

# MAINE STATE LEGISLATURE

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New Draft of: H. P. 360, L. D. 475

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# ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 1947**

H. P. 1518

House of Representatives, May 18, 1973

Reported by Mrs. Wheeler from the Committee on Judiciary and printed under Joint Rules No. 18.

E. LOUISE LINCOLN, Clerk

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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### AN ACT to Insure that Citizens are Granted Due Process of Law by Governmental Agencies.

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., T. 1, § 402, amended.** Section 402 of Title 1 of the Revised Statutes is amended to read as follows:

**§ 402. Public proceedings defined**

The term "public proceedings" as used in this subchapter shall mean the transactions of any functions affecting any or all citizens of the State by any administrative or legislative body of the State, or of any of its counties or municipalities, or of any other political subdivision of the State ~~which body is composed of 3 or more members~~ with which function it is charged under any statute or under any rule or regulation of such administrative or legislative body or agency.

**Sec. 2. R. S., T. 1, § 404-A, additional.** Title 1 of the Revised Statutes is amended by adding a new section 404-A, to read as follows:

**§ 404-A. Decisions**

1. **Written record.** Every state, quasi-state, county, municipal and quasi-municipal office, agency, department, bureau, district, commission or other entity thereof, hereinafter in this subchapter called "agency," shall make a written record of every decision involving the approval, granting or denial of an application, license, certificate or any other type of permit. Such written record or a copy thereof shall be kept by the agency and made available to any interested member of the public who may wish to review it.

2. Denial. Whenever an agency denies approval of an application submitted to it, or denies a license, certificate or any other type of permit, or issues its approval or grants such license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued, the agency shall set forth the reason or reasons for its decision and make findings of fact, in writing, sufficient to apprise the applicant and any interested member of the public of the basis for such decision.

3. Approval or issuance. Whenever an agency approves an application submitted to it, or grants a license, certificate or any other type of permit, without conditions, other than those specifically required by the statute, ordinance or regulation pursuant to which the approval or grant is issued, and such approval or issuance is discretionary in nature, the agency shall set forth, in writing, its findings that the applicant has met each of the criteria of the statute, ordinance or regulation pursuant to which the approval or grant is issued.

#### STATEMENT OF FACT

1. Section 1 brings within the coverage and requirements of Maine's Freedom of Access Law, public bodies consisting of less than 3 members.

2. Section 2 seeks to change the practice of most local governmental agencies and boards and some state agencies and boards of (a) not keeping written records or minutes of their meetings, (b) not making written records of their quasi-judicial decisions and (c) not setting forth reasons or findings of fact for their quasi-judicial decisions. Because of these practices, the public, in many cases, is unable to question the decisions of its public agencies and is unable to make certain that these decisions are consistent and have a sound basis in fact and law.