

Government Administration and Elections Committee

JOINT FAVORABLE REPORT

Bill No.: HB-6193

AN ACT SUBJECTING CERTAIN NONSTATE ENTITIES THAT SERVE A
GOVERNMENTAL FUNCTION TO THE FREEDOM OF INFORMATION ACT

Title: AND THE CODES OF ETHICS.

Vote Date: 3/31/2021

Vote Action: Joint Favorable Substitute

PH Date: 3/26/2021

File No.:

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SPONSORS OF BILL:

The Government Administration and Elections Committee

REASONS FOR BILL:

This bill seeks to ensure that certain nonstate entities serving a governmental function are subject to the Freedom of Information Act and the state codes of ethics. Entities include individuals appointed by the General Assembly, a constitutional officer, the Governor, or an appointee of the Governor. These said individuals are appointed to serve on a board that is not a state or quasi-public entity, but the board serves a governmental function.

RESPONSE FROM ADMINISTRATION/AGENCY:

House Republican Caucus: The House Republican Office thanked the committee for raising this bill. In their testimony, the House Republican Caucus made reference to the creation of the Partnership for Connecticut in 2019. Connecticut General Statute currently exempts some groups established by the legislature from being subject to the Freedom of Information Act and the State Code of Ethics. Although the Partnership is now dissolved, this bill seeks to ensure that future entities are bound to state ethics and FOIA requests. Due to the fact that these groups use public funds and perform public functions, the House Republican Caucus believes that complete transparency is needed in order to ensure accountability.

Freedom of Information Commission: The FOI Commission acknowledges that this bill is targeted at public-private endeavors, in which boards are made up of private citizens as well as public officials. In the interest of transparency, they bill attempts to ensure that public-private endeavors are held accountable and conduct their business in a manner that is

accessible to the public. The FOI Commission notes that public-private endeavors might not be subject to the public records and open meetings requirements of the FOI Act, despite the fact that they were created for a public purpose. The FOI Commission recommends that all public-private entities be deemed public agencies for the purpose of the Freedom of Information Act. In doing so, this would make the process much more straightforward and eliminate the potential for confusion.

Peter Lewandowski, Executive Director, Office of State Ethics (OSE): The Office of State Ethics expressed concern regarding the vague nature of the proposed language. In particular, the bill lacks language that defines the term “governmental function,” thus making it difficult to determine who would be included in the definition of “public official.” OSE asks that the language be more clearly defined so that the intent is better understood, and the bill’s provisions are more easily enforceable.

NATURE AND SOURCES OF SUPPORT:

Kelly McConney Moore, Interim Senior Policy Counsel, American Civil Liberties Union of Connecticut (ACLU-CT): The ACLU-CT expressed support for House Bill 6193. In the interest of transparency, any individuals appointed to serve on a board or entity should be subject to FOIA requests, as they are carrying out a governmental function. However, the ACLU-CT emphasized the need for a narrow scope in terms of FOIA inquiries. Correspondence relating to outside work not pertaining to their position on the board should not be subject to a FOIA request.

Michele Jacklin, Legislative Co-Chair, Connecticut Council on Freedom of Information (CCFOI): CCFOI believes that the bill is a well-intended measure to address the lack of transparency with public-private entities that service governmental functions, such as the Partnership for Connecticut and the Reopen Connecticut Advisory Committee. Since these groups were not required to adhere to FOIA requests, they were allowed to operate in secrecy while spending taxpayer dollars. CCFOI recommends that the language of the bill be altered to designate public-private entities as public agencies for the purposes of the Freedom of Information Act.

NATURE AND SOURCES OF OPPOSITION:

None expressed.

Reported by: Trevor Hoffman

Date: 3/31/2021