

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2198

H.P. 1568

House of Representatives, February 6, 2008

**An Act To Implement the Recommendations of the Right To Know
Advisory Committee Concerning Training for Elected Officials**

(EMERGENCY)

Reported by Representative SIMPSON of Auburn for the Joint Standing Committee on
Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.
Reference to the Committee on Judiciary suggested and ordered printed under Joint Rule
218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

3 **Whereas,** the training of elected officials pursuant to the Maine Revised Statutes,
4 Title 1, section 412 must begin July 1, 2008, and that law needs clarification; and

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

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

10 **Sec. 1. 1 MRSA §411, sub-§6, ¶D,** as enacted by PL 2005, c. 631, §1, is
11 amended to read:

12 D. Shall serve as a resource to support training and education about the freedom of
13 access laws. Although each agency is responsible for training for the specific records
14 and meetings pertaining to that agency's mission, the advisory committee shall
15 provide core resources for the training, share best practices experiences and support
16 the establishment and maintenance of online training as well as written question-and-
17 answer summaries about specific topics. The advisory committee shall recommend a
18 process for collecting the training completion records required under section 412,
19 subsection 3 and for making that information publicly available;

20 **Sec. 2. 1 MRSA §412,** as enacted by PL 2007, c. 349, §1, is amended to read:

21 **§412. Public records and proceedings training for certain elected officials**

22 **1. Training required.** Beginning July 1, 2008, an elected official subject to this
23 section shall complete a course of training on the requirements of this chapter relating to
24 public records and proceedings. The official shall complete the training not later than the
25 120th day after the date the elected official takes the oath of office to assume the person's
26 duties as an elected official. For elected officials subject to this section serving in office
27 on July 1, 2008, the training required by this section must be completed by November 1,
28 2008.

29 **2. Training course; minimum requirements.** The training course under subsection
30 1 must be ~~approved by the advisory committee. The training must be~~ designed to be
31 completed by an official in less than 2 hours. At a minimum, the training must include
32 instruction in:

33 A. The general legal requirements of this chapter regarding public records and public
34 proceedings;

35 B. Procedures and requirements regarding complying with a request for a public
36 record under this chapter; and

37 C. Penalties and other consequences for failure to comply with this chapter.

1 An elected official meets the training requirements of this section by conducting a
2 thorough review of all the information made available by the State on a publicly
3 accessible website pursuant to section 411, subsection 6, paragraph C regarding specific
4 guidance on how a member of the public can use the law to be a better informed and
5 active participant in open government. To meet the requirements of this subsection, any
6 other training course must include all of this information and may include additional
7 information.

8 **3. Certification of completion.** Upon completion of the training course required
9 under subsection 1, the elected official shall ~~send~~ make a written or an electronic
10 notification to the advisory committee record attesting to the fact that the training has
11 been completed. ~~The advisory committee shall maintain a record of those elected officials~~
12 who have completed the training required by this section and make that record available
13 to the public in accordance with the requirements of this chapter. The record must
14 identify the training completed and the date of completion. The elected official shall
15 keep the record or file it with the public entity to which the official was elected.

16 **4. Application.** This section applies to the following elected officials:

17 A. The Governor;

18 B. The Attorney General, Secretary of State, Treasurer of State and State Auditor;

19 C. Members of the Legislature elected after November 1, 2008; and

20 ~~D. An elected official of a county, municipality, school district or school board or~~
21 ~~any regional or other political subdivision who, as part of the duties of the office,~~
22 ~~exercises executive or legislative powers.~~

23 E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers
24 of probate and budget committee members of county governments;

25 F. Municipal officers, clerks, treasurers, assessors and budget committee members of
26 municipal governments;

27 G. Officials of school units and school boards; and

28 H. Officials of a regional or other political subdivision who, as part of the duties of
29 their offices, exercise executive or legislative powers. For the purposes of this
30 paragraph, "regional or other political subdivision" means an administrative entity or
31 instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-
32 municipal corporation or special purpose district, including, but not limited to, a
33 water district, sanitary district, hospital district, school district of any type, transit
34 district as defined in Title 30-A, section 3501, subsection 1 or regional transportation
35 corporation as defined in Title 30-A, section 3501, subsection 2.

36 **Emergency clause.** In view of the emergency cited in the preamble, this
37 legislation takes effect when approved.

1 **SUMMARY**

2 This bill amends the law regarding training requirements for elected officials, as
3 enacted by Public Law 2007, chapter 349.

4 This bill maintains the minimum content requirements for the training programs but
5 provides that an elected official who completes a training program that contains all the
6 information contained under the Frequently Asked Questions heading on the State's
7 Freedom of Access law website meets the minimum requirements. Current law directs the
8 Right To Know Advisory Committee to approve the training programs. This bill
9 eliminates that role.

10 Current law requires an elected official to send notice of the completion of the
11 required training to the advisory committee. This bill requires the elected official to make
12 a record of the completion of the training and either keep it or file it with the public entity
13 to which that official was elected. The record of completion is a public record. The
14 advisory committee is directed to recommend to the Legislature a process for collecting
15 the completion data and making it available to the public.

16 This bill addresses the application of the mandatory training requirement to elected
17 officials. Current law applies beginning July 1, 2008. This bill revises the application to
18 Legislators to begin for Legislators elected after November 1, 2008. This avoids training
19 in July 2008 those Legislators who will not be reelected the following November. This
20 bill also specifically spells out the elected officials who are subject to the training and
21 provides a general description of those who, as part of the duties of their offices, exercise
22 executive or legislative powers as elected officials of regional or other political
23 subdivisions.