

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 382

H. P. 276

House of Representatives, January 24, 1973

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. McTeague of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to Freedom of Access to Meetings of Local Agencies.

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

Sec. 1. R. S., T. 30, Part 4, additional. Title 30 of the Revised Statutes is amended by adding a new Part 4 to read as follows:

PART 4

MEETINGS

CHAPTER 501

MEETINGS

§ 5801. Declaration, intent; sovereignty

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

§ 5802. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Action taken. "Action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

2. Legislative body. "Legislative body" means the governing board, commission, directors or body of a local agency, or any board or commission thereof, and shall include any board, commission, committee or other body on which officers of a local agency serve in their official capacity as members and which is supported in whole or in part by funds provided by such agency, whether such board, commission, committee or other body is organized and operated by such local agency or by a private corporation.

A. "Legislative body" also includes, but is not limited to, planning commissions, library boards, recreation commissions and other permanent boards or commissions of a local agency.

B. "Legislative body" also includes any advisory commission, advisory committee or advisory body of a local agency, created by charter, ordinance, resolution or by any similar formal action of a governing body of a local agency.

Meetings of such advisory commissions, committees or bodies concerning subjects which do not require an examination of facts and data outside the territory of the local agency shall be held within the territory of the local agency and shall be open and public, and notice thereof must be delivered personally or by mail at least 24 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting.

If the advisory commission, committee or body elects to provide for the holding of regular meetings, it shall provide by bylaws, or by whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. No other notice of regular meetings is required.

"Legislative body" as defined in this subsection does not include a committee composed solely of members of the governing body of a local agency which are less than a quorum of such governing body.

Sections 5805 to 5808 shall not apply to meetings under this subsection.

3. Local agency. As used in this chapter "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision or any board, commission or agency thereof or other local public agency.

For the purposes of this chapter, and to the extent not inconsistent with federal law, the term "local agency" shall include all private nonprofit organizations that receive public money to be expended for public purposes pursuant to the "Economic Opportunity Act of 1964."

§ 5803. Meetings to be open and public; attendance

All meetings of the legislative body of a local agency shall be open and public and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

§ 5804. Conditions to attendance

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his attendance.

§ 5805. Time and place of regular meetings; holidays; emergencies

The legislative body of a local agency shall provide, by ordinance, resolution, bylaws or by whatever other rule is required for the conduct of business by that body, the time for holding regular meetings. Unless otherwise provided for in the act under which the local agency was formed, meetings of the legislative body need not be held within the boundaries of the territory over which the local agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the presiding officer of the legislative body.

§ 5806. Adjournment; adjourned meetings

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment of meetings; provided that if the hearing is continued to a time special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, by law or other rule.

§ 5807. Continuance

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in section 5806 for the adjournment of meetings; provided that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a

copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

§ 5808. Special meetings; call; notice

A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the legislative body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

§ 5809. Executive sessions; exclusion of witnesses

Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding executive sessions with the Attorney General, county attorney, sheriff or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding executive sessions during a regular or special meeting to consider the appointment, employment or dismissal of a public officer or employee or to hear complaints or charges brought against such officer or employee by another public officer, person or employee unless such officer or employee requests a public hearing. The legislative body also may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

Nothing in this chapter shall be construed to prevent any board, commission, committee or other body organized and operated by any private organization as defined in section 5802, subsection 2 from holding executive sessions to consider matters affecting the national security, or the appointment, employment or dismissal of an officer or employee or to hear complaints or charges brought against such officer or employee by another officer, person or employee unless such officer or employee requests a public hearing. Said body also may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

§ 5810. Representatives consulting with employee organizations

Notwithstanding any other provision of law, a legislative body of a local agency may hold executive sessions with its designated representatives prior to and during consultations and discussions with representatives of employee

organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees in order to review its position and instruct its designated representatives.

§ 5811. Disorderly conduct of general public during meeting; clearing of room

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

§ 5812. Application of chapter

This chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

§ 5813. Penalty for unlawful meeting

Each member of a legislative body who attends a meeting of such legislative body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

§ 5814. Action to prevent violations or determine applicability of chapter

Any interested person may commence an action by mandamus injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body.

§ 5815. Use of facility allowing discrimination; applicability to local agencies

No local agency shall conduct any meeting, conference or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry or sex. This section shall apply to every local agency as defined in section 5802, subsection 3.

Sec. 2. R. S., T. 1, § 402, amended. Section 402 of Title 1 of the Revised Statutes is amended to read as follows:

§ 402. Public proceedings defined

The term "public proceedings" as used in this subchapter shall mean the transactions of any functions affecting any or all citizens of the State by any administrative or legislative body of the State ~~or of any of its counties or municipalities, or of any other political subdivision of the State, which body is composed of 3 or more members, with which function it is charged under any statute or under any rule or regulation of such administrative or legislative body or agency.~~

STATEMENT OF FACT

The purpose of this bill is reflected in the first section of the bill (Title 30, § 5801).