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| | L.D. 2018 | | |
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| e: 4-13-22 | (Filing No. H-/000) | | |
| MINORITY | | | |
| ENVIRONMENT AND NATURAL RESOU | IRCES | | |
| Reproduced and distributed under the direction of the Clerk of | the House. | | |
| STATE OF MAINE | | | |
| HOUSE OF REPRESENTATIVES | | | |
| 130TH LEGISLATURE | | | |
| SECOND REGULAR SESSION | | | |
| - P | | | |

| 9 | COMMITTEE AMENDMENT ""/> " to H.P. 1500, L.D. 2018, "An Act To Implement |
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| 10 | Recommendations Regarding the Incorporation of Equity Considerations in Regulatory |
| 11 | Decision Making" |
| | |

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

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

14 §1310-A. Intervenor or advocate funding

Date: 4-13-22

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

17 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 18 19 group of individuals that is involved in or has an interest in the outcome of a legislative 20 proceeding.

21 B. "Legislative proceeding" means a meeting, session or other activity of the 22 Legislature or its committees or subcommittees that, as determined by the commission, 23 concerns or is likely to affect the regulation of public utilities or other entities subject to the jurisdiction of the commission. 24

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 29 30 the legislative proceeding is not adequately represented by the Office of the Public 31 Advocate or commission staff;

32 B. With respect to an intervenor, the intervenor is likely to substantially contribute to 33 the commission proceeding and to assist in the resolution of the issues raised in the 34 commission proceeding and participation in the commission proceeding by the 35 intervenor would impose a significant financial hardship on the intervenor; and

Page 1 - 130LR2654(03)

| COMMITTEE AMENDMENT " to H.P. 1500, L.D. 2018 |
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| 1 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. 5 S. Funding sources. If the commission finds pursuant to subsection 2 that an intervenor in a commission proceeding or an advocate in a legislative proceeding gualifies for funding, the commission may, consistent with rules adopted by the commission pursuant to subsection 4: 9 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 10 Droceeding to compensate the intervenor on 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. 16 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. 11 1. The process by which the commission proceedings advocate funding, will be available for which types of legislative proceedings advocate funding will be available for which types of legislative proceedings advocate 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 vadvoca | | |
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| 6 intervenor in a commission proceeding or an advocate in a legislative proceeding qualifies 7 for funding, the commission may, consistent with rules adopted by the commission 8 pursuant to subsection 4: 9 A. With respect to an intervenor only, order a utility involved in the commission 10 proceeding to compensate the intervenor. Compensation provided by a utility under 11 this paragraph may be recovered in rates; or 12 B. With respect to an intervenor on advocate, provide compensation to the intervenor 13 or advocate from the Public Utilities Commission Regulatory Fund established 14 pursuant to section 116 and, with respect to an intervenor only, filing fees, subject to 16 4. Rules . The commission shall adopt rules to implement this section. Rules adopted 17 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. 18 A. Rules adopted by the commission pursuant to this subsection must include, but are not limited to: 11) The process by which the commission proceedings intervenor funding will be available for, which types of legislative proceedings intervenor funding will be available for, which types of legislative proceedings advocate funding will be available for, which types of legislative proceedings intervenor funding will be available for, which types of legislative proceedings advocate funding will be available for, which types | 2 3 | 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 |
| 10 proceeding to compensate the intervenor. Compensation provided by a utility under 11 this paragraph may be recovered in rates; or 12 B. With respect to an intervenor or advocate, provide compensation to the intervenor 13 or advocate from the Public Utilities Commission Regulatory Fund established 14 pursuant to section 116 and, with respect to an intervenor only, filing fees, subject to 15 the commission's determination that funds are available for that purpose. 16 4. Rules . The commission shall adopt rules to implement this section. Rules adopted 17 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, 18 subchapter 2-A. 19 A. Rules adopted by the commission pursuant to this subsection must include, but are 10 (1) The process by which the commission will determine whether an intervenor or 21 (1) The process by which types of commission proceedings intervenor funding will 23 (2) Identification of which expenses incurred by an intervenor or advocate may 24 gualify for funding, which types of legislative proceedings advocate funding will be 25 will be available for, which types of legislative proceeding or legislative proceeding at which the funding: 26 (3) The process by which the commission will ensure | 6 7 | 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 |
| 13 or advocate from the Public Utilities Commission Regulatory Fund established 14 pursuant to section 116 and, with respect to an intervenor only. filing fees, subject to 15 the commission's determination that funds are available for that purpose. 16 4. Rules. The commission shall adopt rules to implement this section. Rules adopted 17 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. 19 A. Rules adopted by the commission pursuant to this subsection must include, but are not limited to: 21 (1) The process by which the commission will determine whether an intervenor or advocate qualifies for funding; 23 (2) Identification of which expenses incurred by an intervenor or advocate may qualify for funding, which types of legislative proceedings advocate funding will be available for, which types of legislative proceeding or legislative proceeding at which an intervenor or advocate qualifying for funding will be available for and the point in an eligible commission proceeding or legislative proceeding at which the funding; 29 (3) The process by which the commission will ensure that funding provided to an intervenor or advocate that is not entirely used by the intervenor or advocate may be recovered by the commission; and 31 (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. 33 (4) The methods by which the commission will ensure t | 10 | proceeding to compensate the intervenor. Compensation provided by a utility under |
| 17pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,18subchapter 2-A.19A. Rules adopted by the commission pursuant to this subsection must include, but are20not limited to:21(1) The process by which the commission will determine whether an intervenor or22advocate qualifies for funding;23(2) Identification of which expenses incurred by an intervenor or advocate may24qualify for funding, which types of commission proceedings intervenor funding25will be available for, which types of legislative proceedings advocate funding will be26be available for and the point in an eligible commission proceeding or legislative27proceeding at which an intervenor or advocate qualifying for funding will be28provided with the funding;29(3) The process by which the commission will ensure that funding provided to an31intervenor 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 advocate31(4) The methods by which the commission will ensure that the public is notified34about the availability of intervenor and advocate funding provided to a qualified to:37(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 a35B. Rules adopted by the commission proceeding or provided to a qualified intervenor for a commission proceeding or provided to a qualified intervenor for a commission proceeding or provided to a qualified intervenor for a | 13 14 | 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 |
| 20 not limited to: 21 (1) The process by which the commission will determine whether an intervenor or advocate qualifies for funding; 23 (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; 29 (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 31 (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. 35 B. Rules adopted by the commission pursuant to this subsection may include, but are not limited to: 37 (1) Establishment of a cap on the amount of funding provided to a qualified intervenor for a commission proceeding or provided to a qualified intervenor for a legislative proceeding; 40 (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 | 17 | pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, |
| 22advocate qualifies for funding;23(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;29(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 will ensure that the public is notified about the availability of intervenor and advocate funding under this section.33(4) The methods by which the commission will ensure that the public is notified about the availability of intervenor and advocate funding provided to a qualified to:37(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;40(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 | | |
| 24qualify for funding, which types of commission proceedings intervenor funding25will be available for, which types of legislative proceedings advocate funding will26be available for and the point in an eligible commission proceeding or legislative27proceeding at which an intervenor or advocate qualifying for funding will be28provided with the funding;29(3) The process by which the commission will ensure that funding provided to an30intervenor or advocate is used properly and the process by which funding provided31to an intervenor or advocate that is not entirely used by the intervenor or advocate32may be recovered by the commission; and33(4) The methods by which the commission will ensure that the public is notified34about the availability of intervenor and advocate funding under this section.35B. Rules adopted by the commission pursuant to this subsection may include, but are36not limited to:37(1) Establishment of a cap on the amount of funding provided to a qualified38intervenor for a commission proceeding or provided to a qualified39legislative proceeding;40(2) Establishment of a process by which the commission will give priority under41this section to qualified intervenors or advocates representing environmental42justice populations. If the commission establishes such a process by rule, the | | |
| 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 | 24 25 26 27 | 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 |
| 34 about the availability of intervenor and advocate funding under this section. 35 B. Rules adopted by the commission pursuant to this subsection may include, but are not limited to: 37 (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; 40 (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 | 30 31 | 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 |
| 36 <u>not limited to:</u> 37 (1) Establishment of a cap on the amount of funding provided to a qualified 38 intervenor for a commission proceeding or provided to a qualified advocate for a 39 legislative proceeding; 40 (2) Establishment of a process by which the commission will give priority under 41 this section to qualified intervenors or advocates representing environmental 42 justice populations. If the commission establishes such a process by rule, the | | |
| 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 | | |
| 41 <u>this section to qualified intervenors or advocates representing environmental</u> 42 <u>justice populations. If the commission establishes such a process by rule, the</u> | 38 | intervenor for a commission proceeding or provided to a qualified advocate for a |
| | 41 42 | this section to qualified intervenors or advocates representing environmental justice populations. If the commission establishes such a process by rule, the |

Page 2 - 130LR2654(03)

| | COMMITTEE AMENDMENT "B" to H.P. 1500, L.D. 2018 | | | | |
|----------------|---|--|-------------------------|--|--|
| 1 2 3 | shall include in that rule a definition for "environmental justice populations" that is consistent with any definition for that term adopted by the department in a department rule; and | | | | |
| 4 5 | (3) Any other provisions the commissi implementation of this section. | (3) Any other provisions the commission determines necessary for the | | | |
| 6 | Amend the bill by inserting after section 3 the following the section 3 the following after section 3 the following the section 3 the section | | | | |
| 7 8 | 'Sec. 4. Appropriations and allocations. The following appropriations and allocations are made. | | | | |
| 9 | ENVIRONMENTAL PROTECTION, DEPARTM | ENVIRONMENTAL PROTECTION, DEPARTMENT OF | | | |
| 10 | Maine Environmental Protection Fund 0421 | | | | |
| 11 12 | Initiative: Provides funding for one Public Service C positions, one GIS Coordinator position and associate | | 2 Law Clerk | | |
| 13 | GENERAL FUND | 2021-22 | 2022-23 | | |
| 14 | POSITIONS - LEGISLATIVE COUNT | 0.000 | 4.000 | | |
| 15 16 | Personal Services All Other | \$0 \$0 | \$280,696 \$12,292 | | |
| 17 | | ψυ | Ψ12,272 | | |
| 18 | GENERAL FUND TOTAL | \$0 | \$292,988 | | |
| 19 | Maine Environmental Protection Fund 0421 | | | | |
| 20 21 | Initiative: Provides funding for facilitator services, meeting expenses. | travel expenses, facility | y rentals and | | |
| 22 | GENERAL FUND | 2021-22 | 2022-23 | | |
| 23 | All Other | \$0 | \$150,000 | | |
| 24 25 | GENERAL FUND TOTAL | \$0 | \$150,000 | | |
| 26 - | | ΨŬ | <i>410</i> 0,000 | | |
| 27 28 | ENVIRONMENTAL PROTECTION, DEPARTMENT OF | | | | |
| 29 | DEPARTMENT TOTALS | 2021-22 | 2022-23 | | |
| 30 31 32 | GENERAL FUND | \$0 | \$442,988 | | |
| 33 | DEPARTMENT TOTAL - ALL FUNDS | \$0 | \$442,988 | | |
| 34 | 1 | | | | |
| 35 36 | Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively. | | | | |
| 37 | SUMMARY | | | | |
| 38 | This amendment, which is the minority report of t | he committee, amends t | he intervenor | | |
| 39 | funding provisions included in the bill to provide that similar funding may be made | | | | |
| 40 | available through the Public Utilities Commission for a | advocates in a legislativ | e proceeding. | | |

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Page 3 - 130LR2654(03)

COMMITTEE AMENDMENT "b" to H.P. 1500, L.D. 2018

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The amendment defines "advocate" to mean an individual, group of individuals or organization or entity representing a group of individuals or the interests of a group of individuals that is involved in or has an interest in the outcome of a legislative proceeding and defines "legislative proceeding" to mean 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.

The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

Page 4 - 130LR2654(03)



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 $\mathcal{B}'(\mathcal{H}-1000)$ 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.