

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1586

S. P. 461

In Senate, April 14, 1977

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

MAY M. ROSS, Secretary

Filed by the Joint Standing Committee on State Government under Joint Rule 17, pursuant to S. P. 710.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

RESOLUTION, Proposing an Amendment to the Constitution to Permit the Legislature to Delegate to a Joint Standing Committee of the Legislature the Power to Stay Rules and Proposed Rules of State Executive Agencies Found not to be within the Intent of the Authorizing Legislation until the Legislature has had an Opportunity to Act.

Constitutional amendment. RESOLVED: Two-thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of this State be proposed:

Constitution, Art. IV, Pt. 3rd, § 1, as amended by CR 1975, c. 5, is further amended by adding at the end a new paragraph to read:

The Legislature may by law delegate to a legislative committee, comprised of members of both Houses in reasonable proportion to their membership, the power to stay any rule or proposed rule of an agency of the Executive Department which is found not to be within the strict intent of the legislation which authorized the agency to promulgate rules. Such stay shall terminate either by the date of passage of a statute to repeal or amend the rule or by the twenty-fifth legislative day of the next regular session of the Legislature, whichever is earlier. For the purposes of this paragraph, "rule" shall mean a rule or regulation or proposed rule or regulation as defined in a law which the Legislature enacts in the statutes, to carry out the purposes of this paragraph.

Constitutional referendum procedure; form of question; effective date. Resolved: That the city aldermen, town selectmen and plantation assessors

of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at the next general election in the month of November or special statewide election on the Tuesday following the first Monday of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

“Shall the Constitution be amended as proposed by a resolution of the Legislature to permit the Legislature to delegate to a joint standing committee of the Legislature the power to stay rules and proposed rules of state executive agencies found not to be within the intent of the authorizing legislation until the Legislature has had an opportunity to act?”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within the corresponding square below the words “Yes” or “No.” The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns, and, if it appears that a majority of the legal votes are in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment shall become part of the Constitution on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

STATEMENT OF FACT

This resolution is the result of a study assigned by the 107th Legislature to the Joint Standing Committee on State Government. It represents the recommendations of certain committee members for amendment to the Constitution to permit the Legislature to delegate to a legislative committee the power to stay rules and proposed rules which are not within the intent of the authorizing legislation.

The resolution will permit the Legislature to delegate to one or more of its joint standing committees the power to stay a rule or proposed rule of a state agency. Such stay will be in effect until the earlier of passage of either a statute to repeal or amend the rule or of the twenty-fifth legislative day. “Rule” is to be defined in a statute passed by the Legislature to carry out the purposes of this resolution.