

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: 5/5/95

(Filing No. H- 209)

MAJORITY
JUDICIARY

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

STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 264, L.D. 366, Bill, "An Act to Amend the Provisions Relating to Access to Information for Candidates for Government Job Openings"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 5 MRSA §7070, sub-§1, ¶A-1 is enacted to read:

A-1. Notwithstanding any confidentiality provision other than this subsection, applications and resumes pertaining to a candidate for a major policy-influencing position in sections 932 to 953-A who has participated in a personal interview regarding the position at the department or bureau are public records from the date of the interview. For the purposes of this section, "personal interview" means a formal meeting in which the employing authority questions, consults or evaluates a candidate for a new or vacant position and at which the candidate is physically present. This paragraph is repealed October 1, 1998.

Sec. 2. 20-A MRSA §6101, sub-§2, ¶A-1 is enacted to read:

A-1. Applications and resumes pertaining to a candidate for the position of superintendent or assistant superintendent, or their equivalents, who has participated in a personal interview regarding the position are public records from the date of the interview. For the purposes of this section, "personal interview" means a formal meeting in which one or more members of the school board, governing board or district school committee question, consult or evaluate a candidate for a new or vacant position and at which the

R. O. S.

COMMITTEE AMENDMENT "A" to H.P. 264, L.D. 366

2 candidate is physically present. This paragraph is repealed
3 October 1, 1998.

4 **Sec. 3. 20-A MRSA §6101, sub-§2, ¶B**, as amended by PL 1987, c.
5 620, §1, is further amended to read:

6 B. Except as provided in paragraph paragraphs A and A-1,
7 information in any form relating to an employee or applicant
8 for employment, or to the employee's immediate family, shall
9 must be kept confidential if it relates to the following:

12 (1) All information, working papers and examinations
13 used in the examination or evaluation of all applicants
14 for employment;

16 (2) Medical information of any kind, including
17 information pertaining to diagnosis or treatment of
18 mental or emotional disorders;

20 (3) Performance evaluations, personal references and
21 other reports and evaluations reflecting on the quality
22 or adequacy of the employee's work or general character
23 compiled and maintained for employment purposes;

24 (4) Credit information;

26 (5) Except as provided by subsection 1, the personal
27 history, general character or conduct of the employee
28 or any member of the employee's immediate family;

30 (6) Complaints, charges of misconduct, replies thereto
31 to complaints and charges of misconduct and memoranda
32 and other materials pertaining to disciplinary action;

34 (7) Social security number; and

36 (8) The teacher action plan and support system
37 documents and reports maintained for certification
38 purposes.

40 **Sec. 4. 30-A MRSA §503, sub-§1, ¶A**, as repealed and replaced
41 by PL 1989, c. 402, §2, is amended to read:

44 A. Except as provided in this paragraph, applications,
45 resumes, letters and notes of reference, working papers,
46 research materials, records, examinations and any other
47 documents or records and the information they contain,
48 solicited or prepared either by the applicant or the county
49 for use in the examination or evaluation of applicants for
50 positions as county employees.

F. 48

2 (1) Notwithstanding any confidentiality provision
3 other than this paragraph, applications, resumes and
4 letters and notes of reference, other than those
5 letters and notes of reference expressly submitted in
6 confidence, pertaining to the applicant hired are
7 public records after the applicant is hired.

8
9 (1-A) Notwithstanding any confidentiality provision
10 other than this paragraph, applications and resumes
11 pertaining to a candidate for the position of chief
12 deputy sheriff, county administrator or jail
13 administrator, or their equivalents, who has
14 participated in a personal interview regarding the
15 position are public records from the date of the
16 interview. For the purposes of this section, "personal
17 interview" means a formal meeting in which one or more
18 persons question, consult or evaluate a candidate for a
19 new or vacant position and at which the candidate is
20 physically present. This paragraph is repealed October
21 1, 1998.

22
23 (2) Telephone numbers are not public records if they
24 are designated as "unlisted" or "unpublished" in an
25 application, resume or letter or note of reference.

26
27 (3) This paragraph does not preclude union
28 representatives from access to personnel records which
29 that may be necessary for the bargaining agent to carry
30 out its collective bargaining responsibilities. Any
31 records available to union representatives which are
32 otherwise covered by this subsection shall remain
33 confidential and are not open to public inspection;

34 **Sec. 5. 30-A MRSA §2702, sub-§1, ¶A, as repealed and replaced**
35 **by PL 1989, c. 402, §3, is amended to read:**

36
37 A. Except as provided in this paragraph, applications,
38 resumes, letters and notes of reference, working papers,
39 research materials, records, examinations and any other
40 documents or records and the information they contain,
41 solicited or prepared either by the applicant or the
42 municipality for use in the examination or evaluation of
43 applicants for positions as municipal employees.

44
45 (1) Notwithstanding any confidentiality provision
46 other than this paragraph, applications, resumes and
47 letters and notes of reference, other than those
48 letters and notes of reference expressly submitted in
49 confidence, pertaining to the applicant hired are
50 public records after the applicant is hired.

R & S

2 (1-A) Notwithstanding any confidentiality provision
 4 other than this paragraph, applications and resumes
 6 pertaining to a candidate for the position of town or
 8 city manager, police chief, fire chief, public works
 10 director or road commissioner, code enforcement
 12 officer, welfare director, personnel director,
 14 municipal clerk or tax assessor, or their equivalents,
 16 who has participated in a personal interview regarding
 the position are public records from the date of the
 interview. For the purposes of this section, "personal
 interview" means a formal meeting in which one or more
 municipal officers or officials question, consult or
 evaluate a candidate for a new or vacant position and
 at which the candidate is physically present. This
 subparagraph is repealed October 1, 1998.

18 (2) Telephone numbers are not public records if they
 20 are designated as "unlisted" or "unpublished" in an
 application, resume or letter or note of reference.

22 (3) This paragraph does not preclude union
 24 representatives from access to personnel records which
 that may be necessary for the bargaining agent to carry
 out its collective bargaining responsibilities. Any
 26 records available to union representatives which are
 otherwise covered by this subsection shall remain
 28 confidential and are not open to public inspection;

30 **Sec. 6. Legislation.** The joint standing committee of the
 32 Legislature having jurisdiction over judiciary matters may report
 out legislation concerning this Act during the Second Regular
 34 Session of the 118th Legislature.'

36
 38 **STATEMENT OF FACT**

40 This amendment narrows the scope of the original bill to
 42 make public records the applications and resumes of candidates
 for specific positions at the State, county and municipal level
 once they have participated in a personal interview. It also
 44 includes candidates for school superintendents and assistant
 superintendents. The language also refers to the "equivalents"
 46 of the named positions in order to include the positions with the
 same duties as those named, even if the position has a different
 title than those listed. "Personal interview" is defined as a
 48 formal meeting in which one or more members of the hiring
 authority question, consult and evaluate a candidate for the
 50 position and at which the candidate is physically present. Each

R. S.

COMMITTEE AMENDMENT "A" to H.P. 264, L.D. 366

2 provision is repealed on October 1, 1998. This will allow a full
2 years to evaluate the effect of these changes before the
Legislature will have to act to remove the sunset.

4

6 This amendment also adds authority for the Joint Standing
Committee on Judiciary to report out legislation on the Act
during the 1998 Legislative session.