

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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Twin City Printery
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1987

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
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ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

**AN ACT to Clarify and Limit Personal
Liability of Volunteer Firemen and
Volunteer Ambulance Drivers.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, nonprofit incorporated ambulance and fire services are vitally important to the health and well-being of the people of this State, particularly in rural areas; and

Whereas, these services are quasi-governmental in nature and similar to fire protection and other governmental services; and

Whereas, the Maine Tort Claims Act does not clearly cover these services; and

Whereas, clear coverage of these services by the Maine Tort Claims Act is essential to limit the liability of these services and assist them in procuring necessary insurance; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 14 MRSA §8102, sub-§1, as amended by PL 1977, c. 696, §165, is further amended to read:

1. Employee. "Employee" means a person acting on behalf of the governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials, volunteer firefighters as defined in Title 30, section 3771, ~~rescue squad members where the rescue squad receives full or partial financial support from political subdivisions,~~ emergency medical service personnel and Maine National Guardsmen while in active state service under Title 37-A, sections 57 and 207 and while engaged in the Domestic Action Program, but the term "employee" shall not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.

Sec. 2. 14 MRSA §8102, sub-§1-A is enacted to read:

1-A. Emergency medical service. "Emergency medical service" means a nonprofit, incorporated ambulance service or first responder service licensed under Title 32, chapter 2-B, receiving full or partial financial support from or officially recognized by the State, a municipality or county or an entity created under Title 30, chapter 203 or 204-A, except when the emergency medical

service is acting outside the scope of activities expressly authorized by the State, municipality, county or entity created under Title 30, chapter 203 or 204-A.

Sec. 3. 14 MRSA §8102, sub-§3, as amended by PL 1985, c. 765, §3, is further amended to read:

3. Political subdivision. "Political subdivision" means any city, town, plantation, county, administrative entity or instrumentality created pursuant to Title 30, chapters 203 and 204-A, quasi-municipal corporation and special purpose district, including, but not limited to, any water district, sanitary district, hospital district and school district of any type, any volunteer fire association as defined in Title 30, section 3771 and any emergency medical service.

Sec. 4. 30 MRSA §3775, sub-§1, as enacted by PL 1973, c. 680, §5, is repealed.

Sec. 5. 30 MRSA §3776, as enacted by PL 1973, c. 680, §5, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 22, 1987.

CHAPTER 387

S.P. 604 — L.D. 1779

AN ACT Relating to Significant Energy Agreements and Contracts by Electric Utilities.

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

Sec. 1. 35-A MRSA §3132, sub-§6, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

6. Commission order; certificate of public convenience. In its order, the commission shall make specific findings with regard to the need for the proposed facilities. If the commission finds that a need exists, it shall issue a certificate of public convenience and necessity for the facilities. If the commission orders or allows the erection of the facilities, the order shall be subject to all other provisions of law and the right of any other agency to approve the facilities. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the utility to erect or construct was prudent.

Sec. 2. 35-A MRSA §3132, sub-§11 is enacted to read:

11. Amendments, extensions and renewals. This section applies to any amendment, extension or renewal of any contract between the utility and other parties with an ownership interest, governing the terms of their

participation in the construction of a generation or transmission facility subject to this section, for which the original contract was subject to approval by the commission.

sion capacity prohibited without prior order of the commission

A. The commission may waive the approval requirements of this section with respect to a particular amendment, extension or renewal or a group of amendments, extensions or renewals upon request by the utility. The commission may also waive the 3-month notice required in subsection 1. If the commission does not respond to a request for waiver within 30 days, the request shall be deemed to have been granted. The commission shall prescribe by rule the content of a request for waiver and procedures for the expeditious processing of requests in certain circumstances.

B. For any amendment, extension or renewal of any contract otherwise subject to this section, but for which the original contract was not subject to approval by the commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal, but approval under this section is not required.

Sec. 3. 35-A MRSA §3133, sub-§9 is enacted to read:

9. Renewal of contracts for purchase or conversion. This section applies to any amendment, extension or renewal of any contract between the utility and other parties governing the terms of their participation in a purchase or conversion subject to this section, for which the original contract was subject to approval by the commission.

A. The commission may waive the approval requirements of this section with respect to a particular amendment, extension or renewal or a group of amendments, extensions or renewals upon request by the utility. The commission may also waive the 2-month notice required in subsection 2. If the commission does not respond to a request for waiver within 30 days, the request shall be deemed to have been granted. The commission shall prescribe by rule the content of a request for waiver and procedures for the expeditious processing of the request in certain circumstances.

B. For any amendment, extension or renewal of any contract otherwise subject to this section for which the original contract was not subject to approval by the commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal, but approval under this section is not required.

Sec. 4. 35-A MRSA §3133-A is enacted to read:

§3133-A. Significant agreements and contracts relating to generating capacity, energy or transmis-

1. Certificate of public convenience and necessity. Except as provided in subsection 3, no electric utility may enter into any significant agreement or contract, as defined in subsection 2, unless the commission has issued a certificate of public convenience and necessity approving the proposed agreement or contract. The utility shall file a notice with the commission, no less than 2 months in advance of submitting its petition for a certificate of public convenience and necessity for the proposed agreement or contract. The commission may require the petitioner to make available such additional information as it deems necessary. The petition shall contain such information as the commission may by rule prescribe. The petition shall be set down for public hearing. The commission shall issue its order within 12 months after the complete petition is filed. If there is then outstanding a long-range plan for the utility pursuant to section 3134, which includes the agreement or contract, the utility need not provide advance notice of its intent to file the petition and the commission shall issue its order within 9 months after the complete petition is filed.

In its order, the commission shall make specific findings with regard to the agreement or contract. If the commission finds that a need for it exists and it is reasonable and consistent with the public interest, the commission shall issue the certificate of public convenience and necessity.

The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance, the decision by the utility to enter into the agreement or contract was prudent.

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

A. “Significant agreement or contract” means a contract or other agreement enforceable as a contract which binds the utility to a future course of action with respect to supplying, purchasing, dispatching or exchanging generating capacity, energy or transmission capacity or any renewal, amendment or extension of any contract or agreement which is for a period of 3 years or more and involves:

(1) One thousand kilowatts or more of electrical generating capacity, or 10,000,000 kilowatt hours or more of energy per year, flowing over a transmission line with a capacity greater than 100 kilovolts; or

(2) More than 10% of the generating capacity, transmission capacity or energy generation of the utility, whichever is less.

3. Exclusions. This section does not apply to any

contract or agreement for which commission approval is required under section 3132 or 3133 or to any contract with a cogenerator or small power producer as defined by section 3303. This section applies to contracts or agreements which take effect on or after the effective date of this section.

4. Filing fee. A utility or utilities filing a petition under this section shall pay to the Public Utilities Commission at the time of filing an amount equal to 2/100 of 1% of the estimated cost of the contract or agreement. The utility or utilities, at or before the time of filing of notice of its intent to file the petition, may request the commission to waive all or a portion of the filing fee as unnecessary to help defray the cost of review. The commission shall rule on the request for waiver within 60 days.

Notwithstanding this Title, filing fees paid as required in this subsection shall be segregated, apportioned and expended by the commission for the purposes of this section. Any portion of the filing fee that is received from a utility or utilities and is not expended by the commission to process the petition for a certificate of public convenience and necessity shall be returned to the utility or utilities.

5. Amendments, extensions and renewals. This section applies to any amendment, extension or renewal of any significant agreement or contract subject to this section for which the original contract was subject to approval by the commission.

A. The commission may waive the approval requirements of this section with respect to a particular agreement or group of agreements upon request by the utility. The commission may also waive the 2-month notice requirement in subsection 1. If the commission does not respond to a request for waiver within 30 days, the request shall be deemed to have been granted. The commission shall prescribe by rule the content of a request for waiver in certain circumstances.

B. For any amendment, extension or renewal of any contract otherwise subject to this section for which the original contract was not subject to approval by the commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal, but approval is not required under this section.

Effective September 29, 1987.

CHAPTER 388

H.P. 1301 — L.D. 1780

AN ACT to Clarify the Authority of the Superintendent of Insurance to Assign Risks for Workers' Compensation Insurance.

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

Sec. 1. 24-A MRSA §2350, sub-§1, ¶H is enacted to read:

H. The superintendent may make assignments of specific insureds to specific insurers required to participate in the accident prevention account.

Sec. 2. 24-A MRSA §2350, sub-§2, ¶H is enacted to read:

H. The superintendent may make assignments of specific insureds to specific insurers required to participate in the safety pool.

Effective September 29, 1987.

CHAPTER 389

H.P. 1304 — L.D. 1783

AN ACT to Require Licensing of Adult Day Care Services in Maine.

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

Sec. 1. 22 MRSA §7702, as amended by PL 1983, c. 691, §1, is further amended to read:

§7702. Violation; penalty

Whoever violates any provision of this subtitle shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both, except that anyone violating sections 7703 and 8305 and 8603 shall be punished only by a fine of not more than \$500.

Sec. 2. 22 MRSA §7801, sub-§1, ¶E, as repealed and replaced by PL 1983, c. 386, §1, is amended to read:

E. A day care facility; or

Sec. 3. 22 MRSA §7801, sub-§1, ¶F, as enacted by PL 1983, c. 386, §1, is amended to read:

F. A nursery school; ; or

Sec. 4. 22 MRSA §7801, sub-§1, ¶G is enacted to read:

G. An adult day care program.

Sec. 5. 22 MRSA c. 1679 is enacted to read:

CHAPTER 1679

ADULT DAY CARE PROGRAM