



# Maine County Commissioners Association

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April 11, 2025

Sen. Carney, Chair  
Rep. Kuhn, Chair  
Joint Standing Committee on Judiciary  
100 State House Station  
Augusta, ME 04333

Re: ***Testimony of MCCA regarding LD 1399, An Act to Allow Action Against a Person Violating the Confidentiality of an Executive Session of a Public Body or Agency***

Chair Carney, Chair Kuhn, and Members of the Joint Standing Committee on Judiciary:

On behalf of the Maine County Commissioners Association, we appreciate the opportunity to provide testimony to this Committee in qualified support of LD 1399. Executive sessions are an important tool for county commissioners when handling sensitive matters—such as personnel issues, legal strategies, and contract negotiations—where confidentiality is both authorized and expected under Maine’s Freedom of Access Act. Intentional disclosure of such confidential information is determinantal to the public.

**About MCCA.** Briefly, the Maine County Commissioners Association was established in 1890 to assist Maine’s county government in providing vital services to Maine citizens in a responsive, efficient, and credible manner. The Association is based in Augusta, represents all 16 of Maine’s counties, and is governed by a board with representation from each participating county.

**What does LD 1399 do?** LD 1399 allows a public body or agency to bring a civil action against a person who knowingly and willfully discloses confidential information from an executive session. It aims to deter unauthorized leaks by creating legal consequences for violating the confidentiality of such sessions.

**Discussion.** County commissioners take the obligations under Maine’s Freedom of Access Act seriously and conduct executive sessions only when necessary to protect the interests of county residents, county employees, and other limited instances where permitted by law. When the decision is made to conduct an executive session, it is because public disclosure of the information would bring harm to the public. For example, when a county is negotiating a contract for the sale of land, public disclosure of the county’s negotiating strategy would harm the ability of the county to negotiate the best price for the county. Likewise, public disclosure of certain personnel matters would risk harm to employees, hence the need for confidentiality in some instances.

LD 1399 would establish a mechanism to hold public officials accountable for knowingly violating the confidentiality of executive sessions, helping to protect the integrity of these deliberations and the trust placed in local government officials. In this respect, we support the intent of the bill.

**Testimony of MCCA re LD 1399**

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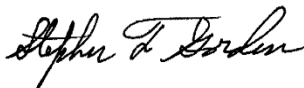
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However, the reason our support is “qualified” is because the bill sets up a very detailed and potentially cumbersome process for enforcing confidentiality, including supermajority votes to permit disclosure of executive session information. If this bill does move forward, we would encourage the bill be simplified and that supermajority requirements not be included. The decision to go into an executive session is a majority vote, and the decision to come out and/or disclose information should have the same threshold.

This bill reinforces what most public officials already understand and uphold—that confidentiality, when legally permitted, is not optional. It is a responsibility. MCCA supports the intent of LD 1399 to reduce the risk of willful leaks and to preserve the effectiveness of executive session as a governance tool.

**Conclusion.** For these reasons, MCCA urges the Committee to vote **Ought to Pass** on LD 1399, but with reasonable amendments to ensure that the process is workable and functional. If you have questions or need additional information, please do not hesitate to let us know.

Respectfully submitted,



Stephen Gorden  
Co-Chair, Legislative Policy Committee, MCCA



Jean-Marie Caterina  
Co-Chair, Legislative Policy Committee, MCCA

cc: Commissioner Andre Cushing, President, MCCA  
James I. Cohen, Verrill Dana, LLP, MCCA Legislative Counsel

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