

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Protect Consumers from Price Gouging by Utility Companies**

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

**Sec. 1. 2 MRSA §6-A**, as amended by PL 2015, c. 8, §1, is further amended to read:

### **§ 6-A. Salaries of commissioners and certain employees of the Public Utilities Commission**

The salaries of the commissioners and certain employees of the Public Utilities Commission shall bear as follows.

**1. Chair; members.** The salary of the chair and other members of the commission is equal to the salary of the Chief Justice of the Superior Court as established pursuant to Title 4, section 4, subsection ~~2-A~~ and section 102, subsection ~~1~~ the state average annual wage adjusted for inflation as determined by the Department of Administrative and Financial Services based on United States Department of Labor, Bureau of Labor Statistics data.

**2. Commission members.** ~~The salary of members of the commission is equal to the salary of an Associate Justice of the Superior Court as established pursuant to Title 4, section 102, subsections 2 and 2-A.~~

**3. Other employees.** The salaries of the following employees are within salary range 53:

- A. General counsel;
- B. Director of telephone and water utility industries;
- C. Administrative Director;
- D. Director of electric and gas utility industries; and
- E. Director of consumer assistance and safety.

**3-A. Other employees; range 35.** The salaries of the following employees are within salary range 35:

- A. Assistant administrative director.

**5. Retirement contribution.** The State shall pay the mandatory retirement contribution required by Title 5, section 17701; for commissioners who elect to become members of the Maine Public Employees Retirement System. Payment ~~shall~~must be made as provided in Title 5, section 17702. A commissioner may elect at the time of appointment to receive a 5% salary increase instead of state payment of the retirement contribution.

Membership in the Maine Public Employees Retirement System is optional.

**Sec. 2. 35-A MRSA §105**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

### **§ 105.Appointment**

**1. Appointment.** The Governor shall appoint 3 members to the Public Utilities Commission. The appointments shall ~~be~~ subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature. Members of the commission shall devote full time to their duties. The commissioners serve at the pleasure of the Governor.

**2. Term.** ~~The commissioners shall serve for terms of 6 years.~~

A. ~~Each term shall end on March 31st of the 6th year of the term. The terms shall be staggered so that one ends in 1987 and every 6 years thereafter, one ends in 1989 and every 6 years thereafter, and one ends in 1991 and every 6 years thereafter.~~

B. ~~A commissioner may continue to serve beyond the end of this term until a successor is appointed and qualified.~~

C. ~~Any vacancy occurring in the commission shall be filled by appointment for the unexpired portion of the term.~~

**Sec. 3. 35-A MRSA §108-B, sub-§3**, as enacted by PL 2013, c. 554, §1, is amended to read:

**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 21, by 2,080 hours.

**Sec. 4. 35-A MRSA §301, sub-§4**, as amended by PL 1993, c. 506, §1, is further amended to read:

**4. Determining rates.** In determining just and reasonable rates, the commission:

A. Shall provide such revenues to the utility as may be required to perform its public service and to attract necessary capital on just and reasonable terms; ~~and~~

B. Shall, to a level within the commission's discretion, consider whether the utility is operating as efficiently as possible and is utilizing sound management practices, including the treatment in rates of executive compensation; and

C. Shall limit rate increases to less than 10% in any 12-month period.

**Sec. 5. 35-A MRSA §302**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

### **§ 302.Limitations on rates**

The following expenses, whether paid directly or indirectly, through reimbursement or otherwise, incurred by a public utility ~~shall~~may not be included or incorporated in operating expenses:

**1. Contributions to political groups or candidates.** Contributions or gifts to political candidates, political parties, political or legislative committees or any committee or organization working to influence referendum petitions or elections; and

**2. Costs associated with errors or mistakes.** Costs associated with errors or mistakes incurred by a public utility when the utility is determined by the commission to be responsible for the error or mistake by the utility's own admission or after commission investigation.

**Sec. 6. 35-A MRSA §1701, sub-§1-A,** as enacted by PL 2009, c. 399, §2, is amended to read:

**1-A. Appointment of the Public Advocate; removal.** This subsection governs the appointment, ~~term of service~~ and removal of the Public Advocate.

A. The Governor shall appoint the Public Advocate, subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature. The Public Advocate serves at the pleasure of the Governor.

~~B. The Public Advocate shall serve for a 4-year term of office, beginning on February 1, 2013 and every 4 years thereafter.~~

~~C. The Public Advocate may continue to serve beyond the end of the 4-year term until a successor is appointed and qualified.~~

~~D. Any vacancy occurring must be filled by appointment for the unexpired portion of the term.~~

E. Any willful violation of this chapter by the Public Advocate constitutes sufficient cause for removal of the Public Advocate by the Governor, on the address of both branches of the Legislature or by impeachment pursuant to the Constitution of Maine, Article IX, Section 5.

**Sec. 7. 35-A MRSA §3195, sub-§2,** as amended by PL 2003, c. 45, §1, is further amended to read:

**2. Just and reasonable rates.** In determining the reasonableness of any rate-adjustment mechanism established under this subchapter, the commission shall apply the standards of section 301 to ensure that the rates resulting from the implementation of the mechanism are just and reasonable and subject to the limitations of section 302. Prior to the adoption of a new or replacement alternative rate plan or renewal of any existing alternative rate plan, the commission shall, in order to ensure that rates at the starting point of the plan are just and reasonable, conduct a revenue requirement and earnings review pursuant to the standards of section 301. In conducting such a review under this subsection, the commission, at its discretion, may conduct the review in a manner designed to minimize the cost of the review to ratepayers.

## SUMMARY

This bill changes the positions of the members of the Public Utilities Commission, currently 6-year terms, and the Public Advocate, currently a 4-year term, to positions serving at the pleasure of the Governor. It also changes the compensation of the members of the Public Utilities Commission to be set at the average annual wage in the State; current law sets compensation of the chair of the commission at the salary of the Chief Justice of the Superior Court and the other commissioners at the salary of an Associate Justice of the Superior Court.

The bill requires the commission, in the determination of utility rates, to limit rate increases to less than 10% in any 12-month period. The bill also prohibits costs associated with errors or mistakes that are the responsibility of a utility from being included or incorporated in operating expenses in the commission's determination of rates or rate-adjustment mechanisms.