

## CHAPTER 83 (HB 123)

AN ACT AMENDING THE RIGHT TO KNOW LAW.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**83:1 New Chapter Heading.** Amend RSA 91-A by striking out the title of said chapter and inserting in place thereof the following:

## ACCESS TO PUBLIC RECORDS AND MEETINGS

**83:2 Trustees of the University System Included.** Amend RSA 91-A:1-a, III (supp) as inserted by 1977, 540:2 by striking out said paragraph and inserting in place thereof the following:

III. Any board or commission of any state agency or authority, including the board of trustees of the university system of New Hampshire;

**83:3 Chance Meetings; Negotiation, Consultation.** Amend RSA 91-A:2 (supp) as inserted by 1967, 251:1 as amended by striking out said section and inserting in place thereof the following:

**91-A:2 Meetings Open to Public.**

I. For the purpose of this section, a "meeting" shall mean the convening of a quorum of the membership of a public body, as provided in RSA 91-A:1-a, to discuss or act upon a matter or matters over which the public body has supervision, control, jurisdiction or advisory power. "Meeting" shall not include:

(a) Any chance meeting or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business and at which no decisions are made; however, no such chance or social meeting shall be used to circumvent the spirit of this chapter;

(b) Strategy or negotiations with respect to collective bargaining; or

(c) Consultation with legal counsel.

II. All public proceedings shall be open to the public, and all persons shall be permitted to attend any meetings of those bodies or agencies. Except for town meetings, school district meetings and elections, no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the bodies or agencies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection within 144 hours of the public meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any body or agency, or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including an executive session, shall be posted in 2 appropriate places or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the body or agency who shall employ whatever means are available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee is held, publication made pursuant to the rules of the house of representatives or the senate, whichever rules are appropriate, shall be sufficient notice. If the charter of any city or guidelines or rules of order of any body or agency described in RSA

91-A:1-a require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter.

**83:4 Matters Discussed in Executive Session.** Amend RSA 91-A:3, II (supp) as inserted by 1967, 251:1 as amended by striking out said paragraph and inserting in place thereof the following:

II. A body or agency may exclude the public only if a recorded roll call vote is taken to go into executive session. The matters discussed during the executive session shall be confined to the matters stated in the motion. A motion to go into executive session stating which exemption under this paragraph is claimed shall be made only when the body or agency is considering or acting upon the following matters:

(a) The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected requests an open meeting.

(b) The hiring of any person as a public employee.

(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting.

(d) Consideration of the acquisition, sale or lease of property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency or any subdivision thereof, or against any member thereof because of his membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled.

(f) Consideration of applications by the adult parole board under RSA 651-A.

**83:5 Photostatic Copies; Access to Computer-Stored Records.** Amend RSA 91-A:4 by inserting after paragraph II the following new paragraphs:

III. Each body or agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such body or agency shall be kept in an office of the political subdivision in which such body or agency is located or, in the case of a state agency, in an office designated by the secretary of state.

IV. Each public body or agency shall, upon request for any public record reasonably described, make available for inspection and copying any such public record within its files when such records are immediately available for such release. If a public body or agency is unable to make a public record available for immediate inspection and copying, it shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a photocopying machine or other device maintained for use by a body or agency is used by the body or agency to copy the public record or document requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the body or agency. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of public records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

V. In the same manner as set forth in RSA 91-A:4, IV, any body or agency which maintains its records in a computer storage system may, in lieu of providing original documents, provide a printout of any record reasonably described and

which the agency has the capacity to produce in a manner that does not reveal information which is confidential under this chapter or any other law. Access to work papers, personnel data and other confidential information under RSA 91-A:5, IV shall not be provided.

**83:6 Additional Exemption.** Amend RSA 91-A:5, IV as inserted by 1967, 251:1 by striking out said paragraph and inserting in place thereof the following:

IV. Records pertaining to internal personnel practices; confidential, commercial, or financial information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, and other files whose disclosure would constitute invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this paragraph shall prohibit a body or agency from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected.

**83:7 Invalidation.** Amend RSA 91-A:8 (supp) as inserted by 1973, 113:1 as amended by striking out said section and inserting in place thereof the following:

**91-A:8 Remedies.**

I. If any body or agency or employee or member thereof, in violation of the provisions of this chapter, refuses to provide a public record or refuses access to a public proceeding to a person who reasonably requests the same, such body, agency, or person shall be liable for reasonable attorney's fees and costs incurred in a lawsuit under this chapter provided that the court finds that such lawsuit was necessary in order to make the information available or the proceeding open to the public. Fees shall not be awarded unless the court finds that the body, agency or person knew or should have known that the conduct engaged in was a violation of this chapter or where the parties, by agreement, provide that no such fees shall be paid. In any case where fees are awarded under this chapter, upon a finding that an officer, employee, or other official of a public body or agency has acted in bad faith in refusing to allow access to a public proceeding or to provide a public record, the court may award such fees personally against such officer, employee, or other official.

II. The court may invalidate an action of a public body or agency taken at a meeting held in violation of the provisions of this chapter, if the circumstances justify such invalidation.

III. In addition to any other relief awarded pursuant to this chapter, the court may issue an order to enjoin future violations of this chapter.

**83:8 Effective Date.** This act shall take effect January 1, 1987.

[Approved May 19, 1986.]

[Effective Date January 1, 1987.]

**CHAPTER 84 (HB 134)**

AN ACT RELATIVE TO THE RANNIE WEBSTER FOUNDATION, ALLOWING THE LAKE SUNAPEE YACHT CLUB TO REVIVE ITS CHARTER, AND RELATIVE TO THE REINSTATEMENT OF TRI-STATE MEDICAL SERVICES, INC.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**84:1 Rannie Webster Foundation Exempt from Taxation.** Amend RSA 72 by inserting after section 23-h the following new section:

**72:23-i Rannie Webster Foundation.** The real estate and personal property of the Rannie Webster Foundation, a nonprofit corporation which provides convalescent care and elderly housing for elderly persons through the Webster Pines Homes in Rye, New Hampshire, if none of the income or profits of the elderly housing is used for any purpose other than the purpose for which the housing is established, shall be exempt from taxation. For the purpose of this section an elderly person is one who is 62 years or more of age. The age of the head of the family determines the eligibility of the family unit in the elderly housing. On or before December 1 of each year the owner of the elderly housing shall pay to the town or city in which the property is situated, in lieu of taxes, a sum representing 10 percent of the shelter rent received by the owner during the preceding calendar year. For cause shown, having in mind the nature and purpose of the corporation, the board of tax and land appeals may abate all or a portion of the payment in lieu of taxes in any year. The owner on or before June 1 of each year shall file with the commissioner of revenue administration in such form as the commissioner of revenue administration prescribes a statement of financial condition of the elderly housing project for the preceding fiscal year, and shall file such other information as the commissioner of revenue administration requires.

**84:2 Lake Sunapee Yacht Club; Revival of Charter.** Notwithstanding the 51-month limitation on revival of charters in RSA 292:30, I, the officers of the Lake Sunapee Yacht Club may procure the revival of its July 7, 1950 charter, which was revoked on April 26, 1977, by complying with the requirements of RSA 292:30, II-VII. In effecting a revival of the Lake Sunapee Yacht Club charter, it is the express intent of the legislature not to recognize or extend in any way the littoral or riparian rights of said yacht club.

**84:3 Reinstatement of Tri-State Medical Services, Inc.** The charter of Tri-State Medical Services, Inc. of Hudson, New Hampshire, incorporated on December 13, 1982, was forfeited on October 31, 1985, under RSA 293-A:95, 1(a). Upon payment of any fees in arrears plus a reinstatement fee of \$50, and by filing with the secretary of state any annual reports required by law, Tri-State Medical Services, Inc. shall be hereby reinstated for all purposes as a New Hampshire corporation, and this reinstatement shall be retroactive to October 31, 1985.

**84:4 Effective Date.** This act shall take effect 60 days after its passage.

[Approved May 19, 1986.]

[Effective Date July 18, 1986.]

**CHAPTER 85 (HB 141)**

AN ACT RELATIVE TO EXCEPTIONS TO THE ENERGY CONSERVATION CODE FOR NEW BUILDING CONSTRUCTION IN THE STATE.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**85:1 Construction Standards.** Amend RSA 155-D:3 (supp) as inserted by 1979, 460:1 by striking out said section and inserting in place thereof the following:

**155-D:3 Construction Standards.**

I. All new buildings and structures or portions thereof and additions to existing buildings that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, and residential occupancy, as well as those portions of factories and industrial occupancies designed primarily for human occupancy, shall conform to standards not less than those established by the "Model