



Shenna Bellows
Secretary of State

Department of the Secretary of State
Bureau of Corporations, Elections and Commissions

Julie L. Flynn
Deputy Secretary of State

JOINT STANDING COMMITTEE ON THE JUDICIARY

Testimony of Shenna Bellows, Secretary of State
Department of the Secretary of State

April 28, 2025

Testifying in support of

L.D. 1778 "An Act to Update Provisions of the Maine Administrative Procedure Act"

Senator Carney, Representative Kuhn and Members of the Joint Standing Committee on the Judiciary, my name is Shenna Bellows, I live in Manchester, and I am the Secretary of State. I am testifying in support of L.D. 1778.

The bill before the committee, and the amendment that has been presented and that we also strongly support, will make numerous updates and revisions of the Maine Administrative Procedure Act (Act, MAPA), which became law in 1977.

Considered together, the printed bill and amendment will do the following:

- Update and amend a provision of the Act stating the requirements for the administration of public hearings to make the provision applicable to rulemaking initiated by agencies governed by boards that must approve rules as part of the rulemaking adoption process;¹
- Revise and reorganize a provision of the Act regarding rule "basis statements" and summaries of comments and testimony on proposed rules. The revision is intended to better define what basis statements are, as well as to require such statements to appear at the end of rules so that the general factual and policy foundation of each rule is clear to a person reviewing the rule;²
- Relocate and amend a provision of the Act pertaining to the consistency of the terms of an adopted rule with the terms of the rule as it was proposed. The material change to the relocated provision is the replacement of the word "substantially" with the more precise term, "substantively";³
- Relocate and enact a provision of the Act that states what documentation and information an agency adopting a rule must include in the agency's file on the rule. This change will

¹ See Sec.1 of Printed Bill ("Bill") at 1. See also Sec. 1 of Amended Bill ("Amendment") at 1.

² See Section A of the Supplement to the Amendment document ("Amendment Supplement") at 1.

³ See Section B of the Amendment Supplement at 1.

bring greater clarity of the statute and help to emphasize the importance of the information that agencies must retain during the rulemaking process;⁴

- Reorganize and clarify the provision of the Act that specifies the information that must be provided in a notice of proposed rulemaking. This reorganization will more precisely state the information agencies currently must provide in a notice when initiating rulemaking;⁵
- Update a provision of the Act regarding the availability to the public of proposed rules, as technological advancements have made rules much more available and accessible;⁶
- Revise the provision of the Act concerning the weekly publication of rulemaking proposal notices in newspapers so that the provision also accounts for the posting of such notices on the Secretary of State's rulemaking website. This change will consolidate two presently separate provisions of the Act into one;⁷
- Enact as a standalone provision in the Act text that requires agencies to post proposed rules on their websites and to either post their adopted rules on their public websites or provide links on their public websites to their adopted rules that have been posted on Secretary of State's rules website;⁸
- Amend the Act by enacting a provision governing the online posting of rulemaking adoption notices on the Secretary of State's website, including the information that must be provided in such notices. This change will expressly establish in the Act a list of the information that agencies must provide for the purpose of preparing rulemaking adoption notices;⁹
- Require the Department of the Secretary of State to post on the department's publicly accessible website a brief explanation of the rulemaking process, including the manner in which a hearing on a proposed rule may be requested by a member of the public. This requirement will foster better understanding of the rulemaking process and assist members of the public who wish to learn more about or participate in the rulemaking process;¹⁰
- Revise two provisions of the Act that each require annual rulemaking reports to be prepared by the Secretary of State and that include certain information redundancies, so that instead one annual rulemaking report must be prepared and submitted by the Secretary to the Executive Director of the Legislative Council, the Governor, and the Joint Standing Committee of the Legislature having jurisdiction over State and Local Government;¹¹
- Reorganize and clarify the section of the Act pertaining to the filing of adopted, provisionally adopted, and finally adopted rules. The reorganization includes the relocation of current language in the Act pertaining to materials incorporated by reference into rules, including by changing the location where such materials must be maintained. The changes also account for the current availability of rules online, including by striking a provision requiring agencies to compile "complete sets of ... rules currently in effect," as such rules are now available online;¹²
- Repeal provisions of the Act that require the Secretary of State (1) to maintain current copies of complete rules of all agencies; (2) to publish and distribute "all current rules of

⁴ See Section C of the Amendment Supplement at 1 to 2.

⁵ See Sec. 5 of Bill at pages 1 to 2 at 2.

⁶ See Sec. 6 of Bill at 2.

⁷ See Sec. 8 of Bill at 2 to 3.

⁸ See Sec. 9 of Bill at 3.

⁹ See Sec. 10 of Bill at 3.

¹⁰ See Sec. 11 of Bill at 3 to 4.

¹¹ See Sections D and E of the Amendment Supplement at 3.

¹² See *id.* at 4 to 5.

state agencies”; (3) to publish an “annual list of current rules of state agencies”; (4) to “supply, at actual cost, annually updated copies of complete sets of rules of an agency” to persons who have filed a request for such during the preceding year; (5) to require the codification of rules in “an electronic text file data base”; and (6) to develop a “plan to codify all current rules of state agencies within ... available resources.” These changes are made due to the availability of agency rules and rulemaking notices on the internet;¹³

- Enact a provision that expressly accounts for the electronic filing of rules and rulemaking-related documentation, as well as the implementation of an online rulemaking filing system. The ability to electronically file rules and rulemaking documentation will vastly improve the efficiency of the rulemaking process, including by making the process as paperless as feasible;¹⁴
- Amend the provision of the Act regarding the certification of rules to reflect actual certification practices that have historically been implemented and followed;¹⁵
- Repeal the provision of the Act pertaining to the ability for minor errors in rules to be corrected by the Secretary of State, and replaces that provision with a new provision that enhances the ability for minor, nonsubstantive errors in rules to be corrected and for terms of rules that have become outdated to be updated;¹⁶
- Repeal the provision of the Act that requires agencies to include a fiscal note at the end of each rule, as fiscal and economic impact information has historically been collected in filing forms that accompany rulemaking proposal and adoption filings. A cross reference to that provision also has been struck in another part of the Act;¹⁷
- Make various technical amendments to the bill, including changes made by the Office of the Revisor of Statutes in preparing the bill; and
- Include unallocated language providing that, “[w]herever in the Maine Revised Statutes the term ‘rule-making’ or ‘rule making’ is used in the context of State agency rulemaking, the Office of the Revisor of Statutes is authorized to change the spelling of both terms to ‘rulemaking.’” This change will ensure that the spelling of the word is consistent throughout the statutes, as well as with the spelling of the term that is used by, among others, the Library of Congress, the Federal Register, and the U.S. Government Accountability Office.¹⁸

Finally, the amendment to the bill removes a Section of the printed bill that would have repealed certain rulemaking proposal notifications that the Act presently requires.¹⁹

Thank you for the opportunity to provide testimony, and I am happy to answer any questions you may have.

¹³ See *id.* 5 to 6.

¹⁴ See *id.* at 6.

¹⁵ See *id.* at 6.

¹⁶ See *id.* at 7.

¹⁷ See Sec. 15 and Sec. 16 of Bill at 7.

¹⁸ See Section F of the Amendment Supplement at 4. See also, e.g., Rules and Rulemaking - Legal Research: A Guide to Administrative Law - Research Guides at Library of Congress; The Rulemaking Process, and Federal Rulemaking | U.S. GAO.

¹⁹ See Sec. 3 of Bill and Sec. 3 of Amendment.