

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

August 2015

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STATE OF MAINE

127TH LEGISLATURE

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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 127th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

<i>CARRIED OVER</i>	<i>carried over to a subsequent session of the Legislature</i>
<i>CON RES XXX</i>	<i>chapter # of constitutional resolution passed by both houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; legislation died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i>	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i>	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i>	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i>	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i>	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i>	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i>	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i>	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i>	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i>	<i>ought-not-to-pass report accepted; legislation died</i>
<i>P&S XXX</i>	<i>chapter # of enacted private & special law</i>
<i>PUBLIC XXX</i>	<i>chapter # of enacted public law</i>
<i>RESOLVE XXX</i>	<i>chapter # of finally passed resolve</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's veto</i>

The effective date for non-emergency legislation enacted in the First Regular Session of the 127th Legislature is October 15, 2015. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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records be acknowledged within five working days of the receipt of the request by the office responsible for maintaining the public record requested. This is consistent with the acknowledgment deadline.

LD 1086 An Act To Implement the Recommendations of the Right To Know Advisory Committee To Create a Remedy for Unduly Burdensome and Oppressive Requests

PUBLIC 248

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-357

This bill amends the Freedom of Access Act to authorize a body, agency or official to deny a request for inspection or copying of public records, in whole or in part, on the basis that the request is unduly burdensome or oppressive. The bill requires that the body, agency or official seek protection from an unduly burdensome or oppressive request by filing an action in Superior Court within 30 days of receipt of the request. This bill adopts a good cause standard to be used by the court in determining whether the request may be limited or denied as unduly burdensome or oppressive.

Committee Amendment "A" (H-357)

This amendment adds a requirement that a public body, agency or official seeking a protection order from unduly burdensome and oppressive public records requests under the provision in the bill must provide to the court proof that the body, agency or official provided notice of the intent to file the action at least 10 days before the complaint is filed with the court.

Enacted Law Summary

Public Law 2015, chapter 248 amends the Freedom of Access Act to authorize a body, agency or official to deny a request for inspection or copying of public records, in whole or in part, on the basis that the request is unduly burdensome or oppressive. It requires that the body, agency or official seek protection from an unduly burdensome or oppressive request by filing an action in Superior Court within 30 days of receipt of the request. A public body, agency or official seeking a protection order from unduly burdensome and oppressive public records requests under the provision in the bill must provide to the court proof that the body, agency or official provided notice of the intent to file the action at least 10 days before the complaint is filed with the court. Chapter 248 adopts a good cause standard to be used by the court in determining whether the request may be limited or denied as unduly burdensome or oppressive.

LD 1087 An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Response Deadlines and Appeals

PUBLIC 249

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-360

This bill amends the Freedom of Access Act to make clear that an agency's or official's written notice of denial in response to a request to copy or inspect records may be a statement that the agency or official expects to deny the request in full or in part, but that decision can be made only after reviewing the records subject to the request. The agency or official is required to provide the written response within five days of the receipt of the request.

The bill clarifies the procedures for an appeal from a denial of a request to inspect or copy public records.

The bill also amends the laws governing public access officers by specifically requiring that a request for public records be acknowledged within five working days of the receipt of the request. This is consistent with the current

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acknowledgement deadline in the Maine Revised Statutes, Title 1, section 408-A, subsection 3.

Committee Amendment "A" (H-360)

This amendment clarifies the wording of the starting point of the five-day period within which a written notice of denial of a public records request must be provided.

This amendment deletes the language referring to a trial de novo, which was inadvertently retained in the bill.

This amendment strikes out the section of the bill that requires public access officers to acknowledge requests for public records within five working days because that proposal is included in the committee amendment to LD 1085.

Enacted Law Summary

Public Law 2015, chapter 249 amends the Freedom of Access Act to make clear that an agency's or official's written notice of denial in response to a request to copy or inspect records may be a statement that the agency or official expects to deny the request in full or in part, but that decision can be made only after reviewing the records subject to the request. The agency or official is required to provide the written response within five days of the receipt of the request.

Chapter 249 clarifies the procedures for an appeal from a denial of a request to inspect or copy public records. Current law allows the appeal to be filed in any Superior Court; this bill requires the appeal to be filed in the Superior Court for the county in which either the requestor lives or in which the agency has its principal office. Instead of filing an answer to the complaint, the agency or official may file a more informal statement of position explaining the basis for denial within 14 days of the service of the appeal. Chapter 249 eliminates the need for a de novo trial and instead requires the Superior Court to conduct a review de novo, taking whatever testimony or other evidence the court determines necessary. The basis for the decision, whether the agency's or official's refusal, denial or failure was not for just and proper cause, is not changed from current law.

LD 1088 An Act To Implement Recommendations of the Right To Know Advisory Committee

PUBLIC 250

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-359

This bill contains recommendations of the Right To Know Advisory Committee included in its ninth annual report.

Part A adds one additional member to the Right To Know Advisory Committee, to be appointed by the Governor. The new position will bring information technology expertise to the advisory committee.

Part B changes the Public Access Ombudsman's reporting date to January 15th of each year, which is the same date by which the Right To Know Advisory Committee is required to submit its annual report.

Part C implements the recommendations of the Right To Know Advisory Committee relating to existing public records exceptions in the Maine Revised Statutes, Title 22 and Titles 26 to 39-A.

Part D repeals the public records exceptions review schedule that was completed in 2014 and replaces it with a new review schedule.

Committee Amendment "A" (H-359)

This amendment removes the section of the bill that removes language authorizing the Secretary of State to adopt rules regarding the maintenance and use of data processing information files required to be kept confidential.