

MAINE STATE LEGISLATURE

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R.D.S.

L.D. 233

2 DATE: April 6, 1999

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10 **STATE OF MAINE**
SENATE
12 **119TH LEGISLATURE**
FIRST REGULAR SESSION

14
16 SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 94,
L.D. 233, Bill, "An Act to Amend the Provisions Relating to
18 Executive Sessions in Connection with the Transaction of Public
or Government Business"

20 Amend the amendment by striking out all of section 1 and
inserting in its place the following:

22
24 **Sec. 1. 1 MRSA §405, sub-§6**, as amended by PL 1999, c. 40,
§§1 and 2, is further amended to read:

26 **6. Permitted deliberation.** Deliberations may be conducted
in executive sessions on the following matters and no others:

28
30 A. Discussion or consideration of the employment,
appointment, assignment, duties, promotion, demotion,
32 compensation, evaluation, disciplining, resignation or
dismissal of an individual or group of public officials,
34 appointees or employees of the body or agency or the
investigation or hearing of charges or complaints against a
person or persons subject to the following conditions:

36
38 (1) An executive session may be held only if public
discussion could be reasonably expected to cause damage
40 to the reputation or the individual's right to privacy
would be violated;

42 (2) Any person charged or investigated shall must be
44 permitted to be present at an executive session if he
that person so desires;

46 (3) Any person charged or investigated may request in
writing that the investigation or hearing of charges or

2 complaints against ~~him~~ that person be conducted in open
session. A request, if made to the agency, must be
honored; and

4
6 (4) Any person bringing charges, complaints or
allegations of misconduct against the individual under
discussion shall must be permitted to be present.

8
10 This paragraph does not apply to discussion of a budget or
budget proposal;

12 B. Discussion or consideration by a school board of
suspension or expulsion of a public school student or a
14 student at a private school, the cost of whose education is
paid from public funds, provided that:

16
18 (1) The student and legal counsel and, if the student
be is a minor, the student's parents or legal guardians
shall must be permitted to be present at an executive
20 session if the student, parents or guardians so desire.
;

22
24 C. Discussion or consideration of the condition,
acquisition or the use of real or personal property
permanently attached to real property or interests therein
26 or disposition of publicly held property or economic
development only if premature disclosures of the information
28 would prejudice the competitive or bargaining position of
the body or agency;

30
32 D. Discussion of labor contracts and proposals and meetings
between a public agency and its negotiators. Negotiations
34 between the representatives of a public employer and public
employees may be open to the public provided both parties
36 agree to conduct negotiations in open sessions. ~~Discussion~~
~~of labor contracts and proposals and meetings between a~~
~~public agency and its negotiators may be held in an~~
38 ~~executive session.~~ ;

40 E. Consultations between a body or agency and its attorney
concerning the legal rights and duties of the body or
42 agency, pending or contemplated litigation, settlement
offers and matters where when the duties of the public
44 body's counsel to his the client pursuant to the code of
professional responsibility clearly conflict with this
46 subchapter or where when premature general public knowledge
would clearly place the State, municipality or other public
48 agency or person at a substantial disadvantage. ;

50 F. Discussions of information contained in records made,

SENATE AMENDMENT

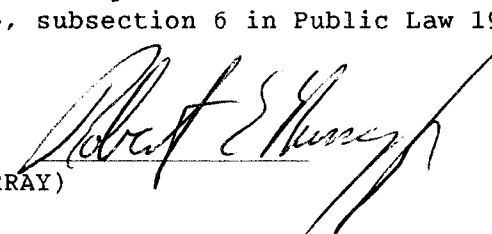
maintained or received by a body or agency when access by
the general public to those records is prohibited by
statute; and

G. Discussion or approval of the content of examinations
administered by a body or agency for licensing, permitting
or employment purposes; consultation between a body or
agency and any entity that provides examination services to
that body or agency regarding the content of an examination;
and review of examinations with the person examined; and

H. Consultations between municipal officers and a code
enforcement officer representing the municipality pursuant
to Title 30-A, section 4452, subsection 1, paragraph C in
the prosecution of an enforcement matter pending in District
Court when the consultation relates to that pending
enforcement matter.'

SUMMARY

This amendment is being presented on behalf of the Committee
on Bills in the Second Reading to prevent a conflict by
incorporating a change made to the Maine Revised Statutes, Title
1, section 405, subsection 6 in Public Law 1999, chapter 40.

SPONSORED BY: 
(Senator MURRAY)

COUNTY: Penobscot