

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document


No. 1764

H.P. 1244

House of Representatives, April 9, 1997

An Act to Establish an Office of Regulatory Reform within the Executive Branch.

Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative MACK of Standish.
Cosponsored by Senator LIBBY of York and
Representatives: BOLDUC of Auburn, BROOKS of Winterport, CAMPBELL of Holden,
FRECHETTE of Biddeford, LANE of Enfield, LAYTON of Cherryfield, SNOWE-MELLO of
Poland, TREADWELL of Carmel.

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

2
4 **Sec. 1. 5 MRSA c. 313-A** is enacted to read:

6 CHAPTER 313-A

8 OFFICE OF REGULATORY REFORM

10 §3325. Title

12 This chapter is known and may be cited as the "Office of
Regulatory Reform Act."

14 §3325-A. Definitions

16 As used in this chapter, unless the context otherwise
indicates, the following terms have the following meanings.

18 1. Agency. "Agency" has the same meaning as defined in
section 8002.

22 2. Director. "Director" means the Director of the Office of
Regulatory Reform.

24 3. Rule. "Rule" has the same meaning as defined in section
8002.

28 §3325-B. Office of Regulatory Reform

30 The Office of Regulatory Reform is established within the
Executive Department to carry out the purposes of this chapter.
The Office of Regulatory Reform, referred to in this chapter as
the "office," is charged with reducing the burden of
administrative rules on businesses, local governments and the
citizens of the State. The office assists the Governor and state
agencies in the analysis of the costs and benefits of proposed
rules as specified in section 3325-C.

38 §3325-C. Director; duties

40 1. Director. The Governor shall appoint a director who is
the principal executive employee of the office. The director
serves at the pleasure of the Governor and is entitled to
compensation established by the Governor.

46 2. Powers and duties. The director has the following
powers and duties. The director:

2 A. Shall provide oversight of the regulatory processes of
executive agencies through the review and analysis of
proposed and existing rules;

4
6 B. Shall encourage state departments, state agencies,
independent agencies and boards and commissions established
by law to consolidate, simplify, expedite or otherwise
8 improve permitting procedures and to reduce paperwork
burdens affecting businesses and local governments and to
10 offer permit assistance to businesses, local governments and
citizens of the State;

12
14 C. Shall analyze or require the analysis of the impact of
proposed rules on matters, including, but not limited to,
public health, safety and welfare and job creation and
16 retention, and shall make recommendations for simplifying
the regulatory process of executive agencies;

18
20 D. Shall employ such personnel as the director determines
necessary, subject to approval by the Governor, to carry out
the powers and duties provided for in this section;

22
24 E. May require that any cost-benefit analysis or risk
assessment that is prepared for a rule undergo a peer review
in accordance with such requirements and procedures as the
26 director may establish;

28 F. May request an agency to convene a negotiated rulemaking
in an appropriate case in which interested parties and the
30 agency, with the assistance of a neutral facilitator,
negotiate to reach consensus on the terms of a rule;

32
34 G. May propose to any agency that it consider amending or
repealing any existing rule that may be obsolete or harmful
to the economy or job growth in the State or excessive in
36 the view of state or federal laws or rules;

38 H. May consider requests for and issue determinations
regarding whether any action taken by an agency, department,
40 board or commission should be taken pursuant to a rule;

42 I. Shall develop procedures for carrying out the
responsibilities established in this chapter; and

44
46 J. May conduct a cost-benefit analysis of any law or rule
at the director's discretion.

48 **§3325-D. Criteria for evaluating rules**

2 1. Evaluation criteria. The director shall evaluate rules
3 using the following criteria:

4 A. Clarity;

6 B. Clearly within authority delegated by law;

8 C. Consistency with stated legislative intent and statutory
9 requirements;

10 D. Duplicative or more stringent than relevant existing
11 federal and state laws or rules;

14 E. Production of public benefit that exceeds the costs, if
15 any, on the regulated entities;

16 F. The absence of imposition of unfunded mandates on local
17 governments or school districts, except as specifically
18 required by state law;

20 G. The encouragement of flexibility, innovation and
21 market-based solutions and performance standards in meeting
22 the legislative objectives of the underlying rule;

24 H. The foundation of credible scientific, technical and
25 economic assessments, using recognized standards, to
26 determine the degree and nature of the risks that may be
27 regulated; and

30 I. Gives preference to the least costly, least burdensome
31 regulatory and paper-work requirements needed to accomplish
32 legislative and administrative objectives.

34 **§3325-E. Procedures**

36 1. Submission of information to director. Prior to
37 submitting a notice of proposed rulemaking for publication, an
38 executive agency must submit to the director the complete text of
39 the proposed rule, a copy of the statement of fact and any
40 cost-benefit analysis, risk assessment, analysis of the proposed
41 rule's effect on the creation and retention of jobs in the State
42 and the results of a negotiated rulemaking undertaken in
43 conjunction with the development of the proposed rule. The
44 director shall review the agency's submission of information to
45 determine whether it is complete and in accordance with this
46 chapter.

48 2. Complete submissions. If the director determines that
49 the submission of information is complete, the director shall
50 analyze the proposed rule in accordance with the criteria

2 established in 3325-D and following that review shall authorize
3 the submission of a notice of proposed rulemaking for
4 publication, prohibit the agency from proceeding with rulemaking
5 or prohibit the agency from proceeding with rulemaking unless
6 such changes as may be specified are incorporated into the
7 proposed rule.

8 3. Incomplete submissions. If the director determines the
9 submission of information is not complete, the director shall
10 return it to the agency, together with direction that the agency
11 amend or prepare a regulatory impact analysis, cost-benefit
12 analysis, risk assessment, analysis of the rule's effect on the
13 creation and retention of jobs in the State or undertake a
14 negotiated rulemaking to develop a rule for proposal.

15 4. Request of analysis or assessment. Upon the receipt of
16 a request by 15 Legislators for a cost-benefit analysis, risk
17 assessment or an analysis of a statute's or rule's effect on the
18 creation and retention of jobs in the State, the office shall
19 prepare any such analysis or assessment.

20 5. Not exempt from chapter 375. This chapter does not
21 exempt agencies from compliance with the provisions of chapter
22 375.

23 **Sec. 2. 5 MRSA §8051-B is enacted to read:**

24 **§8051-B. Review by Office of Regulatory Reform**

25 Prior to filing a notice of public hearing for a proposed
26 rule, the agency shall submit such information to the Office of
27 Regulatory Reform as required by sections 3325 to 3325-E.

28

29

SUMMARY

30

This bill establishes the Office of Regulatory Reform.