

**CITY OF BRIDGEPORT
OFFICE OF THE CITY ATTORNEY**

999 Broad Street
Bridgeport, CT 06604-4328

CITY ATTORNEY
R. Christopher Meyer

ASSISTANT CITY ATTORNEYS

Michael C. Jankovsky
Eroll V. Skyers
Tamara J. Titre

DEPUTY CITY ATTORNEY
John P. Bohannon, Jr.

OF COUNSEL
Russell D. Liskov
Ronald J. Pacacha

ASSOCIATE CITY ATTORNEYS

Mark T. Anastasi
Richard G. Kascak, Jr.
Bruce L. Levin
John R. Mitola
Lawrence A. Ouellette, Jr.
Tyisha S. Toms
Lisa R. Trachtenburg



Telephone (203) 576-7647
Facsimile (203) 576-8252

Testimony of Tyisha S. Toms, Associate City Attorney, City of Bridgeport
in support of H.B. 5261
Government and Administration and Elections Committee Public Hearing
Monday, March 5, 2018
Room 2A - 11:00am

Representative Fox, Senator Flexer, Senator McLachlan, distinguished members of the Government Administration and Elections Committee, for the record my name is Tyisha Toms, I am an Associate City Attorney for the City of Bridgeport and I am here to testify in support of HB 5261 Act Concerning Fees Charged By Municipalities Under the Freedom of Information Act. Thank you for raising this bill and the opportunity to testify here today.

It is my understanding that Raised Bill No. 5261 attempts to do two things. First, it attempts to create a distinction in fees for commercial records, which we support. Second, it seeks to provide a mechanism to charge a flat fee for documents delivered electronically, which we also support in theory but believe the current construction may need to be reworked.

Commercial Records

With regards to commercial requests, the City of Bridgeport supports the creation of a distinction and language that enables municipalities to create ordinances that impose a higher fee for commercial records. In the alternative, we would support a third subsection of 1-212(a) that provides "By any public agency, any request for commercial records, shall not exceed \$2.00 per page." Some examples of commercial requests: entity requesting list of unclaimed property which is used to solicit the owners of any such property and earn a commission for collecting the property from the City; requests for a competitor's winning bid to an issued RFPs/RFQs; tax lien acquisition information.

Electronic Delivery of Records

In the last couple years, the City of Bridgeport has proactively increased the resources dedicated to efficiently managing the incredible growth we have experienced in FOI requests while

simultaneously losing any ability to offset those expense. We must do something about this immediately as Bridgeport lacks the resources to subsidize FOI requests.

As one of my job functions in the City Attorney's Office I supervise the FOI team, which consist of a part-time attorney, dedicated solely to FOI, and a full-time paralegal. It is the City's policy that all FOIA requests are forwarded to the City Attorney's Office for review, statutory redactions, where necessary, and ultimately release. We received 142 FOI requests in 2015 and 236 in 2016, which is the year I started with the City. At that time, there was no standard tracking mechanism aside from an Excel spreadsheet. Therefore, on February 1, 2017, in response to in the increase in requests, we launched our Freedom of Information online portal. We received 582 FOI requests in 2017.

When a member of the public visits the portal he or she selects the type of record requested and a task, in the form of an email, is generated simultaneously to: (1) the City Attorney's Office for oversight and (2) to the assigned liaison for said department that is the custodian of the requested records. We pay slightly north of \$14,000 annually for the portal, which include 2 redaction licenses that allows us to redact the documents using a built-in statutory exemption list. In most instances, we provide responses to FOI requests electronically; yet, according to the Freedom of Information Commission, the Act, as currently written, does not allow us to charge for records delivered through the portal unless the records are printed and scanned. For the most part the records are simply uploaded, by scanning them, into the system.

In May of 2017 the governor of the State of Washington signed two bills passed by the legislature in April of the same year which permits agencies to charge for the cost of producing electronic documents including the costs of transmitting electronic records, the cost of any physical media provided to the requestor and the costs of electronic file transfer or cloud-based storage. Agencies may calculate their own actual costs, or charge default amounts set by the bill if making those calculations would be unduly burdensome. The bill's default amounts are \$.10 per page for scanning records, \$0.05 for every four files delivered to the requestor electronically, \$0.10 per gigabyte for electronically transmitted records; or a flat fee of up to \$2.00 as long at the agency reasonably estimates the cost will equal or exceed that amount.

We support the intent behind Raised Bill No. 5261 and believe Washington's recent public records amendments are the type we would provide guidance to municipalities that invest in technology to manage FOIA compliance. Alternatively, we support an additional subsection of 1-212(a) that provides us with the ability to charge for the conversion of physical files into electronic files. It's not computer stored data.