

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 979

H. P. 776

House of Representatives, March 10, 1977

Referred to Committee on Performance Audit. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Carter of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Require a Cost-Benefit Evaluation of Government Regulation.

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

Sec. 1. 5 MRSA c. 17 is enacted to read:

CHAPTER 17

REGULATORY COST BENEFIT
EVALUATION

§ 401. Short title

This chapter may be cited as the "Regulatory Cost-Benefit Evaluation Act."

§ 402. Declaration of policy and purpose

The Legislature declares that it is the policy of the State to prevent the imposition of unreasonable costs on the public from state programs and to insure that each law and regulation of the State will be adopted, interpreted and administered so that the direct and indirect costs to the public resulting from the law or regulation will not be unreasonable and will bear a reasonable relationship to and be commensurate with the benefits derived therefrom. To that end, it is the purpose of this chapter to establish a means for determining the costs, both direct and indirect, to the public of any proposed legislation or regulation that may have a measurable impact on costs and to require that any such proposed legislation or regulation must provide benefits that bear a reasonable relationship to the costs.

1. Draft; contents. In furtherance of the purpose and policy of this chapter and except as otherwise provided in this chapter, every agency of the

§ 403. Draft and final regulatory cost-benefit evaluations

State shall prepare in conjunction with every proposal it makes for a regulation which may have a measurable impact on costs to the public or any segment of the public, a draft regulatory cost-benefit evaluation setting forth:

- A. The reasonably foreseeable impact on costs to the public or any segment of the public, both direct and indirect, that would result from such proposal;
- B. The reasonably foreseeable benefits to the public, or any segment thereof, to be derived from the proposal;
- C. An evaluation of the relationship between such benefits and the costs to the public or any segment of the public from the proposal; and
- D. Reasonable alternatives to the proposal, the respective benefits and cost of the alternatives, and an evaluation of the relationship of the benefits and costs.

2. Further requirement; judicial review. With respect to every proposed regulation subject to the requirements of subsection 1:

- A. The prescribed administrative procedures and public participation with respect to the proposed regulation shall include consideration of the draft cost-benefit evaluation.
- B. The agency shall prepare a final cost-benefit evaluation on the basis of data and information before it, and shall include in the assessment a statement of findings and reasons upon which the final evaluation is based.
- C. Judicial review of the final regulation as otherwise prescribed or permitted by law shall include review of whether the regulation was promulgated in compliance with this chapter and of whether the regulation is a reasonable exercise of agency authority in light of the conclusions reached in the evaluation of such regulation under this chapter.

3. Provision of standards. The Department of Audit shall provide standards of measurement in determining cost-benefit evaluations.

§ 404. Emergency procedures

If in the opinion of the agency preparation of a draft cost-benefit evaluation prior to the publication of a proposed regulation subject to the requirements of section 403, subsection 1 would so delay promulgation of a final regulation by an agency as to present a substantial risk to the health or safety of persons, the proposed regulation may be published and final action taken on the regulation without timely compliance with section 403; provided, that the agency shall initiate compliance with section 403 within 60 days after final action on the regulation.

Sec. 2. Effective date. This Act shall become effective 180 days after the date of enactment.

STATEMENT OF FACT

This bill proposes the Regulatory Cost-Benefit Evaluation Act, which would require every agency of the State to prepare an evaluation of the costs and

benefits of all proposals for legislation or regulations which may have a significant impact on costs to the public. This bill would establish a state policy to prevent the imposition of unreasonable costs on the public from state programs and would require that any proposed regulation or legislation must provide benefits to the public that bear a reasonable relationship to the costs.

Most laws and regulations at the federal and state level are adopted without adequate awareness of their cost to the public and without consideration of such costs in relationship to the benefits.

The increasing number of governmental regulations and controls that impose additional costs on the public without an increase in productivity contribute substantially to higher prices, inflation, business failures and unemployment.

Regulation for the sake of regulation can no longer be tolerated. Laws and regulations should not be adopted merely on the basis of a claim that they will provide some measure of public benefit. In each case the benefit should be shown to be at least as great as the costs that will be incurred by the public.

Principal Provisions of the Act

Title 5, section 401, would be cited as the "Regulatory Cost-Benefit Evaluation Act."

Title 5, section 402, all laws and regulations of the State would be adopted, interpreted, and administered so that the costs to the public will not be unreasonable and will bear a reasonable relationship to the benefits.

Title 5, section 403, every agency of the State would be required to prepare a draft regulatory cost benefit evaluation for every proposed regulation which may have a significant impact on costs to the public or any segment thereof.

The draft evaluation would set forth the reasonably foreseeable costs and benefits to the public that would result from the proposed regulation, an evaluation of the relationship between such costs and benefits, and an evaluation of reasonable alternatives to the proposal.

The public would have an opportunity to submit comments on the draft proposal, and the agency would publish a final cost benefit evaluation when it published the final regulation. Judicial review of the regulation would include review of compliance with the Act.

Title 5, section 404, when delay in promulgation of a regulation would present a substantial risk to the health or safety of persons, an agency could first issue the regulation and then initiate the regulatory cost benefit evaluation process.

The Act would become effective 180 days after the date of enactment.