



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1216

H.P. 861

House of Representatives, March 26, 2013

An Act To Amend the Freedom of Access Act

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CAREY of Lewiston.
Cosponsored by Senator THOMAS of Somerset and
Representatives: BEAULIEU of Auburn, CROCKETT of Bethel, EVANGELOS of
Friendship, HARVELL of Farmington, PRIEST of Brunswick, Senators: HILL of York, KATZ
of Kennebec, PATRICK of Oxford.

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

2 **Sec. 1. 1 MRSA §408-A, sub-§3**, as enacted by PL 2011, c. 662, §5, is amended
3 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
6 request made according to this section within a reasonable period of time, and may
7 request clarification concerning which public record or public records are being
8 requested. The agency or official shall provide a good faith, nonbinding estimate of the
9 time within which the agency or official will comply with the request, as well as a cost
10 estimate as provided in subsection 9. The agency or official shall make a good faith
11 effort to fully respond to the request within the estimated time. The agency or official
12 shall respond to each communication within 5 calendar days of the receipt of the
13 communication.

14 **Sec. 2. 1 MRSA §408-A, sub-§4**, as enacted by PL 2011, c. 662, §5, is amended
15 to read:

16 **4. Refusals; denials.** If a body or an agency or official having custody or control of
17 any public record refuses permission to inspect or copy or abstract a public record, the
18 body or agency or official shall provide written notice of the denial, stating the reason for
19 the denial, within 5 ~~working~~ calendar days of the receipt of the request for inspection or
20 copying. Failure to comply with this subsection is considered failure to allow inspection
21 or copying and is subject to appeal as provided in section 409.

22 **Sec. 3. 1 MRSA §408-A, sub-§8, ¶B**, as enacted by PL 2011, c. 662, §5, is
23 amended to read:

24 B. The agency or official may charge a fee to cover the actual cost of searching for,
25 retrieving and compiling the requested public record of not more than \$15 per hour
26 after the first hour of staff time per request. Compiling the public record includes
27 reviewing and redacting confidential information. The agency or official shall
28 provide information describing the reasons for the costs, including the statute that
29 identifies any confidential information that must be redacted.

30 **Sec. 4. 1 MRSA §409, sub-§1**, as amended by PL 2011, c. 559, Pt. A, §1 and c.
31 662, §6, is repealed and the following enacted in its place:

32 **1. Records.** Any person aggrieved by a refusal or denial to inspect or copy a record
33 or the failure to allow the inspection or copying of a record under section 408-A may
34 appeal the refusal, denial or failure within 30 calendar days of the receipt of the written
35 notice of refusal, denial or failure to any Superior Court within the State as a trial de
36 novo. The agency or official shall file an answer within 14 calendar days. If a court,
37 after a trial de novo, determines such refusal, denial or failure was not for just and proper
38 cause, the court shall enter an order for disclosure. Appeals may be advanced on the
39 docket and receive priority over other cases when the court determines that the interests
40 of justice so require.

