

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1164

S.P. 383

In Senate, April 5, 1993

An Act to Clarify Relevant Information in Administrative Rule-making Procedures.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CARPENTER of York.

Cosponsored by Senators: BERUBE of Androscoggin, BUTLAND of Cumberland, KIEFFER of Aroostook, SUMMERS of Cumberland.

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

2 Sec. 1. 5 MRSA §8052, sub-§7, as amended by PL 1985, c. 680,
4 §2, is further amended to read:

6 7. Adoption of rule. No A rule may not become effective
8 unless:

10 A. The agency adopts it within 120 days of the final date
12 by which data, views or arguments may be submitted to the
agency for consideration in adopting the rule; and

14 ~~This adopted rule is approved by the Attorney General as~~
16 ~~to form and legality, as required by section 8056, within~~
18 ~~150 days of the final date by which those comments may be~~
submitted. The Attorney General has reviewed the rule and
has informed the issuing agency in writing of the potential
of the rule to result in a taking of private property.

20 For the purposes of this paragraph, "taking of private
22 property" means an activity in which private property is
24 taken and compensation to the owner of that property is
26 required by the Fifth and Fourteenth Amendments to the
Constitution of the United States or any other similar or
applicable law of the State.

28 The final date for comments may be extended if notice of doing so
30 is published before that final date, in the consolidated notice
referred to in section 8053.

32 Judicial review of actions taken pursuant to this section is
34 limited to whether the Attorney General reviewed the rule and has
informed the issuing agency in writing. This section does not
affect any otherwise available judicial review of agency action.

36 Sec. 2. Application. This Act applies to all rules adopted
38 after the effective date of this Act, excluding those rules that
do not purport to restrict the uses of private property.

40
42 STATEMENT OF FACT

44 This bill requires the Attorney General to review rules and
respond to the issuing agency concerning the potential of
proposed rules or regulations and the taking of private property.