

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1221

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H.P. 896

House of Representatives, March 24, 2021

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

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Reported by Representative HARNETT of Gardiner for the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

Received by the Clerk of the House on March 22, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

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

2 **Sec. 1. 10 MRSA §1107, first ¶**, as amended by PL 1991, c. 137, §4, is further  
3 amended to read:

4 The Attorney General upon the Attorney General's own initiative or upon petition of  
5 50 or more citizens of this State, shall investigate all seeming violations of sections 1102-A  
6 and 1105 to 1107, all contracts, combinations or conspiracies in restraint of trade or  
7 commerce, and all monopolies, and may require, by summons, the attendance and  
8 testimony of witnesses and the production of books and papers before the Attorney General  
9 relating to any such matter under investigation. The summons must be served in the same  
10 manner as summons for witnesses in criminal cases, and all provisions of law relating  
11 thereto apply to summonses issued under this section so far as they are applicable. All  
12 investigations or hearings thereunder or connected therewith to which witnesses are  
13 summoned or called upon to testify or to produce books, records or correspondence are  
14 ~~public or private at the choice of the person summoned~~ confidential and must be held in  
15 the county where the act to be investigated is alleged to have been committed, or if the  
16 investigation is on petition it must be held in the county in which the petitioners reside.  
17 Books, records or correspondence produced in response to a summons issued under this  
18 section may be disclosed by the Attorney General with the consent of the producing party  
19 and in court pleadings or other papers filed in court. The expense of such investigation  
20 must be paid from the appropriation provided by Title 5, section 203.

21 **Sec. 2. 12 MRSA §550-B, sub-§6**, as amended by PL 2013, c. 405, Pt. C, §7, is  
22 further amended to read:

23 **6. Information use.** Information collected by the Division of Geology, Natural Areas  
24 and Coastal Resources, Maine Geological Survey under this section is subject to Title 1,  
25 chapter 13, subchapter 1, ~~unless the well drilling company to whom the information~~  
26 ~~belongs or pertains requests that it be designated as confidential and the bureau has~~  
27 ~~determined it contains proprietary information. For the purposes of this subsection,~~  
28 ~~"proprietary information" means information that is a trade secret or production,~~  
29 ~~commercial or financial information the disclosure of which would impair the competitive~~  
30 ~~position of the person submitting the information and would make available information~~  
31 ~~not otherwise publicly available.~~ The Division of Geology, Natural Areas and Coastal  
32 Resources, Maine Geological Survey shall make information collected under this chapter  
33 available to any federal, state or municipal entity or authorized agent of such entity.

34 **SUMMARY**

35 This bill implements statutory changes recommended by the Right To Know Advisory  
36 Committee after reviewing certain existing public records exceptions in the Maine Revised  
37 Statutes, Titles 8 to 12.

38 The bill amends a provision relating to books, records or correspondence produced in  
39 response to a summons in an antitrust investigation. It makes the language consistent with  
40 how other exceptions refer to documents that are not subject to disclosure and clarifies that  
41 the confidentiality of the records is not tethered to an affirmative option of the person  
42 providing the records. It further clarifies that books, records or correspondence produced  
43 in response to a summons may be disclosed by the Attorney General with the consent of  
44 the producing party and in court pleadings or other papers filed in court.

1           The bill amends a provision relating to water well information collected by the  
2 Department of Agriculture, Conservation and Forestry, Division of Geology, Natural Areas  
3 and Coastal Resources, Maine Geological Survey. It removes the exception designating as  
4 confidential information collected by the Maine Geological Survey at the request of well  
5 drilling companies to whom the information pertains if the division has determined it  
6 contains proprietary information.