

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES (Filing No. H-494)  
110TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "B" to H.P. 1542, L.D. 1657, Bill, "AN ACT to Amend the Rule-making and Review Process of the Maine Administrative Procedure Act."

Amend the Bill by striking out all of section 6 and inserting in its place the following:

'Sec. 6. 5 MRSA §8052, sub-§7 is enacted to read:

7. Adoption of rule. In adopting rules, the agency shall only make changes that are consistent with the proposed rule, except when the change is in response to a concern raised in comments. Changes from the proposed rule shall be explained in the basis statement.

Within 120 days of the final date by which data, views or arguments may be submitted to the agency for consideration in adopting the rules, the agency shall:

A. Act to adopt the proposed rule;

B. Reinstate public notice; or

C. Make a specific finding that it does not intend to adopt the rule, stating the period for which this intention shall obtain.'

Statement of Fact

This amendment modifies the language of the bill to clarify its meaning, and eliminates the requirement of "specific findings" by the agency to support changes in a rule made in response to comments, to avoid a possible implication that rule making should be conducted like an adjudicatory proceeding. The 2 activities are different in kind, and are treated separately in the Maine Administrative Procedure Act. Rule making is subject to Title 5, chapter 375, Title 5, chapter 375, and adjudicatory proceedings are in subchapter IV.

This amendment also clarifies that the agency is not required to adopt any rule that it proposes.

Filed by Mr. Diamond of Bangor.  
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