

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1271

H.P. 890

House of Representatives, March 31, 2009

### **An Act To Generate Savings by Changing Public Notice Requirements**

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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 HAYES of Buckfield.  
Cosponsored by Senator SCHNEIDER of Penobscot and  
Representative: JOY of Crystal.

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

2 **Sec. 1. 5 MRSA §8053, sub-§3**, as amended by PL 2007, c. 181, §§2 to 4, is  
3 further amended to read:

4 **3. Contents of notice.** ~~The notice shall~~ Except for notices governed by subsections 5  
5 and 7, a notice under this section must:

- 6 A. Refer to the statutory authority under which the adoption of the rule is proposed;
- 7 B. State the time and place of any scheduled public hearing or state the manner in  
8 which a hearing may be requested;
- 9 C. State the manner and time within which data, views or arguments may be  
10 submitted to the agency for consideration, whether or not a hearing is held;
- 11 C-1. State the name, address and phone number of the staff person responsible for  
12 providing additional information or a printed version of the proposed rule;
- 13 D. If possible, contain the express terms of the proposed rule or otherwise describe  
14 the substance of the proposed rule, stating the subjects and issues involved and  
15 indicate where a copy of the proposed rule may be obtained;
- 16 E. Refer to the substantive state or federal law to be implemented by the rules; and
- 17 F. Indicate where a copy of the statement of impact on small business pursuant to  
18 section 8052, subsection 5-A may be obtained.

19 **Sec. 2. 5 MRSA §8053, sub-§5**, as amended by PL 1991, c. 837, Pt. A, §11, is  
20 further amended to read:

21 **5. Publication.** ~~The~~ Using the format of notice pursuant to subsection 7, the  
22 Secretary of State shall:

- 23 A. Arrange for the weekly publication of a consolidated notice of rule making of all  
24 state agencies, which shall also include a brief explanation to assist the public in  
25 participating in the rule-making process. Notice of each rule-making proceeding  
26 shall be published once 17 to 24 days prior to the public hearing on the proposed rule  
27 or at least 30 days prior to the last date on which views and arguments may be  
28 submitted to the agency for consideration if no public hearing is scheduled;
- 29 B. Designate certain newspapers, which together have general circulation  
30 throughout the State, as papers of record for the purpose of publishing notice under  
31 paragraph A. Notice of proposed rules affecting only a particular locality or region  
32 need only be published in the designated newspapers having general circulation in the  
33 area affected;
- 34 C. Designate one day as rules day for publication of notices on rulemaking as set  
35 forth in this subsection; and
- 36 D. Be reimbursed for the cost of publication of rule-making notice by the agencies  
37 proposing the rulemaking. The total costs of each consolidated publication will be

1 prorated by the Secretary of State among all agencies submitting notice for a  
2 particular week.

3 **Sec. 3. 5 MRSA §8053, sub-§6**, as enacted by PL 2007, c. 581, §3, is amended to  
4 read:

5 **6. Electronic publication.** In addition to the printed publication required in  
6 subsection 5, the Secretary of State shall maintain a publicly accessible website for  
7 posting the notices of all proposed and adopted rules. ~~The notice must include a brief~~  
8 ~~explanation of the proposed or adopted rule and an e-mail link to the agency liaison.~~  
9 ~~Departments and agencies shall either post proposed and adopted rules in their~~  
10 ~~jurisdictions on publicly accessible agency websites or link to the rules posted on the~~  
11 ~~Secretary of State's website. The contents of the notice for electronic publication are~~  
12 ~~pursuant to subsection 3.~~ Notice of each rule-making proceeding must be published on  
13 the Secretary of State's website 17 to 24 days prior to the public hearing on the proposed  
14 rule or at least 30 days prior to the last date on which views and arguments may be  
15 submitted to the agency for consideration if no public hearing was scheduled.

16 **Sec. 4. 5 MRSA §8053, sub-§7** is enacted to read:

17 **7. Contents of notice for newspaper publication.** The notice for publication in the  
18 newspaper under subsection 5 is shorter than the notice provided for all other purposes  
19 pursuant to subsection 3. The notice for newspaper publication must:

20 A. State the time and place of any scheduled public hearing or state the manner in  
21 which a hearing may be requested;

22 B. State the manner and time within which data, views or arguments may be  
23 submitted to the agency for consideration, whether or not a hearing is held;

24 C. State the name, address and phone number of the staff person responsible for  
25 providing additional information or a printed version of the proposed rule;

26 D. Include a brief and general summary of the substance of the proposed rule;

27 E. Provide the website address where the long notice pursuant to subsection 3 is  
28 posted;

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

31 G. Indicate the impact on municipalities or counties only if there is an expected  
32 financial impact on municipalities identified under section 8063.

33 **Sec. 5. 5 MRSA §8056, sub-§1-A** is enacted to read:

34 **1-A. Newspaper publication.** With respect to every rule adopted, the agency itself  
35 may publish a notice in the newspaper. That notice must include the information outlined  
36 in section 8053, subsection 7, paragraphs C, D, F and G.

## SUMMARY

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This bill requires the Secretary of State to maintain a publicly accessible website for the posting of notices of all proposed and adopted rules. The bill also changes the requirements for public notice of proposed rules in the newspaper with the intention of making the notices shorter. It removes from the newspaper notice the requirement to refer to the statutory or federal authority for the rule and replaces the requirement for the express terms of the proposed rule with a general statement on the substance. The notices posted on the publicly accessible website must meet the original requirements for the notice.