

**Government Administration and Elections Committee  
JOINT FAVORABLE REPORT**

**Bill No.:** HB-5271

AN ACT REDEFINING "PUBLIC AGENCY" FOR PURPOSES OF THE

**Title:** FREEDOM OF INFORMATION ACT.

**Vote Date:** 3/23/2018

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/5/2018

**File No.:** 433

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**SPONSORS OF BILL:**

Government Administration and Elections Committee

**REASONS FOR BILL:**

The bill redefines "public agency" for purposes of the Freedom of Information Act to include certain organizations established by certain governmental entities. As a result, the bill subjects them to FOIA's requirements for public agencies meaning that they must make their records and meetings open to the public, unless an exemption applies (e.g., certain records containing trade secrets).

**SUBSTITUTE LANGUAGE:**

**SECTION 1 – Defines “data”, “executive branch agency”, “high value data”, “open data”, “public data” and “projected data”.**

**SECTION 2 – Establishes a Chief Data Officer under the Office of Policy and Management that will consult with the Connecticut Data Analysis Technology Advisory Board.**

**SECTION 3 – Establishes the Connecticut Data Analysis Technology Advisory Board which is part of the Legislative Department.**

**SECTION 4 - Section 4-68z of the general statutes is repealed and the 237 following is substituted in lieu thereof (*Effective July 1, 2018*):**

**establish and oversee a state-wide process improvement initiative, to assist executive branch state agencies with business process analysis for purposes of (1) streamlining processes, (2) optimizing service delivery through information technology, (3)**

eliminating unnecessary work, (4) establishing standardized work flows, and (5) prioritizing available resources to promote economic growth, improve services and increase workforce productivity. On and after the date the state data plan is approved pursuant to section 2 of this act, such initiative shall be implemented in accordance with such state data plan. The Secretary of the Office of Policy and Management shall establish a steering committee to support such initiative. The secretary, or the secretary's designee, shall be the chairperson of such committee.

SECTION 5 Section 4-60s of the general statutes is repealed and the 266 following is substituted in lieu thereof (Effective July 1, 2018):

(c) Notwithstanding the provisions of chapter 54, an agency, as defined in section 4-166, may suspend any requirement established in any regulation adopted by such agency for the paper or facsimile submission of documents or data required to be submitted to such agency by federal or state statute or regulation, or a license, as define in section 4-166, and require electronic filing of such documents or data or any other information required to be submitted to such agency in writing, in a manner prescribed by the agency. Prior to the establishment of such electronic filing requirements, the agency shall provide at least thirty days' notice on its Internet web site and in the Connecticut Law Journal and include with the notice the agency's instructions for electronic filing. Such instructions shall be maintained on the agency's Internet web site as long as the agency requires electronic filing of such documents and data.

#### **RESPONSE FROM ADMINISTRATION/AGENCY:**

##### **External Affairs Division, State of Connecticut, Judicial Branch**

The Judicial Branch requests that subdivision (1) (D) be clarified to ensure it only apply to administrative functions of judicial entities created by statute. The Statewide Grievance Committee should not subject that Committee to Freedom of Information Act beyond what it is already subject too, as its functions are not administrative in nature. This already is consistent with subdivision (1) (A) of section 1-200 of the General Statutes.

##### **Kevin Lembo, Comptroller, State of Connecticut:**

Organizations formed by statute should be subject to Freedom of Information requirements throughout their existence. Transparency is necessary to hold all public agencies and groups accountable to Connecticut taxpayers and is a value that our state must continue to hold in concert with its citizens.

#### **NATURE AND SOURCES OF SUPPORT:**

##### **James M. Albis, Deputy Majority Leader, House of Representatives:**

House Bill 5271, An Act Redefining "Public Agency" for Purposes of the Freedom of Information Act, would achieve this goal by expanding the classification of "public agency" in the current Freedom of Information Act to include any non-profit organization created by any working group established in statute by the Connecticut General Assembly.

**Mike Savino, President, Connecticut Society of Professional Journalists:**

Any board, commission, council, or other body appointed by the legislature is created for the purpose of conducting work on the public's behalf. The public should have the right to know who is completing these tasks. This list would make it easier for the public to gather this information. Additionally, any time a commission, task force, working group, or other body forms a new organization, including a nonprofit, it is an offshoot of an entity formed to work on the public's behalf. The public should have the right to know what these new organizations are doing, and we support the expansion of the definition of "public agency" to allow for more transparency.

**Ed Leavy, SVFT President, State Vocational Federation of Teachers:**

The bill guarantee's that legislators and the public have the same level of knowledge when a report is issued by a nonprofit commission created in statute for the purposes of making specific policy recommendations.

**Carlos Moreno, State Director, Working Families:**

The bill would amend the definition of "public agency" in the Freedom of Information Act to include any nonprofit organization created by a commission, task force or working group established in statute by the General Assembly. This bill would ensure that the work of the Commission on Fiscal Stability and Economic Growth and its nonprofit would be transparent and its meetings would be required to be held in public

**Colleen M. Murphy, Executive Director and General Counsel:**

This proposal would broaden the Commission's jurisdiction to adjudicate complaints over certain entities which are alleged to have violated the records and meetings provisions of the FOI Act. To the extent that House Bill 5271 provides for greater accountability and transparency in government, the Commission supports the proposal.

**The Foundation for Fair Contracting:**

Strongly believes in transparency, accountability, and good, open government. The bills would make any organization established by a commission, task force, working group or any other body created in statute by the General Assembly subject to Connecticut's Freedom of Information ACT.

**Deborah Chernoff, Public Policy Director, District 1199 New England Health Care Employees Union, SEIU:**

SEIU Healthcare represents 28,000 health care workers in Connecticut. No matter where our services are provided whether in the public or private section, we are acutely aware of the need for transparency and accountability for public policy as our work is funded by public dollars.

The Freedom of Information Act has been invaluable in creating transparency and accountability. SEIU would like to offer a friendly amendment to expand the definition of "public agency" in the bill that would strengthen and support the intent of this legislation. The amendment would add to the definition of public agency organizations established by the

Chairs or any member of these bodies to assist the work of that body, not just those tax-exempt organizations established by the entire commission or other body.

**Zak Leavy, Legislative Advocate, AFSCME Council 4:**

AFSCME represents over 30,000 public and private employees across Connecticut and are in support of House Bill 5271, as it would bring the level of transparency, accountability and open government to a commission that extends government duties by forming a non-profit. This bill would amend the definition of “public agency” in the Freedom of Information Act to include any non-profit organization created by a commission, task force or working group established in statute by the General Assembly. It would answer questions and inform both public and legislature about the motivations behind proposals.

**Lori J. Pelletier, President, Connecticut AFL-CIO:**

The Commission on Fiscal Stability and Economic Growth was created to provide recommendations to the General Assembly about how to achieve state government fiscal stability and promote economic growth. It is essentially an agent acting on behalf of the executive and legislative branches.

The Commission Co-Chair Bob Patricelli established Connecticut Rising, Inc. a 501 (c) (3) non-profit organization to raise money in order to hire consultants to aid the Commission. The commission was provided with significant assistance and staff including OPM and DECD. The commission could also ask for more assistance from the state. The Commission chose to proceed in a shadowy manner. Connecticut Rising, Inc. also plans to exist beyond March 1, the Commissions termination date, if this is the case it should register with the Office of State Ethics as a client lobbyist and files appropriate disclosure reports. It is important that this issue be settled and not be allowed to happen again. This bill will add to the legacy of good government.

**NATURE AND SOURCES OF OPPOSITION:**

None Expressed.

**Reported by: Nick Rogers**

**Date: 4/16/18**