

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Facilitate the Involvement of the Office of the Public Advocate in the FairPoint Communications Bankruptcy Case**

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

**Whereas,** FairPoint Communications has filed for Chapter 11 bankruptcy protection in United States Bankruptcy Court, Southern District of New York in Manhattan; and

**Whereas,** the interests of Maine customers, other users of FairPoint's network in Maine and certain state agencies, including the Department of Public Safety, the Maine Emergency Management Agency and the Office of the Governor, are at risk of being ignored or not given proper consideration by the bankruptcy court if the Office of the Public Advocate, on behalf of Maine telecommunications providers' ratepayers and other Maine public interests, does not have sufficient financial resources to cover the costs necessary to be actively involved in the resolution of the FairPoint bankruptcy proceeding; and

**Whereas,** the FairPoint bankruptcy case is currently underway in New York City, and the immediate and active involvement of the Office of the Public Advocate and its bankruptcy attorney is necessary in order to engage in the proceedings and negotiations that will lead to a settlement in the case, either through a settlement agreement or a judgment by the bankruptcy judge; and

**Whereas,** without the timely availability of sufficient funds for the Office of the Public Advocate to carry on an active and aggressive effort to advance and protect Maine's public interest in this proceeding, there is a real risk that the resources needed to ensure that the necessary repairs to FairPoint's OSS/BSS back office systems may not be set aside by the bankruptcy court and reserved for these critically important repairs; and

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

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

**Sec. 1. Office of the Public Advocate; special assessment on telecommunications entities.** Notwithstanding any other provision of law, in fiscal year 2009-10, every telecommunications entity subject to an assessment under the Maine Revised Statutes, Title 35A, section 116, subsection 8 is subject to an additional assessment on its intrastate gross operating revenues sufficient to produce \$100,000 total. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may only be used for the costs associated with representing Maine telecommunications ratepayers and Maine's public interests in the FairPoint Communications bankruptcy proceedings in United States Bankruptcy Court, Southern District of New York.

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

## **SUMMARY**

This bill authorizes an allocation of \$100,000 to cover costs to be incurred through a contract for legal services to be provided by bankruptcy counsel for the FairPoint Communications bankruptcy proceedings in New York. This bill authorizes the Office of the Public Advocate to impose a special assessment to cover the cost of those legal services only on those telecommunications providers already subject to assessment under the Maine Revised Statutes, Title 35A, section 116, subsection 8.