

# MAINE STATE LEGISLATURE

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DATE: March 31, 1999

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**JUDICIARY**

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

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

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

'Sec. 1. 1 MRSA §405, sub-§6, as amended by PL 1987, c. 769, Pt. A, §1, is further amended to read:

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

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, 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:

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

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

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

**COMMITTEE AMENDMENT**

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

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

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

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

(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 session if the student, parents or guardians so desire.  
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C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. Negotiations between the representatives of a public employer and public employees may be open to the public provided both parties 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 executive session.~~ i

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

F. Discussions of information contained in records made, maintained or received by a body or agency when access by

the general public to those records is prohibited by statute; and

G. 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 replaces the bill. It allows municipal officers to consult with their code enforcement officer in executive session when the consultation relates to an enforcement matter pending in the courts and the code enforcement officer is representing the municipality in that action. The amendment also makes a nonsubstantive format change.