

STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION ON RAISED BILL NO. 5819

An Act Concerning Energy Relief And Assistance

The Freedom of Information (“FOI”) Commission, while not opposed to the intent and purpose of Raised Bill 5819, the creation of the Connecticut Energy Authority, respectfully objects to the inclusion of what appear to be two new temporal exemptions to disclosure of public records in the proposed legislation.

As a public agency, defined in § 1-200, the new Connecticut Energy Authority would be bound to meet its obligations under the Freedom of Information Act (FOIA). The new authority also would have the same rights as any public agency as defined by the FOIA obviating the need to create the new layer of exemptions proposed in lines 473-477 and lines 794-796 of this bill.

Lines 473-477 propose that: “The department shall make available to the Office of Consumer Counsel and the Attorney General all bids it receives pursuant to this subsection (which are bids for the provision of certain kinds of energy resources), provided the bids and any analysis of such bids shall not be subject to disclosure under the Freedom of Information Act for a period of three months.” The three-month waiting period contradicts the exemption in §1-210(b)(24) of the FOIA, which allows all bids and requests for proposal to be withheld from disclosure “until such contract is executed or negotiations for the award of such contract have ended, whichever occurs earlier, provided the chief executive officer of such public agency certifies that the public interest in the disclosure of such responses, record or file is outweighed by the public interest in the confidentiality of such responses, record or file.”

That exemption, which became law on October 1, 2008, gives the public agency enough latitude in handling any request for access to the records in question to render the proposed new exemption confusing and unnecessary.

The same can be said about the temporal exemption envisioned in lines 794-796, allowing “All proposals (in this case, for demand response, efficiency and load management and new, expanded or repowered cost-of-service generation) received by the department pursuant to this section (to) be available for public review six months after department approval or rejection.” The six-month wait is also confusing and unnecessary. The existing exemption in §1-210 (b)(24) offers the agency ample flexibility to withhold proposals when appropriate and for an appropriate period of time.

For these reasons, the language adding temporal exemptions to disclosure of the records cited above should be stricken from this proposed legislation.

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