

## Right to Know Advisory Committee

October 21, 2010

Meeting Summary

DRAFT

Convened 1:15 p.m., Room 438, State House, Augusta

Present:

Sen. Barry Hobbins, Chair  
Rep. Dawn Hill  
Robert Devlin  
Richard Flewelling  
Ted Glessner  
Suzanne Goucher  
Judy Meyer  
Kelly Morgan  
Linda Pistner  
Harry Pringle  
Chris Spruce

Absent:

Shenna Bellows  
Karla Black  
Mark Dion  
A.J. Higgins  
Mal Leary

Staff:

Peggy Reinsch, Carolyn Russo & Marion Hylan Barr

Advisory Committee Chair Senator Barry Hobbins convened the meeting of the RTKAC at 1:15 p.m. Chair Hobbins reviewed the agenda and invited members and staff, including the Maine School of Law Extern Sean O'Mara, to introduce themselves.

### **Subcommittee Reports**

#### **Legislative Subcommittee Report**

Subcommittee Chair Chris Spruce reported that the Legislative Subcommittee had not met since the last Advisory Committee, but would be scheduling one more meeting. Issues not resolved within the Legislative Subcommittee's jurisdiction are: drafting limitations on access to private information in communications of elected and other public officials; the requirement for education and training of public officials; and compiling the feedback from the boards and commissions whose current statutes allow meetings via communication technology when less than a quorum is physically present. (The Legislative Subcommittee will meet on Thursday, November 18, 2010, starting at 11:00 a.m., in Room 438 of the State House.)

#### **Bulk Records Subcommittee Report**

Subcommittee Chair Bob Devlin reported that the Bulk Records Subcommittee is meeting on Wednesday, October 27, 2010 at 10:00 a.m. in Room 438 of the State House. The Subcommittee requested feedback on the draft incorporating the cost factors from Title 33 registry of deeds fees into the general fee provisions for the Freedom of Access laws (1 MRSA

§408, subsection 3). The Subcommittee will also take public comment at the meeting and will work on defining “bulk data” and identifying next steps.

### **Public Records Exceptions Subcommittee**

Subcommittee Chair Shenna Bellows was absent, so Mr. Spruce reported on her behalf. The Public Records Exceptions Subcommittee has met twice. There are 123 public records exceptions provisions to be reviewed in Title 22 through 25. About ¾ of those provisions are within the Department of Health and Human Services and the Bureau of Insurance. The Subcommittee reviewed 66 sections, completed work on 42 (although the Subcommittee is recommending a few language clarifications). Most of these confidentiality provisions are pretty straightforward and are not controversial.

The Subcommittee is charged with reviewing and evaluating the public records exceptions contained within the Criminal History Record Information Act (CHRIA). Staff is working with the Attorney General’s Office to complete a draft for the Criminal Law Advisory Commission to review and edit. That final product will then be reviewed by the Subcommittee, which may recommend the draft to the full Advisory Committee.

The Subcommittee discussed the standard drafting templates for applications for governmental technical/financial assistance, and the Legislature’s rejection of the application of those templates to the Finance Authority of Maine statutes. Advisory Committee Extern Sean O’Mara is working on developing alternative language that takes advantage of what was identified as beneficial provisions in the FAME statutes.

### **Education and training for public officials**

Staff prepared draft legislation to follow up on a suggestion at the last meeting to expand the group of persons required to complete FOA training. Mr. Leary had suggested that appointed clerks be treated the same as elected clerks; appointed clerks should be required to complete the training because they do the exact same work that elected clerks do. In Mr. Leary’s absence, the Advisory Committee chose not to discuss the merits or the details of the draft, and referred it to the Legislative Subcommittee.

Chair Hobbins asked for ideas on how to improve the training. One suggestion was to expand training for new legislators. In addition, Chair Hobbins stated that it would be useful to create a one-page handout for Legislative Committee Chairs to provide to their committee members during committee orientation that explains the process that is required by statute with regard to reviewing proposed public records exceptions. Ms. Pistner noted that one that has been raised is whether training is required for every term for which an elected official is elected, and suggested that clarification would be helpful. The Legislative Subcommittee will include that issue in its discussion.

### **Old business**

Confidentiality of information in communications of public officials

The Advisory Committee tabled the draft legislation governing the confidentiality of certain information contained in communications, including e-mail, of public officials. Ms. Goucher had requested additional information about other states, which was provided in a packet including an article from State Legislatures magazine (NCSL publication). Ms. Bellows had requested that the Advisory Committee postpone discussion until she can be in attendance. Rep. Hill noted that one of her approaches in submitting the legislation initially was to make sure it is clear to anyone communicating with a public official what information would be public. Ms. Morgan explained that part of the discussion included a recommendation that there be a notice on the State's website that communications and e-mail address may be public information. The Advisory Committee agreed to keep the issue and the draft on the agenda for the full Advisory Committee meeting on November 18th.

#### Website recommendations

Sean O'Mara walked the Advisory Committee members through his recommendations for changes in the State's Freedom of Access website, focusing on the Frequently Asked Questions section. The members supported the changes, with a small clarification on mailing costs, and a go-slow recommendation concerning Social Security numbers.

#### Meeting records

The Advisory Committee's majority recommendation to require basic records of all public proceedings was reviewed by the Legislative Policy Committee of the Maine Municipal Association. Jeff Austin reported the LPC's recommendation that the requirement be limited to municipal boards and committees that have actual authority, exempting those groups whose discussions and works are advisory only. Ms. Goucher asked Mr. Flewelling to try to draft language that does that, and he agreed to consult with staff to do so.

#### New business

A copy of an article from The News Media & the Law, "Law schools step in to help maintain sunshine," was distributed. Mr. O'Mara explained his ideas and actions for involving the Law School in providing A Freedom of Access resource to the public. The Advisory Committee readily agreed to support continuation of the exploration of the avenue, and requested that staff inquire into the interest in the legal community to participate in such a project. Current law may need to be revised to accommodate the involvement of the Law School.

#### Future meetings

- Bulk Records Subcommittee:  
Wednesday, October 27, 2010, 10:00 a.m., Room 438 of the State House
- Public Records Exceptions Subcommittee:  
To be scheduled
- Legislative Subcommittee  
Thursday, November 18, 2010, 11:00 a.m., Room 438 of the State House,
- Full Advisory Committee  
Thursday, November 18, 2010, 1:00 p.m., Room 438, State House, Augusta

Adjourned 2:22 p.m.

Respectfully submitted,  
Peggy Reinsch, Marion Hylan Barr, staff

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