

**STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION ON
RAISED BILL 1152, AN ACT CONCERNING THE DISCLOSURE OF CERTAIN
REPORTS AND THE DEFINITION OF INVASION OF PERSONAL PRIVACY UNDER
THE FREEDOM OF INFORMATION ACT**

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March 23, 2009

Good morning Senator Slossberg, Representative Spallone, and members of the committee. I am Colleen Murphy, Executive Director & General Counsel of the Freedom of Information Commission. I would like to comment on RB 1152, An Act Concerning the Disclosure of Certain Reports and the Definition of Invasion of Personal Privacy Under the Freedom of Information Act.

The Freedom of Information Commission supports RB 1152's definition of "invasion of privacy" (lines 77 – 81). The term "invasion of privacy" appears in the FOI Act (Conn. Gen. Stat. §1-200 et seq.) in the exemption pertaining to personnel or medical and similar files. Agencies are exempt from mandatory disclosure of such files if disclosure would constitute "an invasion of privacy."

If enacted, RB 1152 would not make any substantive change to the FOI Act. The definition of "invasion of privacy" that RB 1152 proposes is a codification of language quoted from the seminal Connecticut Supreme Court case on the "invasion of privacy" exemption in the FOI Act. In Perkins v. FOI Commission, 228 Conn. 158 (1993), the Connecticut Supreme Court articulated the two-prong test that is included in RB 1152. The language in RB 1152 is an exact quote from Perkins, which for over 15 years has served well as a reliable and clear-cut precedent for the Commission and for public agencies.

The FOI Commission believes it would be helpful to incorporate into the FOI Act itself the guideposts established through settled case law. Accordingly, the Commission supports RB 1152's proposed codification of the Perkins-test.

The FOI Commission does not object to the other proposed change to the FOI Act in RB 1152 (lines 24-29). RB 1152 requires disclosure of the Auditor's report in a whistleblower investigation *only* to the person who transmitted facts to the Auditors pursuant to the whistleblower statute and *only* after the report is transmitted to the Attorney General, but prohibits disclosure of the report in all other circumstances.

The FOI Commission observes that RB 1152 duplicates the proposed change to the FOI Act in Conn. Gen. Stat. 4-61dd (lines 30 – 76), which sets forth in detail procedures and protections given under Connecticut's "whistleblower" law. This duplication is unnecessary to ensure the limited disclosure that RB 1152 proposes. Furthermore, because the FOI Act generally concerns providing access to the public as a whole, and not to individual members of the public, the Commission suggests that it would be more suitable to place the amendment in Conn. Gen. Stat. 4-61dd.