

# MAINE STATE LEGISLATURE

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L.D. 1050

(Filing No. H-670 )

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 777,  
L.D. 1050, Bill, "An Act to Repeal the Laws Allowing State  
Agencies to Adopt Rules Having the Force of Law"

Amend the amendment by striking out all of section 3 and  
inserting in its place the following:

Sec. 3. 5 MRSA §11117 is enacted to read:

§11117. Review of rules by legislative committee

The Legislature may review agency rules, other than  
emergency rules. The review must be carried out by the joint  
standing committee of the Legislature having jurisdiction over  
the subject matter of the rule, and the term "committee" as used  
in this section means that committee. The Legislature shall  
adopt rules governing procedures necessary to carry out the  
responsibilities of this section. This section does not preclude  
a committee from initiating review of a rule on its own  
initiative. Failure of a committee to review a rule or to object  
to a rule is not an implied legislative authorization of the  
validity of the rule.

1. Copies of agency rules. Agencies shall provide copies  
of rules to the Secretary of the Senate and the Clerk of the  
House of Representatives. The secretary and the clerk acting  
jointly shall immediately distribute copies of the rule to  
members of the committee.

A. In addition to the notice of a proposed rule required  
under section 8053-A, subsection 1, an agency shall provide  
15 copies of the proposed rule to the secretary and the  
clerk. An agency may submit proposed rules for Legislative  
review before the date provided in section 8053.

**HOUSE AMENDMENT**

2 B. At the same time an agency files an adopted rule and  
3 basis statement with the Secretary of State under section  
4 8056, subsection 1, paragraph B, the agency shall also file  
5 15 copies of the rule and statement with the secretary and  
6 the clerk.

7 C. Review of a current rule may begin upon a vote of at  
8 least 1/3 of the members of the full committee. The chairs  
9 of the committee shall notify the secretary and the clerk  
10 who shall inform the agency that the rule will be reviewed.  
11 Upon receipt of that information, an agency shall  
12 immediately submit 15 copies of the rule to the secretary  
13 and the clerk. A committee may not review a rule previously  
14 reviewed under paragraph A or B until at least 6 months  
15 after the rule is filed with the Secretary of State under  
16 section 8056, subsection 1, paragraph B.

17 2. Committee decision to review. If, within 7 working days  
18 after copies of a rule are distributed to the committee under  
19 subsection 1, paragraph A or B, 1/3 of the members of the  
20 committee notify the Secretary of the Senate or the Clerk of the  
21 House of Representatives that the rule should be reviewed, the  
22 secretary and the clerk shall immediately notify the chairs of  
23 the committee that a rule review will take place.

24 When a committee has voted to review a rule:

25 A. The committee may meet as necessary to conduct the  
26 review;

27 B. The chairs shall send written notice to the adopting  
28 agency that the rule is under review and shall schedule a  
29 public hearing on that rule; and

30 C. The committee has 30 days from the date on which the  
31 agency files copies of the rule with the secretary and the  
32 clerk to complete its review and issue recommendations on  
33 the rule. If a decision is not reached within that period,  
34 the committee may not take further action on the rule.

35 An agency may suspend without prejudice rule-making procedures on  
36 a proposed rule under review. An agency may delay without  
37 prejudice the effective date of an adopted rule under review.

38 3. Public hearing. The hearing on a rule must be  
39 advertised and scheduled in the same manner as public hearings on  
40 legislative documents. The hearing must be at least 5 days but  
41 not more than 14 days after publication of notice.

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The committee may require a representative of the agency whose rule is under review to appear and answer relevant questions at a hearing.

4. Criteria for review. A committee decision to object to a rule must be based on a finding that one or more of the following criteria exists:

A. Absence of statutory authority;

B. Lack of compliance with legislative intent;

C. Conflict with state law;

D. Changed circumstances after enactment of the law authorizing the rule that negate the need for the rule;

E. Abuse of discretion by the agency in proposing the rule;  
or

F. Fees established by the rule that are unreasonable or unrelated to the costs of administration.

5. Committee decision; introduction of legislation. If the committee objects to a rule, it may introduce on its own initiative legislation in the current regular session of the Legislature or in the next regular session if the Legislature is not in session at the time of the objection. Legislation may overrule the rule, amend the rule or clarify the rule-making authority of the agency that proposed the rule.

If an agency modifies or withdraws a rule as a result of a committee objection, the agency shall notify the Secretary of State of the modification or withdrawal and publish one weekly notice of that change through the Secretary of State. The agency shall provide notice of the change as provided in section 8053, subsection 1, paragraphs A, B and C. The agency need not repeat other steps in the rule-making process to continue the rule-making process with a proposed rule that has been modified as a result of committee review.

6. Committee report. The committee shall issue a written report on every rule that it reviews. The report must be issued within 14 days of the committee decision and be submitted to the Legislative Council, the Governor, the Secretary of State and the agency that proposed the rule.

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STATEMENT OF FACT

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6 This amendment retains the intent of the committee amendment while clarifying language describing the process by which agency rules will be reviewed by legislative committees.

Filed by Representative Joseph of Waterville.  
Reproduced and distributed under the direction of the Clerk of the House.  
(6/17/93) (Filing No. H-670)