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**STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 332, L.D. 1100, Bill, “An Act To Allow Discovery in the Event of a Lawsuit against a State Agency”

Amend the bill by striking out the title and substituting the following:

'An Act To Clarify the Contents of the Complete Agency Record in the Appeal of an Agency's Failure or Refusal To Act'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 5 MRSA §11005, as enacted by PL 1977, c. 551, §3, is amended to read:

§11005. Responsive pleading; filing of the record

No responsive pleading need be filed unless required by order of the reviewing court. The agency shall file in the reviewing court within 30 days after the petition for review is filed, or within such shorter or longer time as the court may allow on motion, the original or a certified copy of the complete record of the proceedings under review. In the case of the alleged failure or refusal of an agency to act, the record must include written, electronic or otherwise memorialized communications, directives, orders and other documentation of all decisions by the agency to act, to refuse to act or to delay action. Within 20 days after the petition for review is filed, all parties to the agency proceeding who wish to participate in the review shall file a written appearance ~~which shall state that~~ states a position with respect to affirmance, vacation, reversal or modification of the decision under review.'

SUMMARY

This amendment replaces the bill to clarify what must be included in the complete agency record when the failure or refusal of the agency to act is alleged in a petition filed in Superior Court for the review of final agency action under the Maine Administrative Procedure Act. The amendment explicitly requires the agency to include in the record filed in response to the petition all communications, whether written, electronic or

COMMITTEE AMENDMENT

1 memorialized in any other way, of all decisions by the agency to act, to refuse to act or to
2 delay action. The record must also include all directives, orders and other documentation
3 of those agency decisions.