

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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Legislative Document

No. 1262

H.P. 837

House of Representatives, March 25, 2025

**An Act to Improve Government Transparency and Accountability  
by Establishing a Process to Allow a Person to Require the State to  
Enforce Certain Laws and Rules**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Robert B. Hunt*

ROBERT B. HUNT  
Clerk

Presented by Representative FRIEDMANN of Bar Harbor.  
Cosponsored by Representatives: MACIAS of Topsham, OSHER of Orono, PUGH of  
Portland, RAY of Lincolnville, SAYRE of Kennebunk.

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

2       **Sec. 1. 5 MRSA §8055, sub-§3**, as amended by PL 1985, c. 506, Pt. A, §4, is further  
3 amended to read:

4       **3. Receipt of petition; judicial review.** Within 60 days after receipt of a petition, the  
5 agency shall either notify the petitioner in writing of its denial, stating the reasons ~~therefor~~  
6 for the denial, or initiate appropriate rule-making proceedings. Whenever a petition to  
7 adopt or modify a rule is submitted by 150 or more registered voters of the State, the agency  
8 shall initiate appropriate ~~rulemaking~~ rule-making proceedings within 60 days after receipt  
9 of the petition. The petition must be verified and certified in the same manner provided in  
10 Title 21-A, section 354, subsection 7, prior to its presentation to the agency. If, within 60  
11 days after receipt of a petition, the agency fails to notify the petitioner in writing of its  
12 denial or to initiate appropriate rule-making proceedings, or if the agency has initiated rule-  
13 making proceedings the petitioner believes to be inconsistent with the submitted petition,  
14 the person that submitted the petition may seek appropriate judicial review of the agency's  
15 actions consistent with section 8058 or, as applicable, subchapter 7.

16       **Sec. 2. 5 MRSA §9051, sub-§1**, as amended by PL 2005, c. 61, §1, is further  
17 amended to read:

18       **1. Adjudicatory proceeding.** In any adjudicatory proceedings, ~~except including those~~  
19 proceedings initiated pursuant to section 9051-B, but excluding those proceedings  
20 involving correctional facilities, the Workers' Compensation Board, the Maine Motor  
21 Vehicle Franchise Board or the State Parole Board, the procedures of this subchapter apply.

22       **Sec. 3. 5 MRSA §9051-B** is enacted to read:

23       **§9051-B. Proceeding to enforce certain existing laws or rules**

24       Notwithstanding any provision of law to the contrary and in accordance with the  
25 provisions of this section and this subchapter, a person may petition an agency or the  
26 Attorney General, as applicable, to enforce an existing law or rule relating to regulation of  
27 the environment, natural resources, public health or safety or freedom of information and  
28 government transparency.

29       **1. Form; content.** Each agency and the Attorney General shall designate the form for  
30 petitions under this section and the procedure for their submission, consideration and  
31 disposition. A petition submitted by a person under this section must, at a minimum,  
32 provide sufficient information for the agency or the Attorney General to identify the  
33 existing law or rule the person is seeking enforcement of and the purposes for which the  
34 person is seeking that enforcement.

35       **2. Receipt of petition; judicial review.** Within 60 days after receipt of a petition, the  
36 agency or the Attorney General shall either notify the petitioner in writing of its denial,  
37 stating the reasons for the denial, or initiate an appropriate proceeding to enforce an existing  
38 law or rule as specified in the petition. If, within 60 days after receipt of a petition, the  
39 agency or the Attorney General fails to notify the petitioner in writing of its denial or to  
40 initiate appropriate proceedings, or if the agency or the Attorney General has initiated a  
41 proceeding the petitioner believes to be inconsistent with the submitted petition, the person  
42 that submitted the petition may seek appropriate judicial review of the agency's or Attorney  
43 General's actions consistent with subchapter 7, as applicable.

**Sec. 4. 5 MRSA c. 375, sub-c. 8 is enacted to read:**

## **SUBCHAPTER 8**

**FUND FOR ADMINISTRATIVE OVERSIGHT**

**§11021. Fund for Administrative Oversight established; administration**

This section establishes and governs the administration of the Fund for Administrative Oversight.

**1. Fund established; sources of fund.** The Fund for Administrative Oversight, referred to in this section as "the fund," is established within the Office of the Attorney General as a nonlapsing, dedicated fund, to be administered by the administrator, for the purposes described in subsection 3. The fund may accept revenue from grants, bequests, gifts or contributions from any source, public or private, including any sums that may be directed by law or appropriated by the Legislature, transferred to the fund from time to time by the State Controller or dedicated to the fund.

**2. Fund administrator.** The fund is administered by a fund administrator, referred to in this section as "the administrator," who is appointed by the Governor for a 4-year term and may be reappointed by the Governor to additional 4-year terms.

**3. Fund purposes.** Revenue credited to the fund is distributed in the manner described in subsection 4 for the following purposes:

A. To support actions by persons seeking to petition or that have petitioned an agency for adoption or modification of rules pursuant to section 8055, including persons seeking judicial review of an agency's actions in response to a petition;

B. To support actions by persons seeking to petition or that have petitioned an agency or the Attorney General to initiate a proceeding to enforce an existing law or rule pursuant to section 9051-B, including a person seeking judicial review of an agency or the Attorney General's actions in response to a petition; and

C. To support actions by persons seeking to intervene or otherwise participate in agency rulemaking conducted under subchapter 2 or 2-A, in an adjudicatory proceeding under subchapter 4 or in a licensing action under subchapter 5, including intervention or participation in a judicial review of any such agency actions, for which the intervention or participation is authorized by law or rule.

**4. Distribution of funds.** After administrative costs, including any salary expenses due to the administrator and other staffing and administrative costs associated with the administration of the fund, revenue credited to the fund must be distributed as follows.

A. Annually, the administrator shall assess the amount of revenue within the fund that is available for distribution during the next calendar year for the purposes identified in subsection 3 and shall establish a formula to determine the amount of that identified revenue that will be made available to each agency and to the Attorney General for distribution. The administrator shall notify each agency and the Attorney General regarding the total funding amount that will be made available to the agency or the Attorney General from the fund in the next calendar year.

1 B. Each agency and the Attorney General may request a distribution of revenue from  
2 the fund up to the total funding amount to support the purposes identified in subsection  
3 3. In reviewing such requests for distribution, the administrator shall ensure that  
4 funding priority is given to support actions by persons:

5 (1) That are not commercial entities or entities that are otherwise subject to  
6 regulation under law or rule;

7 (2) Whose interest or position, as determined by the administrator, is not otherwise  
8 adequately represented in the rulemaking, proceeding or licensing action; and

9 (3) Whose interest or position, as determined by the administrator, is primarily  
10 focused on protecting or conserving the State's natural resources or environment,  
11 protecting the public health or safety or ensuring freedom of access to public  
12 information and government transparency.

13 C. In collaboration with each agency and the Attorney General, the administrator shall  
14 develop and implement measures to educate members of the public and organizations  
15 regarding the availability of revenue from the fund to support the purposes identified  
16 in subsection 3.

17 **Sec. 5. Office of Attorney General; report.** The Office of the Attorney General  
18 shall consult with each state agency that issues licenses, permits or other approvals to  
19 persons to engage in regulated activities relating to the environment, natural resources,  
20 public health and safety and freedom of information and government transparency to  
21 identify a mechanism for imposing an additional fee amount for the issuance of those  
22 licenses, permits or approvals to support activities authorized under the Fund for  
23 Administrative Oversight, established in the Maine Revised Statutes, Title 5, section  
24 11021, in a manner designed to satisfy the anticipated annual demand for distributions from  
25 that fund for the agency. The fee amounts identified must be reasonable, must not  
26 unreasonably impede the activities of the regulated entity and must be designed to reflect  
27 the anticipated cost to the agency of oversight of the regulated activity and addressing any  
28 potential violations by the regulated entity, including any costs of corrective action or  
29 remediation undertaken by the agency. By January 1, 2026, the office shall submit a report  
30 to the Joint Standing Committee on State and Local Government outlining its  
31 recommendations for imposing such additional fee amounts, including necessary proposed  
32 legislation. The recommendations and proposed legislation must be designed to provide for  
33 assessment and collection of the additional fee amounts beginning July 1, 2026 and must  
34 provide that of those fee amounts collected, 1/2 must be retained by the state agency  
35 assessing the fee to support its oversight and enforcement activities and 1/2 must be  
36 transferred to the Fund for Administrative Oversight to support activities under that fund.  
37 After reviewing the report, the committee may report out legislation relating to the report  
38 to the Second Regular Session of the 132nd Legislature.

## 39 SUMMARY

40 This bill amends the Maine Administrative Procedure Act to authorize a person to  
41 petition an agency or the Attorney General, as applicable, to enforce an existing law or rule.  
42 It also establishes the Fund for Administrative Oversight within the Office of the Attorney  
43 General, to be overseen and administered by a fund administrator, appointed by the  
44 Governor. Revenue credited to that fund must be distributed to support:

1           1. Actions by persons seeking to petition or that have petitioned an agency for adoption  
2 or modification of rules;

3           2. Actions by persons seeking to petition or that have petitioned an agency or the  
4 Attorney General to initiate a proceeding to enforce an existing law or rule; and

5           3. Actions by persons seeking to intervene or otherwise participate in an agency  
6 rulemaking conducted, in an adjudicatory proceeding or in a licensing action.

7           In distributing funds to such persons, the fund administrator must give priority to  
8 persons that are not commercial entities or entities that are otherwise subject to regulation  
9 under law or rule; whose interest or position, as determined by the fund administrator, is  
10 not otherwise adequately represented in the rulemaking, proceeding or licensing action;  
11 and whose interest or position, as determined by the fund administrator, is primarily  
12 focused on protecting or conserving the State's natural resources or environment, protecting  
13 the public health or safety or ensuring freedom of access to public information and  
14 government transparency.

15           The bill also directs the Office of the Attorney General to consult with each state  
16 agency that issues licenses, permits or other approvals to persons to engage in regulated  
17 activities relating to the environment, natural resources, public health and safety and  
18 freedom of information and government transparency to identify a mechanism for imposing  
19 an additional fee amount for the issuance of those licenses, permits or approvals to support  
20 activities under the Fund for Administrative Oversight, in a manner designed to satisfy the  
21 anticipated annual demand for distributions from that fund for the agency. The fee amounts  
22 identified must be reasonable, must not unreasonably impede the activities of the regulated  
23 entity and must be designed to reflect the anticipated cost to the agency of oversight of the  
24 regulated entity and addressing any potential violations by the regulated entity, including  
25 any costs of corrective action or remediation undertaken by the agency. By January 1, 2026,  
26 the office must submit a report to the Joint Standing Committee on State and Local  
27 Government outlining its recommendations for imposing such additional fee amounts,  
28 including necessary proposed legislation, and the committee may report out related  
29 legislation. The recommendations and proposed legislation must be designed to provide for  
30 assessment and collection of the additional fee amounts beginning July 1, 2026 and must  
31 provide that of those fee amounts collected, 1/2 must be retained by the state agency  
32 assessing the fee to support its oversight and enforcement activities and 1/2 must be  
33 transferred to the Fund for Administrative Oversight to support activities under that fund.