



Legislative Testimony  
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**Written Testimony Supporting Senate Bill 1074 and House Bill 6651, Each  
An Act Concerning Various Provisions Related to Government  
Administration and COVID-19, but Opposing Section 7 in Each Bill**

Senator Flexer, Representative Fox, Ranking Members Sampson and Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am testifying in support of Senate Bill 1074, An Act Concerning Various Provisions Related to Government Administration and COVID-19, and House Bill 6651, An Act Responding to Issues Related to COVID-19 and Government Administration (collectively, the “Bills”), but opposing section 7 in each bill. The Bills are identical to one another and we refer to them interchangeably and synonymously.

The essential function of democracy is to allow the governed to have a voice in government. One of the most crucial ways that people can have a voice in their government is to observe, participate in, testify at, and attend the meetings of local government. Recognizing this, state and local law requires municipalities to give notice of such meetings and action. After meetings are held, the same democratic principles that require open, noticed meetings are the ones that require that information about those meetings be available to the public. After all, injustice thrives in the dark. The ability to shed sunlight on government action through Freedom of Information requests is essential to holding public officials accountable and to preventing state-sanctioned discrimination, abuse, and mismanagement.

Currently, Connecticut law requires municipalities to give the people notice of meetings by advertising them in local newspapers. In sections 1 and 4, the Bills

propose to permit municipalities to give this notice by posting such meetings or actions on their websites. Online notices have some advantages: they are easily accessible from anywhere, they are free to access whereas newspapers often require subscription payments, and, in a world where fewer towns have local newspapers, online notices are reliable. Permitting online notices will likely reach residents who were not getting newspaper notices. For others, though, losing notices through newspapers will cause more inaccessibility. Whether through lack of internet access or internet-capable devices, many lower-income and rural people will be unable to access online-only legal notices. For that reason, the Bills would be even stronger if they required municipalities to provide both forms of notice. Two methods of notice would ensure the largest number of people would have access to legal notices. At a minimum, providing a longer sunset period for newspaper notifications than the current effective date would help ensure that people who rely on newspapers for legal notices have a chance to transition their democracy habits.

With these virtual meetings taking the place of the in-person meetings that were contemplated under the Freedom of Information Act (FOIA), it is critical to extend open government requirements to virtual meetings. Though it is likely that such meetings are already subject to FOIA requirements, spelling it out explicitly in the Bills is critical to ensure there is seamless access to records of government action. Under these Bills, virtual meetings are also subject to FOIA to the same extent as in-person meetings, with greater post-meeting viewing requirements for virtual meetings. This is both commonsense and extremely important to preserving and protecting FOIA during this pandemic. Accordingly, we support sections 2 and 3 of these Bills.

Section 6 of the Bills recognizes the backlog of FOIA request denials that have accumulated during the COVID-19 pandemic and eliminates certain filing deadlines for appeals of those denials. We fully support lifting restrictions for appellants of denials, who may have been repeatedly delayed in their requests during the pandemic. While we understand that there is a backlog of appeals, we caution this

Committee against removing all deadlines for the Freedom of Information Commission. Freedom of information requests are often-time sensitive, so to remove all deadlines for the commission, rather than merely extend the deadline, will harm people seeking governmental records. We encourage this Committee to adopt substitute language that would set a clear outer limit for commission decisions.

Finally, we must oppose Section 7 of the Bills. The ACLU-CT has been supportive of governmental flexibility in the face of an unprecedented pandemic, but the provisions of section 7 go too far. Allowing any department head to suspend any rule, guidance, order, or regulation that the head may deem necessary to reduce the spread of COVID-19 completely abandons the concepts of democratic consent of the governed and checks and balances. There is no opportunity for public input on suspensions of regulations that required public input when made, nor is there any check on this virtually unlimited executive power. This section, as drafted, creates an environment rich for abuse with no recourse for harmed people. We strongly oppose this section as written and urge this Committee to either significantly curtail the power granted to executive agency heads or to excise this section altogether.

Ensuring continuity of open government and accessible public meetings is critical to uphold democracy and many provisions of Senate Bill 1074 and House Bill 6651 do just that. We encourage this Committee to either substantially amend or remove section 7, and then to report favorably on these with the suggestions we raise herein.