

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 734

H.P. 555

House of Representatives, February 13, 2007

### An Act To Improve Public Understanding in Rulemaking

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative FLETCHER of Winslow.  
Cosponsored by Senator SHERMAN of Aroostook and  
Representatives: CLARK of Millinocket, GERZOFSKY of Brunswick, HAMPER of Oxford,  
HANLEY of Gardiner, JOY of Crystal, MOORE of Standish, RICHARDSON of Greenville,  
Senator: DOW of Lincoln.

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

2 **Sec. 1. 5 MRSA §8052, sub-§5**, as amended by PL 1997, c. 196, §1, is further  
3 amended to read:

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

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

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

33 C. If the adoption under this subsection is final adoption of a major substantive rule  
34 under subchapter ~~H-A~~ 2-A, the agency must include in its written statement citation  
35 of the legislative act authorizing final adoption of that rule; or, if authorization is the  
36 result of failure of the Legislature to act under section 8072, subsection 7, the agency  
37 must indicate that fact and identify the date the agency filed the rule for review under  
38 section 8072.

39 **Sec. 2. 5 MRSA §8053, sub-§3-A**, as amended by PL 2003, c. 207, §2, is further  
40 amended to read:

41 **3-A. Copies of proposed rules available upon request.** At least 20 days prior to a  
42 hearing on any proposed rule and at least 20 days prior to the comment deadline of any

1 rule without a hearing, the agency shall make copies of the proposed rule available in  
2 writing or, with agreement of the requestor, electronically to persons upon request. At  
3 least 20 days prior to a hearing on any proposed rule, the agency shall provide to a person  
4 upon request a list of the primary sources of information relied on in establishing the  
5 primary provisions of the proposed rule.

6 **SUMMARY**

7 This bill requires a rule-making agency to make its principal source of information  
8 for a rule available to the public.