

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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No. 905

H.P. 680

House of Representatives, March 1, 2007

An Act To Amend the Maine Administrative Procedure Act To Strengthen Safeguards for Small Businesses

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RECTOR of Thomaston.
Cosponsored by Senator RAYE of Washington and
Representatives: BARSTOW of Gorham, BEAUDETTE of Biddeford, ROBINSON of
Raymond, SMITH of Monmouth, TARDY of Newport, WOODBURY of Yarmouth, Senators:
BROMLEY of Cumberland, SCHNEIDER of Penobscot.

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

2 **Sec. 1. 5 MRSA §8052, sub-§5-A**, as enacted by PL 1989, c. 574, §4, is amended
3 to read:

4 **5-A. Impact on small business.** In adopting rules, the agencies shall seek to reduce
5 any economic burdens through flexible or simplified reporting requirements and may
6 seek to reduce burdens through flexible or simplified timetables that take into account the
7 resources available to the affected small businesses. The agency may consider
8 clarification, consolidation, or simplification of compliance or reporting requirements.
9 For the purposes of this subsection, "small business" means businesses that have 20 or
10 fewer employees ~~and gross annual sales not exceeding \$2,500,000.~~

11 Prior to the adoption of any proposed rule that may have an adverse impact on small
12 businesses, the agency shall prepare an economic impact statement that includes the
13 following:

14 A. An identification and estimate of the number of the small businesses subject to
15 the proposed rule;

16 B. The projected reporting, record-keeping and other administrative costs required
17 for compliance with the proposed rule, including the type of professional skills
18 necessary for preparation of the report or record;

19 C. A statement of the probable impact on affected small businesses; and

20 D. A description of any less intrusive or less costly alternative methods of achieving
21 the purposes of the proposed rule.

22 **Sec. 2. 5 MRSA §8053, sub-§3, ¶D**, as amended by PL 1985, c. 77, §2, is further
23 amended to read:

24 D. If possible, contain the express terms of the proposed rule or otherwise describe
25 the substance of the proposed rule, stating the subjects and issues involved and
26 indicate where a copy of the proposed rule may be obtained; ~~and~~

27 **Sec. 3. 5 MRSA §8053, sub-§3, ¶E**, as enacted by PL 1985, c. 77, §2, is
28 amended to read:

29 E. Refer to the substantive state or federal law to be implemented by the rules; and

30 **Sec. 4. 5 MRSA §8053, sub-§3, ¶F** is enacted to read:

31 F. Indicate where a copy of the statement of impact on small business pursuant to
32 section 8052, subsection 5-A may be obtained.

33 **Sec. 5. 5 MRSA §8057, sub-§1**, as amended by PL 1985, c. 680, §5, is further
34 amended to read:

35 **1. Rules; exception.** Rules adopted in a manner other than that prescribed by section
36 8052, subsections 1, 2, 3, 4, 5-A and 7 and by ~~section~~ sections 8053 and 8054 ~~shall be~~ are
37 void and of no legal effect, ~~provided~~ except that insubstantial deviations from the

1 requirements of section 8053 ~~shall do~~ not invalidate the rule subsequently adopted. Rules
2 in effect prior to July 1, 1978, ~~shall~~ become void and of no legal effect on July 1, 1979,
3 unless originally adopted after notice published in a newspaper of general circulation in
4 some area of the State and opportunity for hearing or unless adopted in accordance with
5 ~~chapter 375, this~~ this subchapter H.

6 **SUMMARY**

7 This bill requires an agency adopting a rule to develop and make available to the
8 public an economic impact statement on small businesses prior to adoption of the rule.
9 The contents of the notice must include where the economic impact statement can be
10 obtained. If the economic impact statement is not conducted, the rule may not go into
11 effect.