

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

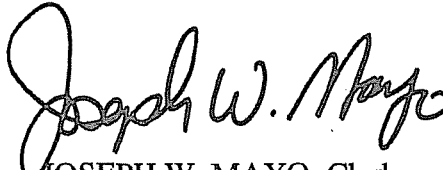
No. 668

H.P. 510

House of Representatives, February 25, 1993

An Act to Require Legislative Oversight of Agency Rulemaking.

Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative TARDY of Palmyra.
Cosponsored by Representatives: DiPIETRO of South Portland, GOULD of Greenville, KERR of Old Orchard Beach, PLOURDE of Biddeford, SPEAR of Nobleboro, Senator: CIANCHETTE of Somerset.

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

2
4 **Sec. 1. 5 MRSA §8002, sub-§9, ¶C** is enacted to read:

6 C. There are 2 types of rules, technical rules and
8 substantive rules. Technical rules establish procedural
10 requirements or process-related obligations or duties of
12 affected persons and include rules of practice as provided
14 in section 8051. All other rules are substantive rules.
16 Unless specific reference is made to either type of rule,
18 all references to rule or rules in this chapter are to both
20 substantive and technical rules.

22 **Sec. 2. 5 MRSA §8052, sub-§6**, as amended by PL 1981, c. 524,
24 §5, is further amended to read:

26 6. **Effective date.** No A technical rule, except emergency
28 rules adopted under section 8054, may not become effective until
30 at least 5 days after filing with the Secretary of State under
32 section 8056, subsection 1, paragraph B. Substantive rules take
34 effect as provided in section 8053-B.

36 **Sec. 3. 5 MRSA §8053-A, sub-§1**, as repealed and replaced by PL
38 1989, c. 574, §5, is amended to read:

40 1. **Proposed rules.** At the time of giving notice of
42 rulemaking under section 8053 or within 10 days following the
44 adoption of an emergency rule, the agency shall provide to the
46 Legislature, in accordance with subsection 3, a fact sheet
48 providing the information as described in section 8057-A,
50 subsection 1. At that time, the agency shall determine and
indicate on the fact sheet whether the proposed rule is a
substantive rule or a technical rule.

 A. If an agency determines that a rule which it intends to
 adopt will be substantially different from the proposed
 rule, it shall provide the Legislature with a revised fact
 sheet with the information defined in section 8057-A,
 subsection 1, as it relates to the substantially different
 rule. The revised fact sheet shall must be provided to the
 Legislature in accordance with subsection 3.

Sec. 4. 5 MRSA §8053-B is enacted to read:

§8053-B. Legislative review of substantive rules

The adopting agency shall submit copies of each substantive
 rule adopted by it to the Legislature for review as provided in
 this section. That rule must be submitted to the Executive
 Director of the Legislative Council within 5 days of adoption.

2 The Legislative Council shall provide for introduction of a bill
4 for consideration by the Legislature at the current legislative
6 session or the next regular or special session if the Legislature
8 is not currently in session. The form of the bill must be to
10 approve the substantive rule as adopted by the agency. The bill
12 must be submitted first to the House of Representatives and then
14 to the Senate for consideration and, if passed in both Houses by
16 a majority of the members present and voting, presented to the
18 Governor for approval. If the bill is enacted, the rule takes
20 effect 90 days after adjournment of the Legislature. If the bill
22 is not enacted, the rule may not take effect.

STATEMENT OF FACT

16 This bill amends rule-making provisions of the Maine
18 Administrative Procedure Act by establishing 2 types of rules,
20 substantive and technical. Technical rules are governed by
22 rule-making procedures currently in place. Substantive rules are
automatically subject to legislative review and may be overruled
by a majority vote in both Houses of the Legislature and approval
of the Governor.