

# MAINE STATE LEGISLATURE

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L.D. 1587  
(Filing No. H-588 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "<sup>A</sup>" to H.P. 1144, L.D. 1587, Bill, "An Act to Establish Greater Communication in the Rule-making Process and to Provide Better Standards for the Adoption of Rules"

Amend the bill by striking out all of the emergency preamble.

Further amend the bill in section 2 in that part designated "~~§8051-A.~~" in the 4th line (page 1, line 40 in L.D.) by inserting after the following: "public." the following: 'the Legislature.'

Further amend the bill in section 3 in subsection 5 in paragraph B in the 6th line (page 2, line 18 in L.D.) by inserting after the following: "rule." the following: 'The agency shall maintain a file for each rule adopted that shall include, in addition to other documents required by this Act, testimony, comments and information relevant to the rule and considered by the agency in connection with the formulation, proposal or adoption of a rule.'

Further amend the bill in section 3 in subsection 5 in paragraph B in the 8th line (page 2, line 20 in L.D.) by striking out the following: "seek" and inserting in its place the following: 'request'

Further amend the bill in section 3 in subsection 5 in paragraph B in the 10th line (page 2, line 22 in L.D.) by striking out the following: "15" and inserting in its place the following: '30'

Further amend the bill in section 3 in subsection 5 in paragraph B by inserting a new sentence at the end as follows: 'Notice of the request for comments shall be published by the Secretary of State in the same manner as notice for proposed or adopted rules.'

1  
3 Further amend the bill in section 4 by striking out all of  
subsection 5-A and inserting in its place the following:

5 '5-A. Impact on small business. In adopting rules, the  
7 agencies shall seek to reduce any economic burdens through  
9 flexible or simplified reporting requirements and may seek to  
11 reduce burdens through flexible or simplified timetables that  
13 take into account the resources available to the affected small  
15 businesses. The agency may consider clarification,  
consolidation, or simplification of compliance or reporting  
requirements. For the purposes of this subsection, "small  
business" means businesses that have 20 or fewer employees and  
gross annual sales not exceeding \$2,500,000.'

17 Further amend the bill in section 5, in that part designated  
19 "§8053-A." in subsection 2 in the 2nd line (page 3, line 11 in  
L.D.) by inserting after the following: "agenda" the following:  
', as provided in §8060.'

21 Further amend the bill in section 5, in that part designated  
23 "§8053-A." in subsection 4 by striking out all of the last  
sentence (page 3, lines 27 to 30 in L.D.)

25 Further amend the bill by striking out all of section 6 and  
inserting in its place the following:

27  
29 'Sec. 6. 5 MRSA §8056-A is enacted to read:

31 §8056-A. Technical assistance; annual report

33 1. Checklist. The Secretary of State shall establish and  
35 implement a checklist that shall be completed by agencies and  
37 attached to proposed and adopted rules filed with the Secretary  
of State after December 31, 1989. The checklist shall include  
the timing of filing and notices as well as other procedural  
requirements of this subchapter.

39 2. Technical assistance. The Secretary of State shall  
41 develop drafting instructions for use by agencies that propose  
43 rules under this subchapter. In addition, the Secretary of State  
45 shall provide assistance to any agency regarding the form for  
drafting of rules and supporting materials and the other  
requirements of this subchapter.

47 3. Report. The Secretary of State shall report to the  
49 Governor and the joint standing committee of the Legislature  
51 having jurisdiction over state and local government prior to  
February 1st of each year with respect to rule-making activities  
for the prior year. The report shall include statistical  
information on agency rule-making activities, agency experience  
with procedural requirements of this subchapter, and

1 recommendations for improvements to the rule-making process. In  
2 preparing the report, the Secretary of State shall solicit  
3 comments from agencies and their legal counsels, the Director of  
4 Legislative Oversight and the public on this subchapter and  
5 recommended improvements.'

7 Further amend the bill in section 7 in that part designated  
8 "§8057-A." in subsection 1 in paragraph C by inserting at the end  
9 the following: 'and'

11 Further amend the bill in section 7 in that part designated  
12 "§8057-A." in subsection 1 by striking out all of paragraphs D, E  
13 and F and inserting in their place the following:

15 'D. An analysis of the rule, including a description of how  
16 the agency considers whether the rule would impose an  
17 economic burden on small business as described in section  
18 8052, subsection 5-A.

19 2. Additional information for existing rules. For existing  
20 rules having an estimated fiscal impact greater than \$1,000,000,  
21 the fact sheet shall also include the following:

23 A. A description of the economic impact of the rule  
24 including effects that cannot be quantified in monetary  
25 terms;

27 B. A description and examples of individuals, major  
28 interest groups and types of businesses that will be  
29 affected by the rule and how they will be affected; and

31 C. A description of the benefits of the rule including  
32 those that cannot be quantified.'

35 Further amend the bill in section 7 in that part designated  
36 "§8057-A." in subsection 2 in the 3rd line (page 5, line 7 in  
37 L.D.) by inserting after the following: "evaluate" the following:  
38 'relevant' and in the last line by striking out the following:  
39 "the" and inserting in its place the following: 'relevant'

41 Further amend the bill in section 7 in that part designated  
42 "§8057-A." in subsection 3 by striking out all of the last  
43 sentence (page 5, lines 13 to 16 in L.D.)

45 Further amend the bill in section 7 in that part designated  
46 "§8057-A." by renumbering the subsections to read consecutively.

47 Further amend the bill in section 8 by striking out all of  
48 that part designated "§8062." and inserting in its place the  
49 following:

51

1 §8062. Performance standards

3 When legislation authorizing any regulated activity requires  
4 that certain criteria be met in order that any license, permit,  
5 authorization or certification to undertake the regulated  
6 activity be granted and when an agency determines that  
7 performance standards will assist regulated parties in complying  
8 with the criteria, the standards shall be developed during the  
9 rule-making process and incorporated into adopted rules when  
10 performance standards are equally effective in meeting applicable  
11 statutory criteria.

13 Further amend the bill in section 9 in the first paragraph  
14 in the 8th line (page 6, line 49 in L.D.) by striking out the  
15 following: "7." and inserting in its place the following: '7,  
16 paragraphs A and C.'

17 Further amend the bill in section 10 in the 3rd line (page  
18 7, line 4 in L.D.) by striking out the following: "12" and  
19 inserting in its place the following: '13'

21 Further amend the bill in section 10 in subsection 1 by  
22 striking out all of paragraph A and inserting in its place the  
23 following:

24 'A. The President of the Senate shall appoint 2 Senators,  
25 one from the Joint Standing Committee on Judiciary and one  
26 from the Joint Standing Committee on State and Local  
27 Government. The Speaker of the House of Representatives  
28 shall appoint 3 members of the House of Representatives, one  
29 from each of the following joint standing committees of the  
30 Legislature: the Joint Standing Committee on Appropriations  
31 and Financial Affairs; the Joint Standing Committee on  
32 Judiciary; and the Joint Standing Committee on State and  
33 Local Government.'

34 Further amend the bill in section 10 in subsection 1 by  
35 striking out all of paragraph B and inserting in its place the  
36 following:

37 'B. A representative of the Administrative Law Section of  
38 the Maine Bar Association who shall be appointed by the  
39 Governor;'

40 Further amend the bill in section 10 in subsection 1 by  
41 striking out all of paragraph D and inserting in its place the  
42 following:

43 'D. The Secretary of State, or the secretary's designee;'

44 Further amend the bill in section 10 in subsection 4 in  
45 paragraph E in the last line (page 8, line 6 in L.D.) by striking  
46 out the following: "and"

COMMITTEE AMENDMENT "A" to H.P. 1144, L.D. 1587

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Further amend the bill in section 10 in subsection 4 in paragraph F in the last line (page 8, line 9 in L.D.) by striking out the following: "agencies." and inserting in its place the following: 'agencies; and'

Further amend the bill in section 10 in subsection 4 by inserting at the end the following:

'G. The establishment of and access to rules data base.'

Further amend the bill by striking out all of section 11 and inserting in its place the following:

**'Sec. 11. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
<b>LEGISLATURE</b>		
<b>Commission on Codification of Rules</b>		
Personal Services	\$ 1,375	
All Other	4,300	
Provides funds for the per diem, travel and related expenses of the Commission on Codification of Rules		
<b>LEGISLATURE</b>		
<b>TOTAL</b>	<b>\$ 5,675</b>	
<b>SECRETARY OF STATE, DEPARTMENT OF</b>		
<b>Administration - Secretary of State</b>		
Positions	(.5)	(.5)
Personal Services	\$7,340	\$10,112
All Other	563	750
Capital Expenditures	590	
Provides funds for a part-time Clerk Typist II position and related expenses associated with rule-making activities.		
<b>DEPARTMENT OF THE SECRETARY</b>		
<b>OF STATE TOTAL</b>	<b>\$8,493</b>	<b>\$10,862</b>



COMMITTEE AMENDMENT "A" to H.P. 1144, L.D. 1587

1 more. This additional information includes a description of the  
2 economic impact of rule changes, examples of individuals and  
3 interest groups that will be affected by the changes in rules and  
4 a description of the benefits of rule changes;

5

6 9. Limits the information to be evaluated by an agency when  
7 adopting a rule to relevant information;

8 10. Replaces the last section of section 8 of the bill,  
9 removing the requirement that agencies must give their rationale  
10 for not having adopted performance standards, but retaining the  
11 provision that performance standards which will assist compliance  
12 with the rule will be adopted as part of the rule;

13 11. Corrects a reference to existing law;

14 12. Increases the number of commission members by one;

15 13. Provides for appointment of a member of the Maine State  
16 Bar Association to the commission;

17

18 14. Provides for the appointment of the additional member;

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20 15. Adds a charge for the commission to consider in its  
21 study and report, regarding the data base for rules; and

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23 16. Amends the appropriation and adds a fiscal note.

24 Reported by the Committee on State and Local Government  
25 Reproduced and distributed under the direction of the Clerk of the  
26 House  
27 6/16/89 (Filing No. H-588)