

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1035

H. P. 848

House of Representatives, March 12, 1975

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Smith of Dover-Foxcroft.

Cosponsors: Mr. Snow of Falmouth, Mr. McMahon of Kennebunk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Clarify Certain Provisions of the Maine Right to Know Law.

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

Sec. 1. 1 MRSA § 401, last sentence, is amended to read:

It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly.

Sec. 2. 1 MRSA § 402, as amended by PL 1973, c. 433, § 1, is further amended to read:

§ 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 or administrative subdivision of the State with which function it is charged under any statute or under any rule or regulation of such administrative or legislative body or agency.

Sec. 3. 1 MRSA § 402-A, is enacted to read:

§ 402-A. Public records defined

The term "public records" shall mean any writing or printing or any material in any electronic or other form of tape, in any form necessary, under or required or directed to be made or received by any statute or by any rule or regulation of any administrative or legislative body of the State, or any of its

counties or municipalities, or of any other political or administrative subdivision of the State, or any such writing or printing made or received by any public official of the State or any such subdivision, except as otherwise provided by statute. Any such record not designated by statute as confidential shall be deemed to be a public record.

Sec. 4. 1 MRSA § 404 is amended to read:

§ 404. Executive sessions

Nothing contained in this subchapter shall be construed to prevent these bodies or agencies from holding executive sessions, subject to the following conditions: That such sessions shall not be used to defeat the purposes of this subchapter; that no ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action shall be finally approved at such executive sessions; that such executive sessions may be called only by a majority vote of the members of such bodies or agencies, such vote to be taken in a public session, and recorded in the minutes of that meeting. The conditions of this section shall not apply to executive sessions of committees of the Maine Legislature.

Sec. 5. 1 MRSA § 405 is amended to read:

§ 405. Minutes and public records available for public inspection

Every ~~citizen of this State~~ person shall, during the regular business or meeting hours of all such bodies or agencies, and on the regular business premises of all such bodies or agencies, have the right to inspect all public records, including any minutes of meetings of such bodies or agencies as are required by law, and to make memoranda abstracts or photographic or photostatic copies of the records or minutes so inspected, except as otherwise specifically provided by statute.

Sec. 6. 1 MRSA §§ 405-A, 405-B and 405-C are enacted to read:

§ 405-A. Recorded or live broadcasts authorized

In order to facilitate the public policy so declared by the Legislature of opening the public's business to public scrutiny, all such bodies or agencies shall allow the use of either recorded or live broadcasts of meetings, subject to such reasonable rules and regulations as may be adopted by the body or agency holding the meetings, as long as such rules or regulations do not defeat the purpose of this section.

§ 405-B. Appeals

If any such body or agency, or official, who has custody or control of any public record, shall refuse permission to so inspect or copy or abstract such public record, such denial shall be made by the body or agency or official in writing, stating the reason for the denial, within 10 days of the request for such inspection by any person. Any person aggrieved by such denial may appeal therefrom, within 10 days of the receipt of the written notice of denial, to any Superior Court within the State. If such a court, after a trial de novo, determines such denial was not for just and proper cause, it shall enter an

order for disclosure. Such appeals shall be privileged in respect to their assignment for trial over all other actions except writs of habeas corpus, and actions brought by the State against individuals.

§ 405-C. Appeals from actions

If any such body or agency shall approve any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, such action shall be illegal and the officials responsible shall be subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If such a court, after a trial de novo, determines such action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Such appeals shall be privileged in respect to their assignment for trial over all other actions except writs of habeas corpus or actions brought by the State against individuals.

Sec. 7. 1 MRSA § 406 is amended to read:

§ 406. Violations

A violation of any of the provisions of this subchapter or the wrongful exclusion of any person or persons from any meetings for which provision is made, **or the wrongful denial of inspection or copying of any public record for which provision is made**, shall be punishable by a fine of not more than \$500 or by imprisonment for less than one year. Nothing contained in this subchapter shall be construed as abridging the right of any ~~citizen or citizens~~ **person or persons** to appeal to a court of this State for the enforcement of the rights provided for in said subchapter.

STATEMENT OF FACT

It is the intent of this Act to clarify provisions of the Maine Right to Know Law.