



House of Representatives

General Assembly

File No. 491

February Session, 2008

Substitute House Bill No. 5643

House of Representatives, April 7, 2008

The Committee on Government Administration and Elections reported through REP. CARUSO of the 126th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT EXEMPTING CERTAIN PUBLIC SERVICE COMPANY RECORDS FROM DISCLOSURE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (19) of subsection (b) of section 1-210 of the
2 2008 supplement to the general statutes is repealed and the following
3 is substituted in lieu thereof (*Effective October 1, 2008*):

4 (19) Records when there are reasonable grounds to believe
5 disclosure may result in a safety risk, including the risk of harm to any
6 person, any government-owned or leased institution or facility or any
7 fixture or appurtenance and equipment attached to, or contained in,
8 such institution or facility, except that such records shall be disclosed
9 to a law enforcement agency upon the request of the law enforcement
10 agency. Such reasonable grounds shall be determined (A) (i) by the
11 Commissioner of Public Works, after consultation with the chief
12 executive officer of an executive branch state agency, with respect to
13 records concerning such agency; and (ii) by the Commissioner of

14 Emergency Management and Homeland Security, after consultation
15 with the chief executive officer of a municipal, district or regional
16 agency, with respect to records concerning such agency; (B) by the
17 Chief Court Administrator with respect to records concerning the
18 Judicial Department; and (C) by the executive director of the Joint
19 Committee on Legislative Management, with respect to records
20 concerning the Legislative Department. As used in this section,
21 "government-owned or leased institution or facility" includes, but is
22 not limited to, an institution or facility owned or leased by a public
23 service company, as defined in section 16-1 of the 2008 supplement to
24 the general statutes, a certified telecommunications provider, as
25 defined in section 16-1 of the 2008 supplement to the general statutes, a
26 water company, as defined in section 25-32a, or a municipal utility that
27 furnishes electric, gas or water service, but does not include an
28 institution or facility owned or leased by the federal government, and
29 "chief executive officer" includes, but is not limited to, an agency head,
30 department head, executive director or chief executive officer. Such
31 records include, but are not limited to:

- 32 (i) Security manuals or reports;
- 33 (ii) Engineering and architectural drawings of government-owned
34 or leased institutions or facilities;
- 35 (iii) Operational specifications of security systems utilized at any
36 government-owned or leased institution or facility, except that a
37 general description of any such security system and the cost and
38 quality of such system, may be disclosed;
- 39 (iv) Training manuals prepared for government-owned or leased
40 institutions or facilities that describe, in any manner, security
41 procedures, emergency plans or security equipment;
- 42 (v) Internal security audits of government-owned or leased
43 institutions or facilities;
- 44 (vi) Minutes or records of meetings, or portions of such minutes or

45 records, that contain or reveal information relating to security or other
46 records otherwise exempt from disclosure under this subdivision;

47 (vii) Logs or other documents that contain information on the
48 movement or assignment of security personnel;

49 (viii) Emergency plans and emergency preparedness, response,
50 recovery and mitigation plans, including plans provided by a person
51 to a state agency or a local emergency management agency or official;
52 and

53 (ix) With respect to a water company, as defined in section 25-32a,
54 that provides water service or to a public service company, as defined
55 in section 16-1 of the 2008 supplement to the general statutes:
56 Vulnerability assessments and risk management plans, operational
57 plans, portions of water supply plans submitted pursuant to section
58 25-32d that contain or reveal information the disclosure of which may
59 result in a security risk to a water company, inspection reports,
60 technical specifications and other materials that depict or specifically
61 describe critical water company or public service company operating
62 facilities, collection and distribution systems or sources of supply.

63 Sec. 2. Subsection (d) of section 1-210 of the 2008 supplement to the
64 general statutes is repealed and the following is substituted in lieu
65 thereof (*Effective October 1, 2008*):

66 (d) Whenever a public agency, except the Judicial Department or
67 Legislative Department, receives a request from any person for
68 disclosure of any records described in subdivision (19) of subsection
69 (b) of this section under the Freedom of Information Act, the public
70 agency shall promptly notify the Commissioner of Public Works or the
71 Commissioner of Emergency Management and Homeland Security, as
72 applicable, of such request, in the manner prescribed by such
73 commissioner, before complying with the request as required by the
74 Freedom of Information Act and for information related to a water
75 company, as defined in section 25-32a, or to a public service company,
76 as defined in section 16-1 of the 2008 supplement to the general

77 statutes, the public agency shall promptly notify the water company or
 78 public service company before complying with the request as required
 79 by the Freedom of Information Act. If the commissioner, after
 80 consultation with the chief executive officer of the applicable agency or
 81 after consultation with the chief executive officer of the applicable
 82 water company for information related to a water company, as defined
 83 in section 25-32a, or after consultation with the chief executive officer
 84 of the applicable public service company for information related to a
 85 public service company, as defined in section 16-1 of the 2008
 86 supplement to the general statutes, believes the requested record is
 87 exempt from disclosure pursuant to subdivision (19) of subsection (b)
 88 of this section, the commissioner may direct the agency, water
 89 company or public service company to withhold such record from
 90 such person. In any appeal brought under the provisions of section 1-
 91 206 of the 2008 supplement to the general statutes of the Freedom of
 92 Information Act for denial of access to records for any of the reasons
 93 described in subdivision (19) of subsection (b) of this section, such
 94 appeal shall be against the [chief executive officer of the executive
 95 branch state agency or the municipal, district or regional agency]
 96 commissioner of the state agency that issued the directive to withhold
 97 such record pursuant to subdivision (19) of subsection (b) of this
 98 section, exclusively, [or] except that, in the case of records concerning
 99 Judicial Department facilities, such appeal shall be against the Chief
 100 Court Administrator or, in the case of records concerning the
 101 Legislative Department, such appeal shall be against the executive
 102 director of the Joint Committee on Legislative Management.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2008	1-210(b)(19)
Sec. 2	October 1, 2008	1-210(d)

Statement of Legislative Commissioners:

In sections 1 and 2, "described" was replaced with "defined" for accuracy and in section 2, the second sentence was reworded to parallel the existing statutory language for consistency and clarity.

PS *Joint Favorable Subst. C/R*

GAE

GAE *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Freedom of Inf. Com.	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill exempts certain types of public service company records from disclosure under the Freedom of Information Act (FOIA). If said information is requested and an individual is denied access, the individual could appeal the denial. To the extent that a complaint alleging violation of FOIA is filed, an increase in the number of hearings could occur, which could result in a minimal cost.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5643

AN ACT EXEMPTING CERTAIN PUBLIC SERVICE COMPANY RECORDS FROM DISCLOSURE.

SUMMARY:

This bill broadens the types of public service company records that are not subject to disclosure under the Freedom of Information Act (FOIA) and makes related changes.

EFFECTIVE DATE: October 1, 2008

FOIA EXEMPTIONS AND PUBLIC SERVICE COMPANY RECORDS

By law, the public works commissioner and emergency management and homeland security commissioner, as applicable, may exempt any record held by an Executive Branch agency from disclosure if reasonably believe that disclosure would result in a safety risk to anyone or a government facility or related property. Government facilities include facilities owned or leased by public service companies (see BACKGROUND).

Under current law, the exemption applies to nine safety-sensitive records such as security manuals and emergency plans. With regards to public service companies, the bill additionally exempts: (1) vulnerability assessments and risk management plans; (2) operation plans; (3) inspection reports (4) technical specifications; and (5) other material that depicts or specifically describes critical public service company operating facilities, collection and distribution systems, or sources of supply.

Under the bill, when a public agency receives a request for information pertaining to a public service company, it must promptly notify the company and the public works or emergency management

and homeland security commissioner, as applicable, before complying with the request. The bill requires the commissioner to consult with the public service company and if, after the consultation, he determines the information is exempt, he may direct the agency or company to withhold it.

Under the bill, certain appeals related to the denial of specified safety-sensitive records must be made against the commissioner of the state agency that issued the directive to withhold the information (see BACKGROUND). Under current law, these appeals are against the chief executive officer of the state, district, municipal, or regional agency that issued the directive.

BACKGROUND

Safety-Sensitive Records

By law, the public works commissioner may exempt the following records held by an Executive Branch agency from disclosure:

1. security manuals or reports
2. engineering and architectural drawings of government-owned or leased institutions;
3. operational specifications of security systems used at government-owned or leased institution or facilities (except that a general description of any such security system and its cost and quality is disclosable);
4. training manuals prepared for government-owned or leased institutions or facilities that describe security procedures, emergency plans, or security equipment;
5. internal security audits of government-owned or leased institutions or facilities;
6. minutes or records of meetings that contain or reveal information relating to security or other records otherwise exempt from disclosure;

7. logs or other documents that contain information on movement or assignment of security personnel;
8. emergency plans and emergency preparedness, response, recovery, and mitigation plans;
9. with respect to a water company, vulnerability assessments and risk-management plans, among other things.

Public Service Company

Under the law, a “public service company” includes electric, electric distribution, gas, telephone, telegraph, pipeline, sewage, water and community antenna television companies and holders of a certificate of cable franchise authority, owning, leasing, maintaining, operating, managing or controlling plants or parts of plants or equipment, and all express companies having special privileges on railroads (CGS § 16-1(4)).

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute Change of Reference
Yea 21 Nay 1 (03/06/2008)

Government Administration and Elections Committee

Joint Favorable
Yea 11 Nay 0 (03/19/2008)