



Testimony in Opposition to LD 101:

“An Act Regarding Public Records and Fees for Requesting Public Records from the Department of Inland Fisheries and Wildlife”

Senator Baldacci, Representative Roberts, and the distinguished members of the Committee on Inland Fisheries and Wildlife, my name is Harris Van Pate, and I serve as policy analyst for Maine Policy Institute. Maine Policy is a free market think tank, a nonpartisan, non-profit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to testify in opposition to LD 101, which, among other proposals, proposes changes to the fee structure for public records requests from the Department of Inland Fisheries and Wildlife.

Maine’s Freedom of Access Act (FOAA) is a flawed government transparency process, lagging behind many other states in affordability, reliability, and effectiveness. Unfortunately, LD 101 threatens to further undermine these principles by introducing a new fee structure that could dramatically increase the cost of accessing public records, which is already expensive. This bill poses a barrier to transparency, limits public participation, and sets a concerning precedent for access to government information.

Increased Costs Create Barriers to Public Access

LD 101 introduces a flat fee of \$5 per individual record and a minimum \$10 fee for list requests, even for electronic records. This represents a significant cost increase compared to the existing FOAA guidelines, where charges are typically based on actual reproduction costs (e.g., 10¢ per page) and staff time. Even the current system creates exorbitant costs for anyone seeking public records, and this legislation would add even more costs on top of that. These changes would disproportionately impact more minor, straightforward FOAA requests, making public access to records unnecessarily expensive.

For individuals, journalists, researchers, and advocacy organizations, these increased costs present a financial barrier to exercising their right to obtain public records. At a time when trust in government institutions is paramount and ever decreasing, raising FOAA costs risks discouraging public oversight and participation in government processes.¹

¹ <https://ourpublicservice.org/publications/state-of-trust-in-government-2024/>



Implications for Transparency and Accountability

Transparency is essential to ensuring government accountability and public trust. The Freedom Of Access Act was enacted to allow all citizens to access public information quickly and affordably. By making it more expensive to obtain records, LD 101 undermines the purpose of Maine's FOAA, creating a chilling effect on those who seek to hold the government accountable.

This bill also sets a concerning precedent. What prevents others from following suit if one department can impose its own fee structure? Without a careful analysis of the impact, LD 101 risks creating a fragmented and inequitable public access system across state agencies, making the problems of the current FOAA system even worse.

Maine's FOAA system is already broken, this would make it worse

As Maine Policy Institute has previously noted, our FOAA system has been broken for a long time and has only been getting worse.² No longer are individual government employees held accountable for failing to comply with FOAAs, and the fine for agencies refusing to comply has gone down over the years rather than up. When the FOAA law was proposed, an employee wrongfully denying requests might even face jail time, but this provision was removed, turning wrongful denials into simple civil violations.

FOAA requests should be something Maine state agencies take seriously, not something that they treat as a revenue source. Maine's FOAA system needs serious reform, and in many ways, this bill moves Maine in the wrong direction.

Conclusion

LD 101 even further worsens Maine's already broken FOAA system, increasing costs and limiting transparency. By increasing costs for public records requests, this bill discourages the oversight that FOAA was designed to protect. Transparency should not come with a price tag that deters citizens from exercising their rights.

We urge this committee to reject LD 101 and instead consider measures that promote, rather than restrict, public access to government records. Thank you for your time and consideration.

² <https://mainepolicy.org/government-transparency-foaaget-about-it-in-maine/>