

# RIGHT TO KNOW ADVISORY COMMITTEE

**Monday, October 2, 2023**  
**1:00 p.m.**

Location: State House, Room 228 (Hybrid Meeting)  
Public access also available through the Maine Legislature's livestream:  
<https://legislature.maine.gov/Audio/#228>

1. Introductions
2. Brenda Kielty, Public Access Ombudsman – informal update
3. Public Comment: focused on suggested issues for RTKAC to consider in 2023
4. Discussion of subcommittees and topics for committee review
  - Review possible subcommittees list and topics for committee review discussed at September 18<sup>th</sup> meeting
  - Consider additional topics, including possible public records exception for information related to grant applications under the Emergency Medical Services Stabilization and Sustainability Program, enacted as part of biennial budget law, Public Law 2023, chapter 412, Part GGGGG
5. Adjourn
  - Next meeting: Monday, October 23, 2023, 1:00 pm (*note change of location: meeting will be in Judiciary Committee Room 438, SH*)

## Right to Know Advisory Committee

### Possible Subcommittees for Discussion at October 2, 2023 Meeting

Subcommittee Name	Public Records Exceptions Subcommittee	Public Records Process Subcommittee	Law Enforcement Records Subcommittee	Additional items for possible consideration – in subcommittee or by full RTKAC
<p>Subcommittee Focus/Issues to Consider</p> <p><i>Includes topics from Judiciary Committee letter dated June 29, 2023 and committee discussions at September 18, 2023 meeting.</i></p>	<p>Review of public records exceptions of Titles 22 and 22-A in accordance with 1 MRS §433(2-A)</p>	<ul style="list-style-type: none"> <li>• Standard form for FOAA requests</li> <li>• Specification of timing in statute for reasonable estimate and fulfilment of the request</li> <li>• Prioritization of certain requests based on requestor</li> <li>• Changes to or cap on fees</li> <li>• Give Ombudsman authority to waive agency response requirement under certain circumstances</li> <li>• Provide notice to subject of inquiry</li> <li>• Require body to cite reason for going into executive session</li> <li>• Repeat requestors and incomplete/delayed responses</li> </ul>	<ul style="list-style-type: none"> <li>• Amend the intelligence and investigative record information exception (Title 16, section 803(3)) to allow and determine the circumstances under which the person whose personal privacy might be invaded to consent to the release of the record</li> <li>• Release of information by law enforcement without FOAA request</li> </ul>	<ul style="list-style-type: none"> <li>• Discussion of whether to include the records of certain tax-exempt, nonprofit organizations in public record definition</li> <li>• Disciplinary records of public employees</li> </ul> <p>From previous RTKAC report:</p> <ul style="list-style-type: none"> <li>• Use of radio encryption by law enforcement</li> <li>• Grants and technical assistance to all public bodies authorized to adopt remote participation policies</li> <li>• Participation in the legislative process by residents of correctional facilities</li> </ul>
<p>Members &amp; Staff</p>	<p>K. Monaghan, Chair J. Bolton L. Clancy C. Saniuk-Heinig (others?)</p> <p>Staff: Colleen McCarthy Reid</p>	<p>TBD</p>	<p>TBD</p>	

for the School Revolving Renovation Fund established in the Maine Revised Statutes, Title 30-A, section 6006-F.

## PART GGGGG

**Sec. GGGGG-1. 32 MRSA §98** is enacted to read:

### **§98. Emergency Medical Services Stabilization and Sustainability Program**

The Emergency Medical Services Stabilization and Sustainability Program, referred to in this section as "the program," is established within the department, to be administered by Maine Emergency Medical Services in consultation with the board and the Department of Health and Human Services, to provide financial assistance to emergency medical services entities based in the State that are facing immediate risk of failure, to increase the sustainability, efficiency and resiliency of emergency medical services throughout the State and to help ensure that all residents of the State continue to have access to high-quality, out-of-hospital clinical care provided by the emergency medical services system.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Community" means a municipality, group of municipalities or other area of the State served by an emergency medical services entity.

B. "Emergency medical services entity" means a nonprofit or for-profit ambulance service or nontransporting emergency medical service or emergency medical services training center licensed under this chapter or a regional council.

C. "Historical activations" means the number of times an emergency medical services entity was dispatched by the E-9-1-1 system within a defined period of time.

D. "Rurality" means a community's score established by the United States Department of Agriculture that indicates the rural nature of the community.

**2. Purpose and use of funding.** The purpose of the program is to provide financial assistance, in accordance with subsection 3, to emergency medical services entities at immediate risk of failing and leaving their communities without access to adequate emergency medical services and to provide grants to assist emergency medical services entities with long-term sustainability and resiliency planning and programming within the emergency medical services system in accordance with subsection 4.

**3. Funding requirements.** This subsection provides requirements for financial assistance to emergency medical services entities at immediate risk of failing and leaving their communities without access to adequate emergency medical services. Financial assistance under this subsection must be provided through the program.

A. Using a form developed and made available by the board, an emergency medical services entity applying for funding under this subsection must demonstrate that the entity:

(1) Is at immediate risk of failing and leaving its community without access to adequate emergency medical services due to employee recruitment or retention issues or an inability to finance daily operations. The entity must submit a financial statement covering its most recent fiscal year;

(2) Provided ambulance services or nontransporting emergency medical services to its community during the prior calendar year;

(3) Is providing and intends to continue to provide ambulance services or nontransporting emergency medical services to its community; and

(4) In the case of an applicant that is an ambulance service only, is participating in the MaineCare program and maintains an electronic funds transfer account with the Department of Health and Human Services.

B. As a condition of receiving funding under this subsection, an emergency medical services entity meeting the requirements of paragraph A must enter into an agreement with Maine Emergency Medical Services requiring the entity to:

(1) Use all funding received to support only those activities as specified by the board in the application, which must include, but are not limited to:

(a) Supplementing wages, benefits, stipends and incentives for emergency medical services persons;

(b) Supporting training directly related to the provision of clinical care, leadership or management of emergency medical services;

(c) Supplementing wages, benefits, stipends and incentives for administrative support staff;

(d) Implementation of programming directly related to a strategic plan for the emergency medical services system developed by the board; and

(e) Investment in capital expenditures not to exceed \$50,000 in the aggregate;

(2) Submit a report to the board no later than December 31st of the year in which the entity receives the funding identifying how the funding was expended; and

(3) If the board determines, based on the report, that the funding was used to support activities not identified in the application as authorized expenditures, repay all such unauthorized expenditures for redistribution in accordance with this subsection.

(a) For the purposes of this subparagraph, a funding expenditure by an entity is deemed to be unauthorized and subject to repayment if the board determines the expenditure was used to supplant the entity's existing emergency medical services funding sources, except for funding sources originating from in-kind donations, fund-raisers or volunteer labor.

(b) To the extent permissible under applicable federal laws and regulations and state laws and rules, the Department of Health and Human Services may withhold future payments or reimbursements under the MaineCare program that are due to an entity that is an ambulance service and that is required to repay unauthorized expenditures under this subparagraph until such unauthorized expenditures are repaid in full. Payments withheld under this paragraph must be transferred to the program established in this section.

C. The board shall establish an allocation algorithm for maximum and minimum funding distributions to emergency medical services entities under this subsection

based on the rurality of a community and historical activations for emergency medical services.

D. The board may establish reasonable deadlines by which an emergency medical services entity seeking funding under this subsection must enter into an agreement pursuant to paragraph B.

**4. Sustainability grant requirements.** This subsection provides requirements for grants to emergency medical services entities to increase support and develop a plan for sustainability, collaboration and enhancement of efficiency in the delivery of emergency medical services in the State. The board shall adopt rules establishing requirements for grants under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. Using a form developed and made available by the board, an emergency medical services entity may apply for and be awarded a grant under this subsection upon a determination by the board that the applicant meets all applicable requirements for the grant as established by the board by rule.

B. Upon the recommendation of the director after consultation with the board, the board shall establish an allocation algorithm for maximum and minimum funding distributions to emergency medical services entities under this subsection, which may, as applicable, be based on the rurality of the community and historical activations for emergency medical services.

**Sec. GGGGG-2. Transfer from General Fund unappropriated surplus; Emergency Medical Services Stabilization and Sustainability Program.**

Notwithstanding any provision of law to the contrary, on or before June 30, 2023, the State Controller shall transfer \$31,000,000 from the unappropriated surplus of the General Fund to the Department of Public Safety, Emergency Medical Services Stabilization and Sustainability Program, Other Special Revenue Funds account to provide financial assistance to emergency medical services entities at immediate risk of failing and leaving their service areas and community without access to adequate emergency medical services as well as assisting emergency medical services entities with long-term sustainability and resiliency planning and programming within the emergency medical services system.

**Sec. GGGGG-3. Report.** The Emergency Medical Services' Board shall submit a report regarding the Emergency Medical Services Stabilization and Sustainability Program established under the Maine Revised Statutes, Title 32, section 98 to the Joint Standing Committee on Criminal Justice and Public Safety no later than January 12, 2024. The report must also include, at a minimum, the actual and planned expenditures and encumbrances and applications submitted and accepted under the program.

**PART HHHHH**

**Sec. HHHHH-1. Transfer for one-time cost-of-living benefit increase.**

Notwithstanding any provision of law to the contrary, on or before June 30, 2023, the State Controller shall transfer \$19,800,000 from the unappropriated surplus of the General Fund to the Retirement Allowance Fund within the Maine Public Employees Retirement System for the purpose of providing the resources to fund an additional one-time cost-of-living increase of 3.0% of the established 2022 maximum benefit subject to an increase for retirees from the state-sponsored retirement plans. The additional 3.0% applies to