

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
H.P. 1500 - L.D. 2018

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

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

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 D, §5, is repealed.

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

§1310-A. Intervenor funding

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

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

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

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

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

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

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

3. Rules. The commission shall 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.

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

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

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

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

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

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

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

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

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

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

§349-C. Environmental justice

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

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

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

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

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

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

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

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

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

2. Consideration of environmental justice populations and frontline communities.

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

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

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