

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

tion utility recovers in rates all costs of contracts entered into pursuant to subsection 3, including but not limited to any impacts on the utility's costs of capital. A price differential existing at any time during the term of the contract between the contract price and the prevailing market price at which the capacity resource is sold must be reflected in rates and may not be deemed to be imprudent.

Sec. 5. 35-A MRSA §3210-C, sub-§10, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

10. Rules. The commission shall adopt rules to implement this section. In adopting rules, the commission shall consider the financial implications of this section on ~~large~~ investor-owned transmission and distribution utilities. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The commission may not enter into or direct any ~~large~~ investor-owned transmission and distribution utility to enter into any contract pursuant to this section until rules are finally adopted under this subsection.

See title page for effective date.

CHAPTER 576

H.P. 1568 - L.D. 2198

An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Training for Elected Officials

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

Whereas, the training of elected officials pursuant to the Maine Revised Statutes, Title 1, section 412 must begin July 1, 2008, and that law needs clarification; 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. 1 MRSA §411, sub-§6, ¶D, as enacted by PL 2005, c. 631, §1, is amended to read:

D. Shall serve as a resource to support training and education about the freedom of access laws. Although each agency is responsible for training

for the specific records and meetings pertaining to that agency's mission, the advisory committee shall provide core resources for the training, share best practices experiences and support the establishment and maintenance of online training as well as written question-and-answer summaries about specific topics. The advisory committee shall recommend a process for collecting the training completion records required under section 412, subsection 3 and for making that information publicly available;

Sec. 2. 1 MRSA §412, as enacted by PL 2007, c. 349, §1, is amended to read:

§412. Public records and proceedings training for certain elected officials

1. Training required. Beginning July 1, 2008, an elected official subject to this section shall complete a course of training on the requirements of this chapter relating to public records and proceedings. The official shall complete the training not later than the 120th day after the date the elected official takes the oath of office to assume the person's duties as an elected official. For elected officials subject to this section serving in office on July 1, 2008, the training required by this section must be completed by November 1, 2008.

2. Training course; minimum requirements. The training course under subsection 1 must be ~~approved by the advisory committee. The training must~~ be designed to be completed by an official in less than 2 hours. At a minimum, the training must include instruction in:

- A. The general legal requirements of this chapter regarding public records and public proceedings;
- B. Procedures and requirements regarding complying with a request for a public record under this chapter; and
- C. Penalties and other consequences for failure to comply with this chapter.

An elected official meets the training requirements of this section by conducting a thorough review of all the information made available by the State on a publicly accessible website pursuant to section 411, subsection 6, paragraph C regarding specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet the requirements of this subsection, any other training course must include all of this information and may include additional information.

3. Certification of completion. Upon completion of the training course required under subsection 1, the elected official shall ~~send~~ make a written or an electronic ~~notification to the advisory committee record attesting to the fact that the training has been completed. The advisory committee shall maintain a~~

~~record of those elected officials who have completed the training required by this section and make that record available to the public in accordance with the requirements of this chapter. The record must identify the training completed and the date of completion. The elected official shall keep the record or file it with the public entity to which the official was elected.~~

4. Application. This section applies to the following elected officials:

A. The Governor;

B. The Attorney General, Secretary of State, Treasurer of State and State Auditor;

C. Members of the Legislature elected after November 1, 2008; and

~~D. An elected official of a county, municipality, school district or school board or any regional or other political subdivision who, as part of the duties of the office, exercises executive or legislative powers.~~

E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments;

F. Municipal officers, clerks, treasurers, assessors and budget committee members of municipal governments;

G. Officials of school units and school boards; and

H. Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, "regional or other political subdivision" means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2.

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

Effective April 7, 2008.

CHAPTER 577

H.P. 1604 - L.D. 2243

An Act To Increase the Number of Mandated Reporters of Abuse, Neglect or Exploitation and To Clarify the Probation Laws Relating to Violation of Protection Orders

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

Sec. 1. 16 MRSA §53-A, sub-§2, as enacted by PL 1983, c. 319, is amended to read:

2. Privileged communications. Except with regard to reporting, cooperating in an investigation or giving evidence pursuant to Title 22, chapter 958-A or 1071, or except at the request, or with the consent of, the victim of sexual assault, ~~no~~ a sexual assault counselor may not be required to testify in any civil or criminal action, suit or proceeding at law or in equity about any information ~~which he~~ that the sexual assault counselor may have acquired in providing sexual assault counseling services. A sexual assault counselor or a rape crisis center may not be required to disclose to the court any records, notes, memoranda or documents containing confidential communications. When a court in the exercise of sound discretion ~~deems~~ determines the disclosure necessary to the proper administration of justice, ~~no~~ information communicated to, or otherwise learned by, that sexual assault counselor in connection with the provision of sexual assault counseling services ~~may be~~ is not privileged and disclosure may be required.

Sec. 2. 16 MRSA §53-B, sub-§3, ¶A, as enacted by PL 1995, c. 128, §1, is amended to read:

A. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with the provisions of ~~that~~ either chapter;

Sec. 3. 16 MRSA §53-C, sub-§3, ¶B, as enacted by PL 1999, c. 369, §1, is amended to read:

B. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with ~~that~~ either chapter;

Sec. 4. 17-A MRSA §1201, sub-§1, ¶A-1, as repealed and replaced by PL 2007, c. 475, §14, is amended to read:

A-1. The conviction is for a Class D or Class E crime other than:

(1) A Class D or Class E crime relative to which, based upon both the written agreement