

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1283

H.P. 907

House of Representatives, April 11, 1995

An Act to Update and Clarify Administrative Procedures.

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.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative DAGGETT of Augusta.
Cosponsored by Representatives: AHEARNE of Madawaska, YACKOBITZ of Hermon.

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

4 **Sec. 1. 5 MRSA §86, 2nd ¶**, as amended by PL 1993, c. 316, §1,
is further amended to read:

6 For a certificate under the seal of the State, \$5 for a
8 short form and \$10 for a special detailed certificate. For all
copies of corporate, limited partnership and mark documents, the
10 rate of \$2 per page; and for all other copies, the rate of 75¢
per page if such copies are prepared by the office of the
12 Secretary of State. ~~There is no charge for certificates or
copies requested by any department of the State.~~ The Secretary
14 of State may also reduce or waive the fee for other governmental
agencies and bodies.;

16 **Sec. 2. 5 MRSA §8002, sub-§3-B** is enacted to read:

18 **3-B. Authorized representative.** "Authorized
representative" means the chair of a board or commission, an
20 individual in a major policy-influencing position as defined by
chapter 71, or the chief executive officer of an agency, within
22 the agency adopting a rule.

24 **Sec. 3. 5 MRSA §8052, sub-§7**, as amended by PL 1985, c. 680,
§2, is further amended to read:

26 **7. Adoption of rule.** ~~No A rule may become effective not~~
28 take effect unless:

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

34 B. This adopted rule is approved by the Attorney General as
to form and legality, as required by section 8056, within
36 150 days of the final date by which those comments may be
submitted.

38 The final date for comments may be extended if notice of doing so
40 is published ~~before that final date~~ within 14 days of the most
recently published comment deadline, in the consolidated notice
42 referred to in section 8053.

44 **Sec. 4. 5 MRSA §8052, sub-§9** is enacted to read:

46 **9. Sunset.** Unless amended or repealed and replaced on or
after January 1, 1996, all rules expire on December 31, 2001.
48 All rules adopted after January 1, 1996 automatically expire 5
years after the effective date of the last amendment or repeal
50 and replacement of the rules.

2 **Sec. 5. 5 MRSA §8053, sub-§1**, as amended by PL 1985, c. 39,
3 §2, is further amended to read:

4
5 **1. Notice of rulemaking without hearing.** At least 20 days
6 prior to the adeption comment deadline of any rule without
7 hearing, the agency shall deliver or mail written notice to:

8
9 A. Any person specified by the statute authorizing the
10 rulemaking;

11 B. Any person who has filed within the past year a written
12 request with the agency for notice of rulemaking; and

13 C. Any trade, industry, professional, interest group or
14 regional publication that the agency deems considers
15 effective in reaching the persons affected.

16
17 Notification to subscribers under paragraph B shall must be by
18 mail or otherwise in writing to the last address provided to the
19 agency by that person. Subscribers under paragraph B may request
20 to receive a copy of each proposed rule with the written notice.
21 The agency shall provide the copy at the same time the notice is
22 sent.

23
24 Written notice shall must also be given to the Secretary of
25 State, by the deadline established by him the Secretary of State,
26 for publication in accordance with subsection 5.

27
28 **Sec. 6. 5 MRSA §8053, sub-§3-A**, as enacted by PL 1981, c. 524,
29 §8, is amended to read:

30
31 **3-A. Copies of proposed rules available upon request.** At
32 least 20 days prior to hearing on any proposed rule and at least
33 20 days prior to the adeption comment deadline of any rule
34 without a hearing, the agency shall make copies of the proposed
35 rule available to persons upon request.

36
37 **Sec. 7. 5 MRSA §8056, sub-§1, ¶B**, as amended by PL 1985, c.
38 39, §3, is further amended to read:

39
40 B. ~~File a certified copy of~~ the original rule as signed by
41 the Attorney General or an assistant attorney general and
42 the authorized representative of the agency, and the
43 statement required by section 8052, subsection 5, with the
44 Secretary of State in a form prescribed by the Secretary of
45 State, which form ~~shall-be~~ is susceptible to frequent and
46 easy revision;

2 **Sec. 8. 5 MRSA §8056, sub-§3, ¶A**, as amended by PL 1991, c.
554, §1, is further amended to read:

4 A. Maintain and make available at the Secretary of State's
6 office, for inspection at no charge and for copying or
purchase ~~at actual cost~~, current copies of complete rules
8 for all agencies filed in accordance with subsection 1,
paragraph B;

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12

STATEMENT OF FACT

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 This bill provides a sunset provision for rules adopted
16 under the Maine Administrative Procedure Act. It clarifies that
copies of rules are under the statutory pricing schedule for the
Secretary of State. It corrects the following ambiguities: it
18 defines the "authorized representative" who signs the official
original of the rule; it allows a more reasonable time period for
20 extending a comment deadline; and it corrects an error, replacing
"adoption" with "comment deadline" to establish the time before
22 which interested persons must be provided with copies of rules.