

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

'Resolve, To Establish the Commission To Study the Rule-making Process under the Maine Administrative Procedure Act'

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

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this resolve establishes the Commission To Study the Rule-making Process under the Maine Administrative Procedure Act to study the process surrounding emergency rulemaking and major substantive rulemaking to ensure that the intentions of the Legislature are carried out; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Commission established. Resolved: That the Commission To Study the Rule-making Process under the Maine Administrative Procedure Act, referred to in this resolve as "the commission," is established; and be it further

Sec. 2 Commission membership. Resolved: That the commission consists of 8 members as follows:

1. Two members of the Senate appointed by the President of the Senate, including one member from the Joint Standing Committee on State and Local Government and one member from the Joint Standing Committee on Education and Cultural Affairs. The appointments must include members from each of the 2 parties holding the largest number of seats in the Legislature;

2. Three members of the House of Representatives appointed by the Speaker of the House, including at least one member from the Joint Standing Committee on State and Local Government and one member from the Joint Standing Committee on Appropriations and Financial Affairs. The appointments must include members from each of the 2 parties holding the largest number of seats in the Legislature;

3. The Secretary of State or the Secretary of State's designee;

4. The Attorney General or the Attorney General's designee; and

5. One public member with expertise in the rule-making process appointed by the President of the Senate; and be it further

Sec. 3 Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission; and be it further

Sec. 4 Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business; and be it further

Sec. 5 Duties. Resolved: That the commission shall study issues related to the Maine Administrative Procedure Act. In conducting the study, the commission shall examine:

1. The circumstances surrounding the adoption of emergency rules, in particular major substantive rules, to ensure that the process of adopting an emergency rule is applied only when there is truly an emergency;

2. The Legislature's role in reviewing major substantive rules, including whether sufficient information is being provided by agencies, oversight functions are adequate and appropriate notice is being provided to the public, and the implications for state agencies of the statutory deadline for submitting major substantive rules to the Legislature; and

3. The relationship between the intention of the Legislature in adopting specific content in a major substantive rule and the rule as drafted by the department; and be it further

Sec. 6 Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the commission; and be it further

Sec. 7 Report. Resolved: That, no later than November 3, 2010, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the First Regular Session of the 125th Legislature. The joint standing committee of the Legislature having jurisdiction over state and local government matters is authorized to introduce a bill related to the subject matter of the report to the First Regular Session of the 125th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

SUMMARY

This amendment, which is the minority report of the committee, replaces the bill with a resolve. It establishes the Commission To Study the Rule-making Process under the Maine Administrative Procedure Act to examine issues relating to emergency rules and major substantive rules, including the adequacy of information, legislative oversight and notice, the implications for state agencies of the statutory deadline for submitting major substantive rules to the Legislature and the relationship between legislative intention and the rule as drafted by a department. The amendment authorizes the commission to make findings and recommendations and to submit suggested legislation. The joint standing committee

of the Legislature having jurisdiction over state and local government matters is authorized to submit a bill to the First Regular Session of the 125th Legislature.