

# MAINE STATE LEGISLATURE

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Minority

(Filing No. S-244 )

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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STATE OF MAINE

SENATE

128TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 454, L.D. 1340, Bill, "An Act To Amend the Laws Governing the Maine State Housing Authority"

Amend the bill by striking out all of sections 8 to 10 and inserting the following:

'Sec. 8. 30-A MRSA §4706, sub-§§5 to 7 are enacted to read:

5. Confidentiality of personnel records. The following records are confidential and not open to public inspection:

A. Except as otherwise provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the authority for use in the examination or evaluation of applicants for employment by the authority.

(1) Applications, resumes and letters and notes of reference pertaining to the applicant hired, other than those letters and notes of reference expressly submitted in confidence, are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as unlisted or unpublished in an application, resume or letter or note of reference;

B. Authority records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of the employee's immediate family;

**COMMITTEE AMENDMENT**

1           (5) Complaints, charges or accusations of misconduct, replies to those  
2           complaints, charges or accusations and any other information or materials that  
3           may result in disciplinary action. If disciplinary action is taken, the final written  
4           decision relating to that action is no longer confidential after the decision is  
5           completed if it imposes or upholds discipline. The decision must state the  
6           conduct or other facts on the basis of which disciplinary action is being imposed  
7           and the conclusions of the acting authority as to the reasons for that action; and

8           (6) Personal information, including that which pertains to the employee's:

9                   (a) Age;

10                   (b) Ancestry, ethnicity, genetic information, national origin, race or skin  
11                   color;

12                   (c) Marital status;

13                   (d) Mental or physical disabilities;

14                   (e) Personal contact information, as described in Title 1, section 402,  
15                   subsection 3, paragraph O;

16                   (f) Personal employment choices pertaining to elected payroll deductions,  
17                   deferred compensation, saving plans, pension plans, health insurance and life  
18                   insurance;

19                   (g) Religion;

20                   (h) Sex or sexual orientation as defined in Title 5, section 4553, subsection  
21                   9-C; or

22                   (i) Social security number; and

23           C. Other information to which access by the general public is prohibited by law.

24           **6. Employee right to review.** On written request from an employee or former  
25           employee, the authority shall provide the employee, former employee or the employee's  
26           authorized representative with an opportunity to review the employee's personnel file, if  
27           the authority has a personnel file for that employee. The review must take place during  
28           normal office hours at the location where the personnel files are maintained. For the  
29           purposes of this subsection, a personnel file includes, but is not limited to, any formal or  
30           informal employee evaluations and reports relating to the employee's character, credit,  
31           work habits, compensation and benefits that the authority may possess. The records  
32           described in subsection 5, paragraph B may also be examined by the employee to whom  
33           the records relate, as provided in this subsection.

34           **7. Constitutional obligations of a prosecutor.** Notwithstanding this section or any  
35           other provision of law, subsection 5 does not preclude the disclosure of confidential  
36           personnel records and the information contained in those records to the Attorney General,  
37           a deputy attorney general, an assistant attorney general, a district attorney, a deputy  
38           district attorney, an assistant district attorney or the equivalent departments or offices in a  
39           federal jurisdiction that are related to the determination of and compliance with the  
40           constitutional obligations of the State or the United States to provide discovery to a

1 defendant in a criminal matter. A person or entity participating in good faith disclosure  
2 under this subsection or participating in a related proceeding is immune from criminal  
3 and civil liability for the act of disclosure or for participating in the proceeding.'

4 Amend the bill in section 18 in paragraph DD in subparagraph (4) in the last  
5 paragraph in the last line (page 6, line 16 in L.D.) by striking out the following: "and"

6 Amend the bill in section 19 in the first line (page 6, line 17 in L.D.) by striking out  
7 the following: "¶EE is" and inserting the following: '¶¶EE and FF are'

8 Amend the bill in section 19 in paragraph EE in the last line (page 6, line 23 in L.D.)  
9 by striking out the following: "income." and inserting the following: 'income; and'

10 Amend the bill in section 19 by inserting after paragraph EE the following:

11 'FF. Provide grants to eligible homeowners who are served by private well water that  
12 shows evidence of high levels of arsenic contamination. For purposes of this  
13 paragraph, "homeowner" includes an individual who occupies a single-family  
14 dwelling that is located on land that is owned by a member of that individual's  
15 immediate family and "immediate family" means a spouse, parent, child, sibling,  
16 stepchild, stepparent and grandparent.'

17 Amend the bill by striking out all of sections 41 and 42 and inserting the following:

18 '**Sec. 41. 30-A MRSA §5047, sub-§1, ¶B**, as enacted by PL 2005, c. 380, Pt. A,  
19 §2, is amended to read:

20 B. The Director of the Maine State Housing Authority or the director's designee;'

21 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
22 section number to read consecutively.

### 23 SUMMARY

24 This amendment, which is the minority report of the committee, amends the bill by:

25 1. Clarifying that only specific items within the personnel files of Maine State  
26 Housing Authority employees are confidential;

27 2. Authorizing the Maine State Housing Authority to provide an arsenic abatement  
28 program to homeowners with private well water that shows evidence of arsenic  
29 contamination, including individuals whose homes are located on land owned by an  
30 immediate family member; and

31 3. Eliminating the provisions of the bill that propose to change the process for  
32 appointing members of the Statewide Homeless Council.

### 33 FISCAL NOTE REQUIRED

34 (See attached)



# 128th MAINE LEGISLATURE

LD 1340

LR 475(03)

**An Act To Amend the Laws Governing the Maine State Housing Authority**

**Fiscal Note for Bill as Amended by Committee Amendment "B" (S-244)**  
**Committee: Labor, Commerce, Research and Economic Development**  
**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - Other funds

### Fiscal Detail and Notes

Any additional costs to the Maine State Housing Authority associated with the implementing the changes in this legislation can be absorbed within existing budgeted resources.