

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

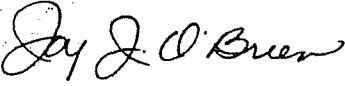
No. 1328

S.P. 486

In Senate, April 25, 1989

Submitted by the Department of Administration pursuant to Joint Rule 24.

Reference to the Committee on State and Local Government suggested and ordered printed.


JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CARPENTER of York.

Cosponsored by Representative MacBRIDE of Presque Isle and Representative DAGGETT of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Providing Confidentiality for Public Sector Job Applicants.

(EMERGENCY)



1 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
3 as emergencies; and

5 Whereas, applications of candidates for state, county and
municipal government employment are not now confidential and are
7 considered to be public information; and

9 Whereas, many potential candidates for positions need to
have the fact of their application kept confidential; and

11 Whereas, the lack of confidentiality currently afforded to
13 these applicants and application materials is deterring well
qualified applicants who would otherwise apply for government
15 positions; and

17 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
19 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
21 safety; now, therefore,

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

25 **Sec. 1.** 5 MRSA §7070, sub-§1, as enacted by PL 1985, c. 785,
Pt. B, §38, is repealed and the following enacted in its place:

27 1. Papers relating to applications, examinations or
29 evaluations of applicants. Applications, resumes, letters and
31 notes of recommendation, working papers, research materials,
33 records, examinations and any other documents or records
 solicited or prepared either by the applicant or the State for
 use in the examination or evaluation of applicants for positions;

35 **Sec. 2.** 30-A MRSA §503, sub-§1, ¶A, as enacted by PL 1987, c.
737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, cc. 6
37 and 9, is repealed and the following enacted in its place:

39 A. Applications, resumes, letters and notes of
41 recommendation, working papers, research materials, records,
43 examinations and any other documents or records solicited or
 prepared either by the applicant or the county for use in
 examination or evaluation of applicants for employment by
 that county;

45 **Sec. 3.** 30-A MRSA §2702, sub-§1, ¶A, as enacted by PL 1987, c.
47 737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, cc. 6
and 9, is repealed and the following enacted in its place:

49 A. Applications, resumes, letters and notes of
51 recommendation, working papers, research materials, records,

1 examinations and any other documents or records solicited or
2 prepared either by the applicant or the municipality for use
3 in the examination or evaluation of applicants for
4 employment by that municipality;

5
6 **Sec. 4. Transition provision.** This Act shall not preclude labor
7 representatives from access to such personnel records as they may
8 have under bargaining agreements in effect on the effective date
9 of this Act. Any records available to labor representatives
10 which are otherwise covered by this Act shall remain confidential
11 and not open to public inspection pursuant to the Maine Revised
12 Statutes, Title 1, section 402, subsection 3.

13
14 **Emergency clause.** In view of the emergency cited in the
15 preamble, this Act shall take effect when approved.

16
17
18
19 **STATEMENT OF FACT**

20
21 This bill provides confidentiality for municipal, county and
22 state job applicants. The bill helps to encourage job applicants
23 and to provide the best possible pool of job applicants. This
24 bill addresses the court's decision in Bangor Daily News v City
25 of Bangor. In that case, the Law Court held that the material
26 provided by an applicant for public employment was not
27 confidential under the Maine Revised Statutes, former Title 30,
28 section 2257 and that the confidentiality provided by that
29 section only applied to material prepared by the municipality in
30 its evaluation of candidates. This bill affects state, county
31 and local government and provides that both the employer's and
32 the applicant's materials, including any document that contains
33 the applicant's identity, shall remain confidential.