

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

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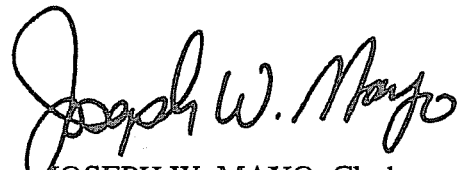
H.P. 1038

House of Representatives, April 30, 1993

**An Act to Strengthen the Public Disclosure of Lobbying Activities.**

---

Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.  
Reference to the Committee on State and Local Government suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative JOSEPH of Waterville.  
Cosponsored by Representatives: ADAMS of Portland, BENNETT of Norway, GRAY of  
Sedgwick, PARADIS of Augusta, YOUNG of Limestone, Senators: BUSTIN of Kennebec,  
CLEVELAND of Androscoggin.

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

2  
4       **Sec. 1. 3 MRSA §312-A, sub-§1**, as enacted by PL 1983, c. 160, §1, is amended to read:

6       **1. Campaign fund raising activity.** "Campaign fund raising activity" means any event or solicitation by letter or any other means which that is held for the purpose of receiving contributions ~~or--moneys~~ for a political party, political committee, political action committee, candidate for political office in any primary or election, any elected official or a referendum committee.

14       **Sec. 2. 3 MRSA §312-A, sub-§1-A** is enacted to read:

16       **1-A. Contribution.** "Contribution" is defined in Title 21-A, section 1012, subsection 2.

18       **Sec. 3. 3 MRSA §312-A, sub-§4**, as amended by PL 1987, c. 816, Pt. KK, §4, is further amended to read:

22       **4. Compensation.** "Compensation" means ~~money,--service--or anything of value or financial benefit~~ which that is received or to be received in return for, or in connection with, services rendered or to be rendered. ~~For purposes of the annual report filed pursuant to section 317, subsection 2, "compensation" includes any money, anything of value or any financial benefit received as a retainer by a lobbyist or the lobbyist's firm.~~

30       **Sec. 4. 3 MRSA §312-A, sub-§7**, as enacted by PL 1983, c. 160, §1, is repealed and the following enacted in its place:

32       **7. Expenditure.** "Expenditure" means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable. Expenditure includes:

36       A. Any campaign contribution that is provided to a  
38       Legislator between the time a Legislator is sworn into  
40       office for the first regular session of the Legislature and  
42       the end of the second regular session;

44       B. A payment of compensation to a lobbyist by a person  
46       employing, retaining or contracting for the services of the  
48       lobbyist separately or jointly with other persons;

50       C. A payment for or in connection with soliciting or urging  
52       other persons to enter into direct communication with a  
54       public official.

56       **Sec. 5. 3 MRSA §312-A, sub-§9**, as amended by PL 1987, c. 868, §2, is further amended to read:

2           **9. Lobbying.** "Lobbying" means to communicate directly, or  
4           to solicit or urge others to communicate directly, with any  
6           official in the Legislature for the purpose of influencing any  
8           legislative action or with the Governor for the purpose of  
10           influencing the approval or veto of a legislative action, when  
12           reimbursement for expenditures or compensation is made for those  
14           activities. It includes the time spent to prepare and submit to  
16           the Governor, a Legislator or a legislative committee oral and  
18           written proposals for, or testimony or analyses concerning, a  
20           legislative action. Solicitation of others does not include  
22           informational articles in regularly published newsletters.

24           **Sec. 6. 3 MRSA §312-A, sub-§10,** as enacted by PL 1983, c. 160,  
26           §1, is amended to read:

28           **10. Lobbyist.** "Lobbyist" means any person who is  
30           specifically employed by another person for the purpose of and  
32           who engages in lobbying, or any person who, as a regular employee  
34           of another person, expends an amount of time in excess of 8 hours  
36           in any calendar month in lobbying. "Lobbyist" shall does not  
38           include an individual who is a partner, associate, member or  
40           employee of a partnership, firm, corporation or professional  
42           association which that has been employed for lobbying when that  
44           individual is acting for the lobbyist in representing the  
46           employer.

48           **Sec. 7. 3 MRSA §312-A, sub-§§10-A and 10-B** are enacted to read:

50           **10-A. Lobbyist associate.** "Lobbyist associate" means an  
          individual who is a partner, associate, member or employee of a  
          person employed for lobbying when that individual is acting for  
          the lobbyist in representing the employer. If the lobbyist is an  
          individual and engages in lobbying, that individual is also a  
          lobbyist associate.

**10-B. Media outlet.** "Media outlet" means a radio or  
          television station, a cable television system, newspapers,  
          magazines and other published written materials.

**Sec. 8. 3 MRSA §312-A, sub-§12,** as amended by PL 1985, c. 779,  
          §4, is further amended to read:

**12. Person.** "Person" means an individual, business,  
          corporation, proprietorship, joint stock company, business trust,  
          syndicate, association, professional association, labor union,  
          firm, partnership, club or other organization, whether profit or  
          nonprofit, or any municipality or quasi-municipality or group of  
          persons acting in concert, but does not include this State, any  
          agency of this State, the University of Maine System or the Maine  
          Maritime Academy.

2           **Sec. 9. 3 MRSA §312-A, sub-§§14 and 15**, as enacted by PL 1983,  
c. 160, §1, are amended to read:

4           **14. Reimbursement.** "Reimbursement" means ~~any--money--or~~  
anything of value received or to be received as repayment for  
6           expenditures.

8           **15. Year.** "Year" means ~~calendar--year~~ a 12-month period  
starting December 1st and ending the following November 30th.

10           **Sec. 10. 3 MRSA §312-A, sub-§§7-A, 11-A and 16** are enacted to  
12           read:

14           **7-A. Immediate family.** "Immediate family" means a person's  
spouse and dependent children.

16           **11-A. Original source.** "Original source" means any person  
18           who contributes \$500 or more in any year directly or indirectly  
to any employer of a lobbyist.

20           **16. Anything of value.** "Anything of value" means, but is  
22           not limited to:

24           **A. Negotiable items:**

26                   **(1) Money;**

28                   **(2) A bank bill or note;**

30                   **(3) A stock, bond, note or other investment interest**  
**in an entity;**

32                   **(4) A promissory note, bill of exchange, order, draft,**  
34                   **warrant, check or bond given for the payment of money;**

36                   **(5) An honorarium or compensation for services;**

38                   **(6) The granting of a discount or rebate:**

40                           **(a) Not extended to the public generally; or**

42                           **(b) By a media outlet not extended equally to all**  
44                           **candidates for the same office; and**

46                   **(7) The sale or trade of something for reasonable**  
**compensation that is not available ordinarily to a**  
48                   **member of the public;**

50           **B. Obligations:**

52                   **(1) A contract, agreement, promise or other obligation**  
**for an advance, conveyance, forgiveness of**

2                   indebtedness, deposit, distribution, loan, payment,  
3                   pledge or transfer of money;

4                   (2) A receipt given for the payment of money or other  
5                   property;

6                   (3) A right in action;

7                   (4) A promise or offer of employment; and

8                   (5) An interest in tangible goods or chattel;

9                   C. Property. The retail or fair market value, whichever is  
10                   greater, of:

11                   (1) A work of art, an antique or a collectible;

12                   (2) An automobile or other means of personal  
13                   transportation;

14                   (3) Real property or an interest in real property,  
15                   including title to realty, a fee simple or partial  
16                   interest, present or future interest contingent or  
17                   vested in realty, a leasehold interest or other  
18                   beneficial interest in realty; and

19                   (4) Other tangible goods;

20                   D. Other goods or services. The retail or fair market  
21                   value, whichever is greater, of:

22                   (1) The purchase of tickets for an event such as a  
23                   reception, rally or fund-raising event;

24                   (2) A meal or lodging; and

25                   (3) Any service not extended free of charge to other  
26                   members of the public;

27                   E. Additional things of value as defined by rules adopted  
28                   by the Secretary of State.

29                   **Sec. 11. 3 MRSA §314**, as amended by PL 1981, c. 82, §1, is  
30 further amended to read:

31                   **§314. Duration of registration**

32                   Each joint registration filed pursuant to this chapter shall  
33 automatically ~~expire~~ expires on the last day of the calendar year  
34 during which the person was registered to lobby, unless as  
35 otherwise provided. ~~Joint registrations filed in December of an~~  
36 ~~even-numbered year shall automatically expire on the last day of~~  
37 ~~the following calendar year.~~

38

2 A joint registration shall ~~expire~~ expires if the employer  
notifies the Secretary of State in writing that the lobbyist is  
4 no longer engaged by the employer to lobby. If termination occurs  
prior to ~~December-31st~~ November 30th, the notification shall ~~must~~  
be given within 30 days of the termination.

6  
8 If termination is affected ~~effected~~ prior to ~~December-31st~~  
November 30th, no further reports are required, except that the  
10 lobbyist and employer are required to file an annual report  
pursuant to section 317, subsection 2. The filing of an annual  
12 report, signed by the lobbyist and employer, before November 30th  
is considered a notification of termination.

14 Any new registration shall ~~must~~ be filed pursuant to section  
16 313 before any lobbying is commenced after the lobbyist's  
employment has been terminated.

18 **Sec. 12. 3 MRSA §315**, as reenacted by PL 1975, c. 724, is  
amended to read:

20 **§315. Registration docket**

22  
24 The Secretary of State shall prepare and maintain a docket  
for the registration of lobbyists and employers of lobbyists  
26 required to register pursuant to this chapter. The registration  
docket and all supplementary files of information and materials  
28 filed pursuant to this chapter shall ~~must~~ be open to public  
inspection during the office hours of the Secretary of State.  
30 ~~Sueh~~ The docket shall must contain the name names of the lobbyist  
and the person employing the lobbyist; the business address of  
32 each; the nature of the business of the person employing the  
lobbyist; and a statement as to the compensation which the  
34 lobbyist ~~will-reeeeive~~ receives for his services or, if an exact  
amount is unascertainable, the basis upon which the lobbyist ~~will~~  
~~eharge~~ charges for his those services. This docket shall ~~must~~ be  
36 updated on a weekly basis and shall ~~must~~ be arranged and indexed  
as follows:

38  
40 **1. Employers of lobbyists.** An alphabetical listing of those  
persons who have employed a lobbyist, which listing shall ~~must~~  
indicate the names of all lobbyists employed by the employer; and

42  
44 **2. Lobbyists.** An alphabetical listing of those persons  
employed as lobbyists, which listing shall ~~must~~ indicate the  
names of all persons by whom each lobbyist is employed.

46  
48 Upon termination of the employment of a lobbyist and the  
reporting of ~~sueh~~ that termination by the employer, the fact of  
49 ~~sueh~~ the termination and the date ~~thereef~~ of the termination  
50 shall ~~must~~ be entered under the name of both the employer and the  
lobbyist.

2       Such The docket shall must be reestablished annually by the  
4       Secretary of State and the docket for any year shall must be  
6       maintained and be available for public inspection in the office  
8       of the Secretary of State for 4 years from the expiration of such  
10       the docket.

12       **Sec. 13. 3 MRSA §316**, as reenacted by PL 1975, c. 724, is  
14       amended to read:

16       **§316. Registration forms**

18       The Secretary of State shall prepare and make available  
20       registration forms for the registration of lobbyists and  
22       employers required to register pursuant to section 313. These  
24       forms shall must require the following information:

26       1. **Names.** The name of the lobbyist, a list of the lobbyist  
28       associates, the name of the person authorized by the lobbyist to  
30       sign the registration and reports for the lobbyist and the name  
32       of the person employing such the lobbyist. ~~If the lobbyist is a~~  
34       ~~partnership, firm, corporation or professional association, the~~  
36       ~~names of the partners, associates, members or employees who will~~  
38       ~~be acting for the lobbyist in representing the employer shall~~  
40       ~~also be provided;~~

42       2. **Business addresses.** The business address of both the  
44       lobbyist and the person employing such the lobbyist;

46       3. **Date.** The date upon which lobbying was commenced or was  
48       expected to be commenced commence;

50       4. **Nature of business.** A description of the nature of the  
52       business of the person employing such that lobbyist; and

54       5. **Compensation.** The amount of compensation which that the  
56       lobbyist will receive for his that lobbyist's services or, if an  
58       exact amount is unascertainable, the basis upon which the  
60       lobbyist will charge for his those services.

62       These forms shall must be signed by both the lobbyist and  
64       the employer and the signatures ~~contained thereon shall~~ serve as  
66       a certificate that the information ~~contained on such that~~ form is  
68       true, correct and complete.

70       **Sec. 14. 3 MRSA §317**, as amended by PL 1989, c. 732, §1, is  
72       further amended to read:

74       **§317. Reports**

76       Reports required by this section shall must be on forms  
78       prescribed or approved by the Secretary of State. The forms shall  
80       must provide for a sworn statement that the persons signing the



2 report acknowledge the truth and completeness of all the  
3 information contained therein.

4 **1. Monthly session reports.** During the period in which the  
5 Legislature is in session, every registered lobbyist shall file  
6 with the Secretary of State, no later than 15 calendar days  
7 subsequent to the conclusion of the preceding month, a report  
8 concerning the lobbyist's activities for the previous month  
9 regarding each employer.

10 Every lobbyist shall report his that lobbyist's lobbying  
11 activities for each month that the Legislature is in session,  
12 even if no lobbying has been performed or compensation or  
13 reimbursement for expenses received for the month. In the case of  
14 a lobbyist representing multiple employers, if no lobbying or  
15 services in support of lobbying were performed, one report  
16 listing each employer on whose behalf no lobbying was conducted,  
17 may be submitted. The monthly report shall must contain the  
18 following information:

19 A. The month to which the report pertains;

20 B. The name and address of the lobbyist and employer;

21 C. The names of the individuals who lobbied during the  
22 month;

23 D. The specific dollar amount of compensation received for  
24 the preparation of documents and research for the primary  
25 purpose of influencing legislative action and for lobbying;

26 In the case of a regular employee, the specific dollar  
27 amount shall must be computed by multiplying the number of  
28 hours devoted to the preparation of documents and research  
29 for the primary purpose of influencing legislative action  
30 and to lobbying by the employee's regular rate of pay based  
31 on a 40-hour week;

32 E. The specific dollar amount of expenditures made during  
33 the month which that is the subject of the report with  
34 regard to the preparation of documents and research for the  
35 primary purpose of influencing legislative action and to  
36 lobbying for which the lobbyist has been or expects to be  
37 reimbursed;

38 F. The total amount of money expended directly to or on  
39 behalf of one or more officials of the ~~Legislative Branch~~  
40 legislative branch, including members of the official's  
41 immediate family, ~~as defined in Title 1, section 1012,~~  
42 ~~subsection 2,~~ and the amount, if any, for which the lobbyist  
43 has been or expects to be reimbursed;

2 G. The name of any ~~officials~~ an official in the Legislative  
Branch legislative branch, or their a member of that  
4 official's immediate family, on whose behalf an expenditure,  
or expenditures, totaling \$25 or more was were made in one  
6 calendar month, and the date, amount and purpose of the  
expenditure or expenditures;

8 G-1. The name of an official of the legislative branch or  
administrative agency or a member of that official's  
10 immediate family present at an event when the expenditure or  
expenditures by the lobbyist or the lobbyist's employer  
12 total \$250 or more, except events held in the State House or  
adjoining state office buildings, the date and a description  
14 of the event and the total amount of the expenditure or  
expenditures;

16 H. A list of each legislative action, by Legislative  
18 Document, or, if unknown, by Senate Paper, or House Paper  
20 number or, if unknown, by topic or nomination in connection  
with which the lobbyist is engaged in lobbying; and

22 I. A list specifically identifying each legislative action,  
Legislative Document, Senate Paper, House Paper or  
24 nomination for which the lobbyist was compensated, or  
expects to be compensated, or expended in excess of \$1,000  
26 for lobbying activities related thereto to those actions and  
a statement of the amounts compensated or expended for each  
28 ; and

30 J. If the lobbyist is required to make a specific list of  
items under paragraph I, a list of all original sources of  
32 any money received from that employer must be included. If  
the employer or person who contributes to an employer is a  
34 corporation formed under Titles 13 or 13-A, nonprofit  
corporation formed under Title 13-B or limited partnership  
36 under Title 31, the corporation, nonprofit organization or  
limited partnership, not the individual members or  
38 contributors, is listed as the original source.

40 2. **Annual report.** ~~On or before January 30th~~ Thirty days  
following the end of the year in which any person lobbied  
42 pursuant to section 313, the lobbyist and his the lobbyist's  
employer shall file with the Secretary of State a joint report  
44 ~~which shall~~ that must contain the information required in  
subsection 1, except that the report shall must summarize all  
46 lobbying activities for the calendar year and report in detail  
only those legislative actions not previously reported, as  
48 required by subsection 1, paragraphs H and I.

50 The report must include a separate listing of legislative actions  
for the calendar reported on pursuant to paragraphs H and I. The  
52 reports required by subsection 1 shall must be signed by the

2 person designated by the lobbyist in section 316, subsection 1.  
3 The reports required by this subsection shall ~~must~~ be signed by  
4 both the lobbyist designated person and the employer.

6 If the date any report required by this section is due falls on a  
7 day other than a regular business day, the report shall ~~be~~ is due  
8 on the first regular business day next following the due date.

10 In addition to the amounts identified in subsection 1 as  
11 compensation received or expenditure made for the primary purpose  
12 of lobbying, this annual report shall ~~also~~ must include the total  
13 amount of compensation received by the lobbyist or the lobbying  
14 firm, or expended by the employer, except compensation received  
or expended for purposes not related to lobbying.

16 **3. Facsimile copies.** The Secretary of State may, by rules  
17 adopted pursuant to the Maine Administrative Procedure Act, Title  
18 5, chapter 375, establish procedures and fees by which facsimile  
19 copies of duly executed reports required by this section may be  
20 received and filed with the office of the Secretary of State.

22 **4. Monthly nonsession reports.** When the Legislature is not  
23 in regular session, every registered lobbyist must either file:

24 A. With the lobbyist's last monthly report for that regular  
25 session a statement that the lobbyist will not engage in  
26 lobbying activities when the Legislature is not in session.  
27 The lobbyist is required to file a monthly report for  
28 lobbying activity conducted during a special session; or

29 B. If the lobbyist is engaged in lobbying in any of those  
30 months, a monthly report in the manner prescribed in  
31 subsection 1 even if compensation or reimbursement for  
32 expenses has not been received for the month.

34 If the lobbyist did not expect to be engaged in lobbying when the  
35 Legislature was not in session, the Secretary of State may waive  
36 the requirement for the months between the end of the session and  
37 the renewal of lobbying.

39 **Sec. 15. 3 MRSA §319, sub-§1,** as repealed and replaced by PL  
40 1979, c. 632, §3, is amended to read:

42 **1. Failure to file registration or report.** Any person who  
43 fails to file a registration or report as required by this  
44 chapter shall ~~may~~ be assessed a fine of ~~\$50.~~ \$100 for every month  
45 the person fails to register or is delinquent in filing a  
46 report. The Secretary of State may waive the penalty in whole or  
47 in part if the Secretary of State determines the failure to  
48 register or report was unintentional or that there are other  
49 mitigating circumstances.

2           **Sec. 16. 3 MRSA §320**, as amended by PL 1981, c. 82, §2, is  
further amended to read:

4           **§320. Disposition of fees**

6           All fees collected pursuant to this chapter shall must be  
used by the Secretary of State for the administration of this  
8           chapter. The Secretary of State may use these fees to hire  
personnel ~~to--serve--at--his--pleasure--and~~ to assist him in  
10          administering this chapter. The personnel serve at the pleasure  
of the Secretary of State.

12          The Secretary of State shall, no later than ~~December~~  
14          November 15th of the year prior to any proposed change, establish  
the amount of the registration fee required to be paid pursuant  
16          to section 313 for the subsequent year. ~~Such~~ The fees shall must  
be established on a basis that will generate sufficient revenue  
18          to administer the filing and reporting requirements of this  
chapter but ~~such--fees--shall~~ may not, in any case, unreasonably  
20          exceed the amount necessary to administer the filing and  
reporting requirements of this chapter. ~~All--fees--collected--under~~  
22          ~~this--chapter--as--in--effect--on--December--31--1975--are--to--be--used--in~~  
~~all--respects--as--though--they--were--originally--collected--pursuant--to~~  
24          ~~this--chapter.~~ Fees collected in any one year may be used in the  
same or any succeeding year to administer this chapter and ~~such~~  
26          ~~funds--shall~~ may not lapse.

28          **Sec. 17. 3 MRSA §321, sub-§§7 and 8** are enacted to read:

30          7. Rulemaking. The Secretary of State may adopt rules in  
accordance with the Maine Administrative Procedure Act to  
32          administer this chapter.

34          8. Review reports for completeness. The Secretary of State  
may reject reports that are incomplete.

36          **Sec. 18. 3 MRSA §322**, as reenacted by PL 1975, c. 725, is  
38          repealed and the following enacted in its place:

40          **§322. Enforcement**

42          1. Filing of a complaint. Any person may file a complaint  
with the Secretary of State specifying any alleged violation of  
44          this chapter. The Secretary of State may notify any named party  
in the complaint to request that they comply with the provisions  
46          of this chapter or request that the Attorney General investigate  
the complaint.

48          2. Attorney General. The Attorney General may enforce the  
50          provisions of this chapter upon request by the Secretary of State.

2           **Sec. 19. 5 MRSA §8052, sub-§5**, as repealed and replaced by PL  
1989, c. 574, §3, is amended to read:

4           **5. Written statement adopted.** At the time of adoption of  
5 any rule, the agency shall adopt a written statement explaining  
6 the factual and policy basis for the rule. The agency shall list  
7 the names of persons whose comments were received, including  
8 through testimony at hearings, the organizations the persons  
9 represent and summaries of their comments. The agency shall  
10 address the specific comments and concerns expressed about any  
11 proposed rule and state its rationale for adopting any changes  
12 from the proposed rule, failing to adopt the suggested changes or  
13 drawing findings and recommendations that differ from those  
14 expressed about the proposed rule.

16           A. If the same or similar comments or concerns about a  
17 specific issue are were expressed by different persons or  
18 organizations, the agency may synthesize these comments and  
19 concerns into a single comment that accurately reflects the  
20 meaning and intent of these comments and concerns to be  
21 addressed by the agency, listing the names of the persons  
22 who commented and the organizations they represent.

24           B. A rule may not be adopted unless the adopted rule is  
25 consistent with the terms of the proposed rule, except to  
26 the extent that the agency determines that it is necessary  
27 to address concerns raised in comments about the proposed  
28 rule, or specific findings are made supporting changes to  
29 the proposed rule. The agency shall maintain a file for  
30 each rule adopted that shall must include, in addition to  
31 other documents required by this Act, testimony, comments,  
32 the names of persons who commented and the organizations  
33 they represent and information relevant to the rule and  
34 considered by the agency in connection with the formulation,  
35 proposal or adoption of a rule. If an agency determines  
36 that a rule ~~which-it~~ that the agency intends to adopt will  
37 be is substantially different from the proposed rule, ~~it the~~  
38 agency shall request comments from the public concerning the  
39 changes from the proposed rule. The agency may not adopt  
40 the rule for a period of 30 days from the date comments are  
41 requested pursuant to this paragraph. Notice of the request  
42 for comments shall must be published by the Secretary of  
43 State in the same manner as notice for proposed or adopted  
44 rules.

46           **Sec. 20. Effective date.** Sections 1 and 10 to 14 of this Act  
47 take effect on December 1, 1993.  
48

## STATEMENT OF FACT

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12  
14  
16  
18

This bill clarifies and adds definitions to the lobbying laws. The bill allows the Secretary of State to charge a fee for lobbyist associates and grants the Secretary of State the authority to adopt rules to administer this chapter. The bill changes the registration expiration date from December 31st to November 30th. The bill clarifies language regarding the registration of lobbyist associates and language regarding fees and personnel. The bill adds the requirement that lobbyists report on events they sponsor if expenditures for the event exceed \$250. The bill adds the requirement that reports must be filed during months that the Legislature is not in session and increases the penalty for failure to file a lobbyist registration or report. The bill adds a provision allowing individuals to file complaints alleging violations of this chapter. The bill also amends the requirements for an agency rule-making statement to include a list of the names of the persons whose comments were received.