

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2061

H.P. 1511 House of Representatives, January 14, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on State and Local Government
suggested and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative SHELTRA of Biddeford.

Cosponsored by Representatives JACQUES of Waterville,
LOOK of Jonesboro and Senator BALDACCI of Penobscot.

STATE OF MAINE

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

1 AN ACT to Provide for Effective and Timely
2 Public Notice of Hearings Conducted by
3 State Boards and Agencies.
4

5 Emergency preamble. Whereas, Acts of the
6 Legislature do not become effective until 90 days
7 after adjournment unless enacted as emergencies; and

8 Whereas, public representation at hearings
9 conducted by state boards and agencies is essential in
10 resolving matters directly affecting the public health

1 and welfare; and

2 Whereas, public participation is limited by
3 ineffective public notification practices; and

4 Whereas, newspaper notices required by law are
5 often in small print and buried in the legal section
6 of the newspaper; and

7 Whereas, inadequate mailing lists maintained by
8 state boards and agencies, combined with short notice
9 periods further limit effective and timely notice; and

10 Whereas, in the judgment of the Legislature, these
11 facts create an emergency within the meaning of the
12 Constitution of Maine and require the following
13 legislation as immediately necessary for the
14 preservation of the public peace, health and safety;
15 now, therefore,

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

18 Sec. 1. 5 MRSA §9052, sub-§1, ¶A, as enacted by
19 PL 1977, c. 551, §3, is amended to read:

20 A. To the person or persons whose legal rights,
21 duties or privileges are at issue, by regular
22 mail, sufficiently in advance of the anticipated
23 time of the decision to afford an adequate
24 opportunity to prepare and submit evidence and
25 argument, and to request a hearing if so
26 desired; and

27 Sec. 2. 5 MRSA §9052, sub-§1, ¶A-1 is enacted
28 to read:

29 A-1. To the following interested persons, by
30 regular mail at least 30 days prior to hearing,
31 the local legislative delegation; the local
32 municipal officers; the county commissioners, if
33 the locality is an unorganized territory;
34 intervenor; persons who have made timely requests
35 to be notified of a specific hearing; and persons

1 who have filed a written request, within the
2 calendar year, to be notified of hearings; and

3 **Sec. 3. 5 MRSA §9052, sub-§2, ¶A, as enacted by**
4 **PL 1977, c. 551, §3, is amended to read:**

5 A. To the person or persons whose legal rights,
6 duties or privileges are at issue, by regular
7 mail, sufficiently in advance of the hearing date
8 to afford an adequate opportunity to prepare and
9 submit evidence and argument; and

10 **Sec. 4. 5 MRSA §9052, sub-§2, ¶A-1 is enacted**
11 **to read:**

12 A-1. To the following interested persons, by
13 regular mail at least 30 days prior to hearing,
14 the local legislative delegation; the local
15 municipal officers; the county commissioners, if
16 the locality is an unorganized territory;
17 intervenor; persons who have made timely requests
18 to be notified of a specific hearing; and persons
19 who have filed a written request, within the
20 calendar year, to be notified of hearings; and

21 **Sec. 5. 5 MRSA §10003, sub-§1, as amended by PL**
22 **1977, c. 694, §37, is further amended to read:**

23 1. Opportunity for hearing. Subject to the
24 provisions of section 10004, an agency shall not amend
25 or modify any license unless it has afforded the
26 licensee an opportunity for hearing in conformity with
27 subchapter IV, nor shall it refuse to renew any
28 license unless it has afforded the licensee either an
29 opportunity for an agency hearing in conformity with
30 subchapter IV or an opportunity for a hearing in the
31 Administrative Court. In any such proceeding deemed
32 by the agency to involve a substantial public interest
33 an opportunity for public comment and participation
34 shall also be given by public notice in conformity
35 with-subchapter-IV.

36 **Sec. 6. 5 MRSA §10003, sub-§1-A is enacted to**
37 **read:**

1 1-A. Notification period. State boards and
2 agencies shall provide notice to the general public
3 and interested parties at least 30 days in advance for
4 hearings held before the board or agency on
5 applications for new, renewed, amended or transferred
6 licenses, permits or certificates.

7 Sec. 7. 12 MRSA §684, is amended by inserting
8 at the end 2 new paragraphs to read:

9 Prior to conducting any hearings, the Maine Land
10 Use Regulation Commission shall provide notice by
11 publication twice in the newspapers of general
12 circulation in the area of the proposed activity. To
13 ensure that newspaper notices are conspicuous and
14 clearly communicate necessary information, the
15 commission shall send notice to the news desks of the
16 local newspapers. The notification shall not be
17 limited to the legal section of the newspaper. The
18 date of the first publication shall be at least 30
19 days prior to the date of the hearing and the second
20 publication shall be at least 7 days, but not more
21 than 10 days, prior to the date of the hearing.

22 So as not to limit general notice to the
23 newspapers of general circulation, the commission
24 shall provide prior notice of a hearing to the local
25 radio stations. The date of the first announcement
26 shall be at least 14 days, but not more than 21 days,
27 prior to the date of the hearing and the second
28 announcement shall be at least 7 days, but not more
29 than 10 days, prior to the date of the hearing.

30 Sec. 8. 38 MRSA §345-A, sub-§5 is enacted to
31 read:

32 5. Notice to the general public. Prior to
33 conducting any hearings, the Department of
34 Environmental Protection shall provide notice by radio
35 broadcast and by publication twice in the newspapers
36 of general circulation in the area of the proposed
37 activity.

38 A. To ensure that newspaper notices are
39 conspicuous and clearly communicate necessary
40 information, the Department of Environmental

