

# MAINE STATE LEGISLATURE

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SMG

Date: 1/31/12

Majority

(Filing No. H-688)

STATE AND LOCAL GOVERNMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 426, L.D. 543, Bill, "An Act To Protect Legislative Intent in Rulemaking"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 5 MRSA §8053, sub-§1, ¶B, as amended by PL 2003, c. 207, §1, is further amended to read:

B. Any person who has filed within the past year a written or electronic request with the agency for notice of rulemaking; and

Sec. 2. 5 MRSA §8053, sub-§1, ¶C, as amended by PL 1995, c. 373, §4, is further amended to read:

C. Any trade, industry, professional, interest group or regional publication that the agency considers effective in reaching the persons affected; and

Sec. 3. 5 MRSA §8053, sub-§1, ¶E is enacted to read:

E. The primary sponsor of the legislation that was enacted and authorized the rulemaking, as long as the legislation was enacted within the previous 2 years.

Sec. 4. 5 MRSA §8053-A, sub-§§5 and 6 are enacted to read:

5. Annual lists of rule-making activity. By February 1st of each year, the Secretary of State shall provide the Executive Director of the Legislative Council lists by agency of all rules adopted by each agency in the previous calendar year. The Executive Director of the Legislative Council shall refer each list to the appropriate joint standing committee or committees of the Legislature for review. Each list must include for each rule the following information, which must be submitted by each agency to the Secretary of State:

A. The statutory authority for the rule and the rule chapter number and title;

B. The principal reason or purpose for the rule;

COMMITTEE AMENDMENT

1           C. A written statement explaining the factual and policy basis for each rule adopted  
2           pursuant to section 8052, subsection 5;

3           D. If the rule adopted was routine technical or major substantive;

4           E. If the rule was adopted as an emergency; and

5           F. The fiscal impact of the rule.

6           **6. Authority to report out legislation.** After each appropriate joint standing  
7           committee of the Legislature has received a list of rule-making activity pursuant to  
8           subsection 5, the committee may require an agency to appear before the committee, and  
9           the committee may report out legislation in the same legislative session in which the  
10           report is received to adjust rule-making authority related to the rules adopted in the  
11           previous calendar year.'

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### SUMMARY

13           This amendment, which is the majority report of the committee, replaces the bill,  
14           which was a concept draft. The amendment requires a state agency to notify the primary  
15           sponsor of the legislation that authorized the rulemaking, as long as the rulemaking  
16           occurs within 2 years of the enactment of the legislation. The amendment also requires  
17           that by February 1st of each year the Secretary of State must provide the Executive  
18           Director of the Legislative Council with a list of all rules adopted by each agency in the  
19           previous calendar year. The Executive Director of the Legislative Council must forward  
20           the list to the joint standing committee or committees of the Legislature having  
21           jurisdiction over those rules. The list must include the statutory authority for the rule, the  
22           rule chapter number and title, the principal reason or purpose for the rule, a written  
23           statement explaining the factual and policy basis for the rule, whether the rule was major  
24           substantive or routine technical, whether the rule was adopted as an emergency and the  
25           fiscal impact of the rule. Each committee may require an agency to appear before it, and  
26           the committee is authorized to report out legislation in the same legislative session to  
27           adjust the rule-making authority of the agency if the committee considers it necessary.

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### FISCAL NOTE REQUIRED

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(See attached)



Approved: 01/23/12 *MAC*

# 125th MAINE LEGISLATURE

LD 543

LR 1294(06)

**An Act To Protect Legislative Intent in Rulemaking**

**Fiscal Note for Bill as Amended by Committee Amendment "B"**

**Committee: State and Local Government**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Department of Secretary of State associated with submitting lists of rules adopted by each agency to the Executive Director of the Legislative Council can be absorbed within existing budgeted resources.

The additional workload for the Executive Director of the Legislative Council to distribute the list of adopted rules to the appropriate joint standing committees can be implemented by existing staff of the Legislature.