

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH  
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,  
SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

of the  
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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35 MRSA §293, as repealed and replaced by PL 1977, c. 694, §664, is amended by adding at the end a new paragraph to read:

In proceedings pursuant to section 291, 296 or 306, after reasonable notice and opportunity to be heard, the commission may issue a temporary order pending the conclusion of the formal public hearing. In making such an order, the commission shall consider the likelihood that such an order would be issued at the conclusion of the proceeding, the benefit to the public or affected customers compared to the harm to the utility or other customers of issuing such an order and the public interest. Notwithstanding any other provisions of law, upon a written finding that the procedural requirements otherwise required by law will result in unreasonable harm to a utility, a customer or the public, the commission may establish such accelerated notice periods, schedules and limitations on hearings as may be necessary to expedite consideration of such an order.

Effective September 19, 1985.

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## CHAPTER 322

H.P. 514 - L.D. 719

AN ACT Defining the Right of Employees of  
Public Utilities to Testify before  
Legislative Committees and the Public  
Utilities Commission.

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

35 MRSA §21 is enacted to read:

§21. Testimony provided by employees of public utilities to legislative committees and to the Public Utilities Commission

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

A. "Employee" means a person who performs a service for wages or other remuneration under a con-

tract of hire, expressed or implied, but does not include an independent contractor.

B. "Employer" means a public utility licensed to do business in this State with one or more employees.

C. "Legislative committee" means a joint standing committee of the Legislature, a joint select committee of the Legislature, a task force, commission or council or any other committee established by the Legislature and composed wholly or partly of Legislators for the purpose of conducting legislative business.

D. "Own time" means an employee's vacation or personal time, earned as a condition of employment.

2. Right to provide testimony. Every employee of a public utility has the right to represent himself and to testify before a legislative committee or the Public Utilities Commission on his own time. No employee of a public utility who complies with this chapter may be denied the right to testify before a legislative committee or the Public Utilities Commission.

3. Discharge of, threats to or discrimination against employees of public utilities for testimony presented to legislative committees or the Public Utilities Commission. Unless otherwise provided for, a supervisor shall not discharge, threaten or otherwise discriminate against an employee of a public utility regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee, in compliance with this chapter, in good faith testifies before or provides information to a legislative committee or to the Public Utilities Commission regarding the operation of the business of a public utility or because the employee brings the subject matter of the testimony or information to the attention of a person having supervisory authority.

This subsection does not apply to an employee who has testified before or provided information to a legislative committee or to the Public Utilities Commission unless the employee has first brought the subject matter of the testimony or information in writing to the attention of a person having supervisory authority with the employer and has allowed the employer a reasonable time to address the subject mat-

ter of the testimony or information. If appropriate, the employer shall respond in writing.

4. Exceptions. The right created in subsection 3 does not apply to testimony which, upon reasonable inquiry by the employee, would be found to be false, slanderous, libelous or defamatory or to testimony which violates a term or condition of a collectively bargained agreement or to testimony which discloses trade secrets or corporate strategy, the disclosure of which would result in harm to the employer.

5. Civil actions for injunctive relief or other remedies. An employee of a public utility who alleges a violation of his rights under this chapter and who has made reasonable efforts to exhaust all grievance procedures, as provided for in the contract of employment or which otherwise may be available at his place of employment, may bring a civil action, including an action for injunctive relief, within 90 days after the occurrence of that alleged violation or if a grievance procedure or similar process terminates. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is filed resides. An employee shall establish each and every element of his case by a preponderance of the evidence.

6. Remedies ordered by court. A court, in rendering a judgment in an action brought pursuant to this chapter, may order reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights or any combination of these remedies. A court may also award the prevailing party all or a portion of the costs of litigation, including reasonable attorneys' fees and witness fees, if the court determines that the award is appropriate.

7. Collective bargaining rights. This chapter shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement.

8. Jury trial; common-law rights. Any action brought under this chapter may be heard by a jury. Nothing in this chapter may be construed to derogate any common-law rights of an employee or employer.