

RIGHT TO KNOW ADVISORY COMMITTEE

Wednesday, December 18, 2019

1:00 p.m.

State House Room 436

1. Welcome and introductions
2. Subcommittee Reports: Recommendations and Advisory Committee Actions
 - A. Improve the FOAA Subcommittee
 - Advisory Committee action items
 - (1) Warrants recommendation
 - (2) Cap on copying fees
 - (3) Changes to FOAA training statute
 - (4) Request to Public Access Ombudsman for training recommendations
 - (5) Remote participation – preamble
 - (6) Emerging technologies study committee commendations
 - (7) Additional criterion for public records exceptions reviews
 - (8) Tiered fee schedule?
 - (9) Other recommendations
 - B. Issues Subcommittee
 - Advisory Committee action items
 - (1) Changes to Archives Advisory Board membership
 - (2) Letter to Tammy Marks, Director of Maine State Archives
 - (3) Privacy study committee recommendations
 - (4) Surveillance videos?
 - (5) Other recommendations
 - C. Public Records Exceptions Subcommittee
 - Advisory Committee Action items
 - (1) Statutory changes to public records exceptions
 - (2) Standardized language recommendation
3. Issues, topics for 2020
4. Review Draft Report
5. Adjourn

**Existing Public Records Exceptions For Review by Public Records Exception Review Subcommittee:
Proposed Subcommittee Recommendations on Exceptions to Advisory Committee
Titles 1 through 7-A**

REF. NO.	TITLE	SECTION	SUB-§, ¶	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION	SUBCOMMITTEE ACTION (UNANIMOUS)
6	1	402	3, ¶ E	<i>Title 1, section 402, subsection 3, paragraph E, relating to records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System</i>	Maine Maritime Academy; Maine Community College System; University of Maine System	No change	Amend as suggested by UM System
11	1	402	3, ¶ J	<i>Title 1, section 402, subsection 3, paragraph J, relating to working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization</i>			Amend: strike "by a member or" and consider putting time limit on confidentiality of records
16	1	402	3, ¶ O	<i>Title 1, section 402, subsection 3, paragraph O relating to personal contact information concerning public employees other than elected officials</i>	DAFS Bureau of Human Resources	Expand to include social media accounts	Amend to add username, password and URL (uniform resource locator) unique to a person for social media accounts to definition of "personal contact information" and clarify terms
24	1	538	3	<i>Title 1, section 538, subsection 3, relating to InforME subscriber information</i>	InforME; DAFS Office of Information Technology		No change

**Existing Public Records Exceptions For Review by Public Records Exception Review Subcommittee:
Proposed Subcommittee Recommendations on Exceptions to Advisory Committee
Titles 1 through 7-A**

REF. NO.	TITLE	SECTION	SUB-§, ¶	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION	SUBCOMMITTEE ACTION (UNANIMOUS)
27	1	1013	3-A	<i>Title 1, section 1013, subsection 3-A, relating to a complaint alleging a violation of legislative ethics</i>	Maine Commission on Governmental Ethics and Election Practices	No change	No change
35A	4	17	3	<i>Title 4, section 17, subsection 15, relating to State Court security records</i>	Judicial Branch		No change
53	5	7070	2	<i>Title 5, section 7070, subsection 2, relating to state employees' personal information</i>	DAFS Bureau of Human Resources and Employee Relations	Expand to include social media accounts	No change
73	5	244-E	2	<i>Title 5, section 244-E, subsection 2, relating to the contents of a complaint alleging fraud, waste, inefficiency or abuse</i>	Office of the State Auditor	Amend to allow Auditor to forward complaints to other agencies that are expected to follow up on the complaint	Amend as suggested by State Auditor and also clarify that other agencies shall maintain confidentiality; consider requiring follow up and report back to State Auditor following investigation of complaint
85	7	4204	10	<i>Title 7, section 4204, subsection 10, relating to nutrient management plans</i>	Department of Agriculture	No change	No change
86	7	4205	2	<i>Title 7, section 4205, subsection 2, relating to livestock operation permits and nutrient management plans</i>	Department of Agriculture	No change	No change
88	7	2992-A	1	<i>Title 7, subsection 2992-A, subsection 1, paragraph C, subparagraph (2), relating to records and meetings of Maine Dairy Promotion Board which may be closed to public when disclosure would adversely affect competitive position of milk industry</i>	Maine Dairy Promotion Board	No change	Amend to remove reference to "or segment of that industry"

**Existing Public Records Exceptions For Review by Public Records Exception Review Subcommittee:
Proposed Subcommittee Recommendations on Exceptions to Advisory Committee
Titles 1 through 7-A**

REF. NO.	TITLE	SECTION	SUB-§, ¶	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION	SUBCOMMITTEE ACTION (UNANIMOUS)
89	7	2998-B	1	<i>Title 7, section 2998-B, subsection 1, paragraph C, subparagraph (2), relating to records and meetings of Maine Dairy and Nutrition Council which may be closed to public when disclosure would adversely affect competitive position of milk industry</i>	Maine Dairy and Nutrition Council	No change	Amend to remove reference to "or segment of that industry"
90	7	306-A	3	<i>Title 7, section 306-A, subsection 3, relating to agricultural development grant program, market research or development activities</i>	Department of Agriculture	No change	No change
92	7	951-A		<i>Title 7, section 951-A, relating to minimum standards for planting potatoes</i>	Department of Agriculture, Food and Rural Resources	No change	No change
	1	402	3, ¶ U	<i>Title 1, section 402, subsection 3, paragraph U, relating to related to records of railroad companies concerning hazardous materials shipments</i>	Department of Environmental Protection	Supportive of change suggested by subcommittee	Amend scope to make records subject to public disclosure subject to public disclosure after a discharge that poses a threat to public health, safety and welfare



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1511

H.P. 1103

House of Representatives, April 4, 2019

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

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

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

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

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 1 MRSA §402, sub-§3, ¶C-1**, as enacted by PL 2011, c. 264, §1, is
3 amended to read:

4 C-1. Information contained in a communication between a constituent and an elected
5 official if the information:

6 (1) Is of a personal nature, consisting of:

7 (a) An individual's medical information of any kind, including information
8 pertaining to diagnosis or treatment of mental or emotional disorders;

9 (b) Credit or financial information;

10 (c) Information pertaining to the personal history, general character or
11 conduct of the constituent or any member of the constituent's immediate
12 family; or

13 (d) Complaints, charges of misconduct, replies to complaints or charges of
14 misconduct or memoranda or other materials pertaining to disciplinary
15 action; or

16 ~~(e) An individual's social security number; or~~

17 (2) Would be confidential if it were in the possession of another public agency or
18 official;

19 **Sec. 2. 1 MRSA §402, sub-§3, ¶K**, as amended by PL 2003, c. 392, §1, is further
20 amended to read:

21 K. Personally identifying information concerning minors that is obtained or
22 maintained by a municipality in providing recreational or nonmandatory educational
23 programs or services, ~~if the municipality has enacted an ordinance that specifies the~~
24 ~~circumstances in which the information will be withheld from disclosure.~~ This
25 paragraph does not apply to records governed by Title 20-A, section 6001 and does
26 not supersede Title 20-A, section 6001-A;

27 **Sec. 3. 1 MRSA §402, sub-§3, ¶M**, as amended by PL 2011, c. 662, §2, is
28 further amended to read:

29 M. Records or information describing the architecture, design, access authentication,
30 encryption or security of information technology infrastructure, systems and
31 software, including records or information maintained to ensure government
32 operations and technology continuity and to enable disaster recovery. Records or
33 information covered by this paragraph may be disclosed to the Legislature or, in the
34 case of a political or administrative subdivision, to municipal officials or board
35 members under conditions that protect the information from further disclosure;

36 **Sec. 4. 3 MRSA §997, sub-§§1 and 3**, as enacted by PL 2001, c. 702, §2, are
37 amended to read:

1 **1. Review and response.** Prior to the presentation of a program evaluation under
2 this chapter to the committee by the office, the director of the evaluated state agency or
3 other entity must have an opportunity to review a draft of the program evaluation report.
4 Within 15 calendar days of receipt of the draft report, the director of the evaluated state
5 agency or other entity may provide to the office comments on the draft report. If
6 provided to the office by the comment deadline, the comments must be included in the
7 final report when it is presented to the committee. Failure by the director of an evaluated
8 agency or other entity to submit its comments on the draft report by the comment
9 deadline may not delay the submission of a report to the committee or its release to the
10 public.

11 All documents, writings, drafts, electronic communications and information transmitted
12 pursuant to this subsection are confidential and may not be released to the public prior to
13 the time the office issues its program evaluation report pursuant to subsection 3. A
14 person violating the provisions of this subsection regarding confidentiality is guilty of a
15 Class E crime.

16 **3. Confidentiality.** ~~The director shall issue program evaluation reports, favorable or~~
17 ~~unfavorable, of any state agency or other entity, and these reports are public records,~~
18 ~~except that, prior to the release of a program evaluation report pursuant to subsection 2 or~~
19 ~~the point at which a program evaluation is no longer being actively pursued, all papers,~~
20 ~~physical and electronic records and correspondence and other supporting materials~~
21 ~~comprising the working Working papers in the possession of the director or other entity~~
22 ~~charged with the preparation of a program evaluation report an entity with which the~~
23 ~~director has contracted for the conduct of program evaluations pursuant to section 995,~~
24 ~~subsection 2 are confidential and exempt from disclosure pursuant to Title 1, chapter 13,~~
25 ~~including disclosure to the Legislative Council or an agent or representative of the~~
26 ~~Legislative Council. All other records or materials in the possession of the director or~~
27 ~~other entity charged with the preparation of a program evaluation report under this~~
28 ~~chapter an entity with which the director has contracted for the conduct of program~~
29 ~~evaluations pursuant to section 995, subsection 2 that would otherwise be confidential or~~
30 ~~exempt from disclosure are exempt from disclosure pursuant to the provisions of Title 1,~~
31 ~~chapter 13. Prior to the release of a program evaluation report pursuant to subsection 2 or~~
32 ~~the point at which a program evaluation is no longer being actively pursued, all papers,~~
33 ~~physical and electronic records and correspondence and other supporting materials~~
34 ~~comprising the working papers in the possession of the director or other entity charged~~
35 ~~with the preparation of a program evaluation report are confidential and may not be~~
36 ~~released or disclosed by the director to the Legislative Council or an agent or~~
37 ~~representative of the Legislative Council. This subsection may not be construed to~~
38 ~~prohibit or prevent public access to the records of a state agency or other entity in the~~
39 ~~possession of the director that would otherwise be subject to disclosure pursuant to the~~
40 ~~provisions of Title 1, chapter 13. The director shall refer requests for access to those~~
41 ~~records directly to the state agency or other entity that is the official custodian of the~~
42 ~~requested records, which shall respond to the request for public records.~~

43 **Sec. 5. 5 MRSA §4572, sub-§2, ¶C,** as enacted by PL 1995, c. 393, §13, is
44 amended to read:

1 C. A covered entity may require a medical examination after an offer of employment
2 has been made to a job applicant and prior to the commencement of the employment
3 duties of the applicant and may condition an offer of employment on the results of the
4 examination, if:

5 (1) All entering employees are subjected to the same examination regardless of
6 disability;

7 (2) Information obtained regarding the medical ~~condition or~~ and disability
8 information and history of the applicant is collected and maintained on separate
9 forms and in separate medical files and is treated as a confidential medical
10 record, except that:

11 (a) Supervisors and managers may be informed regarding necessary
12 restrictions on the work or duties of the employee and necessary
13 accommodations;

14 (b) First aid and safety personnel may be informed, when appropriate, if the
15 disability might require emergency treatment; and

16 (c) Government officials investigating compliance with this Act are provided
17 relevant information on request; and

18 (3) The results of the examination are used only in accordance with this Act.

19 **Sec. 6. 5 MRSA §4572, sub-§2, ¶E**, as enacted by PL 1995, c. 393, §13, is
20 amended to read:

21 E. A covered entity may conduct voluntary medical examinations, including
22 voluntary medical ~~histories~~ and disability information and history, that are part of an
23 employee health or wellness program available to employees at that work site. A
24 covered entity may make inquiries into the ability of an employee to perform job-
25 related functions. Information obtained under this paragraph regarding the medical
26 ~~condition or~~ and disability information and history of an employee is subject to the
27 requirements of paragraph C, subparagraphs (2) and (3).

28 **Sec. 7. 5 MRSA §4573, sub-§2**, as amended by PL 1995, c. 393, §16, is further
29 amended to read:

30 **2. Records.** After employment or admission to membership, to make a record of
31 such features of an individual as are needed in good faith for the purpose of identifying
32 them, provided the record is intended and used in good faith solely for identification, and
33 not for the purpose of discrimination in violation of this Act. ~~Records of features~~
34 regarding physical or mental disability that are collected must be collected and
35 maintained on separate forms and in separate files and be treated as confidential records;

36 SUMMARY

37 This bill implements statutory changes recommended by the Right To Know
38 Advisory Committee pursuant to its responsibility to review existing public records
39 exceptions.

1 The bill eliminates specific protection for social security numbers in the context of
2 constituent communications because social security numbers are designated as not public
3 records for all contexts.

4 Current law provides that personally identifying information concerning minors that
5 is obtained or maintained by a municipality in providing recreational or nonmandatory
6 educational programs or services is not a public record as long as the municipality has
7 adopted an ordinance that protects the information from disclosure. The bill repeals the
8 requirement that a municipality adopt such an ordinance in order to protect the
9 information about minors.

10 Current law provides a public record exception for records or information describing
11 the architecture, design, access authentication, encryption or security of information
12 technology infrastructure, systems and software. The bill amends the provision to
13 specifically include records or information maintained to ensure government operations
14 and technology continuity and to enable disaster recovery.

15 The bill amends the statutes governing the confidentiality of the working papers of
16 the Office of Program Evaluation and Government Accountability to clarify that the
17 working papers, whether in the possession of the office or an entity with which the office
18 director has contracted, remain confidential even after the report is released to the public.
19 It removes duplicative language that is already captured in the definition of "working
20 papers."

21 The bill amends the Maine Human Rights Act to update and clarify the language
22 describing medical history and information about disabilities, as well as to update a
23 reference to employee health and wellness programs.

**Right to Know Advisory Committee
Public Records Exceptions Review Subcommittee**

PROPOSED DRAFT LEGISLATION TO AMEND EXCEPTIONS

REF #6 (Amend 3-0 on 9/20; approved 12/4)

Sec. ____ 1 MRSA §402, sub-§3, ¶ E is amended as follows:

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System when the subject matter is confidential or otherwise protected from disclosure by statute, other law or legal precedent, or evidentiary privilege. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B;

Summary

This language amends the scope of the public records exception to clarify that records, working papers and interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System are confidential when the subject matter is confidential or otherwise protected from disclosure by statute, other law or legal precedent, or evidentiary privilege.

REF #11(Amend 3-0 on 9/20; approved 12/4)

Sec. ____ 1 MRSA §402, sub-§3, ¶ J is amended as follows:

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or

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maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization;

Summary

This language amends the scope of the public records exceptions to clarify that working papers become public records once distributed in a public meeting of an advisory organization and not when distributed by an individual member of an advisory organization.

REF #16 (Amend 3-0 on 9/20; approved 12/4)

Sec. ____ 1 MRSA §402, sub-§3, ¶ O is amended as follows:

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home personal address, home telephone number, home facsimile number, home e-mail address, and personal cellular telephone number, and personal pager number, and username, password and uniform resource locator for a personal social media account; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials;

Summary

This language amends the public records exception to provide that personal contact information concerning public employees protected as confidential includes a person's username, password and uniform resource location for a personal social media account.

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REF # 73 (Amend 3-0 on 9/20; approved 12/4)

Sec. ____ 5 MRSA §244-E, sub-§§ 2, 3 and 4 are amended as follows:

2. Contents of complaint confidential. A complaint alleging fraud, waste, inefficiency or abuse made through a hotline or other referral service established by the State Auditor for the confidential reporting of fraud, waste, inefficiency and abuse in State Government and any resulting investigation is confidential and may not be disclosed except as provided in subsections 3 and 4.

3. Coordination with Office of Program Evaluation and Government Accountability and Attorney General and state agencies. The State Auditor may disclose information that is confidential under this section to the Director of the Office of Program Evaluation and Government Accountability and the Attorney General to ensure appropriate agency referral or coordination between agencies to respond appropriately to all complaints made under this section. The State Auditor may disclose information that is confidential under this section related to a complaint alleging fraud, waste, inefficiency or abuse to a department or agency that is the subject of a complaint to ensure that the department or agency responds appropriately to the complaint. The department or agency shall maintain as confidential any information related to a complaint furnished by the State Auditor.

4. Reports. For each complaint under this section, the State Auditor shall submit a written report to the Governor and publish the report on the auditor's publicly accessible website. The report must include a detailed description of the nature of the complaint, the office, bureau or division within the department or any agency that is the subject of the complaint, the determination of potential cost savings, if any, any recommended action and a statement indicating the degree to which the complaint has been substantiated. The report must be submitted no later than 120 days after the State Auditor receives the complaint. In addition, the State Auditor shall publish a semiannual report to the Governor and Legislature of the complaints received by the hotline or other referral service, which may be electronically published. The report must include the following information:

- A. The total number of complaints received;
- B. The number of referrals of fraud or other criminal conduct to the Attorney General;
- C. The number of referrals of agency performance issues to the Office of Program Evaluation and Government Accountability; and
- D. The number of investigations by the State Auditor by current status whether opened, pending, completed or closed.

Summary

This language amends the public records exception to permit the State Auditor to share confidential information related to a complaint alleging fraud, waste, inefficiency or abuse to a department or agency that is the subject of a complaint to ensure that the department or agency responds

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appropriately to the complaint. The language requires the department or agency to maintain the confidentiality of any information related to a complaint furnished by the State Auditor.

REF #88 (Amend 3-0 on 12/4)

Sec. __. 7 MRSA §2992-A, sub-§1, paragraph ¶C is amended as follows:

C. Notwithstanding paragraphs A and B:

(1) Employees of the board, including employees hired after July 1, 1996, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter 2;

(2) All meetings and records of the board are subject to the provisions of Title 1, chapter 13, subchapter 1, except that, by majority vote of those members present recorded in a public session, records and meetings of the board may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State or segments of that industry. The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the board;

(3) For the purposes of the Maine Tort Claims Act, the board is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102;

(4) Funds received by the board pursuant to chapter 611 must be allocated to the board by the Legislature in accordance with Title 5, section 1673; and

(5) Except for representation of specific interests required by subsection 2, members of the board are governed by the conflict of interest provisions set forth in Title 5, section 18.

Summary

This language amends the scope of the public records exceptions to remove references to a particular segment or segments of the milk industry.

REF #89 (Amend 3-0 on 12/4)

Sec. __. 7 MRSA §2998-B, sub-§1, paragraph ¶C is amended to read:

C. Notwithstanding paragraphs A and B:

(1) Employees of the council, including employees hired after July 1, 1996, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter 2;

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(2) All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter 1, except that, by majority vote of those members present recorded in a public session, records and meetings of the council may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State ~~or segments of that industry~~. The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the council;

(3) For the purposes of the Maine Tort Claims Act, the council is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102;

(4) Funds received by the council pursuant to chapters 603 and 611 must be allocated to the board by the Legislature in accordance with Title 5, section 1673; and

(5) Except for representation of specific interests required by subsection 2, members of the council are governed by the conflict of interest provisions set forth in Title 5, section 18.

Summary

This language amends the scope of the public records exceptions to remove references to a particular segment or segments of the milk industry.

DRAFT AMENDMENT TO 1 MRSA § 402, SUB-§3, ¶ U (Amend 3-0 on 12/4)

Sec. ____ 1 MRSA §402, sub-§3, ¶ U is amended as follows:

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

U. Records provided by a railroad company describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, a fire department or other first responder; ~~except that such records related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge may be disclosed after any discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare.~~ For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section

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105.5; and

Summary

This language amends the scope of the public records exception to ~~permit the~~ *make records related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure subject to public disclosure after that discharge* of records after any discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare.

UNALLOCATED LANGUAGE TO DEVELOP DRAFTING STANDARDS AND REDUCE INCONSISTENCIES (Amend 2-0 on 9/20; approved 12/4)

Sec. ____. **Public records exceptions and confidential records; drafting templates.** The Office of Policy and Legal Analysis, in consultation with the Office of the Revisor of Statutes and the Right to Know Advisory Committee, shall examine inconsistencies in statutory language related to the designation of information and records received or prepared for use in connection with the transaction of public or governmental business or containing information relating to the transaction of public or governmental business that is designated as confidential or not subject to public disclosure and shall recommend standardized language for use in drafting statutes to clearly delineate what information is confidential and the circumstances under which that information may appropriately be released. On or before ____, the Office of Policy and Legal Analysis shall submit a report with its recommendations to the Legislature.

Summary

This language directs the Office of Policy and Legal Analysis, in consultation with the Office of the Revisor of Statutes and the Right to Know Advisory Committee, to examine inconsistencies in statutory language related to the designation of information and records as confidential or not subject to public disclosure and to recommend standardized language for use in drafting statutes to clearly delineate what information is confidential and the circumstances under which that information may appropriately be released.