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JUDICIARY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to H.P. 1189, L.D. 1778, “An Act to Update Provisions of the Maine Administrative Procedure Act”

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

'Sec. 1. 5 MRSA §8052, sub-§2, as amended by PL 1993, c. 362, §2, is further amended to read:

2. Requirements. ~~Any~~ A public hearing ~~shall~~ must comply with any requirements imposed by statute, but ~~shall~~ is not ~~be~~ subject to subchapter IV 4. Any public hearing ~~shall~~ must be held and conducted as follows.

A. In the case of a rule authorized to be adopted by ~~more than one agency member~~ a board or commission consisting of 3 or more members, at least 1/3 of the ~~agency board or commission~~ members shall must be present during any hearing on the rule.

B. In the case of a rule authorized to be adopted by a single agency member, either the agency member, a person in a major policy-influencing position, as listed in chapter 71, or a designee who has responsibility over the subject matter to be discussed at the hearing shall hold and conduct the hearing.

Sec. 2. 5 MRSA §8052, sub-§5, as amended by PL 2011, c. 380, Pt. NNN, §1, is repealed.

Sec. 3. 5 MRSA §8052, sub-§5-B is enacted to read:

5-B. Basis statement; summary of comments and testimony. At the time of adoption of any rule, an agency shall:

A. Compose a basis statement that briefly explains the factual and policy foundation for the rule. If the adoption under this subsection is final adoption of a major substantive rule under subchapter 2-A, the agency must include in its written statement citation of the legislative act authorizing final adoption of that rule; or, if authorization is the result of failure of the Legislature to act under section 8072, subsection 7, the

1 agency must indicate that fact and identify the date the agency filed the rule for review
2 under section 8072; and

3 B. List the names of persons whose comments were received, including through
4 testimony at hearings, the organizations the persons represent and summaries of their
5 comments as follows.

6 (1) The agency shall address the specific comments and concerns expressed about
7 any proposed rule and state its rationale for adopting any changes from the
8 proposed rule, failing to adopt the suggested changes or drawing findings and
9 recommendations that differ from those expressed about the proposed rule.

10 (2) If the same or similar comments or concerns about a specific issue were
11 expressed by different persons or organizations, the agency may synthesize these
12 comments and concerns into a single comment that accurately reflects the meaning
13 and intent of these comments and concerns to be addressed by the agency, listing
14 the names of the persons who commented and the organizations they represent.

15 **Sec. 4. 5 MRSA §8052, sub-§5-C** is enacted to read:

16 **5-C. Consistency of adopted rule with proposed rule.** A rule may not be adopted
17 unless the adopted rule is consistent with the terms of the proposed rule, except to the extent
18 that the agency determines that it is necessary to address concerns raised in comments about
19 the proposed rule or specific findings are made supporting changes to the proposed rule. If
20 an agency determines that a rule that the agency intends to adopt is substantively different
21 from the proposed rule, the agency shall request comments from the public concerning the
22 changes from the proposed rule. The agency may not adopt the rule for a period of 30 days
23 from the date comments are requested pursuant to this subsection. Notice of the request
24 for comments must be published by the Secretary of State in the same manner as notice for
25 proposed rules.

26 **Sec. 5. 5 MRSA §8052, sub-§5-D** is enacted to read:

27 **5-D. Agency rule files.** In addition to other documents required by this Act, an agency
28 shall maintain a file for each rule adopted by the agency that includes the following
29 information:

30 A. Testimony submitted during any public hearing held on the rule;

31 B. Written comments submitted on the rule;

32 C. The names of persons who commented on the rule and the organizations those
33 persons represent; and

34 D. Any other information relevant to the rule and considered by the agency in
35 connection with the formulation, proposal or adoption of the rule.

36 **Sec. 6. 5 MRSA §8053, sub-§1**, as amended by PL 2011, c. 479, §1-3, is further
37 amended to read:

38 **1. Notice of rulemaking without hearing.** At least 20 17 days prior to the comment
39 deadline of any proposed rule without for which a public hearing will not be held, the
40 agency shall deliver or mail written notice or, with written or electronic agreement of the
41 party, provide send an electronic notice or paper notice to:

42 A. Any person specified by the statute authorizing the rulemaking;

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

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

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

7 Notification to subscribers under paragraph B must be by mail or, with written or
8 electronically submitted agreement of the subscriber, electronic notice or otherwise in
9 writing to the last address provided to the agency by that person. Subscribers under
10 paragraph B may request to receive a copy of each proposed rule with the written notice.
11 The agency shall provide the copy at the same time the notice is sent.

12 Written or electronic notice must also be given to the Secretary of State, by the deadline
13 established by the Secretary of State, for publication in accordance with subsection 5. This
14 notice must be in a format approved by the Secretary of State.

15 **Sec. 7. 5 MRSA §8053, sub-§2**, as repealed and replaced by PL 1979, c. 425, §5,
16 is amended to read:

17 **2. Notice of rulemaking rule-making hearing.** When an agency holds a public
18 hearing prior to adoption of a rule, notice of the hearing ~~shall~~ must be given in the manner
19 described in subsections 1 and 5, using the date of the hearing to calculate the time periods
20 involved;

21 **Sec. 8. 5 MRSA §8053, sub-§3**, as amended by PL 2019, c. 146, §§1 to 3, is further
22 amended to read:

23 **3. Contents of notice.** ~~Except for notices governed by subsections 5 and 7, a~~ A notice
24 under this section must:

25 ~~A. Refer to the statutory authority under which the adoption of the rule is proposed;~~

26 A-1. Identify the agency proposing the rule;

27 A-2. Provide the chapter number and title of the proposed rule;

28 A-3. Cite the statutory authority pursuant to which the rule is being proposed;

29 ~~B. State the date, time and place of any scheduled public hearing or state the manner~~
30 ~~in which a hearing may be requested;~~

31 ~~C. State the manner and time within which data, views or arguments may~~ deadline by
32 which comments on the proposed rule must be submitted to the agency for
33 consideration, ~~whether or not a hearing is held;~~

34 ~~C-1. State the name, address and phone, telephone number and e-mail address of the~~
35 ~~a staff person responsible for providing additional information or a printed version of~~
36 ~~the proposed rule of the agency proposing the rule to whom inquiries about the rule,~~
37 ~~and requests for copies of the rule, may be sent;~~

38 ~~D. If possible, contain the express terms of the proposed rule or otherwise describe the~~
39 ~~substance of the proposed rule, stating the subjects and issues involved and indicate~~
40 ~~where a copy of the proposed rule may be obtained;~~

41 D-1. Provide a summary of the proposed rule;

1 E. Refer to the substantive state or federal law to that would be implemented by the
2 rules proposed rule;

3 F. Indicate where ~~a copy of the statement of impact on small business~~ information may
4 be obtained about any adverse economic impact on small businesses that was
5 documented by the agency proposing the rule pursuant to section 8052, subsection 5-A
6 may be obtained; and

7 G. Indicate whether the rule is routine technical or major substantive as those terms
8 are ~~defined~~ described in section 8071.

9 **Sec. 9. 5 MRSA §8053, sub-§3-A**, as amended by PL 2003, c. 207, §2, is further
10 amended to read:

11 **3-A. ~~Copies of proposed rules available upon request~~ Availability of proposed**
12 **rules.** At least ~~20~~ 17 days prior to a public hearing on any proposed rule and at least ~~20~~ 17
13 days prior to the comment deadline of any proposed rule without for which a public hearing
14 will not be held, the agency shall make ~~copies~~ copies available on its publicly accessible website
15 a copy of the proposed rule available in writing or, with agreement of the requestor,
16 electronically, as well as provide a paper copy of the proposed rule to ~~persons~~ any person
17 upon request.

18 **Sec. 10. 5 MRSA §8053, sub-§4**, as amended by PL 2003, c. 207, §3, is repealed.

19 **Sec. 11. 5 MRSA §8053, sub-§5**, as amended by PL 2009, c. 256, §2, is further
20 amended to read:

21 **5. ~~Publication~~ Newspaper publication and online posting of agency rule-making**
22 **proposal notices.** Using the ~~format of notice pursuant to~~ information listed in subsection
23 ~~7 3~~, the Secretary of State shall:

24 A. ~~Arrange~~ Shall arrange for the weekly newspaper publication of a and post, or cause
25 to be posted, on the Secretary of State's publicly accessible website consolidated ~~notice~~
26 notices of rule making of all state agencies, which shall also include a brief explanation
27 to assist the public in participating in the rule-making process agency rule-making
28 proposals. Notice Notices of each rule-making ~~proceeding~~ proposal must
29 be published and posted once 17 to 24 days prior to the public hearing on the proposed
30 rule or, if no public hearing is scheduled, at least 30 days prior to the last date on which
31 ~~views and arguments~~ comments on the rule may be submitted to the agency for
32 consideration if no public hearing is scheduled;

33 B. ~~Designate~~ Shall designate certain newspapers, which together have general
34 circulation throughout the State, as papers of record for the purpose of publishing
35 notice under paragraph A. Notice of proposed rules affecting only a particular locality
36 or region need only be published in the designated newspapers having general
37 circulation in the area affected;

38 C. ~~Designate~~ Shall designate one day ~~as rules day for publication of notices on~~
39 ~~rulemaking as set forth~~ that agency rule-making proposal notices described in this
40 subsection are to be published and posted; and

41 D. ~~Be~~ Must be reimbursed for the cost of publication of rule-making notice by the
42 agencies proposing ~~the rulemaking~~ rules. The total costs of each consolidated

1 publication will notice must be prorated by the Secretary of State among all agencies
2 submitting notice for a particular week.

3 **Sec. 12. 5 MRSA §8053, sub-§5-A** is enacted to read:

4 **5-A. Agency posting of proposed and adopted rules.** An agency shall post its
5 proposed rules on its publicly accessible website. An agency also shall post on its publicly
6 accessible website the adopted rules or provide a link to the adopted rules posted on a
7 publicly accessible website maintained by the Secretary of State.

8 **Sec. 13. 5 MRSA §8053, sub-§6**, as amended by PL 2011, c. 326, §1, is further
9 amended to read:

10 **6. Electronic publication Online posting of agency rule-making notices regarding**
11 **adoption.** In addition to the printed publication online posting of agency rule-making
12 proposal notices required in subsection 5, the Secretary of State shall maintain a publicly
13 accessible website for posting the notices of all proposed and adopted rules. The contents
14 of the notice for electronic publication are pursuant to subsection 3. An agency, on its
15 publicly accessible website, shall either post its proposed and adopted rules or provide a
16 link to the proposed or adopted rules posted on the Secretary of State's website. Notice of
17 each rule-making proceeding must be published on the Secretary of State's website 17 to
18 24 days prior to the public hearing on the proposed rule or at least 30 days prior to the last
19 date on which views and arguments may be submitted to the agency for consideration if no
20 public hearing was scheduled post, or cause to be posted, on the Secretary of State's
21 publicly accessible website the weekly notices of agency rule-making adoptions,
22 provisional adoptions and final adoptions. The notices regarding adoption and final
23 adoption must state the effective date of the adopted or finally adopted rules, as well as
24 provide the information specified in section 8053, subsection 3, paragraphs A-1, A-2, A-3,
25 C-1, D-1 and G.

26 **Sec. 14. 5 MRSA §8053, sub-§6-A** is enacted to read:

27 **6-A. Explanation of rule-making process.** The Secretary of State shall post on the
28 Secretary of State's publicly accessible website a brief explanation of rulemaking to assist
29 the public in participating in the rule-making process. The explanation must include
30 information regarding the manner in which a hearing on a proposed rule may be requested
31 by a member of the public if the agency proposing the rule did not schedule a hearing.

32 **Sec. 15. 5 MRSA §8053, sub-§7, ¶G**, as amended by PL 2019, c. 146, §4, is further
33 amended to read:

34 G. Indicate the impact on municipalities or counties only if there is an expected
35 financial impact on municipalities identified under section 8063; and

36 **Sec. 16. 5 MRSA §8053-A, sub-§1, ¶A**, as amended by PL 2019, c. 146, §6, is
37 further amended to read:

38 A. If an agency determines that a rule that it intends to adopt will be substantially
39 substantively different from the proposed rule, it shall provide the Legislature with a
40 revised fact sheet with the information defined in section 8057-A, subsection 1, as it
41 relates to the substantially substantively different rule. The revised fact sheet must be
42 provided to the Legislature in accordance with subsection 3.

1 **Sec. 17. 5 MRSA §8053-A, sub-§4**, as enacted by PL 1989, c. 574, §5, is amended
2 to read:

3 **4. Adopted rules.** When an agency adopts rules, it shall provide a copy of the adopted
4 rules, the statement required by section 8052, subsection 5, 5-B and the checklist required
5 by section 8056-A to the Secretary of State who shall compile the adopted rules by agency.

6 **Sec. 18. 5 MRSA §8053-A, sub-§5**, as enacted by PL 2011, c. 479, §4, is amended
7 to read:

8 **5. Annual lists report of rule-making activity.** By February 1st of each year, the
9 Secretary of State shall provide the Executive Director of the Legislative Council ~~lists by~~
10 ~~agency of all rules adopted by each agency in the previous calendar year. The Executive~~
11 ~~Director of the Legislative Council shall refer each list to the appropriate joint standing~~
12 ~~committee or committees of the Legislature for review. Each list must include for each~~
13 ~~rule the following information, which must be submitted by each agency to the Secretary~~
14 ~~of State: a copy of the annual report required under section 8056-A, subsection 3.~~

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

16 ~~B. The principal reason or purpose for the rule;~~

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

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

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

21 ~~F. The fiscal impact of the rule.~~

22 **Sec. 19. 5 MRSA §8056**, as amended by PL 2011, c. 380, Pt. NNN, §2, is further
23 amended to read:

24 **§8056. Filing and publication of adopted and provisionally adopted rules; online**
25 **posting of adopted rules**

26 **1. Requirements.** With respect to every rule adopted, ~~the or, in the case of a major~~
27 ~~substantive rule, finally adopted, an agency shall:~~

28 A. Submit the rule to the Attorney General for approval as to form and legality;

29 B. ~~File the original rule as signed by the Attorney General or an assistant attorney~~
30 ~~general and the authorized representative of the agency, and the statement required by~~
31 ~~section 8052, subsection 5, After the rule is approved by the Attorney General as to~~
32 ~~form and legality pursuant to paragraph A, file with the Secretary of State in, using a~~
33 ~~form or forms or an electronic filing platform prescribed by the Secretary of State,~~
34 ~~which form is susceptible to frequent and easy revision. the adopted rule and any other~~
35 ~~filing documentation as is required by the Secretary of State. The adopted rule and all~~
36 ~~other filing documentation must be in a format approved by the Secretary of State; and~~

37 ~~(1) Through rulemaking, an agency may incorporate by reference all or any part~~
38 ~~of a code, standard, rule or regulation that has been adopted by an agency of the~~
39 ~~United States or of this State or by a nationally recognized organization or~~
40 ~~association.~~

(2) ~~The reference in the agency rules must fully identify the incorporated matter by exact title, edition or version and date of publication.~~

(3) ~~The rules must state where copies of the incorporated matter are available at cost from the agency issuing the rule or where copies are available from the agency of the United States, this State or an organization or association originally issuing that matter.~~

(4) ~~An agency incorporating a matter by reference shall submit a copy of the incorporated matter to the Secretary of State;~~

C. ~~Supply, Provide,~~ without cost or at actual cost, ~~copies a paper copy~~ of each such rule to any person who has filed with the agency within the past year a written request to be supplied with all copies of the agency's rules; and ~~requests a paper copy.~~

D. ~~Publish, pursuant to the procedures set forth in section 8053, subsection 6, a notice containing the following information: A statement that the rule has been adopted, its effective date, a brief description of the substance of the rule, and the address where a copy may be obtained.~~

~~2. Form.~~ With respect to every rule adopted by the agency and in effect, the agency shall print and compile and make available to any person, at each of its offices, for inspection at no charge and for copying with or without cost, as the agency shall determine, and for distribution free or at actual cost, complete sets of such rules currently in effect.

2-A. Incorporation by reference. Through rulemaking, an agency may incorporate by reference into a rule all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this State or by a nationally recognized organization or association.

A. The reference in the agency rule must fully identify the incorporated matter by exact title, edition or version and date of publication.

B. The rule must state where copies of the incorporated matter are available at cost from the agency issuing the rule or where copies are available from the agency of the United States or this State or the organization or association that originally produced the incorporated matter.

C. An agency incorporating a matter by reference into a rule shall maintain a copy of the incorporated matter at its principal office.

3. Secretary of State. The Secretary of State shall: maintain, and make available through the Secretary of State's publicly accessible website, electronic copies of the rules of each agency that are in effect.

~~A. Maintain and make available at the Secretary of State's office, for inspection at no charge and for copying or purchase, current copies of complete rules for all agencies filed in accordance with subsection 1, paragraph B;~~

~~A-1. Compile, edit, index and arrange for publication and distribution all current rules of state agencies as available resources permit. Compilations must be supplemented or revised at least annually;~~

~~A-2. Publish an annual list of current rules of state agencies;~~

1 ~~B. Supply, at actual cost, annually updated copies of complete sets of rules of an~~
2 ~~agency to any person who has filed with the Secretary of State within the past year a~~
3 ~~written request for such sets of rules; and~~

4 ~~C. Codify all current state agency rules in an electronic text file data base, in~~
5 ~~consultation with affected state agencies and in accordance with subsections 7 and 8,~~
6 ~~as available resources permit.~~

7 **4. Additional requirements.** ~~The requirements of subsection 2 shall additionally be~~
8 ~~applicable to the agency's forms, instructions, explanatory statements and other items~~
9 ~~defined in section 8002, subsection 9, paragraph B, subparagraph (4).~~

10 **5. Record of vote.** ~~In addition to the foregoing and as applicable,~~ each agency shall
11 ~~keep maintain,~~ at its principal office, and make available for inspection to any person, a
12 record of the vote of each member of the agency taken in rule-making proceedings.

13 **6. Attorney General review and approval.** ~~The review required in subsection 1,~~
14 ~~paragraph A may not be performed by any person involved in the formulation or drafting~~
15 ~~of the proposed rule. The Attorney General may not approve a rule if it is reasonably~~
16 ~~expected to result in a taking of private property under the Constitution of Maine unless~~
17 ~~such a result is directed by law or sufficient procedures exist in law or in the proposed rule~~
18 ~~to allow for a variance designed to avoid such a taking.~~

19 ~~**7. Codification of rules.** The Secretary of State, in consultation with affected state~~
20 ~~agencies, shall develop a plan to codify all current rules of state agencies within its available~~
21 ~~resources. The codified rules must be maintained on an electronic text file data base. To~~
22 ~~develop the electronic text file data base, agencies may refile an existing rule or parts of an~~
23 ~~existing rule. If an agency refiles a rule or portion of a rule:~~

24 ~~A. The agency may not make at the time of refileing any substantive changes in that~~
25 ~~rule or portion of that rule; and~~

26 ~~B. The refiled rule or portion of the rule must be adopted in accordance with the Maine~~
27 ~~Administrative Procedure Act except that public comment on the refileing under section~~
28 ~~8057-A, subsection 3 is limited to documenting where the refiled rule or portion of the~~
29 ~~rule is substantively different from the existing rule.~~

30 ~~**8. Electronic text file procedures.** Under subsection 1, the Secretary of State may~~
31 ~~establish by rule in accordance with the Maine Administrative Procedure Act procedures~~
32 ~~and criteria for the filing of rules in electronic text file format.~~

33 **8-A. Electronic filing procedures.** ~~In accordance with subsection 1, the Secretary of~~
34 ~~State may establish, including by routine technical rules, procedures for the electronic filing~~
35 ~~of rules and rule-making documentation. If the Secretary of State implements an electronic~~
36 ~~filing platform through which rules and rule-making documentation and information~~
37 ~~specified in this Act are to be filed, that platform is the exclusive means through which~~
38 ~~rules and rule-making documentation may be filed, except as otherwise determined by the~~
39 ~~Secretary of State. An adopted rule that is filed by an agency through an electronic filing~~
40 ~~platform and accepted for filing by the Secretary of State is an official copy of the rule.~~

41 **9. Certification of published adopted rules.** ~~The Secretary of State may certify that~~
42 ~~a publication of the codified rules and any supplements or replacement volumes to that~~
43 ~~publication are a correct transcript of the text of the original rules a paper or electronic copy~~

1 of an adopted rule accepted for filing and maintained by the Secretary of State is an official
2 copy of the rule.

3 A. Certified ~~publications~~ paper copies of rules must ~~contain~~ be accompanied by a
4 printed certificate of the Secretary of State stating that the publication is ~~the~~ an official
5 copy. A facsimile of the signature of the Secretary of State imprinted by or at the
6 direction of the Secretary of State has the same validity as a written signature of the
7 Secretary of State.

8 B. A ~~publication of the rules~~ paper copy of an adopted rule that has been certified by
9 the Secretary of State constitutes prima facie evidence of the ~~rules~~ rule.

10 C. Any publication ~~or copy~~ of a ~~an adopted~~ rule ~~or rules~~ that is not certified by the
11 Secretary of State:

12 (1) May neither state nor imply that the publication ~~or copy of the rule~~ is an official
13 copy of the rules; and

14 (2) Must state in a conspicuous location ~~information about where the Secretary of~~
15 State's a certified copy is ~~located~~ of the rule may be obtained.

16 ~~**10. Minor errors.** The Secretary of State may correct minor, nonsubstantive errors~~
17 ~~in spelling and format in proposed or adopted rules if the agency is notified.~~

18 **10-A. Minor errors; updating words or terms.** Without having to initiate
19 rulemaking pursuant to this Act:

20 A. At the request of or in consultation with an agency, the Secretary of State may
21 correct minor, nonsubstantive errors in spelling and format in a proposed or adopted
22 rule; and

23 B. At the request of an agency, the Secretary of State may update words or terms used
24 in an existing rule for which new or more contemporary words or terms are used,
25 including, for example, words or terms that are more respectful than those used in an
26 existing rule.

27 **Sec. 20. 5 MRSA §8056-A, sub-§3**, as amended by PL 1991, c. 554, §3, is further
28 amended to read:

29 **3. Report.** The Secretary of State shall report to the Governor and the joint standing
30 committee of the Legislature having jurisdiction over state and local government prior to
31 February 1st of each year with respect to rule-making activities for the prior year. ~~The~~
32 report must include a list of all the rules that were adopted, provisionally adopted or finally
33 adopted by agencies during that prior year, as well as state whether each rule is a routine
34 technical or major substantive rule, whether a rule was adopted on an emergency basis and
35 what the statutory authority is for the rule. The report must also include statistical
36 information on agency rule-making activities, ~~agency experience with procedural~~
37 requirements of this subchapter, an evaluation of the codification process, the impact of the
38 electronic text file data base on state agencies and users of the rules and recommendations
39 for improvements to the rule-making process. In preparing the report, the Secretary of
40 State shall solicit comments on this subchapter from agencies and their legal counsels, the
41 Executive Director of the Legislative Council and the public.

42 **Sec. 21. 5 MRSA §8063, first ¶**, as enacted by PL 1991, c. 233, is amended to
43 read:

1 Every rule proposed by an agency must contain a fiscal impact note ~~at the end of the~~
2 ~~rule. The note must be placed on the rule prior to any public hearing and, in the case of~~
3 ~~rules adopted without a hearing, prior to the sending of notice under section 8053. The~~
4 ~~fiscal impact note must describe the estimated cost to municipalities and counties for~~
5 ~~implementing or complying with the proposed rule. If the proposed rule will not impose~~
6 ~~any cost on municipalities or counties, the fiscal impact note must state that fact as part of~~
7 ~~the filing.~~

8 **Sec. 22. 5 MRSA §8072, sub-§8**, as amended by PL 2011, c. 244, §8, is further
9 amended to read:

10 **8. Final adoption; effective date.** Unless otherwise provided by law, final adoption
11 of a rule or part of a rule by an agency must occur within 60 days of the effective date of
12 the legislation approving that rule or part of that rule or of the adjournment of the session
13 in which the Legislature failed to act on the rule or part of the rule as specified in subsection
14 11. Finally adopted rules must be filed with the Secretary of State as provided in section
15 8056, subsection 1, paragraph B and notice must be ~~published~~ posted as provided in section
16 8056, subsection 1, ~~paragraph D 3~~. Except as otherwise specified by law, the rules become
17 effective 30 days after filing with the Secretary of State or at a later date specified by the
18 agency.

19 **Sec. 23. 12 MRSA §685-A, sub-§7-A, ¶B**, as enacted by PL 1999, c. 333, §8, is
20 amended to read:

21 B. Adoption and amendment of land use district standards, district boundaries and land
22 use maps are rule-making procedures subject to the requirements of Title 5, chapter
23 375, subchapter H 2, except that the requirements of Title 5, section 8052, subsections
24 5, 5-A, 5-B and 7; section 8053-A; section 8056, subsections 1, 3 and 4 3; section
25 8056-A; section 8057, subsection 2; section 8057-A; section 8060; section 8062; and
26 section 8064 do not apply. The requirements of Title 5, chapter 375, subchapter H 2
27 are further modified by the following provisions.

28 (1) Public notice of proposals to adopt or amend land use district standards, district
29 boundaries or land use maps must state the time and the place where copies of the
30 proposal may be inspected prior to the hearing.

31 (2) The commission shall give notice of hearings to amend district boundaries, by
32 mail, to appropriate state and federal agencies and the owners of directly affected
33 and abutting properties, according to their names and addresses as shown on the
34 records of Maine Revenue Services or plantation or town tax assessors. If the
35 number of owners of directly affected and abutting properties is more than 50,
36 notice may instead be by publication conforming to the requirements for
37 newspaper publication of hearings under Title 5, chapter 375, subchapter IV 4.

38 (3) At any time prior to the date of adoption of proposed land use district standards,
39 land use boundaries or land use maps, the commission may elect to reopen the
40 public hearing record and extend the time period for public comment to such date
41 as it may designate.

42 (4) The commission must act to adopt or not to adopt proposed land use district
43 standards, land use boundaries or land use maps within 90 days after the date of
44 final closure of the public hearing.

(5) Land use district boundaries and land use maps become effective 15 days after adoption or amendment by the commission, as long as the boundaries and maps are available in the appropriate registry of deeds for each county. Notice of adoption or amendment of land use district boundaries and land use maps must be given by publication one time in a newspaper of general circulation published in the area affected.

(6) Permanent land use standards adopted by the commission are effective immediately, but must be submitted to the next regular or special session of the Legislature for approval or modification. If the Legislature fails to act, those standards continue in full force and effect.

Sec. 24. 25 MRSA §2103-A, sub-§2, ¶D, as enacted by PL 1989, c. 754, Pt. C, §1, is amended to read:

~~D. The Secretary of State shall maintain and make available at the Secretary of State's office, for inspection at no charge and for copying or purchase at actual cost, current copies of those state rules as filed in accordance with paragraph A and include them within the compilations subject to Title 5, section 8056, subsection 3, paragraphs A-1 and B. The Secretary of State~~ Department of Public Safety shall also make available at the ~~Secretary of State's~~ department's main office, for inspection at no charge, and for copying at actual cost, a current published copy of the referenced federal regulations and amendments, but requests for purchase of copies or certified copies of the federal regulations or amendments may be directed to the appropriate federal agency.

Sec. 25. 29-A MRSA §555, sub-§2, ¶E, as amended by PL 2013, c. 50, §1, is further amended to read:

~~E. The Secretary of State shall maintain and make available at the Secretary of State's office for inspection at no charge, and for copying or purchase at actual cost, current copies of the rule and include it within the compilations subject to Title 5, section 8056, subsection 3, paragraphs A-1 and B. The Secretary of State~~ bureau shall also make available for inspection at no charge and for copying at actual cost a current published copy of the referenced federal regulations and amendments.'

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

SUMMARY

This amendment replaces the bill. The amendment updates certain provisions of the Maine Administrative Procedure Act and related provisions by making the following changes.

1. It clarifies provisions relating to rule-making public hearings conducted by boards.
2. It revises and reorganizes the current provisions regarding rule basis statements, comments on proposed rules and agency responses to those comments, consistency of the text of proposed rules with the text of rules revised during the rule-making process and maintenance by agencies of rule files for each rule that is adopted.

1 3. It adjusts provisions relating to rule-making notices and the public availability of
2 proposed rules to ensure that the time frames stated in those notices and rules are consistent
3 with each other and other provisions of the Maine Administrative Procedure Act.

4 4. It updates the provision that lists the information that must be included in rule-
5 making proposal public notices to ensure consistency with current practices.

6 5. It updates the provision pertaining to agencies' obligation to make copies of
7 proposed rules available to the public.

8 6. It repeals the provision regarding fees that agencies may charge to provide notices
9 of rule-making proposals and copies of proposed rules, as such information is now readily
10 available online at no cost.

11 7. It updates the provision that requires the Secretary of State to arrange for weekly
12 newspaper publication of agency rule-making proposal notices and requires online posting
13 of the notices.

14 8. It requires agencies to post their proposed rules on their publicly accessible websites,
15 as well as to post their adopted rules on those websites or provide a link to their rules that
16 are posted on a website maintained by the Secretary of State.

17 9. It updates and clarifies the provision that requires the Secretary of State to post
18 agency rule-making notices regarding adoption online.

19 10. It requires the Secretary of State to post online a brief explanation of the rule-
20 making process, including an explanation of how a public hearing on a proposed rule may
21 be requested if such a hearing has not been scheduled.

22 11. It revises the provision regarding agencies' filing of adopted rules to:

23 A. Account for technological updates, including the availability of rules and rule-
24 making information and notifications online;

25 B. Account for the fact that the Secretary of State does not compile and publish a
26 formal code or registry of state agency rules;

27 C. Relocate and revise the provision regarding the incorporation of materials by
28 reference by agencies into their rules;

29 D. Update and clarify the provision regarding certification of adopted rules by the
30 Secretary of State; and

31 E. Strengthen the provision that authorizes minor errors in rules to be corrected by the
32 Secretary of State without agency rulemaking having to occur.

33 12. It revises current provisions concerning annual reports that are provided by the
34 Secretary of State to the Governor and to the joint standing committee of the Legislature
35 having jurisdiction over state and local government matters.

36 13. It removes the provision that requires agencies to include a fiscal impact note at
37 the end of each rule, as such information is now collected in other documents that
38 accompany proposed and adopted rule filings with the Secretary of State.

39 14. It makes various technical corrections.

40 **FISCAL NOTE REQUIRED**

41 **(See attached)**