

MAINE STATE LEGISLATURE

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M
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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1149, L.D. 1614, Bill, "An Act to Amend the Freedom of Access Laws"

Amend the bill in section 1 in that part designated "§405." in subsection 4 in the 3rd line (page 1, line 26 in L.D.) by inserting after the following: "and" the following: ', if asked.'

Further amend the bill in section 1 in that part designated "§405." in subsection 6 in paragraph A in the 2nd line (page 1, line 37 in L.D.) by striking out the following: "appointment, assignment," and inserting in its place the following: 'appointment, assignment,'

Further amend the bill in section 1 in that part designated "§405." in subsection 6 in paragraph A in the 4th and 5th lines (page 1, lines 39 and 40 in L.D.) by striking out the following: "~~public officials, appointees or~~" and inserting in its place the following: 'public officials, appointees or'

Further amend the bill in section 1 in that part designated "§405." in subsection 6 in paragraph A in subparagraph (2) in the first line (page 1, line 50 in L.D.) by striking out the following: "~~shall--be is~~" and inserting in its place the following: 'shall must be'

Further amend the bill in section 1 in that part designated "§405." in subsection 6 in paragraph A in subparagraph (3) in the 2nd line from the end (page 2, line 7 in L.D.) by inserting after the following: "made to the" the following: 'board or'

COMMITTEE AMENDMENT

R. 28.

2 Further amend the bill in section 1 in that part designated
4 "~~§405.~~" in subsection 6 in paragraph A in subparagraph (4) in the
6 last line (page 2, line 12 in L.D.) by striking out the
following: "~~shall--be is~~" and inserting in its place the
following: '~~shall~~ must be'

8 Further amend the bill in section 1 in that part designated
10 "~~§405.~~" in subsection 6 in paragraph B in subparagraph (1) in the
12 3rd line (page 2, line 24 in L.D.) by striking out the
following: "~~shall--be are~~" and inserting in its place the
following: '~~shall~~ must be'

14 Further amend the bill in section 1 in that part designated
16 "~~§405.~~" in subsection 6 in paragraph C in the 3rd and 4th lines
18 (page 2, lines 30 and 31 in L.D.) by striking out the following:
"~~therein to real property~~" and inserting in its place the
20 following: '~~therein~~ in real property and attached personal
property'

22 Further amend the bill in section 1 in that part designated
24 "~~§405.~~" in subsection 6 in paragraph D in the 2nd line from the
end (page 2, line 43 in L.D.) by striking out the following:
"~~provided~~" and inserting in its place the following: 'if'

26 Further amend the bill in section 1 in that part designated
28 "~~§405.~~" in subsection 6 in paragraph G in the last line (page 3,
line 14 in L.D.) by inserting after the following: "~~subsection
2.~~" the following: 'The applicant or the applicant's
30 representative must be permitted to be present.'

32 Further amend the bill by striking out all of sections 2 and
34 3 and inserting in their place the following:

36 'Sec. 2. 1 MRSA §406, as amended by PL 1987, c. 477, §4, is
repealed and the following enacted in its place:

38 §406. Public notice and meeting records

40 1. Public notice. Public notice must be given for all
42 public proceedings as defined in section 402, if these
44 proceedings are a meeting of a body or agency consisting of 3 or
46 more persons. This notice must be given in ample time to allow
48 public attendance and must be disseminated in a manner reasonably
50 calculated to notify the general public in the jurisdiction
served by the body or agency concerned. In the event of an
emergency meeting, local representatives of the media must be
notified of the meeting, whenever practical, the notification to
include time and location, by the same or faster means used to
notify the members of the agency conducting the public proceeding.

2 2. Meeting records. Records of all public proceedings and
3 executive sessions must be recorded by a member of the board or
4 agency or the member's designee.

6 A. The meeting records of public proceedings must include
7 the names of the members present, the names of persons
8 appearing before the agency or body, the text of any motion
9 made, the vote on such a motion and a brief description of
10 the subject matter discussed. Meeting records of emergency
11 meetings must identify clearly the reason for that emergency
12 meeting. The meeting records of a public proceeding must be
13 made available for public inspection within a reasonable
14 time after the public meeting.

16 B. The meeting records of executive sessions must include
17 the names of the members present and a brief description of
18 the permitted deliberation for which the session was
19 called. The meeting record of an executive session may be
20 made available for public inspection only if, by recorded
21 vote of 2/3 of the members present and voting in a public
22 proceeding, it is determined that disclosure of the meeting
23 record would not adversely affect the reputation of any
24 person other than a member of the board or agency or violate
25 any person's right to privacy or otherwise render the
26 proposed action ineffective.'

28 Further amend the bill by inserting at the end before the
29 summary the following:

30
31 **FISCAL NOTE**

32 The requirement that meeting records be kept and made
33 available within certain time frames represents a state mandate
34 pursuant to the Constitution of Maine. The additional local
35 costs can not be determined. General Fund appropriations will be
36 required to fund at least 90% of the additional costs unless a
37 Mandate Preamble is amended to the bill and two-thirds of the
38 members of each House vote to exempt this mandate from the
39 funding requirement.

42 The Legislature will require additional General Fund
43 appropriations for staff necessary to keep records of its public
44 proceedings. The amounts required can not be determined at this
45 time.

46 The impact of this recording requirement on other state
47 departments and agencies can not be determined at this time.'

R. 4/8

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SUMMARY

This amendment deletes changes to the required procedures for entering executive sessions. It requires the board or agency going into executive session to state the specific statutory reference supporting the executive session if asked to do so. It retains the technical amendments to the reasons an agency can enter executive session and makes additional technical changes. It retains the addition of consideration of property tax abatement applications in executive session and ensures that the applicant or the applicant's representative has a right to attend those proceedings.

This amendment retains the current public notice requirements. It adds the requirement that a meeting record be made and available for public inspection within a reasonable time after a public proceeding. Meeting records must be made of executive sessions as well, although they may be disclosed only if 2/3 of the members present vote in a public session to disclose the executive session meeting record.

The changes to the release of decisions are deleted.

The amendment also adds a fiscal note to the bill.