



Maine County Commissioners Association

4 Gabriel Drive, Suite 2 Augusta, ME 04330, 207-623-4697

www.maine counties.org

Testimony of MCCA regarding LD 1788, An Act to Strengthen the Freedom of Access Act by Categorizing Commercial Requesters

May 2, 2025

Chair Carney, Chair Kuhn, and Members of the Joint Standing Committee on Judiciary. My name is Andre Cushing, I'm a county commissioner for Penobscot County, and I come before you today in my role as President of the Maine County Commissioners Association. Today, I am here to speak in support of LD 1788. We support the principle behind LD 1788 because it calls out the growing misuse of FOAA by private businesses to collect information about competitors and asks such users to pay their fair share of the costs associated with time-intensive public records requests, helping to ease the burden on county staff and ultimately the taxpayers.

About MCCA. Briefly, the Maine County Commissioners Association was established in 1890 to assist Maine's county government in providing vital services to Maine citizens in a responsive, efficient, and credible manner. The Association is based in Augusta, represents all 16 of Maine's counties, and is governed by a board with representation from each participating county.

What does LD 1788 do? LD 1788 would amend Maine's Freedom of Access Act (FOAA) to allow public entities to charge higher fees for records requests made for commercial purposes. The bill creates a definition for "commercial requester" and authorizes agencies to recover the full cost of responding to such requests, beyond the current hourly fee cap. This change is intended to ensure that taxpayers are not subsidizing time-intensive requests submitted for profit-driven reasons.

Discussion. MCCA supports LD 1788 because it provides a fair and practical approach to managing the burden that public records requests place on county government associated with private businesses who seek to utilize FOAA to gather information for their own business advantage.

Maine's counties are fully committed to transparency and strive to comply with the Freedom of Access Act (FOAA) in a timely and responsible manner. However, fulfilling FOAA requests are highly labor-intensive and often require staff to collect, review, redact, and deliver materials—often under tight timelines and without the ability to fully recover costs. This burden is particularly pronounced for smaller counties with limited administrative personnel and growing demands on core services like public safety, emergency response, and human services.

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LD 1788 would allow counties and other public entities to charge higher fees for FOAA requests submitted for commercial purposes, above the current hourly cap of \$25/hr. This is a targeted and reasonable reform that ensures commercial actors—who are using government resources to support private business activities—contribute fairly to the cost of fulfilling their requests. Importantly, the bill does not alter or limit public access for individuals, members of the press, or nonprofits engaged in civic oversight.

County staff often spend many hours responding to complex or voluminous FOAA requests submitted by private companies seeking to gather data for resale, marketing, or litigation-related purposes. These are not public-interest inquiries, and taxpayers should not be subsidizing them. LD 1788 helps restore balance to the FOAA process by ensuring that commercial requesters pay a more equitable share of the actual cost of fulfilling their requests.

Possible need for an amendment. In reviewing the bill, we note there is an effort to define a “commercial user.” MCCA is open to the possibility of amending this definition to ensure that the bill is appropriately focused on private businesses seeking to use FOAA for their own commercial advantage.

Conclusion. We appreciate the opportunity to provide testimony in strong support of this bill. If you have questions or need additional information, please do not hesitate to let us know.