

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

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Lewiston, Maine
2008

initiating a rate case for a set period of time, the commission shall, in order to ensure that rates at the starting point of the alternative form of regulation are just and reasonable, conduct a revenue requirement and earnings review pursuant to the standards of section 301. In conducting such a review under this subsection, the commission, at its discretion, may conduct the review in a manner designed to minimize the cost of the review.

Sec. 2. Application. In accordance with the Maine Revised Statutes, Title 1, section 302, this Act does not apply to any proceeding relating to an alternative form of regulation pending before the Public Utilities Commission on the effective date of this Act.

See title page for effective date.

CHAPTER 551

H.P. 1527 - L.D. 2147

An Act To Ensure That State Government Is a Model Employer of People with Disabilities

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

Sec. 1. 5 MRSA §23001, sub-§2, as enacted by PL 2005, c. 570, Pt. A, §1, is amended to read:

2. Plan. Develop by January 1, 2007 and update annually thereafter a plan to increase the opportunities for individuals with disabilities to be employed by that department, agency or instrumentality of the State. This plan must include a description of the extent to which the special needs of employees who are individuals with disabilities are being met. Beginning with the plans updated in 2009, each department, agency and instrumentality of the State shall submit the plans to the Director of the Bureau of Human Resources within the Department of Administrative and Financial Services;

Sec. 2. 5 MRSA §23001, sub-§2-A is enacted to read:

2-A. Report to committees. Submit a biennial report beginning March 1, 2009, compiled by the Director of the Bureau of Human Resources within the Department of Administrative and Financial Services, on the plans developed pursuant to subsection 2 to the joint standing committees of the Legislature having jurisdiction over state and local government matters and over labor matters and to the Governor's office. The report must include any changes made to the plans, an assessment made by the director of the effectiveness of the plans and any recommendations for legislative action pertaining to the report. The joint standing committee of the Legislature having jurisdiction

over state and local government matters may submit legislation pertaining to the report to the first regular session of each Legislature;

See title page for effective date.

CHAPTER 552

H.P. 1609 - L.D. 2248

An Act To Delete Outdated References to Rule 42 of the Maine Rules of Criminal Procedure from the Maine Bail Code and the Provision Allowing for Appeals by Aggrieved Contemnors

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

Sec. 1. 15 MRSA §1004, as amended by PL 2005, c. 507, §4, is further amended to read:

§1004. Applicability and exclusions

This chapter applies to the setting of bail for a defendant in a criminal proceeding, including the setting of bail for an alleged contemnor in a plenary contempt proceeding involving a punitive sanction under ~~the Maine Rules of Criminal Procedure, Rule 42 or~~ the Maine Rules of Civil Procedure, Rule 66. It does not apply to the setting of bail in extradition proceedings under sections 201 to 229 ~~or~~, post-conviction review proceedings under sections 2121 to 2132, probation revocation proceedings under Title 17-A, sections 1205 to 1207, supervised release revocation proceedings under Title 17-A, section 1233 or administrative release revocation proceedings under Title 17-A, sections 1349 to 1349-F, except to the extent and under the conditions stated in those sections. This chapter applies to the setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under ~~the Maine Rules of Criminal Procedure, Rule 42 or~~ the Maine Rules of Civil Procedure, Rule 66 and to the setting of bail relative to a material witness only as specified in sections 1103 and 1104, respectively. This chapter does not apply to a person under 18 years of age who is arrested for a crime defined under Title 12 or Title 29-A that is not a juvenile crime as defined in section 3103.

Sec. 2. 15 MRSA §1103, as enacted by PL 1997, c. 317, Pt. A, §2, is amended to read:

§1103. Summary contempt proceeding involving a punitive sanction

The setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under ~~the Maine Rules of Criminal Procedure, Rule 42 or~~ the Maine Rules of Civil Procedure,

Rule 66, including any appeal under section 2115-B, is a matter wholly within the discretion of the court. Subchapters ~~IV~~ 4 and ~~V~~ 5 apply.

Sec. 3. 15 MRSA §2115-B, as amended by PL 2003, c. 17, §3, is further amended to read:

§2115-B. Appeal by aggrieved contemnor

1. Summary contempt proceedings involving punitive sanctions. In a summary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, instituted under ~~either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66~~, before a Judge of the District Court or Probate Court or a Justice of the Superior Court or the Supreme Judicial Court, a contemnor who is aggrieved by an order and imposition of a punitive sanction may appeal to the Supreme Judicial Court sitting as the Law Court, as provided under section 2111 or 2115 and the applicable Maine Rules of Appellate Procedure.

2. Plenary contempt proceedings involving punitive sanctions. In a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, instituted under ~~either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66~~, any contemnor aggrieved by an adjudication and imposition of a punitive sanction may appeal to the Supreme Judicial Court sitting as the Law Court, as provided under section 2111 or 2115 and the applicable Maine Rules of Appellate Procedure.

See title page for effective date.

CHAPTER 553

H.P. 1552 - L.D. 2182

An Act To Allow Civil Penalties for Damaging Utility Property or for Theft of Utility Services

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

Whereas, theft of utility services and property is a significant and growing problem in the State; and

Whereas, theft of utility services and property imposes costs on all users of utility services and endangers the health and safety of utility workers and the general public; 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 preserva-

tion 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 §2705, as amended by PL 1993, c. 106, §3, is repealed.

Sec. 2. 35-A MRSA §2706 is enacted to read:

§2706. Civil liability for utility services wrongfully obtained

A person may not obtain utility services by deception, threat or force or any other means designed to avoid due payment for the services that the person knows are available only for compensation and a person may not, having control over the disposition of utility services of another to which the person knows the person is not entitled, divert such utility services to the person's own benefit or to the benefit of some other person who the person knows is not entitled to the utility services. A person who violates this section is liable in a civil action to the utility providing the service for:

1. Cost of service. The cost of the utility services wrongfully obtained or diverted plus interest on the value of those services based on an annual interest rate of 5%;

2. Other costs. All other reasonable costs to the utility, including attorney's fees and costs of undertaking and completing the investigation resulting in a determination of liability under this section; and

3. Civil penalty. A civil penalty not to exceed \$2,500 due and payable to the utility for each violation of this section.

A person who is liable under this section may not pass on the cost of that liability, including any civil penalty assessed, to any tenants of that person who received diverted or wrongfully obtained utility services due to the actions of the liable person.

Sec. 3. 35-A MRSA §2707 is enacted to read:

§2707. Civil liability for damages to utility property

A person may not intentionally, knowingly or recklessly damage, destroy or tamper with property of a utility having no reasonable grounds to believe that the person has a right to do so if such conduct creates a risk of interruption or impairment of services rendered to the public or causes a substantial interruption or impairment of services rendered to the public. A person who violates this section is liable in a civil action to the utility owning the property affected for:

1. Cost of repair or replacement. The cost of repair or replacement of the utility property, as necessary;