

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

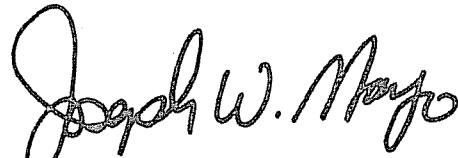
No. 851

H.P. 631

House of Representatives, March 10, 1993

**An Act Amending the Maine Administrative Procedure Act Regarding
Rulemaking.**

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


JOSEPH W. MAYO, Clerk

Presented by Representative SKOGLUND of St. George.
Cosponsored by Representatives: BOWERS of Washington, CLOUTIER of South Portland,
FARREN of Cherryfield, HOLT of Bath, PENDLETON of Scarborough, TOWNSEND of
Eastport, Senator: BEGLEY of Lincoln.

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

2 Sec. 1. 5 MRSA §8052, sub-§6, as amended by PL 1981, c. 524,
4 §5, is further amended to read:

6 6. Effective date. No A rule, except emergency rules
8 adopted under section 8054, may not become effective until at
10 least 5 days after filing with the Secretary of State under
12 section 8056, subsection 1, paragraph B, except that rules
14 subject to review by the Legislature as provided in section
16 8053-B take effect as provided in that section.

18 Sec. 2. 5 MRSA §8053-B is enacted to read:

20 §8053-B. Legislative review of rules

22 The Legislature shall review and approve or disapprove
24 agency rules as provided in this section.

26 1. Rules subject to review. This section applies to any
28 agency rule about which the agency received written or oral
30 comments in opposition to adoption at the public hearing on the
32 proposed rule or, if no public hearing was held, written comments
34 in opposition to adoption were filed with the agency in
36 compliance with this subchapter and the agency chose not to
38 modify the proposed rule to address those comments.

40 2. Comments in opposition. To trigger the legislative
42 review procedure provided in this section, comments in opposition
44 to proposed rules must:

46 A. Specifically identify the rule or part of the proposed
48 rule to which opposition is filed;

50 B. State the reason for opposition; and

 C. Propose an alternative to the proposed rule to which
opposition is filed.

 3. Submission to Legislature. When a rule proposed by an
agency has received comments in opposition to adoption and has
been adopted without modification to address those comments, the
statement adopted under section 8052, subsection 5 and submitted
to the Secretary of State as required by section 8053-A,
subsection 4, must include an attached cover sheet informing the
Secretary of State of that fact. The rule may not take effect
unless approved by the Legislature under this section. The
Secretary of State shall send a copy of the cover sheet and
statement for all such rules to the Executive Director of the
Legislative Council.

2 4. Review procedure. The Legislative Council shall refer
4 rules subject to review to the appropriate committee or
6 committees of the Legislature for review and report to the full
8 Legislature. The adopting agency shall provide, on request of
the Executive Director of the Legislative Council, sufficient
copies of the proposed rule, the adopted rule, related written
testimony, public hearing minutes and other related materials for
the review by the appropriate committee or committees.

10 A. If the Legislature is in session when a rule is
12 submitted for review under this section, the matter must be
14 reviewed by the appropriate committee or committees and a
report submitted to the Legislature for consideration during
that session.

16 B. If the Legislature is not in session when a rule is
18 submitted for review under this section, the matter must be
20 reviewed by the appropriate committee or committees and a
report submitted to the Legislature within 15 days of the
convening of the next regular or special session.

22 C. Following review of the rule, a committee may introduce
24 legislation to disapprove the rule. When the rule review is
26 referred to more than one committee, the committees shall
submit a combined report and may jointly introduce
legislation to disapprove the rule. The legislation
introduced by the appropriate committee or committees must
be submitted first to the House of Representatives and then
to the Senate for consideration of enactment.

30 5. Effective date. The effective date for rules
32 established in section 8052, subsection 6 does not apply to rules
34 subject to review under this section. Rules reviewed under this
section take effect 5 days after adjournment of the Legislature
unless legislation is enacted disapproving the rule.

38 STATEMENT OF FACT

40 This bill amends the rule-making provisions of the Maine
42 Administrative Procedure Act. The bill requires any proposed
44 rule that is the subject of written or oral testimony opposing
46 adoption and that is subsequently adopted without addressing the
48 opposing comments to be submitted to the Legislature for review.
The rule does not go into effect until reviewed by the
Legislature; and the Legislature may pass legislation vetoing the
rule. If negating legislation is not enacted, the rule goes into
effect 5 days after adjournment of the Legislature.