

MAINE STATE LEGISLATURE

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(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1752

H. P. 1643

House of Representatives, January 2, 1980

Referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk of the House

Presented by Mr. Tozier of Unity.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

**AN ACT Concerning Recording, Comments and Notice Dates Under
Administrative Procedure Laws.**

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

Sec. 1. 5 MRSA § 84, first sentence, as amended by PL 1975, c. 771, § 32, is further amended to read:

The Secretary of State shall prepare and present to the Governor under the seal of the State, in order that the same may receive the signature of the Governor, a commission for every person appointed or a certificate of election to every person elected to any office for which a commission or certificate of election is required; ~~enter record~~ in a suitable ~~book~~ **manner** the time when and the person by whom any commission or certificate of election is taken from his office, is filed in the time when any certificate or the qualification of any officer is filed therein.

Sec. 2. 5 MRSA § 8053, sub-§ 5, ¶ A, as enacted by PL 1979, c. 425, § 5, is amended to read:

A. Arrange for the weekly publication of a consolidated notice of rulemaking of all state agencies, which shall also include a brief explanation to assist the public in participating in the rule-making process. Notice of each rule-making proceeding shall be published twice, **at least 14-days apart**. The 2nd notice shall be published at least 3 and not more than 10 days prior to the public hearing on

the proposed rule or the same period prior to ~~adoption~~ **the last date on which data, views and arguments may be submitted to the agency for consideration** if no public hearing is scheduled;

Sec. 3. 13 MRSA § 981-A, first sentence, as amended by PL 1977, c. 522, § 5, is further amended to read:

Any nonprofit corporation ~~organized prior to the effective date of chapter 133 of the public laws of 1911~~ may present a certificate of such organization to the Secretary of State, prepared by its officers of the date of such presentation, setting forth the date, place and purpose of the incorporation, its present location and officers, and if the Secretary of State finds that such corporation was formed, by examination of the corporate records or other substantial evidence, whether or not with all the formalities now required in a certificate, and conformed to the law existing at the date of organization, he shall so certify, and the certificate so certified shall be recorded in the registry of deeds where the corporation is located and a copy thereof filed with him, as provided for corporations under the present law; and if a certificate has heretofore been filed with the Secretary of State, as provided by chapter 192 of the public laws of 1897, the corporation may present such certificate or a copy thereof to the Secretary of State.

STATEMENT OF FACT

The purposes of this bill are to:

1. Update the provision in the law requiring certain records to be recorded in a "book" (it is often more efficient to record certain information by other methods, e.g. in a file or by mechanical recording and retrieval device);
2. Allow a longer comment period preceding adoption of agency rules (agencies may need a longer comment period than now provided by the Administrative Procedure Act when dealing with a controversial or complex rule-making issue or when subject to federal rule-making requirements); and
3. Change the reference point, back from which the notice publication dates are calculated when no public hearing is held, to the date of the deadline for the submission of comments from the date of adoption is consistent with the use of the public hearing date as the reference point, when a hearing is held.

(The proposed change will allow agencies to carefully consider testimony received during the comment period and to submit drafts for the consideration by citizen advisory groups prior to deciding on adoption. Agencies will not be forced into hasty adoption of rules within 3-10 days of the 2nd notice publication in order to comply with the APA.)