

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
ONE HUNDRED AND TWELFTH LEGISLATURE  
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE ON  
STATE GOVERNMENT  
BILL SUMMARY



JULY, 1985

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ONE HUNDRED AND TWELFTH LEGISLATURE  
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JOINT STANDING COMMITTEE  
BILL SUMMARIES  
JULY 1985

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees of the Maine Legislature, covering the First Regular Session of the 112th Legislature. The summaries are arranged by LD number and indexed separately by committee.

LD:

392

AN ACT TO CLARIFY THE MAINE ADMINISTRATIVE  
PROCEDURE ACT

DIAMOND J  
ANDREWS

OTP

HOUSE Enacted  
SENATE Enacted  
GOV SIGNED

PUBLIC  
CH # 39

SUMMARY:

LD 392, which has been enacted, more clearly define the period of time in which a rule becomes effective or is subject to a public hearing prior to adoption. This bill establishes a maximum period of 150 days from the date that information and comments may be submitted for review of the proposed rules. The agency must adopt the rule in 120 days and the Attorney General has 30 days to approve the rule for its legality and constitutionality.

In addition, the bill clarifies the time requirement for notice of the rule to be submitted to the Secretary of State for publication. A rule filed with the Secretary of State is required to contain the factual and policy basis for the rule.

The purpose of LD 392 is to provide a definite date by which a rule is adopted or becomes subject to a public hearing and thereby enable the general public to pursue the required course of action created by the proposed rule. Currently, the law provides that the agency shall act to adopt proposed rules within 120 days from the last day that comments may be submitted for review on a proposed rule.

This period of time, however, is extended, in some cases by submitting the proposed rules to the Attorney General for review of the legality and constitutionality of the proposed rule. In a few cases, the proposed rule has not been reviewed for as much as 6 months. While this is rare, the problem lies with the phrase "Act to Adopt". By submitting the rule to the Attorney General, the agency has "Acted to Adopt."

This bill also changes the notice requirement to the Secretary of State for publishing a proposed rule. Currently, the agency proposing a rule which is not subject to public hearing is required to provide notice of the proposed rule to the Secretary of State at least 20 days before the adoption of the rule. The bill provides that the Secretary of State may provide the deadline by which a rule must be submitted to the Secretary of State for publication.

The Statement of Fact indicates that the 20 day time period relating to rules to be adopted without public hearing in current law is confused with the time period for publishing notice of proposed rules to be heard at

public hearing (5 MRSA §8053, sub-§5).

LD: 403 AN ACT TO ALLOW EDUCATIONAL INSTITUTIONS WITHIN THE STATE TO PURCHASE STATE SURPLUS PROPERTY. BRAGG RANDALL BUSTIN

OTP-AM HOUSE Enacted PUBLIC  
SENATE Enacted CH # 158  
GOV SIGNED

H-81 CA H S

SUMMARY:

LD 403 in its original form proposed to allow educational institutions, following other state agencies, municipalities, counties and other political subdivisions to have an option to purchase surplus state property prior to the auction of surplus property to the general public.

School districts currently may purchase surplus state property prior to the general public's purchase of surplus property because school districts are political subdivisions of the State. Private schools, however, are not political subdivisions and do not enjoy the same status with respect to purchases of surplus state property.

The committee amended the bill (Committee Amendment "A"-H-81) to limit the privilege of surplus state property sales to private secular schools approved for tuition purposes. The provisions of the bill could not be extended to all private schools because the enrollment at private religious schools exceeds 50% of total private school enrollment, and the bill would thereby violate the constitutional provision of "separation of church and State."

LD: 404 AN ACT TO REQUIRE LEGISLATIVE CONFIRMATION OF THE COMMISSIONERS AND THE DIRECTOR OF THE MAINE STATE LOTTERY. HANDY DILLENBACK NADEAU G R DIAMOND G

EMERGENCY

OTP-AM HOUSE Emerg. Enacted PUBLIC  
SENATE Emerg. Enacted CH # 72  
GOV EMER SIGNED

H-29 CA H S

SUMMARY:

LD 404 proposes to subject proposed candidates to serve as Commissioners or as the Director of the Maine State Lottery Commission to review by the Joint Standing Committee on Legal Affairs and to confirmation by the Senate.

The State Lottery Commission is an organization with