

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
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3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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5 Legislative Document

No. 276

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7 H.P. 228

House of Representatives, January 25, 1983

8 Received by the Clerk of the House on January 25, 1983. Referred to the  
9 Committee on State Government, and ordered printed pursuant to Joint Rule  
14.

10 EDWIN H. PERT, Clerk

Presented by Representative Brown of Livermore Falls.

Cosponsors: Representative Jackson of Harrison and Representative  
Sproul of Augusta.

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12 STATE OF MAINE  
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14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

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17 AN ACT to Amend the Maine Administrative  
18 Procedure Act to Require Legislative  
19 Approval of Rules and Regulations.  
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21 Be it enacted by the People of the State of Maine as  
22 follows:

23 Sec. 1. 5 MRSA §8052, sub-§6, as amended by PL  
24 1981, c. 524, §5, is repealed and the following  
25 enacted in its place:

26 6. Effective date. No rule, except an emergency  
27 rule adopted under section 8054, shall become effec-  
28 tive until at least 5 days have expired after filing  
29 with the Secretary of State under section 8056, sub-  
30 section 1, paragraph B, and:

31 A. It has been approved by a specific joint  
32 standing committee of the Legislature pursuant to  
33 express statutory authorization; or

1           B. It has been approved by a joint standing com-  
2           mittee of the Legislature under section 8055-A.

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

4           §8055-A. Prior legislative review

5           1. Agency submission. After adoption of a rule,  
6           the agency shall submit the rule to the Legislative  
7           Administrative Director who shall refer the rule to  
8           an appropriate joint standing committee of the Legis-  
9           lature for its review. In Addition to the rule, the  
10           agency shall submit:

11           A. A citation of the statutory authority for the  
12           adoption of the rule;

13           B. A concise statement of the principal reasons  
14           for the rule;

15           C. An analysis of the rule; and

16           D. An estimated fiscal impact of the rule on the  
17           State or any municipality.

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

26           3. Review period. The date upon which the  
27           Legislative Administrative Director refers the rule  
28           to a joint standing committee begins the 60-day  
29           review period indicated in subsection 5. If, upon  
30           suggestion of the joint standing committee to whom  
31           the rule is initially referred, the rule is referred  
32           to a different committee, the Legislative Administra-  
33           tive Director shall so notify the agency and the  
34           60-day review period shall begin again.

35           4. Criteria for review. When reviewing a rule  
36           under this section, the joint standing committee  
37           shall use the following criteria to determine whether

1 the rule should be approved, disapproved or rejected  
2 without prejudice:

3 A. Whether the rule is consistent with and  
4 necessary to the intent of the legislation which  
5 authorized its promulgation;

6 B. Whether the effects of the rule are accept-  
7 able, including its benefits and costs, including  
8 costs of compliance and administration; and

9 C. Whether circumstances have changed since the  
10 passage of the legislation which authorized its  
11 promulgation. If the committee so finds, it may  
12 suggest changes in the authorizing legislation or  
13 the methods being followed to accomplish the  
14 legislative purpose.

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

21 A. If the committee approves the rule, it shall  
22 notify the agency which may then take action  
23 under section 8056.

24 B. If the committee affirmatively disapproves  
25 the rule, it shall notify the agency of the  
26 reasons for disapproval, and the agency may not  
27 thereafter adopt any rule or directive or take  
28 other action to implement the disapproved rule.

29 C. If the committee rejects a rule without  
30 prejudice, it shall notify the agency of the  
31 reasons for rejection and the agency may resubmit  
32 the regulation in revised form in the same manner  
33 as provided for initial submission.

34 D. If the committee fails to give notice to the  
35 agency of its approval, disapproval or rejection  
36 without prejudice, within the 60 days of the  
37 rule's referral, the committee shall be deemed to  
38 have disapproved the rule.

1           Sec. 3. 5 MRSA §8056, sub-§1, as amended by PL  
2 1981, c. 524, §§11, 12, is further amended to read:

3           1. Requirements. With respect to every rule  
4 adopted and approved by a joint standing committee of  
5 the Legislature under section 8055-A or other express  
6 statutory authority, the agency shall:

7           A. Submit the rule to the Attorney General for  
8 approval as to form and legality;

9           B. File a certified copy of the rule with the  
10 Secretary of State in a form prescribed by the  
11 Secretary of State, which form shall be suscep-  
12 tible to frequent and easy revision;

13           C. Supply, without cost or at actual cost,  
14 copies of each such rule to any person who has  
15 filed with the agency within the past year a  
16 written request to be supplied with all copies of  
17 the agency's rules; and

18           D. Publish, pursuant to the procedures set forth  
19 in section 8053, subsection 5, a notice contain-  
20 ing the following information: A statement that  
21 the rule has been adopted, its effective date, a  
22 brief description of the substance of the rule,  
23 and the address where a copy may be obtained.

24           Sec. 4. 5 MRSA §8057, sub-§2, as amended by PL  
25 1979, c. 425, §10, is further amended to read:

26           2. Rules not approved. Rules not approved under  
27 section 8055-A or other express statutory authority,  
28 or not approved and filed in the manner prescribed by  
29 section 8056, subsection 1, paragraphs A and B, shall  
30 be void and of no legal effect. Rules in effect  
31 prior to July 1, 1978, become void and of no legal  
32 effect on December 31, 1979, unless filed with the  
33 Secretary of State in accordance with section 8056,  
34 subsection 1, paragraph B.

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STATEMENT OF FACT

2           This bill modifies the Maine Administrative  
3 Procedure Act by providing for prior legislative  
4 approval of proposed administrative rules. Under  
5 this proposal, an agency would be required to submit,  
6 to an appropriate joint standing committee, a pro-  
7 posed rule for review under criteria designed to  
8 determine whether the rule comports with the legis-  
9 lation authorizing it. If a rule is not approved by  
10 the joint standing committee, it cannot become effec-  
11 tive.

12           Several sections of Maine law already provide for  
13 review of administrative rules by specific joint  
14 standing committees. These provisions are unaffected  
15 by this bill.

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