

MAINE STATE LEGISLATURE

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ROS

Minority

L.D. 2018

Date: 4-13-22

(Filing No. H-1000)

MINORITY

ENVIRONMENT AND NATURAL RESOURCES

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

COMMITTEE AMENDMENT "B" to H.P. 1500, L.D. 2018, "An Act To Implement Recommendations Regarding the Incorporation of Equity Considerations in Regulatory Decision Making"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 35-A MRSA §1310-A is enacted to read:

§1310-A. Intervenor or advocate funding

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

A. "Advocate" means an individual, group of individuals or organization or entity representing an individual or group of individuals or the interests of an individual or group of individuals that is involved in or has an interest in the outcome of a legislative proceeding.

B. "Legislative proceeding" means a meeting, session or other activity of the Legislature or its committees or subcommittees that, as determined by the commission, concerns or is likely to affect the regulation of public utilities or other entities subject to the jurisdiction of the commission.

2. Qualification for funding. Consistent with rules adopted by the commission pursuant to subsection 4, the commission may order or provide funding in accordance with subsection 3 to an intervenor in a commission proceeding or to an advocate in a legislative proceeding upon a finding that:

A. The position of the intervenor in the commission proceeding or of the advocate in the legislative proceeding is not adequately represented by the Office of the Public Advocate or commission staff;

B. With respect to an intervenor, the intervenor is likely to substantially contribute to the commission proceeding and to assist in the resolution of the issues raised in the commission proceeding and participation in the commission proceeding by the intervenor would impose a significant financial hardship on the intervenor; and

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C. With respect to an advocate, the advocate is likely to substantially contribute to the legislative proceeding by presenting a position different from the Office of the Public Advocate and commission staff and participation in the legislative proceeding by the advocate would impose a significant financial hardship on the advocate.

3. Funding sources. If the commission finds pursuant to subsection 2 that an intervenor in a commission proceeding or an advocate in a legislative proceeding qualifies for funding, the commission may, consistent with rules adopted by the commission pursuant to subsection 4:

A. With respect to an intervenor only, order a utility involved in the commission proceeding to compensate the intervenor. Compensation provided by a utility under this paragraph may be recovered in rates; or

B. With respect to an intervenor or advocate, provide compensation to the intervenor or advocate from the Public Utilities Commission Regulatory Fund established pursuant to section 116 and, with respect to an intervenor only, filing fees, subject to the commission's determination that funds are available for that purpose.

4. Rules. The commission shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. Rules adopted by the commission pursuant to this subsection must include, but are not limited to:

(1) The process by which the commission will determine whether an intervenor or advocate qualifies for funding;

(2) Identification of which expenses incurred by an intervenor or advocate may qualify for funding, which types of commission proceedings intervenor funding will be available for, which types of legislative proceedings advocate funding will be available for and the point in an eligible commission proceeding or legislative proceeding at which an intervenor or advocate qualifying for funding will be provided with the funding;

(3) The process by which the commission will ensure that funding provided to an intervenor or advocate is used properly and the process by which funding provided to an intervenor or advocate that is not entirely used by the intervenor or advocate may be recovered by the commission; and

(4) The methods by which the commission will ensure that the public is notified about the availability of intervenor and advocate funding under this section.

B. Rules adopted by the commission pursuant to this subsection may include, but are not limited to:

(1) Establishment of a cap on the amount of funding provided to a qualified intervenor for a commission proceeding or provided to a qualified advocate for a legislative proceeding;

(2) Establishment of a process by which the commission will give priority under this section to qualified intervenors or advocates representing environmental justice populations. If the commission establishes such a process by rule, the commission, in consultation with the Department of Environmental Protection,

Amend the bill by inserting after section 3 the following:

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1 The amendment defines "advocate" to mean an individual, group of individuals or
2 organization or entity representing a group of individuals or the interests of a group of
3 individuals that is involved in or has an interest in the outcome of a legislative proceeding
4 and defines "legislative proceeding" to mean a meeting, session or other activity of the
5 Legislature or its committees or subcommittees that, as determined by the commission,
6 concerns or is likely to affect the regulation of public utilities or other entities subject to
7 the jurisdiction of the commission.

8 The amendment also adds an appropriations and allocations section.

9 **FISCAL NOTE REQUIRED**

10 **(See attached)**

**130th MAINE LEGISLATURE****LD 2018****LR 2654(03)****An Act To Implement Recommendations Regarding the Incorporation of Equity Considerations in
Regulatory Decision Making****Fiscal Note for Bill as Amended by Committee Amendment *B(H-1000)*****Committee: Environment and Natural Resources****Fiscal Note Required: Yes**

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$0	\$442,988	\$585,644	\$605,658
Appropriations/Allocations				
General Fund	\$0	\$442,988	\$585,644	\$605,658

Fiscal Detail and Notes

This bill changes provisions applicable to intervenors in Public Utilities Commission (PUC) proceedings to broaden eligibility for intervenor funding and to require certain utilities to compensate intervenors. The bill also allows for similar funding to be made available through the PUC for advocates in a legislative proceeding. The compensation provided by a utility may be recovered in rates subject to the ratemaking process approval by the PUC.

The bill also establishes definitions for "environmental justice," "frontline communities," and associated terminology. Additionally, the bill requires the Department of Environmental Protection (DEP) to adopt procedures to ensure fair and equitable access to the DEP decision-making process. DEP has indicated that incorporating these requirements will necessitate 4 additional positions and resources. The bill includes ongoing appropriations of \$292,988 beginning in fiscal year 2022-23 for one Public Service Coordinator position, two Law Clerk positions, one GIS Coordinator position and associated costs. The bill also includes ongoing appropriations of \$150,000 beginning in fiscal year 2022-23 for expenses related to expanded community engagement activities regarding the DEP decision-making process.