

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 336

H. P. 292

House of Representatives, January 20, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative D. Brown of Livermore Falls.

Cosponsors: Representative Small of Bath, Representative Berube of Lewiston and Representative Vose of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Provide for Prior Legislative Approval of Administrative Rules.

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

Sec. 1. 5 MRSA § 8052, sub-§ 6, as enacted by PL 1979, c. 425, § 4, is repealed and the following enacted in its place:

6. Effective date. No rule, except an emergency rule adopted under section 8054, shall become effective until:

A. It has been approved by a joint standing committee of the Legislature under section 8055-A; and

B. At least 5 days have expired after filing with the Secretary of State under section 8056, subsection 1, paragraph B.

Sec. 2. 5 MRSA § 8055-A is enacted to read:

§ 8055-A. Prior legislative review

1. Agency submission. After adoption of a rule, the agency shall submit the rule to the Legislative Administrative Director who shall refer the rule to an appropriate joint standing committee of the Legislature for its review. In addition to the rule, the agency shall submit:

- A. A citation of the statutory authority for the adoption of the rule;
- B. A concise statement of the principal reasons for the rule;
- C. An analysis of the rule; and
- D. An estimated fiscal impact of the rule on the State or any municipality.

2. Reference to committee. Upon reference to it of a rule, the joint standing committee shall review the rule using the criteria set forth in subsection 4. If the committee determines that review should be made by a different joint standing committee it shall notify the Legislative Administrative Director who shall then refer the rule to the suggested joint standing committee.

3. Notice of referral. Upon referral to a joint standing committee, the Legislative Administrative Director shall notify the agency adopting the rule which notice shall start the 60-day period indicated in subsection 5. If, upon suggestion of the joint standing committee to whom the rule is initially referred, the rule is referred to a different committee, the Legislative Administrative Director shall so notify the agency and the 60-day period shall begin again.

4. Criteria for review. When reviewing a rule under this section, the joint standing committee shall use the following criteria to determine whether the rule should be approved, disapproved or rejected without prejudice:

- A. Whether the rule is consistent with and necessary to the intent of the legislation which authorized its promulgation;
- B. Whether the effects of the rule are acceptable, including its benefits and costs, including costs of compliance and administration; and
- C. Whether circumstances have changed since the passage of the legislation which authorized its promulgation, which changed circumstances may, in the committee's view, suggest that a change be made in that legislation or in the methods of accomplishing its purpose, including the appropriateness of using a rule to accomplish that purpose.

5. Committee determination. Within 60 days of referral to it of a rule under this section, a joint standing committee shall decide, by majority vote, using the criteria set forth in subsection 4, whether the rule should be approved, disapproved or rejected without prejudice and notify the agency.

- A. If the committee approves the rule, it shall notify the agency which may then take action under section 8056.
- B. If the committee affirmatively disapproves the rule, it shall notify the agency of the reasons for disapproval, and the agency may not thereafter adopt any rule or directive or take other action to implement such disapproved rule.
- C. If the committee rejects a rule without prejudice, it shall notify the agency of the reasons for rejection and the agency may resubmit the regulation in revised form in the same manner as provided for initial submission.

D. If the committee fails to give notice to the agency of its approval, disapproval or rejection without prejudice, within the 60 days of the rule's referral, the committee shall be deemed to have disapproved the rule for purposes of this section.

Sec. 3. 5 MRSA § 8056, sub-§ 1, first sentence, as enacted by PL 1977, c. 551, § 3, is amended to read:

With respect to every rule adopted, and approved by a joint standing committee of the Legislature under section 8055-A, the agency shall:

Sec. 4. 5 MRSA § 8057, sub-§ 2, first sentence, as enacted by PL 1977, c. 551, § 3, is amended to read:

Rules not approved under section 8055-A or not approved and filed in the manner prescribed by section 8056, subsection 1, paragraphs A and B, shall be void and of no legal effect.

STATEMENT OF FACT

This bill amends the Administrative Procedure Act by providing for prior legislative approval of proposed administrative rules. An agency would be required to submit, to an appropriate joint standing committee, a proposed rule for review under criteria designed to determine whether the rule comports with the legislation authorizing it. If a rule is not approved by the joint standing committee, it cannot become effective.