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Right to Know Advisory Committee
Public Records Exceptions Subcommittee
October 13, 2009
(Draft) Meeting Summary

Present:
Shenna Bellows, Chair
Suzanne Goucher
Chris Spruce

Absent:
Linda Pistner
Harry Pringle

Staff:
Peggy Reinsch
Colleen McCarthy Reid

Subcommittee Chair Shenna Bellows convened the Subcommittee and provided an overview of the planned agenda.

Review of Draft Changes to Existing Public Records Exceptions

The subcommittee reviewed 5 exceptions previously approved with changes:

- 10 §945-J (Maine International Trade Center)
- 12 §550-B (Bureau of Geology and Natural Areas - well drilling)
- 12 §549-B (Bureau of Geology and Natural Areas - mining)
- 12 §6445 (Lobster Promotion Council)
- 12 §8869 (Bureau of Forestry)

Staff distributed the draft proposals to amend the exceptions to the affected agencies before the meeting and sought comments and input on the drafts.

Title 10, section 945-J and Title 12, section 6445. With regard to the changes proposed affecting the Maine International Trade Center (Title 10, section 945-J) and the Lobster Promotion Council (Title 12, section 6445), there were no comments submitted on the draft. The subcommittee agreed to forward the recommended changes as drafted to the Advisory Committee.

Title 12, section 8869, subsection 13. The Department of Conservation indicated that they had no objections to the proposed changes. The subcommittee agreed to forward the recommended draft to the Advisory Committee.

Title 12, section 549-B. Tom Weddle of the Maine Geological Survey attended the subcommittee on behalf of Bob Marvinney, State Geologist. Mr. Weddle provided an overview of the information relating to water well location used for geographical maps available for purchase and, as an examples, distributed 3 maps to the subcommittee. He also explained that the statutory provision providing confidentiality for reports submitted by well drillers was included in the law at the request of well drillers because of concerns raised about the potential release of proprietary information. He pointed out that the mapping information made available to the public includes information about well location and well depth to bedrock and depth to water table. Chris Spruce asked about the specific concerns of well drillers about disclosure of well location and well depth. Mr. Weddle responded that he could not answer for well drillers, but noted that, during the meeting of the Water Well Commission, concerns were raised about the release of proprietary information. Although staff had understood that members of the Water Well Commission would

DRAFT

provide comments at the meeting, no one was present. Subcommittee Chair Bellows noted that the proposed draft still allows the designation of proprietary information as confidential at the request of the well driller submitting the information if the bureau makes a determination that the information is proprietary. The subcommittee agreed to forward the recommended changes as drafted to the Advisory Committee.

Title 12, section 550-B. The subcommittee reviewed information provided by Bob Marvinney on the process for granting a mining lease on State lands. The information noted that a permit to mine from the Department of Environmental Protection is also required after a mining lease on State lands is granted by the Maine Geological Survey and that there are at least 3 opportunities for public comment and hearing. Subcommittee Chair Bellows reiterated her concerns about this information being kept confidential and suggested she would be more comfortable if the provision governing annual reports were amended to keep confidential only proprietary information. The subcommittee agreed and asked staff to provide a revised draft for consideration.

Review of Criminal History Record Information Act

Staff distributed proposed revisions to Title 16, chapter 3, subchapter 8: Criminal History Record Information Act and Title 16, section 614, subsection 1-A. Staff developed the draft with input from Charles Leadbetter, Special Assistant Attorney General. Staff also distributed a draft proposal and background information from the Maine Civil Liberties Union with regard to amending the law to require notice to an individual if criminal history record information is used as a basis for the denial of employment or credit. Ms. Bellows asked whether this issue should be separated from the other recommendations on existing exceptions as some of the proposed changes are substantive and may draw the interest of numerous interested parties. Before taking further action, the subcommittee agreed to share the draft proposals with the full Advisory Committee and circulate among interested parties for comment.

Appropriate standard statutory language for protected information provided in applications for government funding, technical assistance, etc.

The subcommittee reviewed draft model language prepared by staff based upon the provisions in Public Law 2009, chapter 372 and also reviewed the chart prepared by staff outlining the provisions in current law addressing the confidentiality of records provided by applicants for technical or financial assistance. Ms. Bellows explained that she was comfortable with the proposed model language as applied to businesses, but suggested that a distinction be made for information provided by individuals applying for financial assistance. Ms. Bellows indicated that the current law relating to applicants for education loans protects the confidentiality of all records provided by the applicant and that this might be appropriate model language to use. The other members of the subcommittee agreed that it would be useful to develop one proposal for model language related to businesses and one proposal for model language related to individual applicants. The subcommittee asked staff to provide revised model language related to individual applicants.

Appropriate standard statutory language for review panels, such as Homicide Review panel

DRAFT

The subcommittee reviewed the statutory examples governing records of review panels similar to Title 19-A, section 4013 and copies of 2 annual reports from review panels. Ms. Bellows noted the disagreement among the subcommittee and other advisory committee members on the issue and suggested that 2 alternatives be brought to the advisory committee. Mr. Spruce agreed and pointed out the overlap between the issue of review panel records and the ad hoc internal review draft brought forward by the Ongoing Issues Subcommittee. The subcommittee agreed to forward 2 alternatives to the advisory committee: a recommendation to maintain the current law and a recommendation to amend the law to provide discretion to release certain confidential information held by the domestic abuse homicide review panel.

Next Meeting

The next meeting is scheduled for October 21st at 11:30 am.

The meeting adjourned at 2:25 p.m.

Respectfully submitted by Peggy Reinsch and Colleen McCarthy Reid, Right to Know Advisory Committee staff

Other Scheduled meetings

Public Records Exception Subcommittee

Wednesday, October 21, 2009
11:30 a.m., Room 438, State House

Full Advisory Committee

Wednesday, October 21, 2009
12:30 p.m., Room 438, State House

Legislative Subcommittee

Tuesday, November 10, 2009
10:30 a.m., Room 438, State House