

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND THIRTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 2022 to March 30, 2023**

**FIRST SPECIAL SESSION**  
**April 5, 2023 to July 26, 2023**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NONEMERGENCY LAWS IS**  
**JUNE 29, 2023**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NONEMERGENCY LAWS IS**  
**OCTOBER 25, 2023**

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

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**Augusta, Maine**  
**2023**

January 1, ~~2025~~ 2026. The board may not implement the program if and to the extent that the board determines that the program is preempted by the federal Employee Retirement Income Security Act of 1974, as amended, 29 United States Code, Section 1001 et seq. If and to the extent that the board determines that a portion or aspect of the program is preempted by the federal Employee Retirement Income Security Act of 1974, the board may not implement that portion or aspect of the program but shall proceed to implement the remainder of the program to the extent practicable.

See title page for effective date.

## CHAPTER 168

### S.P. 659 - L.D. 1654

#### An Act to Extend the Time for Certain Public Utilities Commission Proceedings

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

**Sec. 1. 35-A MRSA §307**, as amended by PL 1999, c. 398, Pt. A, §13 and affected by §§104 and 105, is repealed and the following enacted in its place:

#### **§307. Changes in schedules; notice; suspension; rate increase limit**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Final determination of the public utility's revenue requirement" means a decision by the commission on the merits of a public utility's request after consideration of at least the public utility's direct case in support of its request.

B. "General increase in rates" means a change in a rate, toll or charge of a public utility, the effect of which is to increase the annual operating revenue of the public utility by more than 1%. "General increase in rates" does not include a rate change made for the sole purpose of implementing a gas cost adjustment rate pursuant to section 4703 or a rate change made for the sole purpose of implementing an energy conservation adjustment rate pursuant to section 3154.

**2. Notice requirements.** A public utility may not change a schedule, including a schedule of joint rates, unless the public utility provides notice to the commission 30 days prior to the time the changes are to take effect. The public utility must indicate all proposed changes on the schedule in effect at the time notice is provided. For good cause shown, the commission may allow changes after less than the notice specified in this subsection or modify the requirements of this section and section 308 with respect to publishing, posting and

filing of a schedule, either in a particular instance or by rule applicable to a special circumstance or condition.

At the commission's discretion, the commission may require the information relating to changes described in this subsection to be filed in a general increase in rates at the same time as the schedules are filed. The commission may require a public utility whose gross revenues exceed \$5,000,000 annually to notify the commission not more than 2 months in advance of filing a general increase in rates under this section that a filing is planned and to disclose the approximate amount of the increase and the approximate rate of return and include a general statement of the major issues that might be presented and the approximate rate of return the utility would be seeking.

**3. Suspension pending investigation.** Pending an investigation and order pursuant to section 310, subsection 1, at any time within the period preceding the effective date of the schedule the commission may suspend the operation of the schedule or any part of the schedule by filing with the schedule and delivering to the public utility affected a statement of its reasons for the suspension. The suspension may not be for a period longer than 12 months from the effective date of the order of suspension unless:

A. All parties agree to extend the suspension beyond 12 months; or

B. The commission determines that the party seeking the extension would be unreasonably disadvantaged because of circumstances beyond that party's control unless the extension were granted, as long as the party prior to the request for extension had prosecuted its case in good faith and with due diligence.

**4. General rate increase case limitation.** A public utility may not file a schedule for a general increase in rates pursuant to this section within one year of a prior filing for a general increase in rates pursuant to this section, unless the proceeding initiated by a prior filing was terminated without a final determination of the public utility's revenue requirement or with approval of the commission. The limitation of this subsection does not prevent a public utility, at any time, from notifying the commission in advance, either voluntarily or in accordance with a commission requirement under this section, of plans by the public utility to file a general increase in rates.

Nothing in this subsection may be construed to limit a public utility's right, at any time, to petition pursuant to section 1322 for temporary rate relief.

**Sec. 2. 35-A MRSA §310**, as amended by PL 2009, c. 237, §1, is further amended by amending the section headnote to read:

**§310. Investigation of proposed changes in rates of public utilities; ~~suspension pending investigation~~**

**Sec. 3. 35-A MRSA §310, sub-§2**, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

**Sec. 4. 35-A MRSA §310, sub-§3**, as amended by PL 2009, c. 237, §1, is further amended to read:

**3. Exception: Municipal and quasi-municipal water utilities and consumer-owned transmission and distribution utilities.** This section and section 307, subsection 3 does not apply to:

A. Municipal or quasi-municipal corporations that are water utilities within the definition of section 102, any provisions in any charter notwithstanding, and that elect to proceed pursuant to the terms of section 6104 or 6104-A, unless by the express terms of section 6104 or 6104-A the provisions of this section are made applicable to those corporations;

A-1. Municipal or quasi-municipal corporations that are water utilities within the definition of section 102, any provisions in any charter notwithstanding, and that file a change in a schedule pursuant to section 307 that changes rates, tolls or charges for service other than the provision of water, only if the cumulative revenue impact of all such changes that become effective within any consecutive 12-month period does not exceed 1% of the utility's total annual revenue; or

B. Consumer-owned transmission and distribution utilities organized in accordance with chapter 35, unless by the express terms of chapter 35 the provisions of this section are made applicable to those districts.

**Sec. 5. 35-A MRSA §707, sub-§3, ¶A**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

A. Unless the commission disapproves it within 60 days of filing, a contract or arrangement filed with the commission under this section is deemed approved. The commission may, however, suspend the effective date of the contract or arrangement for an additional 60 days if necessary to enable the commission to complete its review of the contract or arrangement or for a longer period by agreement of all the parties or by the commission if the commission determines that the party seeking the extension would be unreasonably disadvantaged because of circumstances beyond that party's control unless the extension were granted, as long as the party prior to the request for extension had prosecuted its case in good faith and with due diligence.

**Sec. 6. 35-A MRSA §708, sub-§2, ¶A**, as amended by PL 2019, c. 353, §2, is further amended to read:

A. Unless exempted by rule or order of the commission, a reorganization may not take place without the approval of the commission. A reorganization may not be approved by the commission unless it is established by the applicant for approval that the reorganization is consistent with the interests of the utility's ratepayers and investors. If a reorganization would result in the transfer of ownership and control of a public utility or the parent company of a public utility, a reorganization may not be approved by the commission unless it is established by the applicant for approval that the reorganization provides net benefits to the utility's ratepayers. The commission shall rule upon all requests for approval of a reorganization within 60 days of the filing of the request for approval. If it determines that the necessary investigation cannot be concluded within 60 days, the commission may extend the period for a further period of no more than 120 days, unless this period is extended either by agreement of all the parties or by the commission upon its determination that the party seeking the extension would be unreasonably disadvantaged because of circumstances beyond that party's control unless the extension were granted, as long as the party prior to the request for the extension had prosecuted its case in good faith and with due diligence. In granting its approval, the commission shall impose such terms, conditions or requirements as, in its judgment, are necessary to protect the interests of ratepayers. These conditions must include provisions that ensure the following:

- (1) That the commission has reasonable access to books, records, documents and other information relating to the utility or any of its affiliates, except that the Public Utilities Commission may not have access to trade secrets unless it is essential to the protection of the interests of ratepayers or investors. The commission shall afford trade secrets and other information such protection from public disclosure as is provided in the Maine Rules of Civil Procedure;
- (2) That the commission has all reasonable powers to detect, identify, review and approve or disapprove all transactions between affiliated interests;
- (3) That the utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is not impaired;
- (4) That the ability of the utility to provide safe, reasonable and adequate service is not impaired;
- (5) That the utility continues to be subject to applicable laws, principles and rules governing the regulation of public utilities;

(6) That the utility's credit is not impaired or adversely affected;

(7) That reasonable limitations be imposed upon the total level of investment in nonutility business, except that the commission may not approve or disapprove of the nature of the nonutility business;

(8) That the commission has reasonable remedial power including, but not limited to, the power, after notice to the utility and all affiliated entities of the issues to be determined and the opportunity for an adjudicatory proceeding, to order divestiture of or by the utility in the event that divestiture is necessary to protect the interest of the utility, ratepayers or investors. A divestiture order must provide a reasonable period within which the divestiture must be completed; and

(9) That neither ratepayers nor investors are adversely affected by the reorganization, and if the reorganization would result in the transfer of ownership and control of a public utility or the parent company of a public utility, that the reorganization provides net benefits to the utility's ratepayers.

**Sec. 7. 35-A MRSA §3132, sub-§2,** as amended by PL 2017, c. 201, §1, is further amended to read:

**2. Construction of transmission line.** Except as otherwise provided in subsection 3-A, whenever any person proposes to erect within this State a transmission line capable of operating at 69 kilovolts or more, that person shall file a petition for the approval of the proposed line in accordance with subsection 2-C. The petition for approval must be set down for public hearing. The commission shall issue its order within ~~9~~ 12 months after the petition is filed unless this period is extended either by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control, be unreasonably disadvantaged unless the extension were granted, as long as the party to that time had prosecuted its case in good faith and with due diligence.

At the time of filing of a petition for approval of a proposed line under this section, the person filing the petition shall send a copy of the petition by certified mail to the municipal officers of the municipality or municipalities in which the line is to be located.

See title page for effective date.

**CHAPTER 169  
H.P. 940 - L.D. 1444**

**An Act to Amend the Laws  
Governing Eligibility  
Restrictions for Commercial  
Menhaden Fishing Licenses**

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

**Whereas,** this legislation changes the eligibility restrictions for commercial menhaden fishing licenses and needs to take effect as soon as possible to apply to the 2023 commercial menhaden fishing season; 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. 12 MRSA §6502-C, sub-§1-A, ¶A,** as enacted by PL 2021, c. 670, §1, is amended to read:

A. Possessed a license to fish commercially for menhaden in at least 2 of the following ~~3~~ 4 years, 2019, 2020 ~~or~~, 2021 or 2022 except that an individual who is eligible for a commercial menhaden fishing license in 2023 and who held a 2nd commercial menhaden fishing license in 2022 is not eligible for a 2nd license in 2023; and

**Sec. 2. 12 MRSA §6502-C, sub-§1-C** is enacted to read:

**1-C. Menhaden license limited entry system.** Notwithstanding subsection 1-B, the commissioner may establish by rule a limited entry system under which a person who did not hold a commercial menhaden license in the previous calendar year may become eligible to obtain that license. The rules for a limited entry system must include provisions for the method and administration of the system. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 12 MRSA §6502-C, sub-§1-D** is enacted to read:

**1-D. Fees.** The department may assess a fee for participation in the limited entry system established in subsection 1-C.

**Sec. 4. Report.** By January 15, 2024, the Commissioner of Marine Resources shall submit a report to the Joint Standing Committee on Marine Resources with details on the implementation of the Maine Revised Statutes, Title 12, section 6502-C, subsections