

Government Administration and Elections Committee

JOINT FAVORABLE REPORT

Bill No.: HB-5011

AN ACT CONCERNING THE COPYING OF PUBLIC RECORDS UNDER THE

Title: FREEDOM OF INFORMATION ACT.

Vote Date: 3/29/2021

Vote Action: Joint Favorable

PH Date: 3/10/2021

File No.:

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SPONSORS OF BILL:

The Government Administration and Elections Committee

REASONS FOR BILL:

This bill seeks to reduce fees for individuals wishing to copy public records under the Freedom of Information Act. In addition, the bill would completely eliminate the fee for those wishing to copy records with a camera, cell phone or portable scanner. With one exception, the elimination of this fee would not apply to the copying of land records.

RESPONSE FROM ADMINISTRATION/AGENCY:

Freedom of Information Commission: The FOI Commission supports the proposal to update the definition of a “hand-held scanner” and decrease fees for copying records. Under Section 1-212 of the FOI Act, state and public agencies in Connecticut can charge upwards of 50 cents per page for copies of public records. Additionally, these agencies can also charge up to twenty dollars for the copying of records using a “handheld scanner.” The FOI Commission believes that the reduction of these fees allows for greater access to public records and would lift the burden of time and resources that agencies need to allocate in order to fulfil FOI requests. By expanding the obsolete definition of a “hand-held scanner” to include cell phones, cameras, or any similar device, the FOI Commission believes that there would be less confusion, fear over violating FOI law, and a greater degree of transparency in our government. The FOI Commission expressed their willingness to work with the Committee to develop an updated definition for “hand-held scanner.”

Representative Michael Winkler, 56th District: Rep. Winkler expressed his support for the bill and acknowledged a series of changes that had been made over the last four years in

order to accommodate the interests of Connecticut's municipalities. Citing the current FOI statute that defines a hand-held scanner as a device that actually touches the paper, Rep. Winker emphasized the ease of taking a photograph, which is much quicker and eliminates actual contact with the record. Rep. Winkler mentioned the fact that towns do not need to hire additional staff, buy a new copy machine or find a new building to fulfill FOI requests. Rep. Winkler believes that the new threshold set at 15 cents per page is a fair and reasonable compromise for both the public wishing to access the records and the municipality or agency responsible for fulfilling those request.

NATURE AND SOURCES OF SUPPORT:

Mark Bernacki, Chair of the Legislation & Elections Committee, Connecticut Town Clerk Association (CTCA): The Connecticut Town Clerks Association expressed their gratitude to the Committee for their willingness to work with the CTCA in exempting land records from the FOI fee exemption provision in this bill. Town clerk offices must house and store extensive land records, which involves the purchase of archival paper, protective heavy binders, microfilming, and maintaining a humidity controlled vault for retention. During the pandemic, town clerks were able to provide images of property records online. Had it not been for the FOI copying fees, the easy access and ready availability of online images wouldn't have been possible. In addition, CTCA expressed their support of the revised "hand-held scanner" definition to include cell phones and other electronic devices to capture any non-land related records at no charge.

Kelly McConney Moore, Interim Senior Policy Counsel, American Civil Liberties Union of Connecticut (ACLU-CT): Based upon the expanded access that this bill would provide to people seeking government records, the ACLU-CT supports the HB 5011. The ACLU-CT supports the 70 percent reduction in copying costs as well as the elimination of the \$20 fee for FOI requests in which a hand-held scanner is used. Acknowledging that people have a right to access public records, the ACLU-CT believes that FOI fees impose barriers and make it difficult for certain individuals to access the records.

Mike Savino, President, Connecticut Council on Freedom of Information (CCFOI): CCFOI believes this bill will increase transparency and make government more accessible to citizens. While CCFOI wishes there was no fee for FOI requests, the group views the 15 cent-per-page copy fee as a fair compromise. CCFOI endorses the section of the bill that prohibits an agency from charging fees for record copying that is done through the use of a cell phone or similar device. Citing the provision that exempts land records from the fee elimination, CCFOI accepts this compromise based on a holistic view of the bill and its overall improvements to record access.

Luther Weeks, Executive Director, Connecticut Citizen Election Audit: Mr. Weeks' organization seeks to audit election totals by capturing data from municipal clerks offices around the state. Since his organization is completely volunteer based, it is challenging for the group to come up with the fees required to capture photos of election records. Mr. Weeks' stated that his organization serves as an example of a citizen effort that would benefit from the passage of HB 5011.

NATURE AND SOURCES OF OPPOSITION:

Connecticut Conference of Municipalities (CCM): CCM opposes this bill based upon the likelihood of revenue losses for municipalities in Connecticut. Citing estimates from previous years, a reduction or elimination of FOI fees would cost a city like Waterbury over \$100,000 and a town the size of West Hartford more than \$40,000. CCM believes that this bill will force municipalities to increase property taxes or reduce public services in order to make up for the losses.

Betsy Gara, Executive Director, Connecticut Council of Small Towns (COST): COST recognizes the good intent behind this bill, but identifies a problem with the significant revenue loss that municipalities will face as a result. Citing the expenses of paper, toner, ink and salaries, COST believes that the rationale comparing FOI fees with Staples copying fees is inappropriate. Municipal offices are not for-profit businesses and do not function on the loss leader strategy that Staples does. In addition, COST emphasized the need for fees in order to ensure that there is appropriate oversight of the access to records in order to make sure there is no malfeasance. By having fees in place, COST believes that municipal employees will treat FOI requests with greater scrutiny.

Reported by: Trevor Hoffman

Date: 03/29/2021