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An Act To Allow a Court To Award Attorney's Fees in Successful Freedom of Access Appeals

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

Sec. 1. 1 MRSA §409, as amended by PL 2007, c. 695, Pt. C, §1, is further amended to read:

§ 409. Appeals

1. Records. If any body or agency or official, ~~who~~that has custody or control of any public record, ~~shall refuse~~refuses permission to so inspect or copy or abstract a public record, this denial ~~shall~~must be made by the body or agency or official in writing, stating the reason for the denial, within 5 working days of the request for inspection by any person. Any person aggrieved by a denial may appeal ~~therefrom~~, within 5 working days of the receipt of the written notice of the denial, to any Superior Court within the State. If a court, after a trial de novo, determines ~~such~~the denial was not for just and proper cause, it shall enter an order for disclosure and may award the party bringing the appeal reasonable attorney's fees and expenses incurred in connection with the appeal. Appeals ~~shall be~~are 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.

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official ~~action~~actions in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void and may award the party bringing the appeal reasonable attorney's fees and expenses incurred in connection with the appeal. Appeals are 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.

3. Proceedings not exclusive. The proceedings authorized by this section ~~shall~~are not be exclusive of any other civil remedy provided by law.

SUMMARY

This bill allows a court to award a party that brings a successful appeal in a case involving the laws governing freedom of access reasonable attorney's fees and expenses incurred in connection with the appeal.