

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "B" 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 bill by striking out the title and substituting the following:

'An Act to Revise the Authority of the Legislature to Review Rules'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 5 MRSA §11117 is enacted to read:

§11117. Legislative review of rules by committee; introduction of legislation

A joint standing committee of the Legislature having jurisdiction over the subject matter of a rule adopted by an agency may upon a majority vote of the full committee institute a committee review of the rule.

1. Meetings. The committee may meet as necessary to conduct the review.

2. Criteria for review. If the committee chooses to review a proposed rule, it shall use the following criteria and a committee decision to object to a rule must be based on a finding that one or more of the criteria exists:

A. Absence of statutory authority;

B. Lack of compliance with legislative intent;

C. Conflict with state law;

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

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

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

10 3. Legislation. If a majority of the full committee votes
12 to object to a rule, the committee is authorized, on its own
14 initiative, to introduce legislation concerning the rule in the
16 then current regular session of the Legislature or in the next
18 regular session if the Legislature is not in session at the time
of the objection. Legislation introduced by the committee may be
to overrule the rule, amend the rule or to clarify the
rule-making authority of the agency that proposed the rule.

20 4. Agency action. If an agency modifies or withdraws a
22 rule as a result of a committee objection, the agency shall
24 notify the Secretary of State of the modification or withdrawal
and arrange for one weekly publication of notice of that change
26 through the Secretary of State. The agency shall also provide
notice of the change as provided in §8053, subsection 1,
paragraphs A, B and C. The agency need not repeat the
rule-making process to modify or withdraw a rule as a result of a
committee review.

28 5. Rules. The Legislature shall adopt rules governing
30 committee procedures necessary to carry out this section.

32 **FISCAL NOTE**

34 This bill authorizes legislative committees to hold meetings
36 to review state agency rules and to propose legislation to
38 override or clarify those rules. Each meeting held during an
40 interim between sessions will result in costs to the Legislature
of approximately \$1,400. The total amount of these costs and the
resulting General Fund appropriations that could be required can
not be determined at this time.

42 **STATEMENT OF FACT**

44 This amendment replaces the bill and establishes a procedure
46 for joint standing committees of the Legislature to exercise
48 review authority over current agency rules. If a majority of the
committee votes to do so, the committee may review a rule using
50 criteria established in the bill. After reviewing the rule the
committee is authorized to submit overruling legislation to

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2 override or clarify the rule upon the vote of a majority of the
committee.

4 The amendment also adds a fiscal note to the bill.

Reported by the Minority of the Committee on State and Local
Government
Reproduced and distributed under the direction of the Clerk of the
House
6/2/93 (Filing No. H-558)

COMMITTEE AMENDMENT