

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
107TH LEGISLATURE

S.  
D OF R.

SENATE AMENDMENT " A " to H.P. 848, L.D. 1035, Bill,  
"AN ACT to Clarify Certain Provisions of the Maine Right to  
Know Law."

Amend said Bill in section 3 by striking out all of the  
amending clause and inserting in place thereof the following:

Sec. 3. 1 MRSA §§402-A and 402-B are enacted to read:

Further amend said Bill in section 3 by inserting at the  
end the following:

§402-B. Public notice

1. Basic requirements. Public notice shall be given  
for public proceedings of any state, county, municipal or  
quasi-municipal body that is elected or appointed. Public  
notice for all public proceedings shall be given no later  
than 24 hours before the public proceedings.

2. Form of public notice.

A. Public notice of the time and place of all public  
proceedings described in subsection 1 shall consist of  
one notice posted at least 24 hours in advance of the  
public proceedings in a conspicuous place at the  
principal office of that body or, if no such office  
exists, at the building in which the public proceedings  
are to be held. Agenda for all public proceedings shall  
also be posted at least 24 hours in advance of those  
public proceedings in a conspicuous place at the  
principal office of that body or, if no such office  
exists, at the building in which the public proceedings  
are to be held.

B. Emergency meetings are allowed and public notice for emergency meetings shall mean notification of a representative of the daily or weekly newspaper that serves the area where the public proceedings are to be held. Notification of the representative of the weekly or daily newspaper shall include the information as to time and place of the meeting along with agenda.'

Further amend said Bill by striking out all of section 4 and inserting in place thereof the following:

'Sec. 4. 1 MRSA §404 is repealed.'

Further amend said Bill by inserting after section 4 the following:

'Sec. 4-A. 1 MRSA §404-B is enacted to read:

§404-B. Proceedings to be public

1. Proceedings to be public. All public proceedings of the legislative, executive or judicial branches of State Government, including their committees, specially assigned task forces, study groups, commissions and advisory bodies, the Legislative Council and all public proceedings of any regional, county, municipal, quasi-municipal, submunicipal or district body, including their committees, specially assigned task forces, study groups, commissions and advisory bodies shall be open to the public and no session shall be closed, nor shall executive sessions be held, except as provided in subsection 2. All papers, reports and records are hereby established as public record, except those specifically exempted by statute.

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2. Exceptions. An executive session may be called by a 3/5 vote of the constituent members of such bodies or agencies. A motion to go into executive session shall include the nature of the business of the proposed executive session. This vote shall be taken while the public proceeding is open to the public and the votes, yes and no, of each member present at the public proceeding on the question of holding an executive session shall be recorded by the name of each member. The record of this vote shall be available to the public. An executive session may be held for the following purposes only:

A. Discussion of the character, as opposed to the professional competence, or of the physical or mental health of a single individual provided that such individual may require that such discussion be held at an open public proceeding and provided that nothing in this paragraph shall permit a public proceeding closed to the public for discussion of the appointment of a person to a public body;

B. Discussion of matters concerning collective bargaining or litigation, when an open public proceeding would have a detrimental effect on the bargaining or litigating position of the public body;

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C. Investigative proceedings regarding allegations of criminal misconduct; and

D. Discussion regarding the deployment of security personnel or devices.

3. Certain judicial proceedings excepted. This section shall not apply to judicial proceedings, but shall apply to a court or other judicial body while it is exercising rule-making authority or while it is deliberating or deciding upon the issuance of administrative orders.

4. Prohibition. Executive sessions may not be used to defeat the purposes of this subchapter and no ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action shall be finally approved at executive sessions.'

Further amend said Bill by striking out all of section 5.

Further amend said Bill by striking out all of the amending clause in section 6 and inserting in place thereof the following:

'Sec. 6. 1 MRSa §§405-A to 405-D are enacted to read:'

Further amend said Bill in section 6 by striking out in the 5th line (same in L.D.) the underlined word "shall" and inserting in place thereof the following: 'may'

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Further amend said Bill in section 6 in that part designated "§405-C." by striking out all of the first sentence and inserting in place thereof the following:

'If any such body or agency shall approve any ordinances, orders, rules, resolutions, regulations, contracts or any other official action in executive session or at any public proceeding not preceded by proper public notice, such action shall be illegal and the officials responsible shall be subject to the penalties hereinafter provided.'

Further amend said Bill in section 6 by striking out in the 4th line from the end (same in L.D.) the underlined word "shall" and inserting in place thereof the following: 'may'

Further amend said Bill in section 6 by inserting at the end the following:

'§405-D. Minutes

1. Minutes required. All public bodies shall keep written minutes of all their public proceedings. Such public proceedings shall include, but need not be limited to:

A. The date, time and place of the public proceeding;

B. The members of the public body recorded as either present or absent;

C. The substance of all matters proposed, discussed or decided and at the request of any member, a record by individual member of any votes taken; and

D. Any other information that any member of the public body requests be included or reflected in the minutes.

2. Minutes to be available. The minutes shall be public records and shall be available within a reasonable time after the public proceeding, except when such disclosure would be inconsistent with section 404-B or any other statute.'

Further amend said Bill by striking out all of section 7 and inserting in place thereof the following:

'Sec. 7. 1 MRSA §406 is repealed and the following enacted in place thereof:

§406. Violations

1. Penalties. A violation of any of the provisions of this subchapter or the wrongful exclusion of any person or persons from any meetings for which provision is made, or the wrongful denial of inspection or copying of any public record for which provision is made, shall be punishable by a fine of not more than \$500 or by imprisonment for less than one year. Nothing contained in this subchapter shall be construed as abridging the right of any citizen or citizens to appeal to a court of this State for the enforcement of the rights provided for in said subchapter.

2. Enforcement.

A. The Attorney General and the district attorneys of competent jurisdiction shall enforce the provisions of this subchapter;

B. Any person denied the rights conferred by this subchapter may commence a suit in the Superior Court

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of the county in which the public body ordinarily meets, or in which the plaintiff resides, for the purpose of requiring compliance with or preventing violations of this subchapter or to determine the applicability of this subchapter to discussions or decisions of the public body. The court may order payment of attorney fees and court costs to a successful plaintiff in a suit brought under this section.'

Further amend said Bill by renumbering the sections to read consecutively.

Statement of Fact

This amendment contains a series of changes to the bill concerning public notice, the form of public notice, emergency meetings, executive sessions, minutes of public proceedings and enforcement  $\leftarrow$  aimed at strengthening the public's right to know.

(Reeves)  
NAME:   
COUNTY: Kennebec

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