LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

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April 28, 2021 to July 19, 2021

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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Augusta, Maine
2021

actions, except that if at least 3 good faith efforts on 3 different days have been made to serve the defendant, service may be accomplished by both mailing the summons and complaint by first-class mail to the defendant's last known address and leaving the summons and complaint at the defendant's last and usual place of abode. If service has been made by mailing and posting the summons and complaint, the plaintiff shall file with the court an affidavit demonstrating that compliance with the requirement of service has occurred. When the plaintiff lives out of the State and a recognizance is required of the plaintiff, any person may recognize in the plaintiff's behalf and is personally liable.

2. Form notice. If the defendant is a residential tenant, the plaintiff shall attach to the summons and complaint that is served on the defendant as provided in subsection 1 a one-page to 2-page form notice provided by the judicial branch in consultation with other resources and posted on the publicly accessible website of the judicial branch, written in language that is plain and readily understandable by the general public, that contains at a minimum the following:

A. A description of the court procedure to be followed in the case, including a clear explanation of the process that must be followed before a tenant is required to vacate a rental unit;

B. A statement that failure to appear at any scheduled status conference or hearing may result in the entry of judgment in favor of the landlord, which would require the tenant to leave the rental unit;

C. A list of rental assistance programs available to residential tenants;

D. A list of resources that provide legal information and representation available to residential tenants;

E. A list of resources that provide housing counseling available to residential tenants;

F. A statement that either party may request, or the court may at any time refer the parties to, mediation on any issue; and

G. A court-approved form to request mediation.

See title page for effective date.

CHAPTER 317

H.P. 1195 - L.D. 1606

An Act To Expand Tenant Representation on Boards of Directors of Nonprofit Housing Corporations

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

Sec. 1. 13-B MRSA §701-A is enacted to read:

§701-A. Board of directors of a nonprofit housing corporation

A corporation organized under this Title that has an ownership interest in any multifamily rental housing shall include on its board of directors, at a minimum, one current tenant of such housing. If the corporation is unable to find a tenant to serve as a director, it shall advertise the position to current tenants on an annual basis. The name and contact information of the tenant director must be posted in a public location in each building in which the corporation has an interest. This section does not apply to a corporation that only provides emergency shelter or short-term transitional housing.

See title page for effective date.

CHAPTER 318

H.P. 172 - L.D. 251

An Act Regarding Public Utility Assessments, Fees and Penalties

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 2013, c. 600, §1, is further amended to read:

1. Entities subject to assessments. Every transmission and distribution, gas, telephone and water utility and ferry subject to regulation by the commission and every qualified telecommunications provider is subject to an assessment on its intrastate gross operating revenues to produce 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 or qualified telecommunications provider 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 or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. Within each category of public utility, the assessment must be apportioned and applied separately to investor-owned utilities and consumer-owned utilities. The portion of the assessment applicable to investor-owned utilities and

consumer-owned utilities within each category must be determined based on an accounting by the commission of the portion of the commission's resources devoted to matters related to investor-owned utilities and the portion devoted to matters related to consumer-owned utilities. The commission shall determine the assessments annually prior to May 1st and assess each utility or qualified telecommunications provider for its pro rata share for expenditure during the fiscal year beginning July 1st. Each utility or qualified telecommunications provider shall pay the assessment charged to the utility or qualified telecommunications provider 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 and qualified telecommunications providers under this section are just and reasonable operating costs for ratemaking purposes.

B. For the purposes of this section, "intrastate gross operating revenues" means:

(1) In the case of all utilities except telephone utilities, revenues derived from filed rates except revenues derived from sales for resale;

(2) In the case of a telephone utility, all intrastate revenues, except revenues derived from sales for resale, whether or not the rates from which those revenues are derived are required to be filed pursuant to this Title; and

(3) In the case of a qualified telecommunications provider, all intrastate revenues 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 or qualified telecommunications providers in the current year.

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

F. The portion of the assessment applicable to investor-owned utilities and consumer-owned utilities within each category of public utility, as determined by the commission under this subsection, must be allocated to each utility based on a 3-year rolling average of revenue reported by the utility.

For purposes of this section, "qualified telecommunications provider" means a provider of interconnected voice over Internet protocol service that paid any assessment under this subsection, whether voluntarily, by agreement with the commission or otherwise, prior to March 1, 2012.

Sec. 2. 35-A MRSA §116, sub-§8, as amended by PL 2019, c. 226, §1, is further amended to read:

8. Public Advocate assessment. Every utility or qualified telecommunications provider 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 the Public Advocate. The portion of this assessment applicable to each category of public utility or qualified telecommunications provider 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 or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. Within each category of public utility, the assessment must be apportioned and applied separately to investor-owned utilities and consumer-owned utilities. The portion of the assessment applicable to investor-owned utilities and to consumer-owned utilities within each category must be determined based on an accounting by the Public Advocate of the portion of the resources of the Office of the Public Advocate devoted to matters related to investor-owned utilities and the portion devoted to matters related to consumer-owned utilities. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may ~~only~~ be used only to fulfill the duties specified in chapter 17. The assessments charged to utilities and qualified telecommunications providers under this subsection are considered just and reasonable operating costs for ratemaking purposes. The Public Advocate shall develop a method of accounting for staff time within the Office of the 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 and qualified telecommunications provider 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, 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 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 10 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. 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.

E. The portion of the assessment applicable to investor-owned utilities and consumer-owned utilities within each category of public utility, as determined by the Public Advocate under this subsection, must be allocated to each utility based on a 3-year rolling average of revenue reported by the utility.

Sec. 3. 35-A MRSA §120, sub-§2-A is enacted to read:

2-A. Filing fees and penalties; legislation. Any filing fees or penalties collected in the previous year under this Title that have not been adjusted in the previous 5 years. For filing fees or penalties reported pursuant to this subsection, the commission shall submit, along with the annual report, information regarding the dollar value of the filing fee or penalty adjusted for inflation based on the Consumer Price Index, as defined in Title 5, section 17001, subsection 9. After receiving the annual report, the committee may report out a bill to adjust for inflation any filing fee or penalty provided in the report;

Sec. 4. 35-A MRSA §120, sub-§2-B is enacted to read:

2-B. Commission expenses; investor-owned and consumer-owned utilities. Beginning in 2022, for each category of public utility listed in section 116, subsection 1:

A. The portion of commission resources devoted to matters related to investor-owned utilities and the portion of commission resources devoted to matters related to consumer-owned utilities; and

B. The commission's expenses per dollar of intrastate gross operating revenue for investor-owned utilities and for consumer-owned utilities;

Sec. 5. 35-A MRSA §708, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

4. Filing fee. Within 30 days after the application for approval of a reorganization is filed pursuant to subsection 2, the commission may order the applicant to pay a filing fee not to exceed ~~$50,000,~~ 5/100 of 1% of the transaction value as determined by the commission if the commission determines that the application may involve issues ~~which will~~ that would necessitate significant additional costs to the commission, except that, if a reorganization would result in the transfer of ownership and control of a public utility or the parent company of a public utility, the commission shall order the applicant to pay to the commission a filing fee in an amount equal to 5/100 of 1% of the transaction value as determined by the commission. The applicant may request the commission to waive all or a portion of the filing fee. The commission shall rule on the request for waiver within 30 days. Notwithstanding any other provision of law, filing fees paid as required in this subsection ~~shall~~ must be segregated, apportioned and expended by the commission for the purposes of processing the application. Any portion of the filing fee that is received from an applicant and is not expended by the commission to process the application ~~shall~~ must be returned to the applicant.

Sec. 6. 35-A MRSA §759, first ¶, as enacted by PL 1995, c. 348, §1, is amended to read:

The provisions of this chapter are considered safety and health standards of the State. A person who causes, permits or allows work or other activity in violation of the provisions of this chapter may be assessed a civil penalty not exceeding ~~$1,000~~ $1,700 for each day the violation continues.

Sec. 7. 35-A MRSA §1508-A, sub-§1, as amended by PL 2011, c. 623, Pt. B, §5, is further amended to read:

1. Penalty. Unless otherwise specified in law, the commission may, in an adjudicatory proceeding, impose an administrative penalty as specified in this section.

A. For willful violations of this Title, a commission rule or a commission order by a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or ~~a~~ competitive electricity provider, the commission may impose an administrative penalty for each violation in an amount that does not exceed ~~$5,000~~ $5,800 or .25% of the annual gross revenue that the public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or the competitive electricity provider received from sales in the State, whichever amount is lower. Each day a violation continues constitutes a separate offense. The maximum administrative penalty for any related series of violations may not exceed ~~$500,000~~ $575,000 or 5% of the annual gross revenue that the public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or ~~the~~ competitive electricity provider received from sales in the State, whichever amount is lower.

B. For a violation in which a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or ~~a~~ competitive electricity provider was explicitly notified by the commission that it was not in compliance with the requirements of this Title, a commission rule or a commission order and that failure to comply could result in the imposition of administrative penalties, the commission may impose an administrative penalty that does not exceed ~~$500,000~~ $575,000.

C. The commission may impose an administrative penalty in an amount that does not exceed ~~$1,000~~ $1,200 on any person that is not a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or ~~a~~ competitive electricity provider and that violates this Title, a commission rule or a commission order. Each day a violation continues constitutes a separate offense. The administrative penalty may not exceed ~~$25,000~~ $29,000 for any related series of violations.

D. In addition to the administrative penalties authorized by this subsection, the commission may require disgorgement of profits or revenues realized as a result of a violation of this Title, a commission rule or a commission order.

Sec. 8. 35-A MRSA §1702, sub-§6, ¶A is enacted to read:

A. Beginning in 2022, the annual report must include, for each category of public utility listed in section 116, subsection 1, an accounting of:

(1) The portion of the Public Advocate's resources devoted to matters related to investor-owned utilities and the portion of resources devoted to matters related to consumer-owned utilities; and

(2) The Public Advocate's expenses per dollar of intrastate gross operating revenue for investor-owned utilities and for consumer-owned utilities.

Sec. 9. 35-A MRSA §2706, sub-§3, as enacted by PL 2007, c. 553, §2, is amended to read:

3. Civil penalty. A civil penalty not to exceed ~~$2,500~~ $3,000 due and payable to the utility for each violation of this section.

Sec. 10. 35-A MRSA §2707, sub-§3, as enacted by PL 2007, c. 553, §3, is amended to read:

3. Civil penalty. A civil penalty not to exceed ~~$2,500~~ $3,000 due and payable to the utility for each violation of this section.

Sec. 11. 35-A MRSA §2708, sub-§3, as enacted by PL 2007, c. 553, §4, is amended to read:

3. Civil penalty. A civil penalty not to exceed ~~$2,500~~ $3,000 due and payable to the utility for each violation of this section.

Sec. 12. 35-A MRSA §3206-A, sub-§1, as amended by PL 2003, c. 505, §30, is further amended by amending the first blocked paragraph to read:

The commission may impose administrative penalties of up to ~~$100,000~~ $143,000 for a violation of section 3205 or section 3206 or any rule adopted by the commission pursuant to those sections. Each day of a violation constitutes a separate offense. In addition, the commission may require disgorgement of profits or revenues realized as a result of a violation of section 3205 or section 3206 or any rule adopted by the commission pursuant to those sections.

Sec. 13. 35-A MRSA §3306, sub-§6, as amended by PL 1999, c. 398, Pt. A, §80 and affected by §§104 and 105, is further amended to read:

6. Filing fee. The petitioner or petitioners requesting commission intercession shall pay to the commission an amount equal to ~~$1,000~~ $1,600 per megawatt of capacity of the facility in issue. The petitioner or petitioners may request the commission to waive all or part of the filing fee. The commission shall rule on the request for waiver within 30 days. Filing fees paid as required in this subsection must be segregated, apportioned and expended by the commission for the purposes of this section. Any portion of the filing fee that is received from any petitioner or petitioners and is not expended by the commission to process the request for intercession must be returned to the petitioner or petitioners.

Sec. 14. 35-A MRSA §4358, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§4358. Cost of review

The licensee shall submit to the commission, with the initial filing or upon a subsequent formal review of a decommissioning financing plan under this subchapter, a filing fee as determined by the commission, but not to exceed ~~$50,000~~ $115,000, in order to assist in covering the cost of review by the commission. Within one year after establishment of a decommissioning fund under this subchapter, the licensee may recover the licensing fee from the fund. Money received from the filing fee ~~shall~~ must be segregated, apportioned and expended by the commission for the purposes stated in this section, with a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Any unexpended funds from the filing fee ~~shall~~ must be transferred to the decommissioning trust fund after approval of the plan.

Sec. 15. 35-A MRSA §4516-A, sub-§1, as amended by PL 2013, c. 495, §1, is further amended to read:

1. Violation of this Title. The commission may impose an administrative penalty on a natural gas pipeline utility that violates any provision of this Title relating to safety of pipeline facilities or transportation of gas or any rule issued under this Title in an amount not to exceed ~~$200,000~~ $223,000 for each violation. Each day of violation constitutes a separate offense.

Sec. 16. 35-A MRSA §4516-A, sub-§2, as amended by PL 2013, c. 495, §1, is further amended to read:

2. Maximum administrative penalty. The maximum administrative penalty may not exceed ~~$2,000,000~~ $2,227,000 for any related series of violations.

Sec. 17. 35-A MRSA §4702-A, sub-§2, ¶C, as enacted by PL 2011, c. 197, §2, is amended by amending subparagraph (2) to read:

(2) Require jurisdictional systems to be registered with the commission. The commission may not impose an administrative penalty under section 1508-A that exceeds ~~$5,000~~ $5,800 for failure to register a jurisdictional system;

Sec. 18. 35-A MRSA §4705-A, sub-§1, as amended by PL 2013, c. 495, §2, is further amended to read:

1. Violation of this Title. The commission may impose an administrative penalty on a gas utility that violates any provision of this Title relating to safety of gas facilities or any rule issued under this Title in an amount not to exceed ~~$200,000~~ $223,000 for each violation. Each day of violation constitutes a separate offense.

Sec. 19. 35-A MRSA §4705-A, sub-§2, as amended by PL 2013, c. 495, §2, is further amended to read:

2. Maximum administrative penalty. The maximum administrative penalty may not exceed ~~$2,000,000~~ $2,227,000 for any related series of violations.

Sec. 20. 35-A MRSA §7106, sub-§2, ¶A, as amended by PL 2003, c. 505, §40, is further amended to read:

A. The commission may impose an administrative penalty against any person who violates this section or any rule or order adopted pursuant to this section. In determining whether to impose a penalty, the commission may consider whether the violation was intentional. The penalty for a violation may be in an amount not to exceed ~~$5,000~~ $7,200 for each day the violation continues, up to a maximum of ~~$40,000~~ $57,000 for a first offense and a maximum of ~~$110,000~~ $157,000 for subsequent offenses. The amount of the penalty must be based on:

(1) The severity of the violation, including the intent of the violator, the nature, circumstances, extent and gravity of any prohibited acts;

(2) The history of previous violations;

(3) The amount necessary to deter future violations;

(4) Good faith attempts to comply after notification of a violation; and

(5) Such other matters as justice requires.

Sec. 21. 35-A MRSA §7107, sub-§5, ¶B, as amended by PL 2003, c. 505, §45, is further amended to read:

B. The amount of any administrative penalty imposed under paragraph A may not exceed ~~$1,000~~ $1,400 per violator for violations arising out of the same incident or complaint and must be based on:

(1) The severity of the violation, including the intent of the violator, the nature, circumstances, extent and gravity of any prohibited acts;

(2) The history of previous violations;

(3) The amount necessary to deter future violations;

(4) Good faith attempts to comply after notification of a violation; and

(5) Such other matters as justice requires.

Sec. 22. Public Utilities Commission assessments; initial calculations. By January 15, 2022, the Public Utilities Commission shall submit to the Joint Standing Committee on Energy, Utilities and Technology initial calculations related to the amendments in this Act to the Maine Revised Statutes, Title 35-A, section 116, subsection 1. The committee may report out a bill to the Second Regular Session of the 130th Legislature based on the information submitted.

Sec. 23. Public Advocate assessments; initial calculations. By January 15, 2022, the Public Advocate shall submit to the Joint Standing Committee on Energy, Utilities and Technology initial calculations related to the amendments in this Act to the Maine Revised Statutes, Title 35-A, section 116, subsection 8. The committee may report out a bill to the Second Regular Session of the 130th Legislature based on the information submitted.

Sec. 24. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 35-A,

section 116, subsections 1 and 8 take effect August 1, 2022.

See title page for effective date, unless otherwise indicated.

CHAPTER 319

H.P. 625 - L.D. 857

An Act To Create a Municipal Grant Program To Promote Sustainable Economic Development

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

Sec. 1. 5 MRSA §13073-C is enacted to read:

§13073-C. Municipal Grant Fund

The Municipal Grant Fund is established as a nonlapsing fund within the Office of Community Development. The Director of the Office of Community Development shall administer the Municipal Grant Fund, referred to in this section as "the fund." The fund may receive appropriations, allocations, grants or gifts from any federal agency or governmental subdivision or the State or its agencies.

1. Fund purpose. The purpose of the fund is to provide funding for municipalities for projects that further the goals of sustainable economic development as outlined by the Maine Economic Growth Council, established in Title 10, section 929-A and referred to in this section as "the council," in the council's annual "Measures of Growth" report, or successor report, and by the "Maine Economic Development Strategy 2020-2029," or successor economic development strategy for the State, as administered by the department.

2. Application process. The department shall adopt rules establishing an application process for municipalities for fund grants for the purposes set forth in this section.

3. Competitive procedure. Funds must be dispersed in accordance with a competitive, quality-based selection procedure as established and administered by the department.

4. Maximum award. A grantee may not be awarded a total amount in excess of $50,000 in a legislative biennium.

5. Rules. The department shall adopt rules necessary to carry out this section. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A.

Sec. 2. Source of funding. The Legislature shall allocate to the Municipal Grant Fund established in the Maine Revised Statutes, Title 5, section 13073-C funds derived from the Federal Government through stimulus or relief funds to counter the effects of the pandemic related to coronavirus disease 2019, or COVID-19, that are received by the State in calendar year 2021 and are eligible to be used for the purposes of the Municipal Grant Fund.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Municipal Grant Fund N389

Initiative: Provides base allocations to authorize the expenditure of funds received from federal or private sources to provide funding for municipalities for projects that further the goals of sustainable economic development.

FEDERAL EXPENDITURES FUND	2021-22	2022-23
All Other	$500	$500
FEDERAL EXPENDITURES FUND TOTAL	$500	$500

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	$500	$500
OTHER SPECIAL REVENUE FUNDS TOTAL	$500	$500

See title page for effective date.

CHAPTER 320

H.P. 1067 - L.D. 1451

An Act To Align the Expulsion Process with School Disciplinary Policies

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

Sec. 1. 20-A MRSA §1001, sub-§8-A, as enacted by PL 2011, c. 614, §3, is amended to read:

8-A. Due process standards for expulsion proceedings. Following a proper investigation of a student's behavior and in accordance with the districtwide disciplinary policies adopted by the school board pursuant to subsection 15-A, a school board that intends to consider expulsion shall ensure proceedings include the following due process provisions.

A. Before a hearing on the expulsion, the superintendent shall:

(1) Provide written notice to the parents and the student of: