

Date: (Filing No. S-)

ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

126TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT “ ” to S.P. 710, L.D. 1784, Bill, “An Act To Reform Regulation of Consumer-owned Water Utilities”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 35-A MRSA §6105, sub-§§2 and 3, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

2. Just and reasonable rates. The governing body shall establish ~~and file~~ rates, tolls or charges ~~which that~~ are just and reasonable and ~~which that~~ provide revenue as may be required to perform its public utility service and to attract necessary capital on just and reasonable terms. The governing body shall provide the rate schedule and any changes to the rate schedule to the commission.

3. Uniform rates. The governing body shall establish ~~and file~~ rates ~~which that~~ are uniform within the territory supplied whenever the installation and maintenance of mains and the cost of service is substantially uniform. If, for any reason, the cost of construction and maintenance or the cost of service in a section of the territory exceeds the average, the governing body may establish ~~and file~~ higher rates for that section, but these higher rates ~~shall~~ must be uniform throughout that section. The governing body shall provide the rate schedule and any changes to the rate schedule to the commission.

Sec. 2. 35-A MRSA §6105, sub-§4, as corrected by RR 2011, c. 2, §39, is amended to read:

4. Purposes. The governing body may establish ~~and file~~ rates under this section to provide revenue for the following purposes, but no other:

- A. To pay the current expenses for operating and maintaining the water system and to provide for normal renewals and replacements;
- B. To provide for the payment of the interest on the indebtedness created or assumed by the utility;

COMMITTEE AMENDMENT

1 C. To provide each year a sum equal to not less than 2% nor more than 10% of the
2 term indebtedness represented by the issuance of bonds created or assumed by the
3 utility, ~~which~~; the sum ~~shall~~ must be turned into a sinking fund and there kept to
4 provide for the extinguishment of term indebtedness. The money set aside in this
5 sinking fund ~~shall~~ must be devoted to the retirement of the term obligations of the
6 utility and may be invested in such securities as savings banks in the State are
7 allowed to hold;

8 D. To provide for annual principal payments on serial indebtedness created or
9 assumed by the utility;

10 E. To provide for a contingency allowance as provided in section 6112;

11 F. To provide for rate adjustments to reflect the cost of anticipated construction of
12 plants or facilities required by the 1986 amendments to the United States Safe
13 Drinking Water Act, Public Law 93-523, or related projects, except that rates
14 established under this paragraph are not subject to section 6104; and

15 G. To provide for recovery of the amounts necessary to fund the replacement of
16 water system infrastructure. Those funds must be deposited in a capital reserve
17 account and used in accordance with section 6107-A.

18 **Sec. 3. 35-A MRSA §6107, sub-§3**, as amended by PL 1987, c. 490, Pt. B, §16,
19 is further amended to read:

20 **3. Use of funds.** The funds generated by the system development charge ~~shall~~ must
21 be deposited into a special account of the consumer-owned water utility dedicated to
22 finance capital outlays for water system expansion caused by an increase in demand for
23 service. The funds from the special account ~~shall~~ may be used only for the purpose of
24 financing the expansion of the system and ~~shall~~ may not be used for the repair or
25 replacement of existing facilities unless the replacement is required as a result of
26 increased demand for service. The system development charge ~~shall~~ may not be treated
27 as income of the consumer-owned water utility nor ~~shall~~ may it be considered part of the
28 rates established and ~~filed~~ provided to the commission pursuant to section 6105.

29 **Sec. 4. 35-A MRSA §6114** is enacted to read:

30 **§6114. Exemption from requirements**

31 The commission may grant exemptions from portions of this Title to individual
32 consumer-owned water utilities or a class of consumer-owned water utilities in
33 accordance with this section. An exemption granted under this section must be granted
34 pursuant to standards and procedures adopted by the commission by rule.

35 **1. General standards.** In order to grant an exemption, the commission must make
36 specific findings that the exemption is in the public interest, will not result in unjust or
37 unreasonable rates and will not have a negative impact on the provision of safe, adequate
38 and reliable service and that the affected consumer-owned water utility or class of
39 consumer-owned water utilities has the adequate technical, financial and administrative
40 capacity to perform the waived function or requirement.

41 **2. Initiation of exemption.** The commission shall consider an exemption to an
42 individual consumer-owned water utility at the request of a consumer-owned water

1 utility. The commission shall require the consumer-owned water utility to notify its
2 customers and hold a public hearing before approving the request for exemption. The
3 commission may, on its own motion, grant an exemption to a class of consumer-owned
4 water utilities. The commission shall adopt by rule standards and procedures for granting
5 an exemption to a class of consumer-owned water utilities.

6 **3. Exceptions.** The commission may not a grant an exemption under this section
7 from any of the following sections of this Title:

8 A. Section 116;

9 B. Section 301, subsections 1 to 3;

10 C. Section 309, subsection 1;

11 D. Section 501;

12 E. Section 502;

13 F. Section 702;

14 G. Section 709;

15 H. Section 712;

16 I. Section 1101;

17 J. Section 1302;

18 K. Section 6105;

19 L. Section 6109;

20 M. Section 6109-B;

21 N. Section 6111-C; and

22 O. Section 6112.

23 **4. Consumer assistance division.** The commission shall ensure that customers of
24 consumer-owned water utilities retain access to the services provided by the consumer
25 assistance division within the commission.

26 **5. Rescission.** The commission shall establish by rule a process by which customers
27 of a consumer-owned water utility may petition the commission to rescind an exemption
28 granted under this section to an individual consumer-owned water utility or to a class of
29 consumer-owned water utilities. A rescission may be in whole or in part and may be
30 specific to an individual consumer-owned water utility.

31 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,
32 chapter 375, subchapter 2-A.'

SUMMARY

33
34 This amendment replaces the bill. This amendment requires the Public Utilities
35 Commission to adopt rules to establish standards and procedures to exempt consumer-
36 owned water utilities from portions of the Maine Revised Statutes, Title 35-A. This
37 amendment:

- 1 1. Outlines specific requirements related to standards for granting an exemption;
- 2 2. Specifies ways a request for exemption may be initiated;
- 3 3. Lists specific provisions of Title 35-A from which a consumer-owned water utility
- 4 may not be exempted;
- 5 4. Directs the commission to ensure that customers of consumer-owned water
- 6 utilities still have access to the services provided by the consumer assistance division
- 7 within the commission; and
- 8 5. Directs the commission to establish by rule a process by which customers of a
- 9 consumer-owned water utility can request that an exemption be rescinded.
- 10 This amendment requires that rate schedules issued by a consumer-owned water
- 11 utility be submitted to the commission.