

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

downgraded after January 1, 2006 to a restricted classification for water quality as defined in rule.

A. Unless the commissioner obtains the approval of the affected municipality, the commissioner may not open an area downgraded to a restricted classification for depuration harvesting for 2 years from the date of the reclassification to allow the municipality to develop a pollution abatement plan under subsection 3-B.

B. Beginning April 1, 2007, a municipality must notify the commissioner within 8 weeks of the reclassification of an area whether or not it intends to develop a pollution abatement plan. If the municipality does not wish to develop a pollution abatement plan in accordance with subsection 3-B or if it fails to notify the commissioner within the 8-week period, municipal approval is not required.

C. If a municipal shellfish conservation committee has a pollution abatement plan as provided in subsection 3-B on file with the commissioner, the commissioner must obtain the approval of the committee before taking action to open an area within that municipality for depuration digging.

D. If a municipal shellfish conservation committee has a depuration management plan as provided in subsection 3-C approved by the commissioner, the municipality may manage the depuration harvesting over a shellfish growing area within that municipality.

Sec. 3. 12 MRSA §6856, sub-§3-B is enacted to read:

3-B. Municipal pollution abatement plan. A pollution abatement plan must be specific to a particular shellfish growing area and include at least:

A. A shoreline survey as defined by rule;

B. Hydrological and meteorological data pertaining to the area;

C. Pollution source identification;

D. Tasks to be undertaken to remediate the pollution problem; and

E. A timeline for pollution remediation. If the timeline for remediation is longer than 2 years, a scientific resource survey and a standing crop analysis as required by the commissioner must be included in the plan.

Sec. 4. 12 MRSA §6856, sub-§3-C is enacted to read:

3-C. Municipal depuration management plan. A depuration management plan must include but is not limited to:

A. A scientific shellfish survey approved by the commissioner;

B. A standing crop analysis with year classes as required by the commissioner;

C. Historical harvest data; and

D. Established annual harvest limits.

Sec. 5. 12 MRSA §6856, sub-§7, as enacted by PL 1991, c. 831, §2, is amended to read:

7. Resident depuration harvesters. ~~When~~ Except for depuration activities conducted under subsection 3-A, paragraph D, when harvesting soft-shelled clams under a depuration certificate, the person holding the certificate shall, to the extent possible, employ one person who is a resident of the municipality as harvester for every person employed as harvester who is not a resident of that municipality.

Sec. 6. Retroactivity. That section of this Act that enacts Title 12, section 6856, subsection 3-A applies retroactively to January 1, 2006.

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

Effective March 22, 2007.

CHAPTER 16

H.P. 223 - L.D. 267

An Act To Ensure Proper Funding of the Public Utilities Commission

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

Whereas, it is necessary that the Public Utilities Commission have sufficient funds to carry out its statutory obligations during fiscal years 2007-08 and 2008-09; 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 2005, c. 135, §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~~ sufficient revenue for expenditures allocated by the Legislature for the Public Utilities Commission Regulatory Fund established pursuant to this section. The budget for the Public Utilities Commission Regulatory Fund is subject to legislative review and approval in accordance with subsection 2. 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-§2, as amended by PL 1997, c. 424, Pt. B, §4, is further amended to read:

2. Committee recommendations; legislative approval of budget. The commission shall submit its budget recommendations as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1666. The commission shall make a presentation of its budget recommendations contained

in any current services budget legislation and any supplemental budget legislation to the joint standing committee of the Legislature having jurisdiction over public utilities matters. The joint standing committee of the Legislature having jurisdiction over public utilities matters shall review the commission's recommendations and make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding the budget of the commission, including but not limited to all expenditures from the fund established pursuant to this section. The commission shall make an annual report in accordance with section 120 of its planned expenditures for the year and on its use of funds in the previous year. ~~The~~ In addition to the assessments authorized under this section, the commission may also receive other funds as appropriated or allocated by the Legislature.

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

Effective March 23, 2007.

CHAPTER 17
H.P. 136 - L.D. 154

**An Act To Provide
Reinstatement of Group Life
Insurance for Public
Employees Returning from
Unpaid Military Leave**

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

Sec. 1. 5 MRSA §18058, sub-§2, ¶D is enacted to read:

D. Any employee who, during a period of unpaid military leave of absence, does not continue coverage while on unpaid military leave must be reinstated to the levels of coverage in effect immediately prior to the unpaid military leave. A request for reinstatement by the employee must be made within 31 days of the employee's return to work following unpaid military leave. An employee who wants to be reinstated and who does not apply for reinstatement within 31 days of the employee's return to work from unpaid military leave must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter.

Sec. 2. 5 MRSA §18658, sub-§2, ¶D is enacted to read:

D. Any employee who, during a period of unpaid military leave of absence, does not continue coverage while on unpaid military leave must be rein-