



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1482

H.P. 1021

House of Representatives, April 18, 2017

**An Act To Implement the Recommendations of the Right To Know
Advisory Committee Concerning Existing Public Records
Exceptions**

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.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 1 MRSA §402, sub-§3, ¶R,** as amended by PL 2013, c. 518, §1, is
3 repealed.

4 **Sec. 2. 35-A MRSA §10106, sub-§1,** as amended by PL 2011, c. 343, §1, is
5 further amended to read:

6 **1. Confidential records.** The following records are designated as confidential for
7 purposes of Title 1, section 402, subsection 3, paragraph A:

8 A. A record obtained or developed by the trust that:

9 (1) A person, including the trust, to whom the record belongs or pertains has
10 requested be designated confidential and that the director has determined contains
11 information that gives the owner or a user an opportunity to obtain a business or
12 competitive advantage over another person who does not have access to the
13 information, except through the trust's records, or access to which by others
14 would result in a business or competitive disadvantage, loss of business or other
15 significant detriment, other than loss or denial of financial assistance from the
16 trust, to any person to whom the record belongs or pertains; or

17 ~~(2) The board has determined contains information that gives the owner or a user~~
18 ~~an opportunity to obtain business or competitive advantage over another person~~
19 ~~who does not have access to the information, except through the trust's records,~~
20 ~~or access to which by others would result in a business or competitive~~
21 ~~disadvantage, loss of business or other significant detriment, other than loss or~~
22 ~~denial of financial assistance from the trust, to any person to whom the record~~
23 ~~belongs or pertains;~~

24 (3) Contains information about the energy usage profile of an identifiable
25 customer of a transmission and distribution utility in the State or an identifiable
26 customer of a distributor of heating fuel or other energy source; and

27 ~~(4) Contains the social security number, address, telephone number or e-mail~~
28 ~~address of a customer that has participated or may participate in a program of the~~
29 ~~trust; and~~

30 B. A financial statement or tax return.

31 The social security number, address, telephone number or e-mail address of a customer
32 that has participated or may participate in a program of the trust is confidential.

33 The trust shall provide to a legislative committee, on written request signed by the chairs
34 of that committee, any information or records, including information designated
35 confidential under this subsection, specified in the written request. The information or
36 records may be used only for the lawful purposes of the committee and in any action
37 arising out of any investigation conducted by it.

1 **SUMMARY**

2 This bill implements the recommendations of the Right To Know Advisory
3 Committee relating to its review of existing public records exceptions enacted after 2004
4 and before 2013.

5 This bill repeals the current exception from the definition of "public records" under
6 Maine's Freedom of Access Act for social security numbers in the possession of the
7 Secretary of State because this is duplicative of the existing general exception for social
8 security numbers in the Maine Revised Statutes, Title 1, section 402, subsection 3,
9 paragraph N.

10 This bill changes the criteria for designation of records of the Efficiency Maine Trust
11 as confidential from requiring that each of 4 criteria be met to instead require that one of
12 2 criteria be met. Those criteria are that a person to whom the record belongs has
13 requested it be designated confidential and that the director of the Efficiency Maine Trust
14 Board has determined the record contains proprietary information, access to which would
15 result in some competitive disadvantage to any person to whom the record belongs or
16 pertains or that the record contains information about the energy usage profile of an
17 identifiable individual. The bill provides that the social security number, address,
18 telephone number or e-mail address of a customer who has participated or may
19 participate in a program of the Efficiency Maine Trust is confidential. This bill also
20 provides that the director of the Efficiency Maine Trust, instead of the Efficiency Maine
21 Trust Board, may disclose or authorize disclosure of otherwise confidential information
22 in certain specified circumstances.