

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

Sec. 2. 12 MRSA §1862, sub-§1, ¶D-1 is enacted to read:

D-1. "Large-scale project" means a project that extends beyond localized development adjacent to a single facility or property. "Large-scale project" does not include a project such as a pier, marina or boatyard or utility cables and pipelines serving neighboring communities or islands. "Large-scale project" includes, but is not limited to, an offshore wind farm, an offshore tanker port, an interstate or international pipeline or cable and similar projects.

Sec. 3. 12 MRSA §1862, sub-§2, ¶E, as enacted by PL 1997, c. 678, §13, is amended to read:

E. Beginning January 1, 1997, the maximum rent to which any lease is subject may not exceed \$1,200 per year. The \$1,200 limit does not apply to a large-scale project. The director shall establish through rulemaking criteria for determining a project's designation as a large-scale project and criteria for establishing rents for large-scale projects. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. Transition. Until major substantive rules authorized under the Maine Revised Statutes, Title 12, section 1862, subsection 2, paragraph E are finally adopted and in effect, the Director of the Bureau of Parks and Lands within the Department of Conservation shall determine if a project qualifies as a large-scale project as defined in Title 12, section 1862, subsection 1, paragraph D-1 and determine the rents for large-scale projects.

See title page for effective date.

CHAPTER 135

H.P. 619 - L.D. 868

An Act To Ensure Equity in Funding

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

Whereas, the Public Utilities Commission and the Public Advocate rely on assessments for their annual budgets; and

Whereas, this legislation affects the levels of income from specific sources; 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. 35-A MRSA §116, sub-§1, as amended by PL 2003, c. 272, §1, is further amended to read:

1. Utilities subject to assessments. Every transmission and distribution, gas, telephone and water utility and ferry subject to regulation by the commission is subject to an assessment on its intrastate gross operating revenues to produce a total of no more than \$5,505,000 in revenues annually. The commission shall assess transmission and distribution utilities at a rate sufficient to produce \$3,772,000 annually. The commission shall assess all other utilities at a rate sufficient to produce \$1,733,000 annually. The portion of the total assessment applicable to each category of public utility is based on an accounting by the commission of the portion of the commission's resources devoted to matters related to each category. The commission shall develop a reasonable and practicable method of accounting for resources devoted by the commission to matters related to each category of public utility. Assessments on each public utility within each category must be based on the utility's gross intrastate operating revenues. The commission shall determine the assessments annually prior to May 1st and assess each utility for its pro rata share for expenditure during the fiscal year beginning July 1st. Each utility shall pay the assessment charged to the utility on or before July 1st of each year. Any increase in the assessment that becomes effective subsequent to May 1st may be billed on the effective date of the act authorizing the increase.

A. The assessments charged to utilities under this section are just and reasonable operating costs for rate-making purposes.

B. For the purposes of this section, "intrastate gross operating revenues" means intrastate revenues derived from filed rates, except revenues derived from sales for resale.

C. Gas utilities subject to the jurisdiction of the commission solely with respect to safety are not subject to any assessment.

D. The commission may correct any errors in the assessments by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year.

E. The commission may exempt utilities with annual intrastate gross operating revenues under \$50,000 from assessments under this section.

Sec. 2. 35-A MRSA §116, sub-§5, as amended by PL 1991, c. 343, §3, is further amended to read:

5. Unexpended funds. ~~Except as specified in this subsection, any~~ Any amount of the funds that is not expended at the end of a fiscal year does not lapse, but is carried forward to be expended for the purposes specified in this section in succeeding fiscal years; ~~but any unexpended funds in excess of 5% of the total annual assessment authorized in subsection 1 must be, at the option of the commission, either presented to the Legislature in accordance with subsection 2 for reallocation and expenditure for commission purposes, or used to reduce the utility assessment in the following fiscal year.~~

Sec. 3. 35-A MRSA §116, sub-§8, as amended by PL 2005, c. 3, Pt. J, §1, is further amended to read:

8. Public Advocate assessment. Every utility subject to assessment under this section is subject to an additional annual assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for operating the Office of Public Advocate, excluding amounts allocated for the full cost of the State Nuclear Safety Advisor established pursuant to Title 25, section 52. The portion of this assessment applicable to each category of public utility is based on an accounting by the Public Advocate of resources devoted to matters related to each category. The Public Advocate shall develop a reasonable and practicable method of accounting for resources devoted by the Public Advocate to matters related to each category of public utility. Assessments on each public utility within each category must be based on the utility's gross intrastate operating revenues. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may only be used to fulfill the duties specified in chapter 17. The assessments charged to utilities under this subsection are considered just and reasonable operating costs for rate-making purposes. The Public Advocate shall develop a method of accounting for staff time within the Office of Public Advocate. All professional and support staff shall account for their time in such a way as to identify the percentage of time devoted to public utility regulation and the percentage of time devoted to other duties that may be required by law.

A. The Public Advocate shall submit its budget recommendations as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1665. The assessments and expenditures provided in this section are subject to legislative approval. The Public Advocate shall make an annual report of its planned expenditures for the year and on its use of funds

in the previous year. The Public Advocate may also receive other funds as appropriated by the Legislature.

B. The Public Advocate may use the revenues provided in accordance with this section to fund the Public Advocate and 9 employees and to defray the costs incurred by the Public Advocate pursuant to this Title, including administrative expenses, general expenses, consulting fees and all other reasonable costs incurred to administer this Title.

~~C-1. Except as specified in this subsection, funds~~ Funds that are not expended at the end of a fiscal year do not lapse but must be carried forward to be expended for the purposes specified in this section in succeeding fiscal years; ~~but, with the exception of funds carried forward from fiscal year 2004-05 and fiscal year 2005-06 for use in the following fiscal year, unexpended funds in excess of 10% of the total annual assessment authorized in this section must, at the option of the Public Advocate, either be presented to the Legislature in accordance with paragraph A for reallocation and expenditure or used to reduce the utility assessment in the following fiscal year. In the case of funds carried forward from fiscal year 2004-05 and fiscal year 2005-06 for use in the following fiscal year, 100% of these funds may be expended for the purposes specified in this section.~~

Sec. 4. Public Utilities Commission study.

The Public Utilities Commission shall, so far as is reasonably practicable, make an accounting of resources devoted by the commission to matters that relate to or affect entities other than public utilities. The commission shall report the accounting results to the Joint Standing Committee on Utilities and Energy no later than March 1, 2006. The committee is authorized to report out a bill to the Second Regular Session of the 122nd Legislature relating to the assessments imposed under the Maine Revised Statutes, Title 35-A, section 116.

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

Effective May 18, 2005.

CHAPTER 136

S.P. 27 - L.D. 85

**An Act To Establish Moxie as
Maine's Official Soft Drink**