

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1241

S.P. 446

In Senate, April 7, 2015

An Act To Increase Government Efficiency

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator KATZ of Kennebec.
Cosponsored by Representative HARLOW of Portland and
Senators: DAVIS of Piscataquis, SAVIELLO of Franklin, Representative: MALABY of
Hancock.

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

2 **Sec. 1. 4 MRSA §1602, sub-§3**, as amended by PL 1997, c. 523, §2, is further
3 amended to read:

4 **3. Officers; quorum.** The authority shall elect from its membership a chair and a
5 vice-chair. In addition, the authority may have a secretary and a treasurer, who may be
6 members or nonmembers of the authority. Three members of the authority constitute a
7 quorum and the vote of 3 members is necessary for any action taken by the authority. A
8 vacancy in the membership of the authority does not impair the right of a quorum to
9 exercise all the rights and perform all the duties of the authority.

10 The authority may meet by telephonic, video, electronic or other similar means of
11 communication with less than a quorum assembled physically at the location of a public
12 proceeding identified in the notice required by Title 1, section 406 only if:

13 A. Each member can hear all other members and speak to all other members during
14 the public proceeding, and members of the public attending the public proceeding at
15 the location identified in the notice required by Title 1, section 406 are able to hear all
16 members participating from other locations;

17 B. Each member who is not physically present at the location of the public
18 proceeding and who is participating through telephonic, video, electronic or other
19 similar means of communication identifies all persons present at the location from
20 which the member is participating;

21 C. A member who participates while not physically present at the location of the
22 public proceeding identified in the notice required by Title 1, section 406 does so
23 only when the member's attendance is not reasonably practical. The reason that the
24 member's attendance is not reasonably practical must be stated in the minutes of the
25 meeting; and

26 D. Each member who is not physically present at the location of the public
27 proceeding and who is participating through telephonic, video, electronic or other
28 similar means of communication has received prior to the public proceeding all
29 documents and materials discussed at the public proceeding, with substantially the
30 same content as those presented at the public proceeding. Documents or other
31 materials made available at the public proceeding may be transmitted to the member
32 not physically present during the public proceeding if the transmission technology is
33 available. Failure to comply with this paragraph does not invalidate an action taken
34 by the authority at the public proceeding.

35 **Sec. 2. 22 MRSA §2054, sub-§4**, as enacted by PL 1971, c. 303, §1, is amended
36 to read:

37 **4. Powers of authority.** The powers of the authority ~~shall be~~ are vested in ~~the~~ its
38 ~~members thereof in office from time to time,~~ and 5 members of the authority ~~shall~~
39 constitute a quorum at any meeting of the authority. ~~No~~ A vacancy in the membership of
40 the authority ~~shall~~ does not impair the right of ~~such members~~ a quorum to exercise all the
41 rights and perform all the duties of the authority. ~~Any~~ An action taken by the authority

1 under this chapter may be authorized by resolution approved by a majority of the
2 members present at any regular or special meeting, which resolution ~~shall take~~ takes
3 effect immediately, or an action taken by the authority may be authorized by a resolution
4 circularized or sent to each member of the authority, which ~~shall take~~ resolution takes
5 effect at such time as a majority of the members ~~shall~~ have signed an assent to such
6 resolution. Resolutions of the authority need not be published or posted. The authority
7 may delegate by resolution to one or more of its members or its executive director such
8 powers and duties as it ~~may deem~~ considers proper.

9 The authority may meet by telephonic, video, electronic or other similar means of
10 communication with less than a quorum assembled physically at the location of a public
11 proceeding identified in the notice required by Title 1, section 406 only if:

12 A. Each member can hear all other members and speak to all other members during
13 the public proceeding, and members of the public attending the public proceeding at
14 the location identified in the notice required by Title 1, section 406 are able to hear all
15 members participating from other locations;

16 B. Each member who is not physically present at the location of the public
17 proceeding and who is participating through telephonic, video, electronic or other
18 similar means of communication identifies all persons present at the location from
19 which the member is participating;

20 C. A member who participates while not physically present at the location of the
21 public proceeding identified in the notice required by Title 1, section 406 does so
22 only when the member's attendance is not reasonably practical. The reason that the
23 member's attendance is not reasonably practical must be stated in the minutes of the
24 meeting; and

25 D. Each member who is not physically present at the location of the public
26 proceeding and who is participating through telephonic, video, electronic or other
27 similar means of communication has received prior to the public proceeding all
28 documents and materials discussed at the public proceeding, with substantially the
29 same content as those presented at the public proceeding. Documents or other
30 materials made available at the public proceeding may be transmitted to the member
31 not physically present during the public proceeding if the transmission technology is
32 available. Failure to comply with this paragraph does not invalidate an action taken
33 by the authority at the public proceeding.

34 **Sec. 3. 30-A MRSA §4723, sub-§2, ¶B,** as amended by PL 2011, c. 560, §1, is
35 further amended to read:

36 B. The Maine State Housing Authority, as authorized by Title 5, chapter 379, must
37 have 10 commissioners, 8 of whom must be appointed by the Governor, subject to
38 review by the joint standing committee of the Legislature having jurisdiction over
39 economic development and to confirmation by the Legislature. The 9th
40 commissioner is the Treasurer of State who serves as an ex officio voting member.
41 The Treasurer of State may designate the Deputy Treasurer of State to serve in place
42 of the Treasurer of State. The 10th commissioner is the director of the Maine State
43 Housing Authority who serves as an ex officio nonvoting member. At least 3
44 gubernatorial appointments must include a representative of bankers, a representative

1 of elderly people and a resident of housing that is subsidized or assisted by programs
2 of the United States Department of Housing and Urban Development or of the Maine
3 State Housing Authority. In appointing the resident, the Governor shall give priority
4 consideration to nominations that may be made by tenant associations established in
5 the State. Of the 5 remaining gubernatorial appointments, the Governor shall give
6 priority to a representative involved in the housing business and a representative of
7 people with disabilities. The powers of the Maine State Housing Authority are vested
8 in the commissioners. The commissioners may delegate such powers and duties to
9 the director of the Maine State Housing Authority as they determine appropriate.

10 The Governor shall appoint the chair of the commissioners from among the 8
11 gubernatorial appointments. The chair serves as a nonvoting member, except that the
12 chair may vote only when the chair's vote will affect the result. The commissioners
13 shall elect a vice-chair of the commissioners from among their number.

14 Following reasonable notice to each commissioner, 5 commissioners of the Maine
15 State Housing Authority constitute a quorum for the purpose of conducting its
16 business, exercising its powers and for all other purposes, notwithstanding the
17 existence of any vacancies. Action may be taken by the commissioners upon a vote
18 of a majority of the commissioners present, unless otherwise specified in law or
19 required by its bylaws.

20 The Maine State Housing Authority may meet by telephonic, video, electronic or
21 other similar means of communication with less than a quorum assembled physically
22 at the location of a public proceeding identified in the notice required by Title 1,
23 section 406 only if:

24 (1) Each commissioner can hear all other commissioners and speak to all other
25 commissioners during the public proceeding, and members of the public
26 attending the public proceeding at the location identified in the notice required by
27 Title 1, section 406 are able to hear all commissioners participating from other
28 locations;

29 (2) Each commissioner who is not physically present at the location of the public
30 proceeding and who is participating through telephonic, video, electronic or other
31 similar means of communication identifies all persons present at the location
32 from which the commissioner is participating;

33 (3) A commissioner who participates while not physically present at the location
34 of the public proceeding identified in the notice required by Title 1, section 406
35 does so only when the commissioner's attendance is not reasonably practical.
36 The reason that the commissioner's attendance is not reasonably practical must be
37 stated in the minutes of the meeting; and

38 (4) Each commissioner who is not physically present at the location of the public
39 proceeding and who is participating through telephonic, video, electronic or other
40 similar means of communication has received prior to the public proceeding all
41 documents and materials discussed at the public proceeding, with substantially
42 the same content as those presented at the public proceeding. Documents or
43 other materials made available at the public proceeding may be transmitted to the
44 commissioner not physically present during the public proceeding if the

1 transmission technology is available. Failure to comply with this subparagraph
2 does not invalidate an action taken by the Maine State Housing Authority at the
3 public proceeding.

4 **Sec. 4. 30-A MRSA §5951, sub-§4**, as enacted by PL 1987, c. 737, Pt. A, §2 and
5 Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is
6 further amended to read:

7 **4. Officers of board; exercise of powers.** The board of commissioners shall elect
8 one of its members as ~~chairman, chair~~ and one as ~~vice-chairman~~ vice-chair and shall
9 appoint an executive director who ~~shall also serve~~ serves as both secretary and treasurer.
10 The powers of the bank are vested in the commissioners of the bank in office from time
11 to time. Three commissioners of the bank ~~constitutes~~ constitute a quorum at any meeting
12 of the commissioners. Action may be taken and motions and resolutions adopted by the
13 bank at any meeting by the affirmative vote of at least 3 commissioners of the bank. A
14 vacancy in the office of commissioner of the bank does not impair the right of a quorum
15 of the commissioners to exercise all the powers and perform all the duties of the bank.

16 The board of commissioners may meet by telephonic, video, electronic or other similar
17 means of communication with less than a quorum assembled physically at the location of
18 a public proceeding identified in the notice required by Title 1, section 406 only if:

19 A. Each commissioner can hear all other commissioners and speak to all other
20 commissioners during the public proceeding, and members of the public attending the
21 public proceeding at the location identified in the notice required by Title 1, section
22 406 are able to hear all commissioners participating from other locations;

23 B. Each commissioner who is not physically present at the location of the public
24 proceeding and who is participating through telephonic, video, electronic or other
25 similar means of communication identifies all persons present at the location from
26 which the commissioner is participating;

27 C. A commissioner who participates while not physically present at the location of
28 the public proceeding identified in the notice required by Title 1, section 406 does so
29 only when the commissioner's attendance is not reasonably practical. The reason that
30 the commissioner's attendance is not reasonably practical must be stated in the
31 minutes of the meeting; and

32 D. Each commissioner who is not physically present at the location of the public
33 proceeding and who is participating through telephonic, video, electronic or other
34 similar means of communication has received prior to the public proceeding all
35 documents and materials discussed at the public proceeding, with substantially the
36 same content as those presented at the public proceeding. Documents or other
37 materials made available at the public proceeding may be transmitted to the
38 commissioner not physically present during the public proceeding if the transmission
39 technology is available. Failure to comply with this paragraph does not invalidate an
40 action taken by the bank at the public proceeding.

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SUMMARY

This bill authorizes the Maine Governmental Facilities Authority, the Maine Health and Higher Educational Facilities Authority, the Maine State Housing Authority and the Maine Municipal Bond Bank to conduct public proceedings with one or more members of the board or commission participating via remote access technology in certain circumstances.