



126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1690

H.P. 1213

House of Representatives, December 30, 2013

**An Act Concerning Confidential Records Received by the
Commission on Governmental Ethics and Election Practices**

Submitted by the Commission on Governmental Ethics and Election Practices pursuant to
Joint Rule 204.

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LUCHINI of Ellsworth.

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

2 **Sec. 1. 21-A MRSA §1003, sub-§3-A**, as enacted by PL 2007, c. 571, §6, is
3 amended to read:

4 **3-A. Confidential records.** Investigative working papers of the commission are
5 confidential ~~and may not be disclosed to any person except the members and staff of the~~
6 ~~commission, except that the commission may disclose them to~~ the subject of the audit or
7 investigation, other entities as necessary for the conduct of an audit or investigation and
8 law enforcement and other agencies for purposes of reporting, investigating or
9 prosecuting a criminal or civil violation. For purposes of this subsection, "investigative
10 working papers" means documents, records and other printed or electronic information in
11 the following limited categories that are acquired, prepared or maintained by the
12 commission during the conduct of an audit, investigation or ~~audit~~ other enforcement
13 matter:

14 A. Financial information not normally available to the public;

15 B. Information ~~belonging to a party committee, political action committee, ballot~~
16 ~~question committee, candidate or candidate's authorized committee~~ that, if disclosed,
17 would reveal sensitive political or campaign information belonging to a party
18 committee, political action committee, ballot question committee, candidate or
19 candidate's political committee, or other person who is the subject of an audit,
20 investigation or other enforcement matter, even if the information is in the possession
21 of a vendor or 3rd party;

22 C. Information or records subject to a privilege against discovery or use as evidence;
23 and

24 D. Intra-agency or interagency communications related to an audit or investigation,
25 including any record of an interview, meeting or examination.

26 The commission may disclose investigative working papers or discuss them at a public
27 meeting, except for the information or records subject to a privilege against discovery or
28 use as evidence, ~~in a final audit or investigation report or determination~~ if the information
29 or record is materially relevant to a finding of fact ~~or~~ violation or other decision by the
30 commission concerning an audit, investigation or other enforcement matter.

31 **SUMMARY**

32 This bill clarifies that certain investigative records of the Commission on
33 Governmental Ethics and Election Practices designated confidential under current law
34 maintain their confidentiality even if they are in the possession of a financial institution or
35 vendor of a candidate, political action committee or other association being investigated
36 by the commission. Those categories of documents are also confidential if received in
37 the context of an audit or other enforcement matter such as a staff review of the
38 compliance of campaign finance reports. The commission may present those documents
39 or discuss them at a public meeting of the commission when they are materially relevant
40 to a final commission determination or other decision by the commission concerning an
41 audit, investigation or other enforcement matter.