



LEAGUE OF WOMEN VOTERS OF MAINE

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To: Senator Lawrence Bliss, Senate Chair
Representative Charles R. Priest, House Chair
Members of the Joint Standing Committee on Judiciary

From: Michelle A. Small, League of Women Voters of Maine

Re: Testimony in Favor of LD 679, An Act to Allow a Court to Award Attorney's Fees in Successful Freedom of Access Appeals

Date: March 31, 2009

My name is Michelle Small, and I live in Brunswick. I am the volunteer Treasurer of the League of Women Voters of Maine and a member of the League's all-volunteer lobby corps. The League of Women Voters is a nonpartisan organization where hands-on work to safeguard democracy leads to civic improvement. I am here this afternoon to testify in Favor of LD 679, An Act to Allow a Court to Award Attorney's Fees in Successful Freedom of Access Appeals.

The League of Women Voters of Maine believes that democratic government depends upon informed and active participation at all levels of government. The League further believes that governmental bodies must protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible.

Maine's Freedom of Access Act requires public notice, open meetings, and availability of public records for inspection and copying, and it conforms to the League's beliefs. However, the success of the Act depends upon the willingness of government to comply.

Although the Act as currently written permits a citizen to bring action in Superior Court to seek disclosure of records or nullification of actions illegally taken in executive session, that right is essentially meaningless for a citizen who cannot afford to hire counsel. Pitted against government counsel, most citizens are unlikely to bring action in Superior Court or to prevail if they do bring action, even if their claims have merit. The addition of an attorney's fees provision to the Act would level the playing field and give citizens a meaningful enforcement opportunity. Therefore, the League of Women Voters of Maine urges this Committee to vote in favor of this bill.

Pursuant to this bill, attorney's fees could only be awarded to a citizen who prevails in an enforcement action, which would inhibit the filing of meritless claims. Thus, the proposed legislation would give teeth to a toothless Act without imposing an undue burden on government.