

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 11, 2000**

**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 Company**  
**Augusta, Maine**  
**2000**

accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

See title page for effective date.

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## CHAPTER 730

H.P. 1937 - L.D. 2680

### An Act Concerning Certain Contracts Affected by Electric Industry Restructuring

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

**Whereas,** the law governing certain contracts affected by electric industry restructuring needs to be modified immediately to address certain unanticipated developments; 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**Sec. 1.** PL 1997, c. 316, §6 is repealed and the following enacted in its place:

**Sec. 6. Qualifying facility contracts tied to retail tariffs.** Certain contracts for the sale of energy, or energy and capacity, by qualifying facilities contain terms that establish or adjust the purchase rate based upon the retail tariff rate or changes to that retail tariff rate paid by the qualifying facility to the electric utility for its purchases of electricity or upon reference to a particular retail tariff rate or changes in such retail tariff rate. The Legislature finds that after the date of retail access as provided for in this Act, a question may arise as to whether there is a retail tariff rate that provides for a comparable standard for sale of combined generation and transmission or distribution services. Following the implementation of retail access as provided for in this Act, the Public Utilities Commission shall, at the request of a qualifying facility or a utility that is a party to such a contract, establish a contract rate as follows.

1. For contracts that involve arrangements for the simultaneous purchase and sale of electricity:

A. For years in which the utility has sold the output of the qualifying facility contract pursuant to

the Maine Revised Statutes, Title 35-A, section 3204, subsection 4 and the qualifying facility has, as of the effective date of this paragraph, contracted for retail power supply, the commission shall establish or adjust the contract rate based on the annual change, determined on a monthly basis, in the average of the total price paid for electric services by all retail customers in the utility's service territory taking service at the same voltage level as the qualifying facility. For purposes of this paragraph, the term "annual charge determined on a monthly basis" means the charge calculated by comparing the applicable figure for the month for which a contract rate is to be established with the applicable figure for the same month in the prior year;

B. For years in which the utility has sold the output of the qualifying facility contract pursuant to Title 35-A, section 3204, subsection 4 and the qualifying facility has not, as of the effective date of this paragraph, contracted for retail power supply, the commission shall establish the contract rate as a rate per kilowatt hour for each month equal to the sum of the average per-kilowatt hour cost to the qualifying facility of its purchases during the same month of transmission and distribution service under all applicable tariffs and of generation service. The qualifying facility shall obtain its generation service through a process that is approved by the commission; and

C. Notwithstanding any other provision of law, for years in which the utility has not sold the output of the qualifying facility contract pursuant to Title 35-A, section 3204, subsection 4, the commission may direct the utility to sell the output of the qualifying facility back to the qualifying facility or otherwise act to place the qualifying facility and utility as close as possible to their positions with respect to the contract prior to the implementation of retail access. In determining the positions of the qualifying facility and the utility with respect to the contract prior to the implementation of retail access, the commission shall, at a minimum, consider and make specific findings with regard to:

(1) Benefits the qualifying facility received under the contract, including any ability to avoid the purchase of standby service and the cost of balancing short-term differences in power generation and use; and

(2) Benefits the utility received under the contract.

To the extent the commission is unable to restore both the qualifying facility and the utility to their positions with respect to the contract prior to the

implementation of retail access, the commission shall act to equitably apportion the resulting costs and benefits between the qualifying facility and the utility. The commission shall issue a decision under this paragraph within 6 months of a filing by a utility or a qualifying facility for a determination pursuant to this paragraph.

2. For any contract to which this section applies that does not involve arrangements for the simultaneous purchase and sale of electricity, the commission shall establish or adjust the contract rate based on the annual change in the average of the total price paid for electric services by all retail customers in the utility's applicable rate class. The commission shall choose the applicable rate class and specific methodology for establishing or adjusting the rate to preserve as nearly as possible the parties' benefits and burdens under the terms of the contract, as amended.

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

Effective April 14, 2000.

**CHAPTER 731**

**H.P. 1790 - L.D. 2510**

**An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2000 and June 30, 2001**

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

**PART A**

**Sec. A-1. Supplemental appropriations from General Fund.** There are appropriated from the General Fund for the fiscal years ending June 30, 2000 and June 30, 2001 to the departments listed the following sums.

	1999-00	2000-01
<b>ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF</b>		

**Office of the Commissioner - Administrative and Financial Services**

All Other \$96,180

Provides for the appropriation of funds to pay the final settlement costs of the McKin Site cleanup incurred by state agencies.

**Accounts and Control - Bureau of - Systems Project**

Personal Services \$36,000  
All Other (36,000)

TOTAL 0

Provides for the appropriation of funds to continue a project Accounting Systems Analyst position through June 30, 2001 to implement the statewide time and attendance system. The position was originally approved by Financial Order 003255F.

**Budget - Bureau of the**

All Other 237,500

Provides for the appropriation of funds for license costs, servers and the cost of first-year maintenance for the implementation and ongoing operation of the budget and financial management system.

**Buildings and Grounds Operations**

Positions - Legislative Count (8,000)  
Personal Services 263,956  
All Other 558,000

TOTAL 821,956

Provides for the appropriation of funds through the transfer of one Laborer II position, one Heavy Equipment Operator position, one Building Maintenance Supervisor position and 5 Boiler Engineer positions from the Augusta Mental Health Institute to manage the Augusta Mental