

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

to facilitate the creation of a centralized one-call system to notify the operators of underground facilities of pending excavations. This examination must include, but is not limited to:

- A. Creating a new apportionment of the costs of membership in the damage prevention system so that members could pay a flat fee for each notification of pending excavation;
- B. Authorizing an operator who is not a member of the damage prevention system to be subject to administrative penalties for violations of Title 23, section 3360-A;
- C. Requiring an operator who is not a member of the damage prevention system to maintain insurance when an excavator is working on that operator's underground facilities;
- D. Identifying appropriate tolerance zones for marking different types of underground facilities;
- E. Developing a process for the commission to keep records of successful markings or excavations completed by members of the damage prevention system; and
- F. Evaluating the need for an ongoing advisory board to provide input to the commission regarding the damage prevention system. The work group shall consider staffing requirements, membership, funding and the scope of responsibility for the advisory board.

5. Staff assistance. To the extent possible within existing resources, the Public Advocate and the Public Utilities Commission shall provide necessary staffing services to the work group.

6. Report. No later than January 15, 2013, the Public Utilities Commission and the Public Advocate shall jointly submit a report to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters that includes all findings and recommendations of the work group that are supported by at least 2/3 of the appointed members of the work group. The commission shall submit to the First Regular Session of the 126th Legislature by January 15, 2013 any legislation necessary to carry out the recommendations of the work group and provisionally adopted rules pursuant to Title 23, section 3360-A, subsection 13 necessary to carry out the recommendations of the work group.

Sec. 13. Rule adoption. Final adoption of portions of Chapter 895: Underground Facility Damage Prevention Requirements, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the commission:

- 1. Modifies the notification requirements of excavators to notify private property owners that own and operate underground facilities on their property in accordance with this Act;
- 2. Requires a 36-inch tolerance zone for marking underground facilities operated by nonmember operators;
- 3. Removes the requirement that the commission include the number of excavations and markings by a respondent in the past 12 months that did not result in a violation of the so-called dig safe law or rules on a notice of enforcement investigation;
- 4. Permits a respondent to request an adjudicatory hearing only after an informal review and requires that the commission approve any request by a respondent to waive the informal review; and
- 5. Corrects a cross-reference to the definition of an underground facility operator in section 6 of the rule.

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

Effective April 4, 2012.

CHAPTER 589

H.P. 1369 - L.D. 1851

**An Act To Amend the Laws
Concerning Municipal
Inspections of Establishments**

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

Sec. 1. 22 MRSA §2499, first ¶, as amended by PL 2011, c. 193, Pt. B, §9 and c. 295, §1, is repealed and the following enacted in its place:

Notwithstanding any other provisions of this chapter, in order to ensure statewide uniformity in health standards, health inspector certification and the maintenance of inspection report records, a municipality must have been delegated authority by the department to conduct inspections and demonstrated adherence to requirements under this section prior to performing any municipal inspections under such authority. Any municipal inspection of an establishment under this section conducted by a municipality that has not been delegated authority is void. The department may issue a license to an establishment as defined in section 2491 on the basis of an inspection performed by a health inspector who works for and is compensated by the municipality in which such an establish-

ment is located, but only if the following conditions have been met.

See title page for effective date.

CHAPTER 590

H.P. 1387 - L.D. 1875

An Act To Provide Transparency in Electricity Pricing for Maine Ratepayers

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

Sec. 1. 35-A MRSA §102, sub-§24 is enacted to read:

24. Zero-based budgeting. "Zero-based budgeting" means a method of budgeting in which programs and activities are justified for a budgetary period using cost-benefit analysis without regard to the amount that was budgeted for those programs and activities in a prior budgetary period.

Sec. 2. 35-A MRSA §116, sub-§2, as amended by PL 2007, c. 16, §2, is further amended to read:

2. Committee recommendations; legislative approval of budget. The commission shall submit its budget recommendations, using a zero-based budgeting process or other process or method directed by the State Budget Officer, 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. In addition to the assessments authorized under this section, the commission may also receive other funds as appropriated or allocated by the Legislature.

Sec. 3. 35-A MRSA §116, sub-§8, ¶A, as amended by PL 1997, c. 424, Pt. B, §5, is further amended to read:

A. The Public Advocate shall submit its budget recommendations, using a zero-based budgeting process or other process or method directed by the State Budget Officer, as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to ~~1665~~ 1666. 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.

Sec. 4. Transparency in electricity rates and assessments. The Public Utilities Commission shall develop information useful to electricity ratepayers regarding the costs and effects of state policies on electricity ratepayers. The commission and the Office of the Public Advocate shall post the information on their publicly accessible websites. The commission shall also examine means by which transmission and distribution utilities may inform customers of the information developed and posted by the commission. The commission shall report on its actions under this section together with any recommendations to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by February 15, 2013. The committee may report out a bill relating to the commission's report to the First Regular Session of the 126th Legislature.

See title page for effective date.

CHAPTER 591

H.P. 1368 - L.D. 1847

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2012-13

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

Whereas, prompt determination and certification of the municipal cost components in the Unorganized Territory Tax District are necessary to the establishment of a mill rate and the levy of the Unorganized Territory Educational and Services Tax; 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-