

## **Problems With Senate Bill 1 (PN-1721):**

- 1.) The Legislature is exempt from coverage by Open Records Office (see definition of “Appeals Officer”, Section 503 (c), Section 1101(a)(1), Section 1102(b), Section 1307, and Section 1310(a)(5) ).
- 2.) Attorney General, Treasurer, Auditor General Partially Exempt from coverage by Open Records Office (see definition of “Appeals Officer”, Section 503 (d), Section 1102(b), and Section 1310(a)(5)).
- 3.) District Attorneys partially exempt (See Section 1102 (b).)
- 4.) May not include organizations, corporations, unions or other non-human entities as legal “Requestors” since a requestor must be a “legal resident” of the United States. (see definition of “Requestor”).
- 5.) Lack of uniform application of the law. Section 504 permits each agency to create and implement its own regulations for administering the law. (See also Section 1102(b).) This makes it extremely difficult to know what the rules really are.
- 6.) Section 901 for all practical purposes eliminates a person’s right under Section 702 which permits non-written requests for records. Eliminates response time for oral requests thus requiring written requests.
- 7.) Section 1307(g) is still so weak and loose that agencies could continue to charge nuisance fees that will permit them to financially prohibit access to regular citizens. The bill should specifically ban costs for redaction, retrieving records, staff costs for copying and mailing documents, for having staff watch people who are examining records, for teaching citizens how to use equipment such as optical readers or audio devices. 1307 (h) is backwards. It should *prohibit* required deposits in *excess* of \$100.
- 8.) There is no Independent Oversight and Enforcement office. This role belongs in the Ethics Commission – NOT an agency under the Governor’s jurisdiction. The House version got this aspect of the bill much better, although it did need some correlation corrections.

### Still Inadequate:

- 1.) Continues to exempt state-related institutions from standard coverage.(see definition of “State-Affiliated Entity”, “State-Related Institution”, and Chapter 15.)
- 2.) Exemption for “privilege” remains overly broad. (see definitions of “Privilege”, “Public Record”, Sections 305 (a) & (b)).
- 3.) Still no escalated penalties for serial offenders.
- 4.) Still no prohibition on use of public funds to pay fines.
- 5.) Still no expedited processing requirements to ensure citizens can get documents that are essential for participating in a soon-to-be-held government meeting. Any non-exempt record already provided to an official should be made available to the public immediately if the request is made within 5 days of a meeting in which a related matter is to be addressed.
- 6.) Exemptions for computer hardware and software may be overly broad and prevent watchdog groups and computer security experts from exposing attempts to hack election machines and election records (see Exemption #4).

- 7.) Exemption #13 remains overly broad and could permit a person to make a donation in order to receive a special privilege.
- 8.) Exemption #21 is inappropriate. By giving the public access to draft minutes they could suggest corrections prior to their approval.
- 9.) Still does not define what “bona-fide and specified staffing limitations” are permissible excuses for not producing requested documents (See Section 902(a)(3).) This could be the exemption that eradicates other deadlines and rights.
- 10.) Penalties remain inadequate. \$1,500 may be a lot for a small local agency, but they are just the cost of doing business for the General Assembly, a large executive agency, the PUC, or a large city. There still are no upgraded penalties for serial violators; nor are there prohibitions on the use of government funds to pay fines.

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