

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2213

H.P. 1580

House of Representatives, February 14, 2008

**An Act To Implement the Recommendations of the Working Group
To Improve Public Understanding and Participation in the
Rulemaking Process**

Reported by Representative BARSTOW of Gorham for the Joint Standing Committee on State and Local Government pursuant to Joint Order, H.P. 1540.

Reference to the Committee on State and Local Government suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

2 **Sec. 1. 5 MRSA §8051-A**, as enacted by PL 1989, c. 574, §2, is amended to read:

3 **§8051-A. Appointment of liaison**

4 The commissioner or director of each state agency shall designate a person to serve
5 as a liaison between the agency and the general public, the Legislature, the Secretary of
6 State and the office of the Attorney General with respect to rulemaking. The liaison shall
7 serve as a representative of the agency with respect to providing information about
8 agency rules. The liaison ~~shall be~~ is responsible for implementing the procedural
9 provisions of this subchapter. The Secretary of State shall maintain a list of all agency
10 liaisons and their contact information on a publicly accessible website.

11 **Sec. 2. 5 MRSA §8052, sub-§1**, as amended by PL 1997, c. 110, §2, is further
12 amended to read:

13 **1. Notice; public hearing.** Prior to the adoption of any rule, the agency shall give
14 notice as provided in section 8053 and may hold a public hearing, ~~provided except~~ that a
15 public hearing ~~is~~ must be held if otherwise required by statute or requested by any 5
16 interested persons or if the rule is a major substantive rule as defined in section 8071,
17 subsection 2, paragraph B.

18 A public meeting or other public forum held by an agency for any purpose that includes
19 receiving public comments on a proposed agency rule is a public hearing and is subject to
20 all the provisions of this subchapter regarding public hearings.

21 **Sec. 3. 5 MRSA §8053, sub-§6** is enacted to read:

22 **6. Electronic publication.** In addition to the printed publication required in
23 subsection 5, the Secretary of State shall maintain a publicly accessible website for
24 posting the notices of all proposed and adopted rules. The notice must include a brief
25 explanation of the proposed or adopted rule. Departments and agencies shall post
26 proposed and adopted rules in their jurisdictions on publicly accessible agency websites
27 or links to the rules on the Secretary of State's website. Notice of each rule-making
28 proceeding must be published on the Secretary of State's website 17 to 24 days prior to
29 the public hearing on the proposed rule or at least 30 days prior to the last date on which
30 views and arguments may be submitted to the agency for consideration if no public
31 hearing was scheduled.

32 **Sec. 4. 5 MRSA §8054, sub-§2**, as amended by PL 1979, c. 425, §6, is further
33 amended to read:

34 **2. Agency findings.** Any emergency rule ~~shall~~ must include, with specificity, the
35 agency's findings with respect to the existence of an emergency, including any
36 modifications of procedures, and such findings ~~shall be~~ are subject to judicial review
37 under section 8058. No emergency ~~shall~~ may be found to exist when the primary cause of
38 the emergency is delay caused by the agency involved.

1 **Sec. 5. 5 MRSA §8057-A, sub-§1**, as amended by PL 2007, c. 181, §6, is further
2 amended to read:

3 **1. Preparation of rules.** At the time that an agency is preparing a rule, the agency
4 shall consider the goals and objectives for which the rule is being proposed, possible
5 alternatives to achieve the goals and objectives and the estimated impact of the rule. The
6 agency's estimation of the impact of the rule ~~shall~~ must be based on the information
7 available to the agency and any analyses conducted by the agency or at the request of the
8 agency. The agency shall establish a fact sheet that provides the citation of the statutory
9 authority of the rule. In addition, the agency, to the best of its ability, shall also include in
10 the fact sheet ~~the following~~:

- 11 A. The principal reasons for the rule;
- 12 B. A comprehensive but concise description of the rule that accurately reflects the
13 purpose and operation of the rule;
- 14 C. An estimate of the fiscal impact of the rule; ~~and~~
- 15 D. An analysis of the rule; and
- 16 E. A brief summary of the relevant information considered during the development
17 of the rule.

18 **Sec. 6. Improve rule-making information on website.** Upon the effective
19 date of this Act, the Secretary of State shall begin working with the InforME Board and
20 InforME, created pursuant to the Maine Revised Statutes, Title 1, chapter 14, to improve
21 the sorting, searchability and arrangement of rule-making information on the "maine.gov"
22 website. The work required under this section must be accomplished within the existing
23 resources of InforMe and the Department of the Secretary of State.

24 **Sec. 7. Review boards contact information posted.** The Secretary of State
25 shall post on a publicly accessible website the names and contact information of members
26 on all Governor-appointed review boards and councils that are engaged in rulemaking.

27 **Sec. 8. Rulemaking cover sheets redesign.** The Secretary of State shall
28 redesign the so-called "MAPA-1" and "MAPA-3" cover sheet forms that are filled out by
29 each department, bureau or agency when submitting proposed and adopted rules to the
30 Secretary of State. The redesigned forms must include a summary paragraph that is
31 easily identified by any member of the public interested in the rule and must be written in
32 plain English that is understandable by the average citizen.

33 **Sec. 9. Improve the role of liaison between agency and public.** The
34 Secretary of State shall work with state agencies to ensure that each has designated a
35 liaison between the agency and the public as required in the Maine Revised Statutes, Title
36 5, section 8051-A. The liaison must be able to direct members of the public to staff who
37 can answer queries in a timely manner.

38 **Sec. 10. Legislative policy committee oversight and training.** The Secretary
39 of State shall work with the Legislative Council to improve training and orientation
40 sessions for new Legislators, committee chairs and ranking minority members on

1 rulemaking and the Maine Administrative Procedure Act, including ideas for scheduling
2 committee meetings with briefings from agency liaisons designated pursuant to the Maine
3 Revised Statutes, Title 5, section 8051-A and reviewing the departmental regulatory
4 agendas under committee jurisdictions.

5 **SUMMARY**

6 This bill implements the recommendations of the Working Group to Improve Public
7 Understanding and Participation in the Rulemaking Process. It makes the following
8 changes.

9 1. The Secretary of State is required to post a list of all agency liaisons and their
10 contact information on a publicly accessible website.

11 2. Agencies are required to hold public hearings on all major substantive rules.

12 3. The Secretary of State is required to post the notices of all proposed and adopted
13 rules on a publicly accessible website. All agencies are also required to post or link to all
14 proposed and adopted rules within their jurisdictions.

15 4. Emergency rules must include the specific changes to procedure that resulted from
16 emergency adoption.

17 5. The fact sheet that is prepared by agencies when proposing rules must include a
18 brief summary of the relevant information that was considered during the development of
19 the rule.

20 6. The Secretary of State is required to work with the InforME Board and InforME to
21 improve the sorting, searchability and arrangement of rule-making information on the
22 "maine.gov" website.

23 7. The Secretary of State is required to publish on a publicly accessible website the
24 names and contact information for members of Governor-appointed review boards and
25 councils that are concerned with rulemaking.

26 8. The Secretary of State is required to redesign certain cover sheet forms that are
27 filled out by departments, bureaus or agencies when submitting proposed and adopted
28 rules to the Secretary of State. The redesigned forms must include a summary paragraph
29 that is easily identified and understood by a member of the public interested in the rule.

30 9. The Secretary of State shall work with agencies to ensure that each has designated
31 a liaison to the public.

32 10. The Secretary of State shall work with the Legislative Council to improve
33 training for Legislators on rulemaking and the Maine Administrative Procedure Act,
34 including ideas on scheduling committee meetings with briefings from agency liaisons
35 and reviewing departmental regulatory agendas.