

STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION ON:

HB 6492, AN ACT CONCERNING THE CONFIDENTIALITY OF
EMPLOYEES SUPPLYING INFORMATION TO THE
AUDITORS OF PUBLIC ACCOUNTS

March 11, 2013

The Freedom of Information (FOI) Commission opposes House Bill 6492, as written.

The Connecticut Auditors of Public Accounts, in conjunction with a standard audit under Conn. Gen. Stat. §2-90, question employees about the potential for fraud at public agencies. Section 1(h) of HB 6492 proposes to amend §2-90 to exempt from disclosure the *name* of an employee who provides the auditor(s) information regarding alleged fraud or weaknesses in the control structure of an agency that may lead to fraud and *all* the *documentation* of such information.

The Commission understands the auditors' concerns that the disclosure of the name of an employee, who is interviewed as part of an audit in which fraud is found, may have a chilling effect and an interviewed employee may hesitate to candidly discuss the potential for fraud at an agency for fear that they would be retaliated against by their co-workers and/or supervisors. The proposed language, however, is overly broad and would run counter to the principles of open and accountable government.

In an attempt to address both the FOI Commission's and the auditors' concerns, the Commission and the auditors have discussed the proposal and have worked out some agreeable language, that will be narrow for purposes of transparency but will provide the confidentiality needed by the auditors. The FOI Commission and the auditors suggest that the language be changed to exempt *only* the identity of an employee who provides information or any portion of a document which may reveal the identity of such employee. Specifically, we propose the following amendment to §2-90(h), G.S.:

(h) Where there are statutory requirements of confidentiality with regard to such records and accounts or examinations of nongovernmental entities which are maintained by a state agency, such requirements of confidentiality and the penalties for the violation thereof shall apply to the auditors and to their authorized representatives in the same manner and to the same extent as such requirements of confidentiality and penalties apply to such state agency. In addition, the portion of any audit or report prepared by the Auditors of Public Accounts that concerns (1) the internal control structure of a state information system, (2) the identity of an employee who provides information regarding alleged fraud or weaknesses in the control structure of an agency that may lead to fraud,

or any portion of a document which may reveal the identity of such employee shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200.

Lastly, although the FOI Commission has no objection to such proposed change, the Commission cautions against further expanding the confidentiality provisions in Conn. Gen. Stat. §2-90, so as to avoid infringing upon the public's right to know and to maintain accountability and transparency of government operations.

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