



132nd MAINE LEGISLATURE

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Legislative Document

No. 1963

S.P. 770

In Senate, May 13, 2025

An Act to Protect and Compensate Public Utility Whistleblowers

(EMERGENCY)

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TIPPING of Penobscot.

Cosponsored by Senators: BENNETT of Oxford, GROHOSKI of Hancock, Representatives: FAIRCLOTH of Bangor, FRIEDMANN of Bar Harbor, WARREN of Scarborough, WEBB of Durham.

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

3 **Whereas,** public utilities are uniquely granted a monopoly, contrary to free-market
4 principles, and instead voluntarily submit to regulation as an alternative to the discipline of
5 competition; and

6 **Whereas,** regulation depends on the ability of regulators to detect and deter
7 imprudence, which can increase utility profits and rates and reduce service quality; and

8 **Whereas,** utility regulators and the public have faced an increasingly complex
9 challenge since utility holding companies were deregulated in 2005 after being regulated
10 nationally for 70 years and since utility restructuring began at about the same time; and

11 **Whereas,** those most aware of and able to report imprudence are courageous and
12 ethical employees and contractors of public utilities, acting in the public interest; and

13 **Whereas,** utility whistleblower activity to date has not occurred in this State,
14 suggesting that the State's utilities are performing flawlessly or that whistleblowers are too
15 afraid to come forward; and

16 **Whereas,** the federal Securities and Exchange Commission provides protection and
17 incentives to shareholders of publicly traded companies and requires financial disclosures,
18 but 2 utilities in this State have recently been exempted from these Securities and Exchange
19 Commission whistleblower and transparency requirements; and

20 **Whereas,** these Securities and Exchange Commission protections and incentives have
21 resulted in robust protections for shareholders, as well as compensation for whistleblowers
22 of between 10% and 30% of resulting savings, adding up to hundreds of millions of dollars
23 awarded to multiple courageous Americans in the past 3 years alone; and

24 **Whereas,** all utility customers in this State deserve protections similar to the
25 shareholders of United States corporations and deserve that these protections be established
26 as soon as possible; and

27 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
28 the meaning of the Constitution of Maine and require the following legislation as
29 immediately necessary for the preservation of the public peace, health and safety; now,
30 therefore,

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

32 **Sec. 1. 35-A MRSA §1316,** as repealed and replaced by PL 2023, c. 405, Pt. A,
33 §124, is amended to read:

34 **§1316. ~~Testimony presented by employees of public utilities, competitive electricity~~**
35 **~~providers, affiliated interests or utility contractors to legislative committees,~~**
36 **~~the Public Utilities Commission and the Public Advocate~~ Maine Public Utility**
37 **Whistleblower Protection Act**

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

40 A. "Employee" means a person who currently performs or formerly performed a
41 service for wages or other remuneration under a contract of hire, expressed or implied,

1 for a public utility, competitive electricity provider, affiliated interest or utility
2 contractor.

3 A-1. "Affiliated interest" has the same meaning as in section 707, subsection 1,
4 paragraph A.

5 B. "Employer" means a public utility, competitive electricity provider, affiliated
6 interest or utility contractor licensed to do business in this State with one or more
7 employees.

8 C. "Legislative committee" means a joint standing committee or a joint select
9 committee of the Legislature, a task force, commission or council or any other
10 committee established by the Legislature and composed wholly or partly of Legislators
11 for the purpose of conducting legislative business.

12 D. "Own time" means an employee's vacation or personal time, earned as a condition
13 of employment.

14 E. "Utility contractor" means a person that provides goods or services to a public utility
15 or competitive electricity provider.

16 F. "Whistleblower" means an employee or utility contractor who testifies or provides
17 information regarding potentially imprudent or illegal activity by an employer that may
18 cause higher rates, reduced service quality, reduced competition, increased pollution,
19 harm to an employee or other harm to the public interest.

20 **1-A. Short title.** This section may be known and cited as "the Maine Public Utility
21 Whistleblower Protection Act."

22 **2. Right of employees to provide testimony.** Employees have the right to represent
23 themselves and to testify before or provide information to a legislative committee, the
24 commission or the Public Advocate on their own time. An employee who complies with
25 this section may not be denied the right to testify before or provide information to a
26 legislative committee, the commission or the Public Advocate.

27 **2-A. Right of utility contractors to provide testimony.** A utility contractor has the
28 right to testify before or provide information to a legislative committee, the commission or
29 the Public Advocate.

30 **3. Discharge of, threats to or discrimination against employees for testimony**
31 **presented to legislative committees, the commission or the Public Advocate.** A
32 supervisor may not discharge, threaten or otherwise discriminate against an employee
33 regarding the employee's compensation, terms, conditions, location or privileges of
34 employment because the employee, in compliance with this section, in good faith testifies
35 before or provides information to a legislative committee, the commission or the Public
36 Advocate regarding the operation of the business of a public utility or competitive
37 electricity provider or because the employee brings the subject matter of the testimony or
38 information to the attention of a person having supervisory authority.

39 This subsection does not apply to an employee who has testified before or provided
40 information to a legislative committee, the commission or the Public Advocate unless the
41 employee has first brought the subject matter of the testimony or information in writing to
42 the attention of a person having supervisory authority with the employer and has allowed

1 the employer a reasonable time to address the subject matter of the testimony or
2 information. If appropriate, the employer shall respond in writing.

3 **4. Exceptions.** The protections created in subsections 3 and 9 do not apply to
4 testimony or information ~~that, upon reasonable inquiry by the employee or utility~~
5 ~~contractor, would be found to be false~~ found by the commission or a court of law to have
6 been intentionally or knowingly false.

7 **5. Civil actions for injunctive relief or other remedies by employees.** An employee
8 who alleges a violation of rights under this section and who has made reasonable efforts to
9 exhaust all grievance procedures, as provided for in the contract of employment or that
10 otherwise may be available at the employee's place of employment, may bring a civil
11 action, including an action for injunctive relief, within 90 days after the occurrence of that
12 alleged violation or after the grievance procedure or similar process terminates. The action
13 may be brought in the Superior Court for the county where the alleged violation occurred,
14 the county where the complainant resides or the county where the person against whom the
15 civil complaint is filed resides. An employee must establish each element of the employee's
16 case by a preponderance of the evidence.

17 **5-A. Civil actions for injunctive relief or other remedies by utility contractors.** A
18 utility contractor that alleges a violation of rights under this section may bring a civil action,
19 including an action for injunctive relief, within 90 days after the occurrence of that alleged
20 violation. The action may be brought in the Superior Court for the county where the alleged
21 violation occurred, the county where the complainant resides or the county where the
22 person against whom the civil complaint is filed resides. A utility contractor must establish
23 each element of the utility contractor's case by a preponderance of the evidence.

24 **6. Remedies ordered by court.** A court, in rendering a judgment in an action brought
25 pursuant to this section, may order reinstatement of the employee, the payment of back
26 wages, full reinstatement of fringe benefits and seniority rights or any combination of these
27 remedies. If an employee or utility contractor is the prevailing party, a court shall award
28 the employee or utility contractor all or a portion of the costs of litigation, including
29 reasonable attorney's fees and witness fees.

30 **7. Agreements.** This section does not diminish or impair the rights of a person under
31 any collective bargaining agreement. A public utility, competitive electricity provider or
32 affiliated interest may not enter into an agreement preventing employees from exercising
33 their rights to testify before or provide information to a legislative committee, the
34 commission or the Public Advocate pursuant to this section.

35 **8. Jury trial; common-law rights.** Any action brought under this section may be
36 heard by a jury. Nothing in this section derogates any common-law rights of an employee
37 or employer.

38 **9. Contracts with utility contractors.** If a utility contractor, in compliance with this
39 section and in good faith, testifies before or provides information to a legislative committee,
40 the commission or the Public Advocate, a public utility or competitive electricity provider
41 may not respond to such action by the utility contractor by:

42 A. Terminating or threatening to terminate a contract with the utility contractor; or

43 B. Harming or threatening to harm the utility contractor financially.

10. ~~Notice of rights required~~ Whistleblower training and assessment. ~~A public utility and a competitive electricity provider shall notify the public utility's and the competitive electricity provider's employees, affiliated interests and utility contractors of their rights under this section. An employer shall provide employees a live or recorded training and awareness assessment pertaining to the rights and responsibilities of whistleblowers under this section. The employer shall provide the training and assessment to all employees at least once every 2 years. The whistleblower training and assessment must be provided by the Office of the Public Advocate or by its designee. Assessment results must be reported in the aggregate to the commission and in the annual report of the Office of the Public Advocate.~~

11. Penalties. The commission ~~may~~ shall impose penalties for violations of this section. This subsection does not apply in the case of an employee of a utility contractor alleging a violation under subsection 3.

12. Rulemaking. The commission may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

13. Anonymous reporting. The commission shall provide a secure hotline or portal for a whistleblower reporting potentially imprudent or illegal activity. If a whistleblower using the hotline or portal chooses to remain anonymous, the commission shall take all reasonable steps to protect the anonymity of the whistleblower.

14. Investigation. The commission or its designee may investigate a report made under this section. Materials related to an investigation that in the judgment of the commission may compromise the identity of a whistleblower must be treated as confidential and may be shared only with the Office of the Public Advocate and a contracted investigator.

15. Limitation. An anonymous report under subsection 13 may not be relied upon as the evidentiary basis for any penalty, rate reduction or disallowance by the commission.

16. Compensation. A whistleblower may petition the commission for and may be awarded financial compensation totaling between 10% and 30% of the administrative penalty or savings to ratepayers. In establishing the amount of the award, the commission shall consider the extent to which the whistleblower report was instrumental in leading to the administrative penalty or savings to ratepayers.

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

SUMMARY

This bill increases protections for public utility whistleblowers and allows the Public Utilities Commission to provide financial compensation for information leading to an administrative penalty or savings to utility customers. It requires that public utilities, competitive electricity providers and their affiliated interests and contractors provide training to all employees at least once every 2 years on the rights and responsibilities of whistleblowers. It provides that the Public Utilities Commission may investigate a whistleblower report while protecting the whistleblower's anonymity. The bill does not

1 permit penalty, rate reduction or the disallowance of cost recovery against a utility based
2 on an anonymous report.