

Materials for October 1, 2020 meeting of the Right to Know Advisory Committee

- NOT FINALLY ACTED ON; CARRIED OVER: LD 1575, An Act To Improve the Freedom of Access Laws of Maine (pp. 2-3)
- NOT FINALLY ACTED ON; CARRIED OVER: LD 2101, An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Membership of the Archives Advisory Board (pp. 4-5)
- NOT FINALLY ACTED ON; CARRIED OVER: LD 2102, An Act To Implement the Recommendations of the Right To Know Advisory Committee (pp. 6-14)
- ENACTED: Public Law 2019, c.667, LD 2103, An Act To Implement the Recommendations of the Right To Know Advisory Committee Regarding Public Records Exceptions (pp. 15-20)
- ENACTED: see Part G related to remote proceedings, Public Law 2019, c. 617, LD 2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency (pp. 21-23)

Unanimous OTP
need to reconsider
for Fiscal Note

3/12/20
OK L.D. 1575
(Filing No. H-)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND REGULAR SESSION

**FOR
REVIEW**

COMMITTEE AMENDMENT " " to H.P. 1137, L.D. 1575, Bill, "An Act To Improve the Freedom of Access Laws of Maine"

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

'Sec. 1. 1 MRSA §408-A, sub-§8, ¶A, as enacted by PL 2011, c. 662, §5, is amended to read:

A. The agency or official may charge a reasonable fee to cover the cost of copying. A reasonable fee to cover the cost of copying is no more than 10¢ per page for a standard 8 1/2 inch by 11 inch black-and-white copy of a record. A per page copy fee may not be charged for records provided electronically.

SUMMARY

This amendment replaces the bill. It amends the Freedom of Access Act to cap the fee to cover the cost of copying a public record at no more than 10¢ per page for a standard 8 1/2 inch by 11 inch black-and-white copy of a record and clarifies that a per page copy fee may not be charged for records provided electronically.

See Fiscal Note
on other side

Approved: 03/10/20 *MAC*



129th MAINE LEGISLATURE

LD 1575

LR 125(02)

An Act To Improve the Freedom of Access Laws of Maine

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any costs to State departments and agencies from limiting the fee to 10 cents per page for copying requested public records are expected to be minor and can be absorbed within existing resources.



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2101

H.P. 1496

House of Representatives, February 11, 2020

**An Act To Implement the Recommendations of the Right To Know
Advisory Committee Concerning Membership of the Archives
Advisory Board**

Reported by Representative BAILEY of Saco for the Joint Standing Committee on
Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph
G.

Reference to the Committee on State and Local Government suggested and ordered printed
pursuant to Joint Rule 218.

Robert B. Hunt

ROBERT B. HUNT
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §96, sub-§2**, as enacted by PL 2019, c. 50, §12, is amended to
3 read:

4 **2. Members.** The Archives Advisory Board consists of ~~9~~ 12 voting members with
5 expertise in the administrative, fiscal, legal and historical value of records. Voting
6 members of the board must represent the spectrum of records in the State and are
7 appointed by the Secretary of State as follows:

8 A. Two public members representing the interests of public access to government
9 records, recommended by a public interest group;

10 B. Two members from municipal or county government with expertise in local
11 government records, recommended by local or county government entities;

12 C. One member representing a state or local historical society, recommended by a
13 state or local historical society;

14 D. One member with expertise in the legal requirements of records retention and
15 public records law, recommended by the Attorney General;

16 E. One member with expertise in the State's fiscal requirements of records retention,
17 recommended by the Governor;

18 F. One member from the executive branch with expertise in executive branch
19 records, recommended by the Governor; ~~and~~

20 G. One member from the Department of Administrative and Financial Services,
21 Office of Information Technology with expertise in electronic records, electronic
22 records management systems and emerging technology related to electronic records,
23 recommended by the Governor;

24 H. Two members representing journalists, newspapers, broadcasters and other news
25 media interests; and

26 I. One member representing advocates for the protection of personal privacy
27 interests.

28 The State Archivist serves as a nonvoting member.

29 **SUMMARY**

30 This bill implements the recommendations of the Right To Know Advisory
31 Committee in the Fourteenth Annual Report of the Right to Know Advisory Committee
32 concerning the membership of the Archives Advisory Board.

33 This bill adds 3 members to the Archives Advisory Board to ensure that journalists,
34 newspapers, broadcasters and other news media as well as personal privacy protection
35 advocates are represented in the expertise involved in the development of records
36 retention schedules.



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2102

H.P. 1497

House of Representatives, February 11, 2020

An Act To Implement the Recommendations of the Right To Know Advisory Committee

Reported by Representative BAILEY of Saco for the Joint Standing Committee on
Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph
G.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

Robert B. Hunt

ROBERT B. HUNT
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 1 MRSA §411, sub-§2, ¶M,** as amended by PL 2015, c. 250, Pt. A, §1, is
3 further amended to read:

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

5 **Sec. 2. 1 MRSA §411, sub-§2, ¶N,** as enacted by PL 2015, c. 250, Pt. A, §2, is
6 amended to read:

7 N. One member with broad experience in and understanding of issues and costs in
8 multiple areas of information technology, including practical applications concerning
9 creation, storage, retrieval and accessibility of electronic records; use of
10 communication technologies to support meetings, including teleconferencing and
11 Internet-based conferencing; databases for records management and reporting; and
12 information technology system development and support, appointed by the
13 Governor; and

14 **Sec. 3. 1 MRSA §411, sub-§2, ¶O** is enacted to read:

15 O. One representative having legal or professional expertise in the field of data and
16 personal privacy, appointed by the Governor.

17 **Sec. 4. 1 MRSA §412, sub-§1,** as amended by PL 2019, c. 300, §1, is further
18 amended to read:

19 **1. Training required.** A public access officer and an official subject to this section
20 shall complete a course of training on the requirements of this chapter relating to public
21 records and proceedings. The official or public access officer shall complete the training
22 not later than the 120th day after the date the official ~~takes the oath of office to assume~~
23 assumes the person's duties as an official or the person is designated as a public access
24 officer pursuant to section 413, subsection 1.

25 **Sec. 5. 1 MRSA §412, sub-§4, ¶F,** as enacted by PL 2007, c. 576, §2, is
26 amended to read:

27 F. Municipal officers; municipal clerks, treasurers, managers or administrators,
28 assessors, code enforcement officers and deputies for those positions; and planning
29 board members and budget committee members of municipal governments;

30 **Sec. 6. 1 MRSA §412, sub-§4, ¶G,** as amended by PL 2011, c. 662, §7, is further
31 amended to read:

32 G. ~~Officials~~ Superintendents, assistant superintendents and school board members of
33 school administrative units; and

1 **SUMMARY**

2 This bill implements the statutory recommendations of the Right To Know Advisory
3 Committee as included in Appendix F in the Fourteenth Annual Report of the Right to
4 Know Advisory Committee.

5 This bill adds a member to the Right To Know Advisory Committee who has legal or
6 professional expertise in the field of data and personal privacy, to be appointed by the
7 Governor.

8 This bill makes the following changes to the requirements for freedom of access
9 training.

10 1. It clarifies that an official must complete training within 120 days of assuming the
11 duties of the position.

12 2. It expands the municipal officials required to complete training to include code
13 enforcement officers, town and city managers and administrators and planning board
14 members and clarifies that deputies of municipal clerks, treasurers, managers or
15 administrators, assessors and code enforcement officers must also complete training.

16 3. It clarifies that school superintendents, assistant superintendents and school board
17 members are required to complete training.

Majesty
ROFFS

final 8-10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

L.D. 2102

Date:

(Filing No. H-)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT " " to H.P. 1497, L.D. 2102, Bill, "An Act To Implement the Recommendations of the Right To Know Advisory Committee"

Amend the bill by striking out all of sections 1 to 3 (page 1, lines 2 to 16 in L.D.) and inserting the following:

Sec. 1. 1 MRSA §411, sub-§2, as amended by PL 2015, c. 250, Pt. A, §§1 and 2, is further amended to read:

- 2. Membership.** The advisory committee consists of the following members:
 - A. One Senator who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the President of the Senate;
 - B. One member of the House of Representatives who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the Speaker of the House;
 - C. One representative of municipal interests, appointed by the Governor;
 - D. One representative of county or regional interests, appointed by the President of the Senate;
 - E. One representative of school interests, appointed by the Governor;
 - F. One representative of law enforcement interests, appointed by the President of the Senate;
 - G. One representative of the interests of State Government, appointed by the Governor;
 - H. One representative of a statewide coalition of advocates of freedom of access, appointed by the Speaker of the House;
 - I. One representative of newspaper and other press interests, appointed by the President of the Senate;

COMMITTEE AMENDMENT

9

ROFS

COMMITTEE AMENDMENT " " to H.P. 1497, L.D. 2102

- 1 J. One representative of newspaper publishers, appointed by the Speaker of the
- 2 House;
- 3 K. Two representatives of broadcasting interests, one appointed by the President of
- 4 the Senate and one appointed by the Speaker of the House;
- 5 L. Two representatives of the public, one appointed by the President of the Senate
- 6 and one appointed by the Speaker of the House;
- 7 M. The Attorney General or the Attorney General's designee; and
- 8 N. One member with broad experience in and understanding of issues and costs in
- 9 multiple areas of information technology, including practical applications concerning
- 10 creation, storage, retrieval and accessibility of electronic records; use of
- 11 communication technologies to support meetings, including teleconferencing and
- 12 Internet-based conferencing; databases for records management and reporting; and
- 13 information technology system development and support, appointed by the
- 14 Governor; and
- 15 O. One representative having legal or professional expertise in the field of data and
- 16 personal privacy, appointed by the Governor.

17 The advisory committee shall invite the Chief Justice of the Supreme Judicial Court to
18 designate a member of the judicial branch to serve as a member of the committee.

19 In making appointments to the advisory committee, the appointing authorities shall take
20 into consideration the racial and ethnic diversity of the State.'

21 Amend the bill by adding after section 6 the following:

22 'Sec. 7. Appropriations and allocations. The following appropriations and
23 allocations are made.

24 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

25 **Freedom of Access Training N346**

26 Initiative: Provides funding to reimburse municipalities for costs associated with
27 requiring certain municipal officials to complete freedom of access training.

28	GENERAL FUND	2019-20	2020-21
29	All Other	\$0	\$33,300
30			
31	GENERAL FUND TOTAL	\$0	\$33,300

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

35 **SUMMARY**

36 This amendment is the majority report of the Joint Standing Committee on Judiciary.

R O F S

COMMITTEE AMENDMENT " " to H.P. 1497, L.D. 2102

1
2
3
4
5
6
7
8

This amendment explicitly requires that the appointments to the Right to Know Advisory Committee must take into consideration the racial and ethnic diversity of the State.

This amendment includes an appropriation to provide funds to reimburse municipalities for the costs required for additional municipal officials to meet the freedom of access training requirements.

FISCAL NOTE REQUIRED

(See attached)



129th MAINE LEGISLATURE

LD 2102

LR 3194(02)

An Act To Implement the Recommendations of the Right To Know Advisory Committee

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Funded

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$0	\$33,300	\$3,600	\$3,600
Appropriations/Allocations				
General Fund	\$0	\$33,300	\$3,600	\$3,600

State Mandates

Required Activity	Unit Affected	Local Cost
This bill expands the number of municipal officials required to complete freedom of access training to include code enforcement officers, town and city managers, administrators and planning board members. It requires deputies of various officials complete the training. School superintendents, assistant superintendents and school board members are also required to complete the training.	Municipality	\$33,300 one-time, \$3,600 annually

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

Fiscal Detail and Notes

The bill includes a General Fund appropriation of \$33,300 in fiscal year 2020-21 to the Department of Administrative and Financial Services to reimburse municipalities for 90% of the administrative costs associated with implementing the bill. The cost was calculated using salary and position data provided by the Maine Municipal Association. Projected future costs assume annual employee turnover of 11.8%, resulting in new employees each year who will need training.

Minority
ROFS

final 8.10

1

L.D. 2102

2

Date:

(Filing No. H-)

3

JUDICIARY

4

Reproduced and distributed under the direction of the Clerk of the House.

5

STATE OF MAINE

6

HOUSE OF REPRESENTATIVES

7

129TH LEGISLATURE

8

SECOND SPECIAL SESSION

9
10

COMMITTEE AMENDMENT " " to H.P. 1497, L.D. 2102, Bill, "An Act To Implement the Recommendations of the Right To Know Advisory Committee"

11

Amend the bill by adding after section 6 the following:

12
13

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

14

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

15

Freedom of Access Training N346

16
17

Initiative: Provides funding to reimburse municipalities for costs associated with requiring certain municipal officials to complete freedom of access training.

18
19
20
21

GENERAL FUND	2019-20	2020-21
All Other	\$0	\$33,300
GENERAL FUND TOTAL	<u>\$0</u>	<u>\$33,300</u>

23
24

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

25

SUMMARY

26

This amendment is the minority report of the Joint Standing Committee on Judiciary.

27
28
29

This amendment includes an appropriation to provide funds to reimburse municipalities for the costs required for additional municipal officials to meet the freedom of access training requirements.

30

FISCAL NOTE REQUIRED

31

(See attached)

COMMITTEE AMENDMENT

13



129th MAINE LEGISLATURE

LD 2102

LR 3194(03)

An Act To Implement the Recommendations of the Right To Know Advisory Committee

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Funded

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$0	\$33,300	\$3,600	\$3,600
Appropriations/Allocations				
General Fund	\$0	\$33,300	\$3,600	\$3,600

State Mandates

Required Activity	Unit Affected	Local Cost
This bill expands the number of municipal officials required to complete freedom of access training to include code enforcement officers, town and city managers, administrators and planning board members. It requires deputies of various officials complete the training. School superintendents, assistant superintendents and school board members are also required to complete the training.	Municipality	\$33,300 one-time, \$3,600 annually

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

Fiscal Detail and Notes

The bill includes a General Fund appropriation of \$33,300 in fiscal year 2020-21 to the Department of Administrative and Financial Services to reimburse municipalities for 90% of the administrative costs associated with implementing the bill. The cost was calculated using salary and position data provided by the Maine Municipal Association. Projected future costs assume annual employee turnover of 11.8%, resulting in new employees each year who will need training.

APPROVED
MARCH 18, 2020
BY GOVERNOR

CHAPTER
667
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

H.P. 1498 - L.D. 2103

**An Act To Implement the Recommendations of the Right To Know Advisory
Committee Regarding Public Records Exceptions**

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 1 MRSA §402, sub-§3, ¶C-1, as enacted by PL 2011, c. 264, §1, is amended to read:

C-1. Information contained in a communication between a constituent and an elected official if the information:

- (1) Is of a personal nature, consisting of:
 - (a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
 - (b) Credit or financial information;
 - (c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family; or
 - (d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or
 - ~~(e) An individual's social security number; or~~
- (2) Would be confidential if it were in the possession of another public agency or official;

Sec. A-2. 1 MRSA §402, sub-§3, ¶K, as amended by PL 2003, c. 392, §1, is further amended to read:

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational

programs or services, ~~if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure.~~ This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A;

Sec. A-3. 1 MRSA §402, sub-§3, ¶M, as amended by PL 2011, c. 662, §2, is further amended to read:

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software, including records or information maintained to ensure government operations and technology continuity and to facilitate disaster recovery. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure;

Sec. A-4. 3 MRSA §997, sub-§1, as enacted by PL 2001, c. 702, §2, is amended to read:

1. Review and response. Prior to the presentation of a program evaluation under this chapter to the committee by the office, the director of the evaluated state agency or other entity must have an opportunity to review a draft of the program evaluation report. Within 15 calendar days of receipt of the draft report, the director of the evaluated state agency or other entity may provide to the office comments on the draft report. If provided to the office by the comment deadline, the comments must be included in the final report when it is presented to the committee. Failure by the director of an evaluated agency or other entity to submit its comments on the draft report by the comment deadline may not delay the submission of a report to the committee or its release to the public.

All documents, writings, drafts, electronic communications and information transmitted pursuant to this subsection are confidential and may not be released to the public ~~prior to the time the office issues its program evaluation report pursuant to subsection 3.~~ A person violating the provisions of this subsection regarding confidentiality is guilty of a Class E crime.

Sec. A-5. 3 MRSA §997, sub-§3, as enacted by PL 2001, c. 702, §2, is amended to read:

3. Confidentiality. ~~The director shall issue program evaluation reports, favorable or unfavorable, of any state agency or other entity, and these reports are public records, except that, prior to the release of a program evaluation report pursuant to subsection 2 or the point at which a program evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the working Working papers in the possession of the director or other entity charged with the preparation of a program evaluation report an entity with which the director has contracted for the conduct of program evaluations pursuant to section 995, subsection 2 are confidential and exempt from disclosure pursuant to Title 1, chapter 13, including disclosure to the Legislative Council or an agent or representative of the Legislative Council. All other records or materials in the possession of the director or~~

~~other entity charged with the preparation of a program evaluation report under this chapter an entity with which the director has contracted for the conduct of program evaluations pursuant to section 995, subsection 2 that would otherwise be confidential or exempt from disclosure are exempt from disclosure pursuant to the provisions of Title 1, chapter 13. Prior to the release of a program evaluation report pursuant to subsection 2 or the point at which a program evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the working papers in the possession of the director or other entity charged with the preparation of a program evaluation report are confidential and may not be released or disclosed by the director to the Legislative Council or an agent or representative of the Legislative Council. This subsection may not be construed to prohibit or prevent public access to the records of a state agency or other entity in the possession of the director that would otherwise be subject to disclosure pursuant to the provisions of Title 1, chapter 13. The director shall refer requests for access to those records directly to the state agency or other entity that is the official custodian of the requested records, which shall respond to the request for public records.~~

Sec. A-6. 3 MRSA §997, sub-§5, as enacted by PL 2001, c. 702, §2, is amended to read:

5. Confidentiality of working papers Disclosure to agency or entity subject to program evaluation. Except as provided in this subsection, working papers are confidential pursuant to subsection 3 and may not be disclosed to any person. Prior to the release of the final program evaluation report, the director has sole discretion to disclose working papers to the state agency or other entity subject to the program evaluation when disclosure will not prejudice the program evaluation. After release of the final program evaluation report, working papers may be released as necessary to the state agency or other entity that was subject to the program evaluation under this chapter.

Sec. A-7. 5 MRSA §4572, sub-§2, ¶C, as enacted by PL 1995, c. 393, §13, is amended by amending subparagraph (2) to read:

~~(2) Information obtained regarding the Any medical condition or and disability information and history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:~~

- ~~(a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;~~
- ~~(b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and~~
- ~~(c) Government officials investigating compliance with this Act are provided relevant information on request; and~~

Sec. A-8. 5 MRSA §4572, sub-§2, ¶E, as enacted by PL 1995, c. 393, §13, is amended to read:

E. A covered entity may conduct voluntary medical examinations, including voluntary medical ~~histories and disability information and history~~, that are part of an employee health or wellness program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions. Information obtained under this paragraph regarding the medical ~~condition or~~ and disability information and history of an employee is subject to the requirements of paragraph C, subparagraphs (2) and (3).

Sec. A-9. 5 MRSA §4573, sub-§2, as amended by PL 1995, c. 393, §16, is further amended to read:

2. Records. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying ~~them~~ the individual, provided the record is intended and used in good faith solely for identification, and not for the purpose of discrimination in violation of this Act. Records ~~of features~~ regarding physical or mental disability that are collected must be collected and maintained on separate forms and in separate files and be treated as confidential records;

PART B

Sec. B-1. 1 MRSA §402, sub-§3, ¶E, as repealed and replaced by PL 1989, c. 878, Pt. A, §2 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System when the subject matter is confidential or otherwise protected from disclosure by statute, other law, legal precedent or privilege recognized by the courts of this State. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B;

Sec. B-2. 1 MRSA §402, sub-§3, ¶J, as amended by PL 2001, c. 675, §1, is further amended to read:

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed ~~by a member~~ or in a public meeting of the advisory organization;

Sec. B-3. 1 MRSA §402, sub-§3, ¶O, as corrected by RR 2009, c. 1, §1, is amended by amending subparagraph (1) to read:

(1) "Personal contact information" means ~~home~~ personal address, ~~home~~ telephone number, ~~home~~ facsimile number, ~~home~~ e-mail address ~~and personal~~, cellular telephone number ~~and personal~~, pager number and username, password and uniform resource locator for a personal social media account as defined in Title 26, section 615, subsection 4; and

Sec. B-4. 1 MRSA §402, sub-§3, ¶U, as amended by PL 2017, c. 118, §2, is further amended to read:

U. Records provided by a railroad company describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, a fire department or other first responder, except that records related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and

Sec. B-5. 5 MRSA §244-E, sub-§3, as enacted by PL 2009, c. 567, §1, is amended to read:

3. Coordination with Office of Program Evaluation and Government Accountability and Attorney General; disclosure to state agencies. The State Auditor may disclose information that is confidential under this section to the Director of the Office of Program Evaluation and Government Accountability and the Attorney General to ensure appropriate agency referral or coordination between agencies to respond appropriately to all complaints made under this section. The State Auditor may disclose information that is confidential under this section related to a complaint alleging fraud, waste, inefficiency or abuse to a department or agency that is the subject of a complaint to ensure that the department or agency can respond appropriately to the complaint. The department or agency shall maintain as confidential any information related to a complaint furnished by the State Auditor.

Sec. B-6. 7 MRSA §2992-A, sub-§1, ¶C, as amended by PL 2007, c. 597, §9 and PL 2011, c. 657, Pt. W, §6, is further amended by amending subparagraph (2) to read:

(2) All meetings and records of the board are subject to the provisions of Title 1, chapter 13, subchapter 1, except that, by majority vote of those members present recorded in a public session, records and meetings of the board may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State ~~or segments of that industry.~~ The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the board;

Sec. B-7. 7 MRSA §2998-B, sub-§1, ¶C, as amended by PL 2007, c. 597, §10 and PL 2011, c. 657, Pt. W, §6, is further amended by amending subparagraph (2) to read:

(2) All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter 1, except that, by majority vote of those members

present recorded in a public session, records and meetings of the council may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State ~~or segments of that industry~~. The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the council;

Sec. B-8. Public records exceptions and confidential records; drafting templates. The Office of Policy and Legal Analysis, in consultation with the Office of the Revisor of Statutes and the Right To Know Advisory Committee, shall examine inconsistencies in statutory language related to the designation as confidential or not subject to public disclosure of information and records received or prepared for use in connection with the transaction of public or governmental business or containing information relating to the transaction of public or governmental business and shall recommend standardized language for use in drafting statutes to clearly delineate what information is confidential and the circumstances under which that information may appropriately be released. On or before September 1, 2021, the Office of Policy and Legal Analysis shall submit a report with its recommendations to the Right To Know Advisory Committee.

APPROVED

CHAPTER

MARCH 18, 2020

617

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY

S.P. 789 - L.D. 2167

An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency

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

Whereas, the spread of the novel coronavirus disease referred to as COVID-19 has created a public health emergency; and

Whereas, COVID-19 is a highly contagious and sometimes fatal disease that has infected more than 138,000 people and caused more than 5,000 deaths worldwide, including more than 1,600 infected and 41 deaths in the United States; and

Whereas, in response to this widespread disease, the World Health Organization has declared a pandemic, the President of the United States has declared a national emergency and the Governor of Maine has declared a civil state of emergency; and

Whereas, state and federal authorities, including the federal Centers for Disease Control and Prevention, the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the Governor of Maine have recommended cancellation and postponement of gatherings during the spring of 2020; and

Whereas, the most recommended ways of avoiding infection and further spreading the virus that causes the disease are for the authorities to reduce the number of public gatherings and for people to avoid large crowds; and

Whereas, in an effort to comply with these recommendations, colleges and universities across the nation have suspended their academic years and closed their campuses; professional and collegiate sports teams have placed their seasons on an indefinite hiatus; concerts, conferences and conventions that attract large crowds have been cancelled; and the United States Congress has barred the public from the grounds of the United States Capitol; and

renewal of a license issued pursuant to Title 28-A, Part 3 based upon a finding specified in Title 28-A, section 653, subsection 2 or 3.

3. Dog licenses. Notwithstanding Title 7, chapter 721 or any other law or municipal charter provision or ordinance to the contrary, a license of a dog required to be licensed in this State that expires during the period of a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19 is deemed extended until 30 days following the termination of the state of emergency.

4. Registration or license fees due. The extensions granted pursuant to subsections 1 and 3 of this section do not change the registration or licensing interval for any vehicle or trailer or dog for which the registration or license period was extended, and all registration or licensing fees that would have been due but for the extension are due within 30 days of the termination of the state of emergency.

Sec. F-2. Access to online registration. The Secretary of State, Bureau of Motor Vehicles and the Department of Inland Fisheries and Wildlife, during the period of a state of emergency declared by the Governor in accordance with the Maine Revised Statutes, Title 37-B, section 742 due to the outbreak of COVID-19, shall allow a resident of this State to renew the registration of a motor vehicle, trailer, all-terrain vehicle or watercraft online, regardless of whether the municipality in which that resident resides participates in the online registration service maintained by the bureau or department, for the duration of the state of emergency and 30 days following the termination of the state of emergency.

PART G

Sec. G-1. 1 MRSA §403-A is enacted to read:

§403-A. Public proceedings through remote access during declaration of state of emergency due to COVID-19

1. Remote access. Notwithstanding any provision of law or municipal charter provision or ordinance to the contrary, during a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19, a body subject to this subchapter may conduct a public proceeding through telephonic, video, electronic or other similar means of remote participation under the following conditions:

A. Notice of the public proceeding has been given in accordance with section 406, and the notice includes the method by which the public may attend in accordance with paragraph C;

B. Each member of the body who is participating in the public proceeding is able to hear and speak to all the other members during the public proceeding and members of the public attending the public proceeding in the location identified in the notice given pursuant to paragraph A are able to hear all members participating at other locations;

C. The body determines that participation by the public is through telephonic, video, electronic or other similar means of remote participation; and

D. All votes taken during the public proceeding are taken by roll call vote.

2. Application to legislative proceedings. This section does not apply to public proceedings of the Legislature, a legislative committee or the Legislative Council, except that while the state of emergency as set out in subsection 1 is in effect, the Legislature, a legislative committee or the Legislative Council may restrict attendance by the public to remote access by telephonic, video, electronic or other similar means. This section also does not apply to town meetings held pursuant to Title 30-A, section 2524 or regional school unit budget meetings pursuant to Title 20-A, section 1483.

3. Repeal. This section is repealed 30 days after the termination of the state of emergency as set out in subsection 1.

PART H

Sec. H-1. 37-B MRSA §742, sub-§1, ¶C, as amended by PL 2011, c. 626, §2, is further amended to read:

C. After the filing of the emergency proclamation and in addition to any other powers conferred by law, the Governor may:

- (1) Suspend the enforcement of any statute prescribing the procedures for conduct of state business, or the orders or rules of any state agency, if strict compliance with the provisions of the statute, order or rule would in any way prevent, hinder or delay necessary action in coping with the emergency;
- (2) Utilize all available resources of the State Government and of each political subdivision of the State as reasonably necessary to cope with the disaster emergency;
- (3) Transfer the direction, personnel or functions of state departments and agencies, or units thereof, for the purposes of performing or facilitating emergency services;
- (4) Authorize the obtaining and acquisition of property, supplies and materials pursuant to section 821;
- (5) Enlist the aid of any person to assist in the effort to control, put out or end the emergency or aid in the caring for the safety of persons;
- (6) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, if the Governor determines this action necessary for the preservation of life or other disaster mitigation, response or recovery;
- (7) Prescribe routes, modes of transportation and destinations in connection with evacuations;
- (8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;