

Right to Know Advisory Committee  
July 15, 2011  
Meeting Summary

Convened 9:07 a.m., Room 438, State House, Augusta

Present:

Sen. David Hastings  
Rep. Joan Nass  
Perry Antone  
Shenna Bellows  
Joe Brown  
Mike Cianchette  
Richard Flewelling  
Phyllis Gardiner (for Linda Pistner)  
Ted Glessner  
Mal Leary  
Judy Meyer  
Harry Pringle  
Robb Weaver

Absent:

AJ Higgins  
Kelly Morgan  
Linda Pistner  
Mike Violette

Staff:

Peggy Reinsch  
Colleen McCarthy Reid

Introductions

Senator Hastings called the meeting to order at 9:07 a.m. and asked all the members to introduce themselves. Senator Hastings thanked the Advisory Committee for the assistance provided to the Legislature over the past year, including the comments on proposed public records exceptions; he expressed his appreciation for the work the Advisory Committee has taken on for the upcoming year, as well.

Election of Chair

Title 1, section 411, subsection 4 authorizes the Advisory Committee to elect a chair every year. Harry Pringle nominated Senator Hastings to serve as the Chair of the Advisory Committee, and Richard Flewelling seconded the nomination. Senator Hastings was unanimously elected Chair.

Summary of FOA actions during the First Regular Session

Staff summarized the actions of the First Regular Session of the 125th Legislature. Legislative recommendations of the Right to Know Advisory Committee were contained in LD 1082, An Act Concerning the protection of Personal Information in

Communications with Elected Officials, and LD 1154, An Act to Implement the Recommendations of the Right to Know Advisory Committee. The Judiciary Committee approved the recommendations and added unallocated language directing the Advisory Committee to look at the practical and system issues surrounding the maintenance, storage and retrieval of public officials' communications. (LD 1082 became Public Law 2011, chapter 264, and LD 1154 became Public Law 2011, chapter 320.)

Staff also explained the process the Judiciary Committee followed to review public records exceptions proposed in legislation. A chart summarizing the 18 bills and amendments that were reviewed pursuant to Title 1, section 434 was provided.

#### Existing public records review process

Staff outlined the continuing process of reviewing existing public records exceptions. The Advisory Committee is required to evaluate existing exceptions found in Title 22 through 25 this biennium. The Public Records Exceptions Subcommittee tackled the bulk of the exceptions up for review during 2010, leaving only 31 to be completed this year. A chart listing those sections of statute was provided.

#### Continuing projects

The Advisory Committee then discussed the ongoing projects of the Advisory Committee, including the following:

- A revision of the Criminal History Record Information Act (in conjunction with the Criminal Law Advisory Commission, which is working with the Courts' electronic records implementation group);
- The use of technology to allow members of public bodies to participate from a different location;
- Training and education for public officials; and
- The myriad of issues involved in bulk public records.

The Advisory Committee agreed that all the issues should be included in this year's work plan. It was noted that a continuing problem is keeping up with constantly changing technology. Members agreed that the education effort has made significant improvements in compliance with the Freedom of Access laws.

#### Requests from the Legislature

The Advisory Committee reviewed the memo sent by the Judiciary Committee outlining the issues on which the Legislature is seeking the assistance and expertise of the Advisory Committee.

- As mentioned earlier, the maintenance, storage and retrieval of communications of public officials;
- The availability of personal information in public records, raised in LD 917 (not enacted) and addressed for federal agencies by the federal Privacy Act;
- LD 1465, An Act to Amend the Laws Governing Freedom of Access, carried over by the Judiciary Committee; and
- The accessibility and provision of public information in large quantities, usually referred to as "bulk records."

The Advisory Committee discussed the concerns about abuse of public document requests, as identified in a letter from the Governor, and noted that the fee provisions were originally intended to address some of those concerns by allowing payment in advance in some situations, and the \$10 per hour search and retrieval fee. Again, there was recognition that the changes in technology have led to changes in requests.

Discussions about bulk data often start with the litigation between the counties' registries of deeds and the company MacImage. Although the issues raised in that situation need to be discussed, there are additional concerns involving bulk records for which the public and governmental entities are seeking guidance and decisions.

### Law School Extern

Staff explained that a new Extern from the Law School, Diana DeJesus will be joining the work team for the Fall semester. The Advisory Committee expressed its appreciation for the work of the most recent Law School Extern, Sean O'Meara, who graduated in May of this year.

### Subcommittees

The Advisory Committee agreed to organize its work through three subcommittees: Legislative Subcommittee, Public Records Exceptions Subcommittee and Bulk Records Subcommittee. Members present volunteered for one or more subcommittees, and three members agreed to serve as subcommittee chairs as follows:

<u>Legislative Subcommittee</u>	<u>Public Records Exception Subcommittee</u>	<u>Bulk Records Subcommittee</u>
Judy Meyer, Chair	Shenna Bellows, Chair	Mike Cianchette, Chair
Shenna Bellows	Perry Antone	Perry Antone
Mike Cianchette	Joe Brown	Joe Brown
Richard Flewelling	(Ted Glessner, if needed)	Richard Flewelling
Ted Glessner	(Harry Pringle, if needed)	Mal Leary
Mal Leary	(Robb Weaver, if needed)	Judy Meyer
Harry Pringle	Linda Pistner	
Robb Weaver		
Sen. Hastings*	Sen. Hastings*	Sen. Hastings*
Rep. Nass*	Rep. Nass	Rep. Nass*

\*denotes ex officio status, do not count for a quorum

Members who were absent should contact staff as soon as possible to select one or more subcommittees on which to serve: AJ Higgins, Kelly Morgan, Linda Pistner, and Mike Violette.

### Future meetings

The Advisory Committee scheduled four additional meetings for the full Advisory Committee, all to be held in Room 438 of the State House:

- Thursday, September 29, 2011, starting at 1:00 p.m.;

- Thursday, October 27, 2011, starting at 1:00 p.m.;
- Thursday, November 17, 2011, starting at 1:00 p.m.; and
- Thursday, December 8, 2011, starting at 1:00 p.m. if necessary.

The Public Records Exceptions Subcommittee scheduled the following meetings, more will follow:

- Thursday, September 1, 2011, starting at 9:00 a.m.; and
- Thursday, September 29, 2011, starting at 9:00 a.m.

The Legislative Subcommittee scheduled the following meeting, more will follow:

- Thursday, September 1, starting at 1:00 p.m.

The Bulk Records Subcommittee scheduled the following meeting, more to follow:

- Friday, September 9, 2011, starting at 9:00 a.m.

#### Public communications

Mal Leary moved that the issues raised by communications from the public (included in the packet) be referred to the Legislative Subcommittee for review, and the Advisory Committee agreed. The issues are:

- Status of Maine Public Broadcasting Network records under the Freedom of Access laws (Mike Brown);
- Request from the Maine Heritage Policy Center to Maine State Housing Authority for information about public employees;
- Definition of “reasonable time” (Dwight Hines);
- Application of FOA laws to volunteer fire departments (Dwight Hines); and
- UN Rule of Law Indicators: Guides and Tools, July 2011; Transparency (Dwight Hines).

The meeting was adjourned at 11:20 a.m.

Respectfully submitted,  
Peggy Reinsch and Colleen McCarthy Reid

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