



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1208

H.P. 768

House of Representatives, March 16, 2023

**An Act to Implement the Recommendations of the Right To Know
Advisory Committee Concerning Time Estimates for Responding to
Public Records Requests**

Reported by Representative MOONEN of Portland for the Joint Standing Committee on
Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph
G.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT

Clerk

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

2 **Sec. 1. 1 MRSA §408-A, sub-§3**, as amended by PL 2015, c. 317, §1, is further
3 amended to read:

4 **3. Acknowledgment; clarification; time estimate; cost estimate.** The agency or
5 official having custody or control of a public record shall acknowledge receipt of a request
6 made according to this section within 5 working days of receiving the request and may
7 request clarification concerning which public record or public records are being requested.
8 Within a reasonable time of receiving the request, the agency or official shall provide a
9 good faith, nonbinding estimate of the time frame within which the agency or official will
10 comply with the request, ~~as well as~~ and a cost estimate as provided in subsection 9. The
11 agency or official shall make a good faith effort to fully respond to the request within the
12 estimated time frame. For purposes of this subsection, the date a request is received is the
13 date a sufficient description of the public record is received by the agency or official at the
14 office responsible for maintaining the public record. An agency or official that receives a
15 request for a public record that is maintained by that agency but is not maintained by the
16 office that received the request shall forward the request to the office of the agency or
17 official that maintains the record, without willful delay, and shall notify the requester that
18 the request has been forwarded and that the office to which the request has been forwarded
19 will acknowledge receipt within 5 working days of receiving the request.

20 **Sec. 2. 1 MRSA §408-A, sub-§8, ¶B**, as amended by PL 2021, c. 375, §1, is further
21 amended to read:

22 B. The agency or official may charge a fee ~~to cover~~ for the ~~actual cost of~~ time spent
23 searching for, retrieving and compiling the requested public record in accordance with
24 this paragraph. Compiling the public record includes reviewing and redacting
25 confidential information.

26 (1) The agency or official may not charge a fee for the first 2 hours of staff time
27 per request.

28 (2) After the first 2 hours of staff time, the agency or official may charge a fee of
29 not more than \$25 per hour.

30 **Sec. 3. 1 MRSA §408-A, sub-§9**, as enacted by PL 2011, c. 662, §5, is amended
31 to read:

32 **9. Estimate.** The agency or official having custody or control of a public record
33 subject to a request under this section shall provide to the requester an estimate of the time
34 ~~necessary to complete~~ frame within which the agency or official will comply with the
35 request and of the total cost as provided by subsection 8. If the estimate of the total cost is
36 greater than ~~\$30~~ \$50, the agency or official shall inform the requester before proceeding.
37 If the estimate of the total cost is greater than \$100, subsection 10 applies.

38 **SUMMARY**

39 This bill implements the recommendations of the Right To Know Advisory Committee
40 to amend provisions in the Freedom of Access Act concerning time estimates for
41 responding to public records requests by:

1 1. Clarifying that an agency or official must specify the estimated time frame within
2 which an agency or official will comply with a request for public records; and

3 2. Clarifying statutory language to better describe the scope of the fee charged by an
4 agency or official for searching for, retrieving and compiling a requested public record.

5 The bill also increases the cost threshold for when an agency or official must inform a
6 requester of the estimate of the total cost before proceeding with a request for public
7 records. Under current law, an estimate of the total cost is required when the cost is
8 estimated to be greater than \$30. The bill requires an estimate of the total cost to be
9 provided when the cost is estimated to be greater than \$50, to be consistent with Public
10 Law 2021, chapter 375, which increased the hourly fee for staff time that may be charged
11 by an agency or official from \$15 to \$25.