

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1649

H.P. 1061

House of Representatives, April 13, 2023

**An Act to Support Local Governments in Responding to Freedom of
Access Act Requests**

Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative TERRY of Gorham.
Cosponsored by Senator VITELLI of Sagadahoc and
Representatives: BOYLE of Gorham, BRENNAN of Portland, CLUCHEY of Bowdoinham,
CRAFTS of Newcastle, MILLETT of Cape Elizabeth, MURPHY of Scarborough,
O'CONNELL of Brewer, SALISBURY of Westbrook.

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

2 **Sec. 1. 1 MRSA §408-A, sub-§8, ¶B**, as amended by PL 2021, c. 375, §1, is further
3 amended to read:

4 B. The agency or official may charge a fee to cover the actual cost of searching for,
5 retrieving and compiling the requested public record in accordance with this paragraph.
6 Compiling the public record includes reviewing and redacting confidential
7 information.

8 (1) The agency or official may not charge a fee for the first 2 hours of staff time
9 per request, except when the person making the public records request of that
10 agency or official has previously made a request during the same calendar year.

11 (2) After the first 2 hours of staff time, the agency or official may charge a fee of
12 not more than ~~\$25~~ \$40 per hour.

13 **Sec. 2. 1 MRSA §408-A, sub-§13** is enacted to read:

14 **13. Public records requests regarding school employees.** If a school employee is
15 the subject of a public records request, the employee must be notified of the request as soon
16 as practicable. The employee must be provided an opportunity to inspect the records to be
17 submitted to the requestor before the requestor receives any documents or materials
18 involving the employee. The school district may require the use of the form under Title 5,
19 section 200-I, subsection 2, paragraph H for any request.

20 If the school district believes the public records request is frivolous or designed to
21 intimidate or harass, the school district may seek the opinion of the Public Access
22 Ombudsman regarding the request. If the Public Access Ombudsman determines that the
23 request is part of a series of contemporaneous requests, or a pattern of requests, that are
24 frivolous or designed to intimidate or harass and that the requests are not intended for the
25 broad dissemination of information to the public about actual or alleged government
26 activity, the Public Access Ombudsman may relieve the agency or official of the obligation
27 to provide the public records sought pursuant to Title 5, section 200-I, subsection 2,
28 paragraph G. If the requestor disagrees with the denial of a request by the Public Access
29 Ombudsman based on these standards, the requestor may appeal the denial pursuant to
30 section 409.

31 **Sec. 3. 5 MRSA §200-I, sub-§2, ¶E**, as amended by PL 2013, c. 229, §1, is further
32 amended to read:

33 E. Make recommendations concerning ways to improve public access to public records
34 and proceedings; ~~and~~

35 **Sec. 4. 5 MRSA §200-I, sub-§2, ¶F**, as enacted by PL 2013, c. 229, §2, is amended
36 to read:

37 F. Coordinate with the state agency public access officers the compilation of data
38 through the development of a uniform log to facilitate record keeping and annual
39 reporting of the number of requests for information, the average response time and the
40 costs of processing requests;:

41 **Sec. 5. 5 MRSA §200-I, sub-§2, ¶G** is enacted to read:

1 G. Relieve an agency or official of the obligation to provide public records pursuant
2 to Title 1, section 408-A, subsection 13; and

3 **Sec. 6. 5 MRSA §200-I, sub-§2, ¶H** is enacted to read:

4 H. Create a form for the submission of public records requests. The form must be
5 simple, short and designed to provide only the basic information required to fulfill the
6 request.

7 **SUMMARY**

8 This bill amends the State's freedom of access laws to increase the fee for a public
9 records request from \$25 per hour spent retrieving the public record to \$40 per hour. It
10 provides that an agency or official may charge a fee for the first 2 hours of staff time per
11 request when the person making the public records request of that agency or official has
12 previously made a request during the same calendar year.

13 It requires that school personnel who are the subject of public records requests be
14 notified and allows them opportunity to inspect the records before they are released. If a
15 school district believes a request is frivolous or designed to intimidate or harass, the school
16 district is authorized to seek the opinion of the Public Access Ombudsman within the
17 Department of the Attorney General regarding the request.

18 It provides that, if the Public Access Ombudsman determines that the request is part of
19 a series of contemporaneous requests, or a pattern of requests, that are frivolous or designed
20 to intimidate or harass and that the requests are not intended for the broad dissemination of
21 information to the public about actual or alleged government activity, the Public Access
22 Ombudsman is authorized to relieve the agency or official of the obligation to provide the
23 records sought. If the requestor disagrees with the denial of a request based on these
24 standards, the requestor may appeal to the Superior Court.

25 It also directs the Public Access Ombudsman to create a simple, short form for public
26 records requests. A school district may require the use of this form for any public records
27 request.