

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1045

H. P. 843

House of Representatives, March 5, 1979

On Motion of Mrs. Kany of Waterville, referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Mitchell of Vassalboro.

Cosponsors: Mrs. Post of Owl's Head and Mr. Garsoe of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Provide Fiscal Impact Statements.

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

Sec. 1. 3 MRSA § 167, sub-§ 5 is enacted to read:

5. Statements of cost. To cause to be prepared realistic statements of the estimated financial cost to municipalities or counties for implementing or complying with any proposed law. No statement shall be prepared if there is no financial cost to municipalities or counties in the proposed law. Any bill receiving an ought-to-pass report from a legislative committee shall include a statement prior to any vote on the bill in either House. Any amendment to a bill shall include a statement prior to any vote on the amendment in either House if any Legislator requests the Legislative Finance Officer to prepare such a statement. Any state agency, as defined in Title 5, chapter 375, shall provide him whatever assistance is necessary in preparing these cost estimates.

Sec. 2. 5 MRSA c. 160 is enacted to read:

CHAPTER 160
FISCAL IMPACT ACT

§ 1951. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Commissioner.** "Commissioner" means the Commissioner of Finance and Administration.

2. **Fiscal impact statement.** "Fiscal impact statement" means a realistic statement of the estimated financial cost of implementing or complying with a law or rule upon municipalities or counties to which the law or rule applies.

3. **Rule.**

A. "Rule" means the whole or any part of every regulation, standard, code, statement of policy or other agency statement of general applicability, including the amendment, suspension or repeal of any prior rule, that is or is intended to be judicially enforceable and implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency.

B. The term does not include:

- (1) Policies or memoranda concerning only the internal management of an agency or the State Government and not judicially enforceable;
- (2) Advisory rulings;
- (3) Decisions issued in adjudicatory proceedings; or
- (4) Any form, instruction or explanatory statement of policy which in itself is not judicially enforceable, and which is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges.

§ 1952. Notification of the estimated financial cost to municipalities or counties for implementing or complying with a law or rule

1. **Notification.** Prior to December 15th of each year, the commissioner shall provide the Legislature and the Governor a fiscal impact statement on each law or rule enacted or adopted after January 1, 1979, which will have a material fiscal impact on any municipality or county for the state fiscal year forthcoming.

2. **Recommendation.** Accompanying the fiscal impact statements, the commissioner shall submit:

A. A computation of the adjustment that would be required under Title 30, section 5055 to compensate municipalities in full for the costs described in the fiscal impact statements;

B. Recommendations to amend a law or rule requiring a fiscal impact statement that would reduce the cost of the law or rule to municipalities or counties;

C. Recommendations to revise or establish a state aid program which would reduce the cost to municipalities or counties of any law or rule requiring a fiscal impact statement; and

D. Recommendations, accompanied by justifications, that the municipalities or counties assume all or part of the financial cost of the law or rule.

Sec. 3. 5 MRSA § 8002, sub-§ 4-A is enacted to read:

4-A. Fiscal impact statement. "Fiscal impact statement" means a realistic statement of the estimated financial cost of implementing or complying with a proposed rule upon municipalities or counties to which the proposed rule applies.

Sec. 4. 5 MRSA § 8053, sub-§ 1, ¶ B, sub-¶ (2), as amended by PL 1977, c. 692, § 1, is further amended to read:

(2) Any person who has filed within the past year a written request with the agency for notice of rulemaking. Notification under this subparagraph shall be by mail or otherwise in writing to the last address provided to the agency by that person; ~~and~~

Sec. 5. 5 MRSA § 8053, sub-§ 1, ¶ B, sub-¶ (3), as enacted by PL 1977, c. 692, § 1, is amended to read:

(3) The Secretary of State. Notification under this subparagraph may be by delivery of a copy of the public hearing notice or other appropriate means to the office of the Secretary of State; ~~and~~

Sec. 6. 5 MRSA § 8053, sub-§ 1, ¶ B, sub-¶ (4) is enacted to read:

(4) **The Commissioner of Finance and Administration, the Legislative Finance Officer and the Maine Municipal Association, if the rule would have a fiscal impact on any municipality or county in this State.**

Sec. 7. 5 MRSA § 8053, sub-§ 2, ¶ ¶ C and D, as enacted by PL 1977, c. 551, § 3 are amended to read:

C. State the manner and time within which data, views or arguments may be submitted to the agency for consideration, whether or not a hearing is held; ~~and~~

D. If possible, contain the express terms of the proposed rule or, otherwise, describe the substance of the proposed rule, stating the subjects and issues involved and indicate where a copy of the proposed rule may be obtained; ~~and~~

Sec. 8. 5 MRSA § 8053, sub-§ 2, ¶ E is enacted to read:

E. Provide a fiscal impact statement if the rule would have a fiscal impact on any municipality or county in this State.

STATEMENT OF FACT

The purpose of this bill is to provide fiscal impact statements detailing the cost implications for municipalities and counties of all proposed laws and rules. The bill also requires the Commissioner of Finance and Administration to annually notify the Governor and the Legislature of the cost to municipalities and counties of laws and rules enacted or adopted since January 1, 1979. The commissioner is required with his notification to make recommendations for reducing the cost to municipalities and counties of such rules and laws.