

# MAINE STATE LEGISLATURE

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Date: 2-24-12

MAJORITY

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JUDICIARY

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STATE OF MAINE

SENATE

125TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 493, L.D. 1546, Bill, "An Act To Amend the Laws Governing the Deference Afforded to Agency Decisions"

Amend the bill in section 1 in subsection 1 in the 6th line (page 1, line 9 in L.D.) by striking out the following: "shall review de novo" and inserting the following: 'need not give deference to'

Amend the bill by striking out all of section 2 (page 1, lines 24 to 38 in L.D.)

Amend the bill in section 3 by striking out all of subsection 3 (page 2, lines 1 to 3 in L.D.) and inserting the following:

**3. Questions of fact; interpretation of statutes and rules.** The court ~~shall~~ may not substitute its judgment for that of the agency on questions of fact. The court need not give deference to the agency's interpretation of statutes and rules.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This is the majority report of the Joint Standing Committee on Judiciary.

This amendment replaces the proposed language concerning the court's review of agency rulemaking to provide that the court, in conducting its review of a rule, is not required to give deference to the agency's interpretation of the statutes applicable to the rulemaking.

This amendment deletes the bill's proposed changes to the Maine Revised Statutes, Title 5, section 9061 and addresses judicial review of adjudicatory decisions under the Maine Administrative Procedure Act by amending Title 5, section 11007, subsection 3.

This amendment revises the provisions concerning the manner and scope of judicial review of final agency action contained in Title 5, section 11007. Current law provides that the court may not substitute its judgment for that of the agency on questions of fact.

COMMITTEE AMENDMENT

1 This amendment does not change that standard. This amendment establishes that the  
2 court is not required to give deference to the agency's interpretation of statutes and rules.