



# 130th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2022

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Legislative Document

No. 2018

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H.P. 1500

House of Representatives, March 9, 2022

**An Act To Implement Recommendations Regarding the  
Incorporation of Equity Considerations in Regulatory Decision  
Making**

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Reported by Representative TUCKER of Brunswick for the Joint Standing Committee on Environment and Natural Resources pursuant to Public Law 2021, chapter 279, section 3.

Reference to the Committee on Environment and Natural Resources suggested and ordered printed pursuant to Joint Rule 218.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

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

2 **Sec. 1. 35-A MRSA §1310**, as amended by PL 1997, c. 691, §4 and affected by PL  
3 1999, c. 127, Pt. D, §5, is repealed.

4 **Sec. 2. 35-A MRSA §1310-A** is enacted to read:

5 **§1310-A. Intervenor funding**

6 **1. Qualification for funding.** Consistent with rules adopted by the commission  
7 pursuant to subsection 3, the commission may order or provide funding in accordance with  
8 subsection 2 to an intervenor in a commission proceeding upon a finding that:

9 A. The position of the intervenor is not adequately represented by the Office of the  
10 Public Advocate or commission staff;

11 B. The intervenor is likely to substantially contribute to the proceeding and to assist in  
12 the resolution of the issues raised in the proceeding; and

13 C. Participation in the proceeding by the intervenor would impose a significant  
14 financial hardship on the intervenor.

15 **2. Funding sources.** If the commission finds pursuant to subsection 1 that an  
16 intervenor in a commission proceeding qualifies for funding, the commission may,  
17 consistent with rules adopted by the commission pursuant to subsection 3:

18 A. Order a utility involved in the commission proceeding to compensate the intervenor.  
19 Compensation provided by a utility under this paragraph may be recovered in rates; or

20 B. Provide compensation to the intervenor from the Public Utilities Commission  
21 Regulatory Fund established pursuant to section 116 and filing fees, subject to the  
22 commission's determination that funds are available for that purpose.

23 **3. Rules.** The commission shall adopt rules to implement this section. Rules adopted  
24 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
25 subchapter 2-A.

26 A. Rules adopted by the commission pursuant to this subsection must include, but are  
27 not limited to:

28 (1) The process by which the commission will determine whether an intervenor  
29 qualifies for funding;

30 (2) Identification of which expenses incurred by an intervenor may qualify for  
31 funding, which types of proceedings intervenor funding will be available for and  
32 the point in an eligible proceeding at which an intervenor qualifying for funding  
33 will be provided with the funding;

34 (3) The process by which the commission will ensure that funding provided to an  
35 intervenor is used properly and the process by which funding provided to an  
36 intervenor that is not entirely used by the intervenor may be recovered by the  
37 commission; and

38 (4) The methods by which the commission will ensure that the public is notified  
39 about the availability of intervenor funding under this section.

1 B. Rules adopted by the commission pursuant to this subsection may include, but are  
2 not limited to:

3 (1) Establishment of a cap on the amount of funding that a qualified intervenor  
4 may be provided in a commission proceeding;

5 (2) Establishment of a process by which the commission will give priority under  
6 this section to qualified intervenors representing environmental justice  
7 populations. If the commission establishes such a process by rule, the commission,  
8 in consultation with the Department of Environmental Protection, shall include in  
9 that rule a definition for "environmental justice populations" that is consistent with  
10 any definition for that term adopted by the department in a department rule; and

11 (3) Any other provisions the commission determines necessary for the  
12 implementation of this section.

13 **Sec. 3. 38 MRSA §349-C** is enacted to read:

14 **§349-C. Environmental justice**

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

17 A. "Environmental justice" means the fair treatment and meaningful involvement of all  
18 people regardless of race, color, national origin or income with respect to the  
19 development, implementation and enforcement of environmental laws, rules,  
20 regulations and policies.

21 B. "Fair treatment" means that no group of people bears a disproportionate share of the  
22 negative environmental consequences resulting from industrial, governmental or  
23 commercial operations or policies.

24 C. "Frontline communities" means those people and communities that experience the  
25 consequences of climate change first and to a greater degree than other people and  
26 communities.

27 D. "Meaningful involvement" means, with respect to the department's decision-making  
28 process, that:

29 (1) People and communities have an opportunity to participate in the decision-  
30 making process regarding activities that have the potential to affect the  
31 environment or public health;

32 (2) The department seeks out and facilitates the involvement in the decision-  
33 making process of potentially affected people and communities;

34 (3) The contributions of people and communities to the decision-making process  
35 can influence the department's decision making; and

36 (4) The department considers in its decision making the concerns and contributions  
37 of people and communities provided as part of the decision-making process.

38 **2. Consideration of environmental justice populations and frontline communities.**

39 The department shall ensure that persons in environmental justice populations and frontline  
40 communities are provided with fair and equitable access to the department's decision-  
41 making processes under sections 341-D and 341-H. The department shall adopt rules  
42 establishing procedures to implement this subsection.

1 A. Rules adopted by the department pursuant to this subsection must define  
2 "environmental justice populations," taking into consideration, at a minimum, median  
3 household income, race, ethnicity and English language proficiency.

4 B. Rules adopted by the department pursuant to this subsection are routine technical  
5 rules as defined in Title 5, chapter 375, subchapter 2-A, except that the board shall hold  
6 a hearing in accordance with Title 5, section 8052 prior to the adoption of any rule  
7 proposed pursuant to this subsection.

8 **SUMMARY**

9 This bill, which is reported out by the Joint Standing Committee on Environment and  
10 Natural Resources pursuant to Public Law 2021, chapter 279, section 3, implements  
11 recommendations regarding methods of incorporating equity considerations in decision  
12 making at the Department of Environmental Protection, the Public Utilities Commission  
13 and other state agencies made pursuant to the report required by Public Law 2021, chapter  
14 279, section 3.

15 The bill amends intervenor funding provisions applicable to Public Utilities  
16 Commission proceedings to clarify the eligibility requirements for intervenor funding, the  
17 sources of the funding and other related requirements and provisions to be adopted by rule,  
18 which may include but are not limited to establishment of a process by which the  
19 commission will give priority to qualified intervenors representing environmental justice  
20 populations.

21 The bill also requires the Department of Environmental Protection to adopt rules  
22 establishing procedures to ensure that persons in environmental justice populations and  
23 frontline communities are provided with fair and equitable access to the department's  
24 decision-making processes under the Maine Revised Statutes, Title 38, sections 341-D and  
25 341-H. The bill establishes definitions for "environmental justice," "frontline  
26 communities" and related terminology.

27 The committee has not taken a position on the substance of the bill and by reporting  
28 this bill out the committee is not suggesting and does not intend to suggest that it agrees or  
29 disagrees with any aspect of this bill. The committee is reporting the bill out for the sole  
30 purpose of obtaining a printed bill that can be referred to the committee for a public hearing  
31 and subsequent committee action in the normal course.