

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 899

H. P. 722

House of Representatives, March 5, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. McMahon of Kennebunk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Relating to Executive Sessions of Public Bodies or Agencies.

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

Sec. 1. 1 MRSA § 403, first sentence is repealed and the following enacted in place thereof:

Except as otherwise specifically provided by statute or by section 404, all public proceedings shall be open to the public, and all persons shall be permitted to attend any meetings of these bodies or agencies, and any minutes of such meetings as are required by law shall be promptly recorded and open to public inspection.

Sec. 2. 1 MRSA § 404 is repealed and the following enacted in place thereof:

§ 404. Executive sessions

Nothing contained in this subchapter shall be construed to prevent these bodies or agencies from holding executive sessions, subject to the following conditions: That such sessions shall not be used to defeat the purposes of this subchapter that no ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action shall be finally approved at such executive sessions; that such executive sessions may be called only by a vote of at least $\frac{3}{5}$ of the members of such bodies or agencies; that a motion to go into executive session shall indicate the nature of the business of the executive session; and that no other matter may be considered in that particular executive session. Notwithstanding any other provision of this subchapter, a body or agency may conduct deliberations in executive session on the following matters and no others:

1. Certain discussions concerning employees or appointees. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining or resignation of public officers, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against such persons; provided that any person charged, investigated or otherwise under discussion shall be permitted to be present at such executive session if he or she so desires;

2. Dismissal of public official or employee. Discussion or consideration of the dismissal of any public official or employee;

3. Condition, acquisition, use or disposition of property. Discussion or consideration of the condition, acquisition or use of real property or interests therein or disposition of publicly held property if premature disclosure of such information would prejudice the competitive or bargaining position of the body or agency;

4. Certain labor negotiations. Negotiations with employee representatives under collective bargaining laws;

5. Certain legal consultations. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's counsel to his or her client pursuant to the code of professional responsibility clearly conflicts with this subchapter or where premature general public knowledge would clearly place the state, municipality or other public agency or person at a substantial disadvantage;

6. Adjudicative deliberations. Deliberations by a body or agency acting in an adjudicative or quasi-judicial capacity.

7. Discussion of information in certain records. Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.

STATEMENT OF FACT

The purpose of this Act is to limit the matters that may be discussed in executive sessions of public bodies or agencies. The matters enumerated are those discussions which may adversely affect the interests of the general public or the reputations or privacy of individuals. A 3/5 vote of the body or agency is required before it may go into executive session and no final votes may be taken in executive session.