

MAINE STATE LEGISLATURE

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SMJ

Date: 11/31/12

(Filing No. H-689)

Minority

STATE AND LOCAL GOVERNMENT

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

COMMITTEE AMENDMENT "C" 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, an agency that was authorized to adopt rules in the previous calendar year shall provide a consolidated list of all rules that the agency adopted in the previous calendar year to the Executive Director of the Legislative Council, who shall refer each list to the appropriate joint standing committee or committees of the Legislature. The consolidated list must include for each rule the following information:

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 the consolidated list of rule-making activity
- 8 pursuant to subsection 5, the committee may report out legislation in the same legislative
- 9 session in which the report is received to adjust rule-making authority related to the rules
- 10 adopted in the previous calendar year.'

11

SUMMARY

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

27

FISCAL NOTE REQUIRED

28

(See attached)



Approved: 01/23/12 *MAC*

125th MAINE LEGISLATURE

LD 543

LR 1294(07)

An Act To Protect Legislative Intent in Rulemaking

Fiscal Note for Bill as Amended by Committee Amendment "C"

Committee: State and Local Government

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs associated with submitting lists of the rules adopted by each agency in the previous calendar year to the Executive Director of the Legislative Council can be absorbed within the existing budgeted resources of each agency adopting rules.

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.