

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1411

S. P. 415

In Senate, April 6, 1977

Reported by the Committee on State Government pursuant to S. P. 710 of the 107th Legislature and printed under Joint Rules No. 17. Filed by the Joint Standing Committee on State Government under Joint Rule 17, pursuant to S. P. 710.

MAY M. ROSS, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Improve Public Access to State Agency Rules by Providing for their Publication in a State Register by the Secretary of State.

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

Sec. 1. 5 MRSA § 2353 is repealed.

Sec. 2. 5 MRSA c. 304 is enacted to read:

CHAPTER 304

PUBLICATION OF RULES; MAINE STATE REGISTER

§ 2381. Publication of rules

The Secretary of State shall, as soon as practicable after January 1, 1978, establish and conduct a system to improve public access to the rules of state agencies.

At a minimum, such system shall be as follows: For all rules in effect on January 1, 1978, the Secretary of State shall compile such rules; codify and index them; publish them in a standard format and size, which shall be susceptible to frequent and easy revision to reflect all changes and additions to such rules, including rules taking effect after January 1, 1978; provide a system for such frequent and easy revision; arrange for the free distribution of sets of such rules and all such changes and additions to appropriate public and private agencies throughout the State so as to provide reasonably timely, free public access to them; arrange for the sale, at actual unit cost, of additional sets of such rules and all changes and additions.

§ 2382. Maine State Register

The Secretary of State shall, as soon as practicable after January 1, 1978, establish and conduct a Maine State Register to improve public access to the rule making of state agencies and to other information of importance to the public concerning the several branches of State Government. At a minimum, such register shall be as follows:

1. Content and format. The Secretary of State shall prescribe the content and format of such registers; provided that the Secretary of State shall publish a notice of intent to adopt every proposed rule which is known to him timely for inclusion in the register; and further provided that the following information be published for each such proposed rule: The text or a summary of the rule, a brief description of its purpose and effect, the proposed effective date of the rule, the mailing address to which comments may be mailed and the time and place of any public hearing;

2. Frequency of publication. Such register shall be published as often as the Secretary of State determines is needed;

3. Distribution and sale. Such register shall be distributed free of charge to appropriate public and private agencies throughout the state so as to provide reasonably free, timely public access; and shall be available for sale at actual unit cost.

§ 2383. State agencies to assist Secretary of State

All state agencies shall assist the Secretary of State in any reasonable way that the Secretary of State deems necessary for accomplishing the purposes of this chapter.

Nothing in this chapter shall be interpreted to supercede the requirement of any other law. Where the requirements of this chapter and another law may be satisfied by the identical administrative action, the requirements of this chapter alone may be used for such satisfaction. Such requirements may include the requirement to give notice of proposed rule making and to publish rules. Where the requirements of this chapter are so used, the Secretary of State may bill the cooperating agency for an amount not to exceed actual unit cost.

§ 2384. Establishment and use of revolving funds

Subject to all other Laws concerning the receipt, custody and disbursement of funds, the Secretary of State may establish and maintain separate revolving funds for the publication of rules and for the Maine State Register. The Secretary of State is authorized to use such funds for the receipt and disbursement of state and nonstate funds pursuant to this chapter. Such funds shall be nonlapsing.

Upon a written finding that such purchase would be a less expensive way to accomplish the purposes of this chapter, the Secretary of State is authorized, subject to all other provisions of this chapter, to contract with a private firm or firms for the purchase of part or all of the following: Compiling, codi-

fyng, indexing, printing, distributing and selling of rules and revisions; and editing, printing, distributing and selling the Maine State Register.

Sec. 3. Appropriation. There is appropriated from the General Fund to the Department of Secretary of State the sum of \$47,417 for the biennium to be used to carry out the purposes of this Act. Included in this amount is a working capital advance of \$5,000 which shall not lapse and which is to be repaid from sales of documents authorized to be sold by this Act. The repayment is to be made not later than June 30, 1980. The breakdown shall be as follows:

	1977-78		1978-79
SECRETARY OF STATE, DEPARTMENT OF			
Personal Services	(2) \$14,688	(2)	\$21,101
All Other	7,503		4,125
	<hr/> \$22,191		<hr/> \$25,226

STATEMENT OF FACT

This Bill is to implement one recommendation contained in a report prepared pursuant to S. P. 710 by the Joint Standing Committee on State Government of the 107th Legislature. Copies of the report may be obtained in the committee's office.

The purpose of the Bill is to substantially improve public access to rules and to the process of rule-making by establishing systems for publishing existing state agency rules and for notifying the public of the intent to adopt new rules.

With respect to existing state agency rules, the Secretary of State is directed to develop a system to compile, codify, index, revise and publish them. The administrative details are left to the direction of the Secretary of State. The committee has in mind a system which would facilitate keeping the rules very current, as by a set of looseleaf notebooks with replacement pages or pocket-part updating as is done with the statutes.

With respect to rules proposed by state agencies for adoption, the bill directs the Secretary of State to publish a Maine State Register, containing notices of intent to adopt rules and other information of importance to the public regarding State Government, such as opinions of the Attorney General, changes in the location of state agency field offices and significant agency reorganizations.

Both the compiled rules and their revision and the register are to be distributed free of charge to appropriate public and private agencies throughout the State so as to provide timely, free public access. Such agencies would include, for example, public libraries. In addition, copies of both the rules and the register will be offered for sale at cost to the public. This Bill uses the definition of "rule" that appears in Title 5, section 2301, subsection 3. The committee is aware that use of this definition in effect excludes some rules,

the making of which is authorized in other statutes. The committee awaits the development of a better and more comprehensive definition which is expected to come from legislative consideration of draft administrative procedures Act prepared by a subcommittee of the Maine Bar Association and the Attorney General's Office, in cooperation with the Committee. In the meantime, the Title 5 definition provides a useful and workable starting point.

An appropriation is included to pay the costs of administration for the bill. It includes funds for 2 positions, one professional and one secretary, and their related costs, and a working capital advance of \$5,000 to be made in 1977-1978. The advance is to be used to initially finance copies of the rules and register which will later be sold to the public. Proceeds of the sales will be used to repay the advance.