

APPENDIX A

Authorizing Legislation: 1 MRSA §411

Maine Revised Statutes

Title 1: GENERAL PROVISIONS

Chapter 13: PUBLIC RECORDS AND PROCEEDINGS

§411. RIGHT TO KNOW ADVISORY COMMITTEE

1. Advisory committee established. The Right To Know Advisory Committee, referred to in this chapter as "the advisory committee," is established to serve as a resource for ensuring compliance with this chapter and upholding the integrity of the purposes underlying this chapter as it applies to all public entities in the conduct of the public's business.

[2005, c. 631, §1 (NEW) .]

2. Membership. The advisory committee consists of the following members:

A. One Senator who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the President of the Senate; [2005, c. 631, §1 (NEW) .]

B. One member of the House of Representatives who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the Speaker of the House; [2005, c. 631, §1 (NEW) .]

C. One representative of municipal interests, appointed by the Governor; [2005, c. 631, §1 (NEW) .]

D. One representative of county or regional interests, appointed by the President of the Senate; [2005, c. 631, §1 (NEW) .]

E. One representative of school interests, appointed by the Governor; [2005, c. 631, §1 (NEW) .]

F. One representative of law enforcement interests, appointed by the President of the Senate; [2005, c. 631, §1 (NEW) .]

G. One representative of the interests of State Government, appointed by the Governor; [2005, c. 631, §1 (NEW) .]

H. One representative of a statewide coalition of advocates of freedom of access, appointed by the Speaker of the House; [2005, c. 631, §1 (NEW) .]

I. One representative of newspaper and other press interests, appointed by the President of the Senate; [2005, c. 631, §1 (NEW) .]

J. One representative of newspaper publishers, appointed by the Speaker of the House; [2005, c. 631, §1 (NEW) .]

K. Two representatives of broadcasting interests, one appointed by the President of the Senate and one appointed by the Speaker of the House; [2005, c. 631, §1 (NEW) .]

L. Two representatives of the public, one appointed by the President of the Senate and one appointed by the Speaker of the House; and [2005, c. 631, §1 (NEW) .]

M. The Attorney General or the Attorney General's designee. [2005, c. 631, §1 (NEW) .]

The advisory committee shall invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.

[2005, c. 631, §1 (NEW) .]

3. Terms of appointment. The terms of appointment are as follows.

A. Except as provided in paragraph B, members are appointed for terms of 3 years. [2005, c. 631, §1 (NEW).]

B. Members who are Legislators are appointed for the duration of the legislative terms of office in which they were appointed. [2005, c. 631, §1 (NEW).]

C. Members may serve beyond their designated terms until their successors are appointed. [2005, c. 631, §1 (NEW).]

[2005, c. 631, §1 (NEW) .]

4. First meeting; chair. The Executive Director of the Legislative Council shall call the first meeting of the advisory committee as soon as funding permits. At the first meeting, the advisory committee shall select a chair from among its members and may select a new chair annually.

[2005, c. 631, §1 (NEW) .]

5. Meetings. The advisory committee may meet as often as necessary but not fewer than 4 times a year. A meeting may be called by the chair or by any 4 members.

[2005, c. 631, §1 (NEW) .]

6. Duties and powers. The advisory committee:

A. Shall provide guidance in ensuring access to public records and proceedings and help to establish an effective process to address general compliance issues and respond to requests for interpretation and clarification of the laws; [2005, c. 631, §1 (NEW).]

B. Shall serve as the central source and coordinator of information about the freedom of access laws and the people's right to know. The advisory committee shall provide the basic information about the requirements of the law and the best practices for agencies and public officials. The advisory committee shall also provide general information about the freedom of access laws for a wider and deeper understanding of citizens' rights and their role in open government. The advisory committee shall coordinate the education efforts by providing information about the freedom of access laws and whom to contact for specific inquiries; [2005, c. 2, §1 (COR).]

C. Shall serve as a resource to support the establishment and maintenance of a central publicly accessible website that provides the text of the freedom of access laws and provides specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. The website must include the contact information for agencies, as well as whom to contact with complaints and concerns. The website must also include, or contain a link to, a list of statutory exceptions to the public records laws; [2005, c. 2, §1 (COR).]

D. Shall serve as a resource to support training and education about the freedom of access laws. Although each agency is responsible for training for the specific records and meetings pertaining to that agency's mission, the advisory committee shall provide core resources for the training, share best practices experiences and support the establishment and maintenance of online training as well as written question-and-answer summaries about specific topics. The advisory committee shall recommend a process for collecting the training completion records required under section 412, subsection 3 and for making that information publicly available; [2007, c. 576, §1 (AMD).]

E. Shall serve as a resource for the review committee under subchapter 1-A in examining public records exceptions in both existing laws and in proposed legislation; [2005, c. 631, §1 (NEW).]

F. Shall examine inconsistencies in statutory language and may recommend standardized language in the statutes to clearly delineate what information is not public and the circumstances under which that information may appropriately be released; [2005, c. 631, §1 (NEW).]

G. May make recommendations for changes in the statutes to improve the laws and may make recommendations to the Governor, the Legislature, the Chief Justice of the Supreme Judicial Court and local and regional governmental entities with regard to best practices in providing the public access to records and proceedings and to maintain the integrity of the freedom of access laws and their underlying principles. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the advisory committee's recommendations; [2005, c. 631, §1 (NEW) .]

H. Shall serve as an adviser to the Legislature when legislation affecting public access is considered; [2005, c. 631, §1 (NEW) .]

I. May conduct public hearings, conferences, workshops and other meetings to obtain information about, discuss, publicize the needs of and consider solutions to problems concerning access to public proceedings and records; [2005, c. 631, §1 (NEW) .]

J. Shall review the collection, maintenance and use of records by agencies and officials to ensure that confidential records and information are protected and public records remain accessible to the public; and [2005, c. 631, §1 (NEW) .]

K. May undertake other activities consistent with its listed responsibilities. [2005, c. 631, §1 (NEW) .]

[2007, c. 576, §1 (AMD) .]

7. Outside funding for advisory committee activities. The advisory committee may seek outside funds to fund the cost of public hearings, conferences, workshops, other meetings, other activities of the advisory committee and educational and training materials. Contributions to support the work of the advisory committee may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution shall certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the advisory committee's activities. Such a certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The Executive Director of the Legislative Council shall administer any funds received by the advisory committee.

[2005, c. 631, §1 (NEW) .]

8. Compensation. Legislative members of the advisory committee are entitled to receive the legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the advisory committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the advisory committee.

[2005, c. 631, §1 (NEW) .]

9. Staffing. The Legislative Council shall provide staff support for the operation of the advisory committee, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. In addition, the advisory committee may contract for administrative, professional and clerical services if funding permits.

[2005, c. 631, §1 (NEW) .]

10. Report. By January 15, 2007 and at least annually thereafter, the advisory committee shall report to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over judiciary matters and the Chief Justice of the Supreme Judicial Court about the state of the freedom of access laws and the public's access to public proceedings and records.

[2005, c. 631, §1 (NEW) .]

SECTION HISTORY

RR 2005, c. 2, §1 (COR). 2005, c. 631, §1 (NEW). 2007, c. 576, §1 (AMD).

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APPENDIX B

Membership List

Right to Know Advisory Committee
Membership List

Appointments by the Governor

Christopher Parr

Department of Public Safety
104 State House Station
Augusta, ME 04333

Representing state government interests

Harry R. Pringle

Drummond, Woodsum & MacMahon
84 Marginal Way, Suite 600
Portland, ME 04101-2480

Representing school interests

Vacant

Representing municipal interests

Appointments by the President of the Senate

Senator David C. Burns

159 Dodge Road
Whiting, ME 04691

Senate member of the Judiciary Committee

Richard LaHaye

Chief, Searsport Police Department
3 Union Street
Searsport, ME 04974

Representing law enforcement interests

Frederick Hastings

2413 Cutler Road
Cutler, ME 04626

Representing the press

Luke Rossignol

Bemis & Rossingol
1019 State Road
Mapleton, ME 04757

Representing the public

William D. Shorey

Board of Waldo County Commissioners
39-B Spring Street
Belfast, ME 04915

Representing county or regional interests

Vacant

Representing broadcasting interests

Right to Know Advisory Committee
Membership List

Appointments by the Speaker of the House

Representative Kimberly Monaghan

6 Russet Lane
Cape Elizabeth, ME 04107

House member of the Judiciary Committee

Helen Rankin

84 Sebago Road
Hiram, ME 04041

Representing the public

Suzanne Goucher

Maine Association of Broadcasters
69 Sewall Street, Suite 2
Augusta, ME 04330

Representing broadcasting interests

Judy Meyer

Lewiston Sun Journal
104 Park Street
Lewiston, ME 04243-4400

Representing newspaper publishers

Kelly Morgan

90 Loggin Road
Cape Neddick, ME 04072

Representing a statewide coalition of advocates
of freedom of access

Attorney General's Designee

Linda Pistner

Chief Deputy Attorney General
6 State House Station
Augusta, ME 04333-0006

Designee of the Attorney General

Chief Justice of the Supreme Judicial Court's Designee

Mary Ann Lynch

Government and Media Counsel
Administrative Office of the Courts
Maine Judicial Branch
P.O. Box 4820
Portland, ME 04112-4820

Member of the Judicial Branch

Staff:

Natalie Haynes
Henry Fouts
Craig Nale

APPENDIX C

Recommended Draft Legislation: Remote participation by members of public bodies

PART A

Sec. A-1. 1 MRSA §403-A is enacted to read:

§403-A. Public proceedings through other means of communication

1. Requirements. A body subject to this subchapter, unless the body is composed of elected members, may conduct a public proceeding during which a member of the body participates in the discussion or transaction of public or governmental business through telephonic, video, electronic or other similar means of communication only if the following requirements are met:

A. The body has adopted a written policy that authorizes a member of the body who is not physically present to participate in a public proceeding. The policy must establish criteria that must be met before a member may participate when not physically present. The policy may not allow a member who is not physically present to participate in an executive session;

B. Notice of the public proceeding has been given in accordance with section 406;

C. A quorum of the body is assembled physically at the location identified in the notice required by section 406, except that a body may convene a public proceeding by telephonic, video, electronic or other similar means of communication without a quorum if:

(1). An emergency has been declared in accordance with Title 22, section 802, subsection 2-A or Title 37-B, section 742;

(2). The public proceeding is necessary to take action to address the emergency; and

(3). The body otherwise complies with the provisions of this section to the extent practicable based on the circumstances of the emergency.;

D. Each member of the body participating in the public proceeding is able to hear all the other members and speak to all the other members during the public proceeding, and members of the public attending the public proceeding in the location identified in the notice required by section 406 are able to hear all members participating from other locations;

E. Each member who is not physically present and who is participating through telephonic, video, electronic or other similar means of communication identifies the persons present at the location from which the member is participating;

F. All votes taken during the public proceeding are taken by roll call vote; and

Right to Know Advisory Committee
Draft: Remote Participation by Members of Public Bodies

G. Each member who is not physically present and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding any documents or other materials that will be discussed at the public proceeding, with substantially the same content as those documents actually presented. Documents or other materials made available at the public proceeding may be transmitted to the member not physically present during the public proceeding if the transmission technology is available. Failure to comply with this paragraph does not invalidate the action of a body in a public proceeding.

2. Voting; quasi-judicial proceeding. A member of a body who is not physically present and who is participating in a quasi-judicial public proceeding through telephonic, video, electronic or other similar means of communication may not vote on any issue concerning testimony or other evidence provided during the quasi-judicial public proceeding. For the purposes of this subsection, "quasi-judicial proceeding" means a proceeding in which the governing body is obligated to objectively determine facts and draw conclusions from the facts so as to provide the basis of an official action when that action may affect the legal rights, duties or privileges of specific persons.

3. Annual meeting. If a body conducts one or more public proceedings pursuant to this section, it shall also hold at least one public proceeding annually during which members of the body in attendance are physically assembled at one location and where no members of the body participate by telephonic, video, electronic or other similar means of communication from a different location.

PART B

Sec. B-1. 32 MRSA §88, sub-§1, ¶D, is amended to read:

D. A majority of the members appointed and currently serving constitutes a quorum for all purposes and no decision of the board may be made without a quorum present. A majority vote of those present and voting is required for board action, except that for purposes of either granting a waiver of any of its rules or deciding to pursue the suspension or revocation of a license, the board may take action only if the proposed waiver, suspension or revocation receives a favorable vote from at least 2/3 of the members present and voting and from no less than a majority of the appointed and currently serving members. ~~The~~Notwithstanding Title 1, section 403-A, the board may use video conferencing and other technologies to conduct its business but is not exempt from Title 1, chapter 13, subchapter 1. Members of the board, its subcommittees or its staff may participate in a meeting of the board, subcommittees or staff via video conferencing, conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection constitutes presence in person at such meeting.

Sec. B-2. 39-A MRSA §151, sub-§5, is amended to read:

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Draft: Remote Participation by Members of Public Bodies

5. Voting requirements; meetings. The board may take action only by majority vote of its membership. ~~The~~Notwithstanding Title 1, section 403-A, the board may hold sessions at its central office or at any other place within the State and shall establish procedures through which members who are not physically present may participate by telephone or other remote-access technology. Regular meetings may be called by the executive director or by any 4 members of the board, and all members must be given at least 7 days' notice of the time, place and agenda of the meeting. A quorum of the board is 4 members, but a smaller number may adjourn until a quorum is present. Emergency meetings may be called by the executive director when it is necessary to take action before a regular meeting can be scheduled. The executive director shall make all reasonable efforts to notify all members as promptly as possible of the time and place of any emergency meeting and the specific purpose or purposes for which the meeting is called. For an emergency meeting, the 4 members constituting a quorum must include at least one board member representing management and at least one board member representing labor.

SUMMARY

Part A of this bill allows members of body subject to the Freedom of Access Act, unless the body is composed of elected members, to participate in meetings of the body through telephonic, video, electronic or other similar means of communication under certain conditions. The body must have adopted a written policy authorizing remote participation with criteria that must be met before a member may participate remotely, but may not allow a member to participate remotely in an executive session of the body. Notice of the proceeding must be given as if no members were participating remotely, each member of the body must be able to hear and speak to all other members, members of the public must be able to hear all members of the body, each member participating remotely must identify anyone else present at the location from which the member is participating, documents or visuals discussed or presented at the proceeding must have been received by or transmitted to members participating remotely, and all votes must be taken by roll call vote. A member who is not physically present may not vote in a quasi-judicial proceeding of the body. A quorum of the body must be physically present unless an emergency has been declared and the proceeding is necessary to address the emergency. If the body conducts proceedings with members participating remotely, the body must also hold at least one proceeding annually where no members participate remotely.

Under current law, the following state agencies are authorized to use remote-access technology to conduct meetings: the Finance Authority of Maine, the Commission on Governmental Ethics and Election Practices, the Emergency Medical Services' Board and the Workers' Compensation Board. Part B provides a specific exemption from the new requirements for the Emergency Medical Services' Board and the Workers' Compensation Board and does not affect the existing authority of those agencies or the Finance Authority of Maine or the Commission on Governmental Ethics and Election Practices to use remote-access technology to conduct meetings.

APPENDIX D

Recommended Draft Legislation: Amend Title 20-A, section 13004, subsection 2-A relating to complaints, charges and accusations concerning certification and registration of education personnel

APPENDIX E

Remote participation legislation: LD 258, LD 1809, Judiciary Committee's majority amendment to LD 1809, Governor LePage veto letter for LD 1809, LD 1241 and Judiciary Committee's majority amendment to LD 1241



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 258

H.P. 195

House of Representatives, February 5, 2013

**An Act To Implement the Recommendations of the Right To Know
Advisory Committee Concerning Meetings of Public Bodies**

Reported by Representative PRIEST of Brunswick 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 pursuant to Joint
Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

2 PART A

3 Sec. A-1. 1 MRSA §403-A is enacted to read:

4 **§403-A. Public proceedings through other means of communication**

5 This section governs public proceedings, including executive sessions, during which
6 public or governmental business is discussed or transacted through telephonic, video,
7 electronic or other similar means of communication.

8 **1. Requirements.** A body subject to this subchapter may conduct a public
9 proceeding during which a member of the body participates in the discussion or
10 transaction of public or governmental business through telephonic, video, electronic or
11 other similar means of communication only if the following requirements are met:

12 A. The body has adopted a policy that authorizes a member of the body who is not
13 physically present to participate in a public proceeding through telephonic, video,
14 electronic or other similar means of communication in accordance with this section.
15 The policy may establish circumstances under which a member may participate when
16 not physically present;

17 B. Notice of the public proceeding has been given in accordance with section 406;

18 C. Except as provided in subsection 3, a quorum of the body is assembled physically
19 at the location identified in the notice required by section 406;

20 D. Each member of the body participating in the public proceeding is able to hear all
21 the other members and speak to all the other members during the public proceeding,
22 and members of the public attending the public proceeding in the location identified
23 in the notice required by section 406 are able to hear all members participating from
24 other locations;

25 E. Each member who is not physically present and who is participating through
26 telephonic, video, electronic or other similar means of communication identifies the
27 persons present at the location from which the member is participating;

28 F. All votes taken during the public proceeding are taken by roll call vote; and

29 G. Each member who is not physically present and who is participating through
30 telephonic, video, electronic or other similar means of communication has received
31 prior to the public proceeding any documents or other materials that will be discussed
32 at the public proceeding, with substantially the same content as those documents
33 actually presented. Documents or other materials made available at the public
34 proceeding may be transmitted to the member not physically present during the
35 public proceeding if the transmission technology is available. Failure to comply with
36 this paragraph does not invalidate the action of a body in a public proceeding.

37 **2. Voting; judicial or quasi-judicial proceeding.** A member of a body who is not
38 physically present and who is participating in a judicial or quasi-judicial public
39 proceeding through telephonic, video, electronic or other similar means of

1 communication may not vote on any issue concerning testimony or other evidence
2 provided during the judicial or quasi-judicial public proceeding.

3 **3. Exception to quorum requirement.** A body may convene a public proceeding
4 by telephonic, video, electronic or other similar means of communication without a
5 quorum under subsection 1, paragraph C if:

6 A. An emergency has been declared in accordance with Title 22, section 802,
7 subsection 2-A or Title 37-B, section 742;

8 B. The public proceeding is necessary to take action to address the emergency; and

9 C. The body otherwise complies with the provisions of this section to the extent
10 practicable based on the circumstances of the emergency.

11 **4. Annual meeting.** If a body conducts one or more public proceedings pursuant to
12 this section, it shall also hold at least one public proceeding annually during which
13 members of the body in attendance are physically assembled at one location and where no
14 members of the body participate by telephonic, video, electronic or other similar means
15 of communication from a different location.

16 PART B

17 **Sec. B-1. 10 MRSA §384, sub-§5** is enacted to read:

18 **5. Meetings.** The board shall have a physical location for each meeting.
19 Notwithstanding Title 1, section 403-A, board members may participate in meetings by
20 teleconference. Board members participating in the meeting by teleconference are not
21 entitled to vote and are not considered present for the purposes of determining a quorum,
22 except in cases in which the chair of the board determines that the counting of members
23 participating by teleconference and the allowance of votes by those members is necessary
24 to avoid undue hardship to an applicant for an investment.

25 **Sec. B-2. 32 MRSA §88, sub-§1, ¶D**, as amended by PL 2007, c. 274, §19, is
26 further amended to read:

27 D. A majority of the members appointed and currently serving constitutes a quorum
28 for all purposes and no decision of the board may be made without a quorum present.
29 A majority vote of those present and voting is required for board action, except that
30 for purposes of either granting a waiver of any of its rules or deciding to pursue the
31 suspension or revocation of a license, the board may take action only if the proposed
32 waiver, suspension or revocation receives a favorable vote from at least 2/3 of the
33 members present and voting and from no less than a majority of the appointed and
34 currently serving members. ~~The Notwithstanding Title 1, section 403-A, the board~~
35 ~~may use video conferencing and other technologies to conduct its business but is not~~
36 ~~exempt from Title 1, chapter 13, subchapter 1.~~ Members of the board, its
37 subcommittees or its staff may participate in a meeting of the board, subcommittees
38 or staff via video conferencing, conference telephone or similar communications
39 equipment by means of which all persons participating in the meeting can hear each
40 other, and participation in a meeting pursuant to this subsection constitutes presence
41 in person at such meeting.

1 7. Each member who is not physically present and who is participating through
2 telephonic, video, electronic or other similar means of communication must have
3 received, prior to the proceeding, any documents or other materials that will be discussed
4 at the public proceeding, with substantially the same content as those documents actually
5 presented.

6 8. A member of a body who is not physically present may not vote on any issue
7 concerning testimony or other evidence provided during the public proceeding if it is a
8 judicial or quasi-judicial proceeding.

9 9. If a body conducts one or more public proceedings using remote-access
10 technology, the body must also hold at least one public proceeding annually during which
11 all members of the body in attendance are physically assembled at one location.

12 Under current law, the following state agencies are authorized to use remote-access
13 technology to conduct meetings: the Finance Authority of Maine, the Commission on
14 Governmental Ethics and Election Practices, the Emergency Medical Services' Board and
15 the Workers' Compensation Board. Part B provides a specific exemption from the new
16 requirements for the Small Enterprise Growth Board, the Emergency Medical Services'
17 Board and the Workers' Compensation Board.



126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1809

H.P. 1300

House of Representatives, March 11, 2014

An Act Concerning Meetings of Public Bodies Using Communications Technology

Reported by Representative PRIEST of Brunswick 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 pursuant to Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

2 Sec. 1. 1 MRSA §403-A is enacted to read:

3 **§403-A. Public proceedings through communications technology**

4 **1. Elected membership; prohibition.** A public body composed of elected members
5 of a municipality, quasi-municipal entity or school administrative unit may not conduct a
6 public proceeding in which a member participates in the discussion or transaction of
7 public or governmental business when that member is not physically present at the
8 location of the public proceeding.

9 **2. Authorized participation.** A public body, except a public body composed of
10 elected members, of a municipality, quasi-municipal entity or school administrative unit
11 may conduct a public proceeding during which one or more members of the body
12 participate in the discussion or transaction of public or governmental business through
13 telephonic, video, electronic or other similar means of communication only if all of the
14 following requirements are met:

15 A. The body has adopted a written policy that authorizes a member of the body who
16 is not physically present to participate in a public proceeding through telephonic,
17 video, electronic or other similar means of communication in accordance with this
18 section. The policy must establish criteria that must be met before a member may
19 participate when not physically present. If the policy allows a member who is not
20 physically present to participate in an executive session, the policy must specifically
21 address the circumstances under which the executive session may be conducted to
22 ensure privacy;

23 B. Notice of the public proceeding has been given in accordance with section 406;

24 C. Except as provided in subsection 4, a quorum of the body is assembled physically
25 at the location identified in the notice required by section 406;

26 D. Each member of the body participating in the public proceeding is able to hear all
27 the other members and speak to all the other members during the public proceeding,
28 and members of the public attending the public proceeding in the location identified
29 in the notice required by section 406 are able to hear all members participating from
30 other locations. If documents or materials that include pictures, graphs, illustrations
31 or other information presented in a visual format are part of the discussion, either the
32 communications technology used must ensure that all members can see the
33 documents and materials while the documents and materials are being discussed or
34 the documents and materials must be provided to all members not physically present
35 before or during the proceeding;

36 E. Each member who is not physically present and who is participating through
37 telephonic, video, electronic or other similar means of communication identifies the
38 persons present at the location from which the member is participating;

39 F. All votes taken during the public proceeding are taken by roll call vote; and

1 G. Each member who is not physically present and who is participating through
2 telephonic, video, electronic or other similar means of communication has received
3 prior to the public proceeding any documents or other materials that will be discussed
4 at the public proceeding, with substantially the same content as those documents
5 actually presented. Documents or other materials made available at the public
6 proceeding may be transmitted to the member not physically present during the
7 public proceeding if the transmission technology is available. Failure to comply with
8 this paragraph does not invalidate the action of a body in a public proceeding.

9 **3. Voting; judicial or quasi-judicial proceeding.** A member of a body who is not
10 physically present and who is participating in a judicial or quasi-judicial public
11 proceeding through telephonic, video, electronic or other similar means of
12 communication may not vote on any issue concerning testimony or other evidence
13 provided during the judicial or quasi-judicial public proceeding.

14 **4. Exception to quorum requirement.** A body may convene a public proceeding
15 by telephonic, video, electronic or other similar means of communication without a
16 quorum under subsection 2, paragraph C if:

17 A. An emergency has been declared in accordance with Title 22, section 802,
18 subsection 2-A or Title 37-B, section 742 and:

19 (1) The public proceeding is necessary to take action to address the emergency;
20 and

21 (2) The body otherwise complies with the provisions of this section to the extent
22 practicable based on the circumstances of the emergency; or

23 B. The body is expressly authorized by its governing statute to convene a public
24 proceeding by telephonic, video, electronic or other similar means of communication
25 with less than a quorum of the body assembled physically at the location identified in
26 the notice required by section 406.

27 **5. Annual meeting.** If a body conducts one or more public proceedings pursuant to
28 this section, it shall also hold at least one public proceeding annually during which
29 members of the body in attendance are physically assembled at one location and where no
30 members of the body participate by telephonic, video, electronic or other similar means
31 of communication from a different location.

32 SUMMARY

33 This bill prohibits the use of telephonic, video, electronic or other similar means of
34 communication to conduct public proceedings of elected public bodies of municipalities,
35 quasi-municipal entities and school administrative units. It allows nonelected public
36 bodies of municipalities, quasi-municipalities and school administrative units to do so
37 only if specific requirements are met. Subject to the listed requirements, a body may
38 conduct a public proceeding during which a member of the body participates in the
39 discussion or transaction of public or governmental business through telephonic, video,
40 electronic or other similar means of communication.

1 1. The body must adopt a policy that authorizes such participation and establishes the
2 criteria that must be met under which a member may participate when not physically
3 present. If the policy authorizes such participation in an executive session, the policy
4 must spell out the circumstances for conducting the executive session that will ensure the
5 required privacy.

6 2. Notice of any proceeding must be provided in accordance with the Freedom of
7 Access Act.

8 3. A quorum of the body must be physically present, except that under certain
9 circumstances a body may convene a public proceeding by telephonic, video, electronic
10 or other similar means of communication without a quorum assembled physically at one
11 location. One such circumstance is if the body's governing statute authorizes a meeting
12 using the remote-access technology with less than a quorum physically present in the
13 location listed in the meeting notice.

14 4. Members of the body must be able to hear and speak to each other during the
15 proceeding. If discussions are based on documents or materials that are in visual format,
16 the technology used must also allow all members to see the materials unless the
17 documents and materials are provided before or during the proceedings to all members
18 not physically present.

19 5. A member who is participating remotely must identify the persons present in the
20 location from which the member is participating.

21 6. All votes taken during the public proceeding must be taken by roll call vote.

22 7. Each member who is not physically present and who is participating through
23 telephonic, video, electronic or other similar means of communication must have
24 received, prior to the proceeding, any documents or other materials that will be discussed
25 at the public proceeding, with substantially the same content as those documents actually
26 presented.

27 8. A member of a body who is not physically present may not vote on any issue
28 concerning testimony or other evidence provided during the public proceeding if it is a
29 judicial or quasi-judicial proceeding.

30 9. If a body conducts one or more public proceedings using the remote-access
31 technology, the body must also hold at least one public proceeding annually during which
32 all members of the body in attendance are physically assembled at one location.

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Date: (Filing No. H-)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT “ ” to H.P. 1300, L.D. 1809, Bill, “An Act Concerning Meetings of Public Bodies Using Communications Technology”

Amend the bill by striking out the title and substituting the following:

'An Act Concerning Meetings of Boards of Trustees and Governing Bodies of Quasi-municipal Corporations and Districts That Provide Water, Sewer and Sanitary Services'

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

'Sec. 1. 1 MRSA §403-A is enacted to read:

§403-A. Public proceedings using communications technology by governing bodies of quasi-municipal corporations and districts

1. Application. This section applies to public proceedings conducted by a governing body, including a board of trustees, of a quasi-municipal corporation or district, as defined in Title 30-A, section 2351, subsection 4, that provides water, sewer or sanitary services.

2. Authorized participation. A governing body may conduct a public proceeding during which one or more members of the governing body participate in the discussion or transaction of public or governmental business when not physically present only if all of the following requirements are met:

A. The governing body has adopted a written policy that authorizes a member of the governing body who is not physically present to participate in a public proceeding through combined audio and video means of communication in accordance with this section. The policy must establish criteria that must be met before a member may participate when not physically present. The policy may not allow a member who is not physically present to participate in an executive session;

B. Notice of the public proceeding has been given in accordance with section 406;

COMMITTEE AMENDMENT

1 C. Except as provided in subsection 4, a quorum of the governing body is assembled
2 physically at the location identified in the notice required by section 406;

3 D. Each member of the governing body participating in the public proceeding is able
4 to see and hear all the other members and speak to all the other members during the
5 public proceeding, and members of the public attending the public proceeding in the
6 location identified in the notice required by section 406 are able to see and hear all
7 members participating from other locations. If documents or materials that include
8 pictures, graphs, illustrations or other information presented in a visual format are
9 part of the discussion, either the communications technology used must ensure that
10 all members can see the documents and materials while the documents and materials
11 are being discussed or the documents and materials must be provided to all members
12 not physically present before or during the proceeding;

13 E. Each member who is not physically present and who is participating through
14 combined audio and video means of communication identifies the persons present at
15 the location from which the member is participating;

16 F. All votes taken during the public proceeding are taken by roll call vote; and

17 G. Each member who is not physically present and who is participating through
18 combined audio and video means of communication has received prior to the public
19 proceeding any documents or other materials that will be discussed at the public
20 proceeding, with substantially the same content as those documents actually
21 presented. Documents or other materials made available at the public proceeding
22 may be transmitted to the member not physically present during the public
23 proceeding if the transmission technology is available. Failure to comply with this
24 paragraph does not invalidate the action of a governing body in a public proceeding.

25 **3. Voting; quasi-judicial proceeding.** A member of a governing body who is not
26 physically present and who is participating through combined audio and video means of
27 communication may vote in all proceedings other than quasi-judicial proceedings. A
28 member of a governing body who is not physically present may participate in a
29 quasi-judicial proceeding through combined audio and video means of communication,
30 but may not vote on any issue concerning testimony or other evidence provided during
31 the quasi-judicial proceeding. For the purposes of this subsection, "quasi-judicial
32 proceeding" means a proceeding in which the governing body is obligated to objectively
33 determine facts and draw conclusions from the facts so as to provide the basis of an
34 official action when that action may affect the legal rights, duties or privileges of specific
35 persons.

36 **4. Exception to quorum requirement.** A governing body may convene a public
37 proceeding by combined audio and video means of communication without a quorum
38 under subsection 2, paragraph C if:

39 A. An emergency has been declared in accordance with Title 22, section 802,
40 subsection 2-A or Title 37-B, section 742 and:

41 (1) The public proceeding is necessary to take action to address the emergency;
42 and



STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

Paul R. LePage
GOVERNOR

22 April 2014

The 126th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 126th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1809, "An Act Concerning Meetings of Boards of Trustees and Governing Bodies of Quasi-municipal Corporations and Districts That Provide Water, Sewer and Sanitary Services."

This legislation purports to allow certain quasi-municipal entities to use audio and video technology to conduct meetings. Unfortunately, this legislation is unnecessary and may actually have the impact of reducing the use of technology by governmental entities.

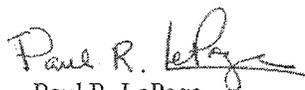
I support increased use of technology to conduct government business. In a rural state like Maine, technology has the potential to create significant efficiencies in the way we govern. It reduces costs and allows entities to recruit better qualified (but often busier) individuals who want to serve, but travel, work and the demands of life may limit the number of meetings these individuals may attend in person. In Maine's island communities, the use of video and teleconferencing to conduct business is not just a convenience, but an absolute necessity.

Many public entities use modern means to conduct a portion of their business. Entities doing this must meet the requirements of Maine statute governing public proceedings. Meetings must be noticed, conducted in public, and records must be kept. A meeting is legal based on whether or not these requirements are met, not on the use of technology.

It is currently legal to conduct a remote meeting as long as it complies with the other requirements of law. Island communities and others do so regularly. This law would call that practice into question. By specifically prescribing and authorizing the use of technology for this very limited subset of entities, it implies that other entities can no longer do so. At best, this ambiguous situation creates uncertainty and could have the effect of discouraging the use of common-sense means to conduct government business.

For these reasons, I return LD 1809 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,


Paul R. LePage
Governor



PRINTED ON RECYCLED PAPER



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, reading "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 MRS §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.

SUMMARY

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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.

Date:

(Filing No. S-)

JUDICIARY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 446, L.D. 1241, Bill, "An Act To Increase Government Efficiency"

Amend the bill in section 1 in subsection 3 by striking out all of paragraphs C and D (page 1, lines 21 to 34 in L.D.) and inserting the following:

'C. A member who participates while not physically present at the location of the public proceeding identified in the notice required by Title 1, section 406 does so only if the member is needed for a quorum as determined by the executive director or when the member's attendance is not reasonably practical for one of the following reasons:

- (1) Illness of the member;
(2) Weather that makes driving hazardous; or
(3) Unexpected traffic delays or vehicle breakdowns when the member is traveling to the meeting.

The reason that the member is not physically present at the location must be stated in the minutes of the meeting:

D. Each member who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding all documents and materials discussed at the public proceeding, with substantially the same content as those presented at the public proceeding. Documents or other materials made available at the public proceeding may be transmitted to the member not physically present during the public proceeding if the transmission technology is available; and

E. Any executive session includes only members who are physically present at the location of the public proceeding identified in the notice.'

Amend the bill in section 2 in subsection 4 by striking out all of paragraphs C and D (page 2, lines 20 to 33 in L.D.) and inserting the following:

COMMITTEE AMENDMENT

1 'C. A member who participates while not physically present at the location of the
2 public proceeding identified in the notice required by Title 1, section 406 does so
3 only if the member is needed for a quorum as determined by the executive director or
4 when the member's attendance is not reasonably practical for one of the following
5 reasons:

6 (1) Illness of the member;

7 (2) Weather that makes driving hazardous; or

8 (3) Unexpected traffic delays or vehicle breakdowns when the member is
9 traveling to the meeting.

10 The reason that the member is not physically present at the location must be stated in
11 the minutes of the meeting;

12 D. Each member who is not physically present at the location of the public
13 proceeding and who is participating through telephonic, video, electronic or other
14 similar means of communication has received prior to the public proceeding all
15 documents and materials discussed at the public proceeding, with substantially the
16 same content as those presented at the public proceeding. Documents or other
17 materials made available at the public proceeding may be transmitted to the member
18 not physically present during the public proceeding if the transmission technology is
19 available; and

20 E. Any executive session includes only members who are physically present at the
21 location of the public proceeding identified in the notice.'

22 Amend the bill in section 3 in paragraph B by striking out all of subparagraphs (3)
23 and (4) (page 3, lines 33 to 44 and page 4, lines 1 to 3 in L.D.) and inserting the
24 following:

25 '(3) A commissioner who participates while not physically present at the location
26 of the public proceeding identified in the notice required by Title 1, section 406
27 does so only if the commissioner is needed for a quorum as determined by the
28 director or when the commissioner's attendance is not reasonably practical for
29 one of the following reasons:

30 (a) Illness of the commissioner;

31 (b) Weather that makes driving hazardous; or

32 (c) Unexpected traffic delays or vehicle breakdowns when the commissioner
33 is traveling to the meeting.

34 The reason that the commissioner is not physically present at the location must be
35 stated in the minutes of the meeting;

36 (4) Each commissioner who is not physically present at the location of the public
37 proceeding and who is participating through telephonic, video, electronic or other
38 similar means of communication has received prior to the public proceeding all
39 documents and materials discussed at the public proceeding, with substantially
40 the same content as those presented at the public proceeding. Documents or

1 other materials made available at the public proceeding may be transmitted to the
2 commissioner not physically present during the public proceeding if the
3 transmission technology is available; and

4 (5) Any executive session includes only commissioners who are physically
5 present at the location of the public proceeding identified in the notice.'

6 Amend the bill in section 4 in subsection 4 by striking out all of paragraphs C and D
7 (page 4, lines 27 to 40 in L.D.) and inserting the following:

8 'C. A commissioner who participates while not physically present at the location of
9 the public proceeding identified in the notice required by Title 1, section 406 does so
10 only if the commissioner is needed for a quorum as determined by the executive
11 director or when the commissioner's attendance is not reasonably practical for one of
12 the following reasons:

13 (1) Illness of the commissioner;

14 (2) Weather that makes driving hazardous; or

15 (3) Unexpected traffic delays or vehicle breakdowns when the commissioner is
16 traveling to the meeting.

17 The reason that the commissioner is not physically present at the location must be
18 stated in the minutes of the meeting; and

19 D. Each commissioner who is not physically present at the location of the public
20 proceeding and who is participating through telephonic, video, electronic or other
21 similar means of communication has received prior to the public proceeding all
22 documents and materials discussed at the public proceeding, with substantially the
23 same content as those presented at the public proceeding. Documents or other
24 materials made available at the public proceeding may be transmitted to the
25 commissioner not physically present during the public proceeding if the transmission
26 technology is available; and

27 E. Any executive session includes only commissioners who are physically present at
28 the location of the public proceeding identified in the notice.'

29

SUMMARY

30 This amendment is the majority report of the Joint Standing Committee on Judiciary
31 and amends the bill to bar remote participation in executive sessions of the board and
32 authorities subject to the bill and lists specific and limited situations when a member may
33 participate remotely in the public proceedings.

COMMITTEE AMENDMENT

APPENDIX F

Governor LePage veto letter for LD 1088, "An Act to Implement Recommendations of the Right to Know Advisory Committee"



Paul R. LePage
GOVERNOR

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

22 June 2015

The 127th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 127th Legislature:

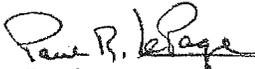
Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1088, "An Act To Implement the Recommendations of the Right to Know Advisory Committee."

Much like LDs 1086 and 1087, this bill also seeks to amend the Freedom of Access Act (FOAA) in ways that impact Executive Branch agencies, including clarifying that additional agency records are public records.

Like LDs 1086 and 1087, the bill does not have much impact on the Legislature, itself. This is so because the Legislature has exempted the vast majority of its own documents "including working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee ..." from the requirements of FOAA. I oppose this bill because despite the fact that our government is supposed to operate as three separate but equal branches of government all of which should be transparent in their processes, the Legislature does not hold itself to the same standard. Instead, it makes the Executive Branch alone shoulder the weight of government transparency.

For these reasons, I return LD 1088 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,


Paul R. LePage
Governor



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STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

Paul R. LePage
GOVERNOR

22 June 2015

The 127th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 127th Legislature:

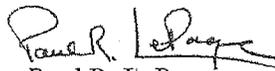
Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1087, "An Act To Implement the Recommendations of the Right to Know Advisory Committee Concerning Response Deadlines and Appeals."

Much like LD 1086, this bill seeks to amend the Freedom of Access Act (FOAA) to authorize an Executive Branch agency to deny a request for public records after reviewing records subject to the request. That said, this bill further establishes that an Executive Branch agency that seeks to deny a records request in whole or in part must still provide a written response within 5 days of the receipt of the request and is still subject to court process for the denial.

Like LD 1086, the bill does not have much impact on the Legislature, itself. This is so because the Legislature has exempted the vast majority of its own documents "including working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee ..." from the requirements of FOAA. I oppose this bill because despite the fact that our government is supposed to operate as three separate but equal branches of government all of which should be transparent in their processes, the Legislature does not hold itself to the same standard. Instead, it makes the Executive Branch alone shoulder the weight of government transparency.

For these reasons, I return LD 1087 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,


Paul R. LePage
Governor



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STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

Paul R. LePage
GOVERNOR

22 June 2015

The 127th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 127th Legislature:

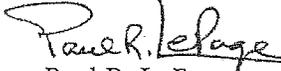
Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1086, "An Act To Implement the Recommendations of the Right to Know Advisory Committee To Create a Remedy for Unduly Burdensome and Oppressive Requests."

This bill seeks to amend the Freedom of Access Act (FOAA) to authorize an Executive Branch agency to deny a request for public records on the basis that the request is unduly burdensome or oppressive. That said, the only option for the agency seeking to avoid having to fill an unduly burdensome request is to engage in an unduly burdensome court process.

Ironically, the bill does not have much impact on the Legislature, itself. This is so because the Legislature has exempted the vast majority of its own documents "including working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee ..." from the requirements of FOAA. I oppose this bill because despite the fact that our government is supposed to operate as three separate but equal branches of government all of which should be transparent in their processes, the Legislature does not hold itself to the same standard. Instead, it makes the Executive Branch alone shoulder the weight of government transparency.

For these reasons, I return LD 1086 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,


Paul R. LePage
Governor



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APPENDIX G

Additional Materials (???)

