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An Act To Provide for Temporary Commissioners at the Public Utilities Commission

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

Whereas, there is currently a proceeding before the Public Utilities Commission for which a quorum is not available; and

Whereas, the proceeding cannot be decided without a quorum and a delay in the case could be detrimental to all parties; and

Whereas, in order to maintain a quorum at the commission, the appointment process and confirmation process proposed in this legislation must commence as soon as possible; 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. 35-A MRSA §108-B is enacted to read:

§ 108-B. Lack of quorum; temporary appointment

If the commission is unable to maintain a quorum for reasons as described in subsection 1, the Governor shall appoint 3 alternate commissioners who may serve as temporary commissioners in accordance with this section.

1. Selection of alternate commissioners. If 2 or more commissioners, due to a conflict of interest, disability or other reason, are unable to serve in a proceeding, which results in the commission being unable to maintain a quorum as provided under section 108-A, the commission shall report this information to the Governor and post this information on its publicly accessible website. Once the Governor is notified of the lack of a quorum for a particular proceeding, the Governor shall appoint 3 alternate commissioners, each of whom may serve as a temporary commissioner in that particular proceeding. All appointed alternate commissioners must be retired judges or justices who are subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature. Once the alternate commissioners are confirmed by the Legislature, the commission shall, in a transparent manner, randomly assign from the alternate commissioners one alternate commissioner to be the first alternate commissioner, one alternate commissioner to be the 2nd alternate commissioner and one alternate commissioner to be the 3rd alternate commissioner and send this information to the Governor. Following the receipt of this information, the Governor shall appoint alternate commissioners as temporary commissioners in the assigned order, until

the number of temporary commissioners needed to reach a quorum is reached. If, for good cause, an alternate commissioner is unable to serve as a temporary commissioner, the Governor shall appoint the next assigned alternate as a temporary commissioner.

2. Service for duration of proceeding. Once appointed as a temporary commissioner to serve in a proceeding, the temporary commissioner shall serve for the length of time for which there is otherwise no quorum for the proceeding.

3. Compensation. In the event of a temporary appointment under this section, the commission shall provide administrative support to the temporary commissioner and compensate the temporary commissioner for the hours spent at the commission working on a proceeding at an hourly rate that is computed by dividing the annual salary of a commissioner, established in Title 2, section 6-A, subsection 2, by 2,080 hours.

4. Authority. A temporary commissioner appointed pursuant to this section is subject to all laws applicable to and has such authority with respect to the proceeding as a commissioner. An alternate commissioner who is not appointed as a temporary commissioner has no authority with respect to any proceedings of the commission.

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

SUMMARY

This bill authorizes the Governor to appoint, subject to confirmation by the Legislature, 3 individuals to be alternate commissioners of the Public Utilities Commission on a case by case basis whenever 2 or more commissioners, due to a conflict of interest, disability or other reason, are unable to serve in a proceeding, which results in the commission being unable to maintain a quorum.