualified buyer  
 40 and transmission and distribution utility are unable to negotiate a price. The court shall  
 41 hold a hearing on the petition in which the parties are permitted to present factual and expert  
 42 testimony and other evidence concerning the value of the utility or its assets and shall  
 43 render a decision. The decision of the Superior Court may be appealed to the Supreme

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1 Judicial Court sitting as the Law Court in the same manner as an appeal taken from a  
2 judgment of the Superior Court in a civil action.

3 3. More than one buyer. If more than one qualified buyer proposes to acquire the  
4 transmission and distribution utility or its assets, the commission shall order divestiture to  
5 the qualified buyer that will provide the greatest net benefits to ratepayers.'

6 Amend the amendment by striking out all of section 7 and inserting the following:

7 'Sec. 7. 35-A MRSA §3146 is enacted to read:

8 §3146. Climate change protection plan

9 No later than December 31, 2023, and every 3 years thereafter, a transmission and  
10 distribution utility shall submit to the commission a 10-year plan that includes specific  
11 actions for addressing the expected effects of climate change on the utility's assets needed  
12 to transmit and distribute electricity to its customers. The commission shall provide a  
13 process to allow for the input from interested parties on the transmission and distribution  
14 utility's plan. The commission may use the plan and the input received from interested  
15 parties in rate cases or other proceedings involving the transmission and distribution utility.'

16 Amend the amendment by striking out all of section 8 and inserting the following:

17 'Sec. 8. 35-A MRSA §3147 is enacted to read:

18 §3147. Integrated grid planning

19 1. Definitions. As used in this section, unless the context otherwise indicates, the  
20 following terms have the following meanings.

21 A. "Covered utility" means a large investor-owned transmission and distribution utility  
22 as defined in section 3201, subsection 12.

23 B. "Environmental justice" means the fair treatment and meaningful involvement of  
24 all persons regardless of race, color, national origin or income with respect to the  
25 development, implementation and enforcement of environmental laws, rules,  
26 regulations and policies.

27 C. "Grid plan" means a 10-year integrated grid plan developed in accordance with this  
28 section designed to improve system reliability and resiliency and enable the cost-  
29 effective achievement of the greenhouse gas reduction obligations and climate policies  
30 pursuant to Title 38, section 576-A and section 577, subsection 1.

31 D. "Hosting capacity" means a threshold at a circuit at which new distributed energy  
32 resources will trigger upgrades or changes to the electrical distribution system and cost  
33 considerations of related upgrades and changes.

34 2. Priorities identified; stakeholder input. Beginning November 1, 2022, then every  
35 5 years thereafter, the commission shall initiate a proceeding to identify the priorities to be  
36 addressed in a filing by a covered utility regarding a grid plan that will assist in the cost-  
37 effective transition to a clean, affordable and reliable electric grid. The commission shall  
38 hold technical conferences or stakeholder workshops before the filing to identify priorities,  
39 assumptions, goals, methods and tools that will assist the covered utility in developing a  
40 grid plan.

1           3. Commission order. At the conclusion of the technical conferences and stakeholder  
2 workshops held under subsection 2, the commission shall issue an order directing a covered  
3 utility to submit a filing to the commission that addresses the priorities identified in the  
4 proceeding initiated pursuant to subsection 2 and includes the additional components  
5 identified in subsection 4.

6           4. Additional components; submission. A covered utility shall submit a filing to the  
7 commission within 18 months of the issuance of an order by the commission pursuant to  
8 subsection 3. In addition to addressing the priorities specified in the commission order, the  
9 filing must:

10           A. Assess the electric system of the covered utility and its relationship to the regional  
11 grid;

12           B. For elements of the filing related to customer energy consumption and usage  
13 characteristics, reference and incorporate relevant elements of the Efficiency Maine  
14 Trust triennial plan developed under section 10104, subsection 4, including all of the  
15 trust's analysis of cost-effective energy efficiency potential and plans to implement  
16 energy efficiency programs, demand management programs, beneficial electrification  
17 programs such as heat pump and electric vehicle initiatives, energy storage initiatives  
18 and analysis of nonwires alternatives;

19           C. Include at least 2 potential planning scenarios, at a minimum, a baseline scenario  
20 and a scenario of high-penetration distributed energy resources and end-use  
21 electrification. When applicable, the planning scenarios must incorporate mechanisms  
22 for achieving the priorities established pursuant to subsection 2, including, but not  
23 limited to, cost-effective policies, programs, rates, use of software or technology and  
24 infrastructure planning, including nonwires alternatives;

25           D. Include, at a minimum, the following:

26                   (1) Forecasts of projected load, including forecasts of end-use electrification,  
27 energy efficiency and distributed energy resources;

28                   (2) Baseline energy supply data and assessments, including but not limited to  
29 planned generation retirements; new generation that is planned or needed,  
30 including generation of electricity from renewable sources; and energy storage  
31 installations;

32                   (3) Analysis of hosting capacity, including locational benefits of distributed  
33 energy resources and areas of existing or potential system congestion;

34                   (4) Analysis of available and emerging technologies necessary to enable load  
35 management and flexibility;

36                   (5) An assessment of the environmental, equity and environmental justice impacts  
37 of grid plans; and

38                   (6) An identification of cost-effective near-term grid investments and operations  
39 needed to achieve the priorities identified in subsection 2; and

40           E. Reference and incorporate, as appropriate, all relevant analysis conducted as part  
41 of the State's climate action plan under Title 38, section 577 and relevant information  
42 from reports and analysis completed by other state agencies and quasi-independent  
43 state entities.

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1 The commission shall make the filing for each covered utility available for public comment  
2 for a period of no less than 60 days. The commission may order a covered utility to revise  
3 the filing to address any deficiencies. The commission may use the filing and the input  
4 received from interested parties in rate cases or other proceedings involving the covered  
5 utility.

6 5. Access to information. Consistent with section 1311-A, a covered utility shall  
7 ensure to the greatest extent practicable that any information related to the filing is provided  
8 in a forum accessible to interested parties and all relevant data and distribution planning  
9 modeling tools are available to interested parties.

10 Nothing in this section prohibits the commission from holding additional proceedings if  
11 the commission determines it is necessary to meet the purposes of this section.'

12 Amend the amendment in section 9 in the 3rd line (page 8, line 39 in amendment) by  
13 striking out the following: "grid plans under" and inserting the following: 'an integrated  
14 grid plan as required by'

15 Amend the amendment in section 11 in the 5th line (page 9, line 12 in amendment) by  
16 striking out the following: "implement" and inserting the following: 'comply with the  
17 integrated grid planning provisions of'

18 Amend the amendment by striking out all of section 12 and inserting the following:

19 **'Sec. 12. Competitive procurement inquiry.** By October 1, 2022, the Public  
20 Utilities Commission shall initiate an inquiry to assess the use of competitive procurement  
21 methods for purchases by transmission and distribution utilities, as defined in the Maine  
22 Revised Statutes, Title 35-A, section 102, subsection 20-B, of specific goods and services  
23 of a quantity that in the aggregate could reasonably impose significant costs to ratepayers.  
24 The inquiry must consider the activities for which competitive procurement methods may  
25 apply, exceptions to competitive procurement methods, the cost-effectiveness of requiring  
26 the use of competitive procurement methods and any other considerations the commission  
27 finds are necessary to assess the use of competitive procurement methods. Upon the  
28 conclusion of the inquiry, the commission may adopt routine technical rules as defined in  
29 Title 5, chapter 375, subchapter 2-A regarding competitive procurement methods for  
30 transmission and distribution utilities. On or before February 27, 2023, the commission  
31 shall submit a report regarding the inquiry to the joint standing committee of the Legislature  
32 having jurisdiction over energy and utilities matters. The committee may report out a bill  
33 to the 131st Legislature in 2023.

34 **Sec. 13. Appropriations and allocations.** The following appropriations and  
35 allocations are made.

36 **PUBLIC UTILITIES COMMISSION**

37 **Public Utilities - Administrative Division 0184**

38 Initiative: Provides allocations for one Staff Attorney position and 2 Utility Analyst  
39 positions and associated All Other funding.

40	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
41	POSITIONS - LEGISLATIVE COUNT	0.000	3.000
42	Personal Services	\$0	\$464,348
43	All Other	\$0	\$34,680

# HOUSE AMENDMENT

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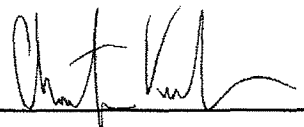
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$499,028
<b>Public Utilities - Administrative Division 0184</b>		
Initiative: Provides one-time allocation for contracted services to study similar investor-owned utilities and regulatory efforts.		
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
All Other	\$0	\$400,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$400,000
<b>PUBLIC UTILITIES COMMISSION</b>		
<b>DEPARTMENT TOTALS</b>	<b>2021-22</b>	<b>2022-23</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$899,028</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$899,028</b>

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment combines the substance of Senate Amendment "A" and Senate Amendment "B," except that the provision regarding competitive procurement methods for purchases by transmission and distribution utilities includes services as well as specific goods.

SPONSORED BY:  \_\_\_\_\_  
 (Representative **KESSLER, C**)  
**TOWN: South Portland**

**FISCAL NOTE REQUIRED**  
**(See attached)**

**HOUSE AMENDMENT**



# 130th MAINE LEGISLATURE

LD 1959

LR 2562(15)

## An Act To Ensure Transmission and Distribution Utility Accountability

Fiscal Note for House Amendment "A" to Committee Amendment "A"

Sponsor: Rep. Kessler of South Portland

Fiscal Note Required: Yes

(H-1043)

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$206,237	(\$2,005,623)	(\$1,662,542)
<b>Revenue</b>				
Other Special Revenue Funds	\$0	\$206,237	(\$2,009,623)	(\$1,662,542)

### Fiscal Detail and Notes

This amendment reduces the number of Public Utilities Commission positions added by the bill from 5 Staff Attorney positions and 6 Utility Analyst positions to 1 Staff Attorney position and 2 Utility Analyst positions. It also reduces the one-time allocation for contracted services from \$650,000 to \$400,000 for a study, but moves it into fiscal year 2022-23 from fiscal year 2023-24. The net incremental change is to increase allocations by \$206,237 in fiscal year 2022-23, but the allocations in subsequent years will be considerably less. As amended, in fiscal year 2022-23 the bill will include ongoing allocations of \$499,028 for positions and related costs and the one-time allocation of \$400,000 for contracted services.