

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

H.P. 1342 - L.D. 1820

**An Act To Implement Recommendations To Provide Additional Flexibility
for Funding Infrastructure Improvements for Water Utilities**

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

Sec. 1. 35-A MRSA §6105, sub-§4, ¶E, as amended by PL 2003, c. 529, §1, is further amended to read:

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

Sec. 2. 35-A MRSA §6105, sub-§4, ¶F, as enacted by PL 1989, c. 59, §3, is amended to read:

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

Sec. 3. 35-A MRSA §6105, sub-§4, ¶G is enacted to read:

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

Sec. 4. 35-A MRSA §6107-A is enacted to read:

§6107-A. Funding for infrastructure improvements for water utilities

Notwithstanding chapter 3, a water utility may fund future infrastructure improvements through recovery in rates and fund completed infrastructure replacement or repairs through the establishment of a surcharge in accordance with this section and rules adopted by the commission. Nothing in this section may be construed to exempt any expenditure by a water utility from review by the commission in accordance with this Title.

1. Recovery in rates. A water utility may recover in rates the amounts necessary to fund the future replacement of water system infrastructure. Those funds must be deposited in a capital reserve account.

2. Commission review of capital reserve account. A water utility shall provide to the commission an annual accounting of all revenues deposited into and expenditures made from the water utility's capital reserve account. Money in the capital reserve account is not considered unappropriated retained earnings for the purpose of section 6112, subsection 5.

3. Infrastructure replacement surcharge. A water utility may establish and file, pursuant to section 307, a temporary surcharge to allow recovery of the costs of completed replacement or repairs of water system infrastructure. The temporary surcharge may continue until the water utility's next rate case under chapter 3 or rate filing pursuant to sections 6104 and 6104-A and in accordance with section 6105.

If a water utility elects to institute an infrastructure replacement surcharge pursuant to this subsection, the water utility shall file the proposed surcharge with a justification for the implementation of the surcharge with the commission no less than 30 days before the effective date of the surcharge. The commission may investigate the surcharge in accordance with section 1303 to determine if the surcharge is just and reasonable. If the commission investigates the surcharge, the commission shall make its determination within 75 days of the filing and shall approve the surcharge if it is determined to be just and reasonable and deny the surcharge if it is determined not to be just and reasonable.

4. Limitations. A water utility may not expend amounts collected pursuant to subsection 1 for any purpose other than infrastructure improvements in accordance with this section and rules adopted by the commission.

5. Rules. The commission shall adopt rules to implement this section, including but not limited to rules governing the maximum amount of funds that may be recovered through rates or surcharges under this section, the authorized uses of those funds and reporting requirements and procedures to ensure that this section is being implemented in a manner that is consistent with just and reasonable rate-making principles, including a requirement that utilities submit an infrastructure needs assessment plan when establishing and using a capital reserve account. Rules adopted under this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor