FREEDOM OF INFORMATION COMMISSION STATEMENT ON SENATE BILL 226, AN ACT CONCERNING VARIOUS REVISIONS RELATED TO ELECTION PROCESSES

February 23, 2026

The Freedom of Information ("FOI") Commission **opposes** **Sections 24 and 26** of Senate Bill 226, which would categorically exempt from disclosure ballots cast at municipal referenda and place strict limits on access to voter records. The Commission believes that thoughtful consideration of the full import of such limitations is necessary and important.

At a time of increasing challenges to the validity of elections in Connecticut and across the country, the best disinfectant is transparency, which has been the hallmark of voter registration records over the years. Title 9 of the general statutes is replete with provisions that explicitly mandate public access to voter registration records — provisions that have been law for decades. The FOI Commission submits that this is because the legislature has long recognized that voting is a sacred right which must be zealously protected.

Transparency is meant to deter voter fraud and provide a means to detect it. When allegations of absentee ballot fraud arose in the days after the 2023 Democratic primary for mayor in Bridgeport, journalists scoured voter records during their reporting and discovered instances where political operatives had fraudulently requested absentee ballots on behalf of voters who never filled out an application. Subsequently, a Superior Court judge took the extraordinary step of ordering a new election.

Transparency also guards against election fraud by ensuring that registration and election officials, who are charged with entering, updating and maintaining voter data, are accountable, and carry out their roles in accordance with the law. For example, during the 2018 election, then Georgia Secretary of State Brian Kemp was accused of using his position as the chief elections official responsible for overseeing the state's election process, to suppress votes and gain an unfair advantage in his own run for governor. As Secretary of State, Kemp implemented a series of restrictive voting policies including, but not limited to, the purging of hundreds of thousands of voters from the voter rolls.

As evidenced by these examples, accessibility to voter information is a means to assuage concerns about voter and election fraud and provide confidence in the voting system itself.

Section 26

Under **Section 26(a)(1)**, whenever voter registration information maintained under Title 9 of the general statutes is disclosed, the disclosure of a voter's date of birth would be limited to only the year of birth, unless such voter registration information is requested and used for a "state" governmental purpose, as determined by the Secretary of the State, in which case the voter's complete date of birth shall be provided.

Limiting the disclosure of a voter's date of birth to only the year of birth would undo a longstanding compromise concerning what voter information must be publicly accessible (*See* Public Act 21-2, June Special Session, Section 104). This approach has previously been rejected by the legislature on more than one occasion.

Dates of birth are necessary to determine voter eligibility and to guard against voter fraud. A date of birth is an important identified when more than one person with the same name (Example: John Smith) appears on the voter lists.

The Commission also notes that the proposal allows for the disclosure of the voter's complete date of birth if used for a "state governmental purpose." However, such phrase is unclear and should be defined.

Section 26(a)(2)(A) further restricts access to voter information. Specifically, Section 26(a)(2)(A) provides that voter information obtained under Title 9 of the general statutes "(i) may only be used for election-related, scholarly, journalistic, political or governmental purposes, and (ii) shall not be used for any personal, private or commercial purpose." It then provides that the term commercial purpose "include[es], but [is] not limited to, (I) harassment of any voter or voter's household in a manner likely to cause terror, intimidation or alarm, (II) advertising, solicitation, sale or marketing of products or services to any voter or voter's household, and (III) reproduction in print, digital or broadcast visual or audio, or display in any other format, of such information."

There are **several areas of concern** with this proposal:

First, **outlawing specific uses** for public information **sets a dangerous precedent**:

The entire landscape of open government in Connecticut is based on the premise that individuals need not identify their reason or purpose for obtaining public records. If the information is public information, it is public to all, regardless of the reason a person obtained it. Chief of Police, Hartford Police Department v. Freedom of Information Commission, 252 Conn. 377, 387 (2000) (status or motive of requester is irrelevant because the FOI Act vindicates the public's right to know, rather than the rights of an individual). **Carving out purposes** in this way is **a slippery slope**. What will be the next purposes that are deemed to be distasteful or concerning, and who should make those decisions?

Second, this section **lacks a clear definition** for prohibited "commercial purpose." Instead, it merely provides a few examples, one of which raises **constitutional concerns**. For instance:

- The bill prohibits "harassment of any voter or voter's household" without defining "harassment."

- It prohibits "advertising, solicitation, sale or marketing of products or services to any voter or voter's household," assuming that such uses are always negative. It ignores the possibility that commercial enterprises may actually use government

information in a manner that benefits voters in some way (e.g., enabling a company to advertise inexpensive transportation to the polls for voters who have mobility difficulties).

- Most problematically, it raises constitutional issues by prohibiting "reproduction" of such information "in print, digital or broadcast visual or audio, or display in any other format." The U.S. Supreme Court has ruled that once truthful information is publicly revealed or in the public domain, the First Amendment prohibits a state from constitutionally restraining its dissemination.[1] Likewise, a federal district court ruled that a Hawaii statute which limited access to voter registration information, and which proscribed certain uses, including commercial uses, of voter registration information once acquired, was unconstitutional.[2]

Third, while Section 26(a)(2)(A) allows voter information to be used for "election-related, scholarly, journalistic, political or governmental purposes," those terms are not defined and the determination regarding all those uses, i.e., whether they are prohibited uses or not, would be made by the Secretary of the State, making the Secretary the sole decision maker as to whom is allowed access to public records and to whom is not. It is ripe for subjectivity and abuse. Perhaps such concerns are difficult to envision playing out today, but the changes proposed will have a longstanding and permanent effect.

Furthermore, under **Section 26(a)(2)(B),** any person found to be in violation of Section 26(a)(2)(A) shall be fined a minimum of $500 for such violation and up to a maximum of $2,000 for each voter's registration information used in violation of such section. This could lead to a chilling effect and deter requests for voter information for fear of the imposition of ruinous financial penalties.

Section 24

The Commission opposes Section 24 to the extent that it seeks to exempt from disclosure all ballots cast at municipal referenda in their entirety. The bill is apparently at least in partial response to a recent final decision of the Commission.[3]

In a November 2025 Final Decision, the Commission concluded that a town violated the FOI Act when it declined to provide a requester with copies of ballots cast in person at a municipal budget referendum. The town argued that Title 9 of the General Statutes, which governs elections, precluded disclosure. However, the Commission determined that, although Title 9 precludes disclosure of ballots cast in an *election,* and *absentee ballots* (whether cast in an

[1] Smith v. Daily Mail Pub. Co., 443 U.S. 97, 103 (1979).
[2] Donrey Media Group v. Ikeda, 959 F. Supp. 1280 (1996).
[3] Docket #FIC 2024-0445; Jason LaChapelle v. Bernie Dennler, First Selectman, Board of Selectmen, Town of Colchester; Board of Selectmen, Town of Colchester; and Town of Colchester (November 19, 2025), available at https://portal.ct.gov/-/media/foi/finaldecisions/2025/nov19/2024-0445.pdf.

election or referendum), it is silent regarding the disclosure or confidentiality of ballots cast at a municipal budget referendum.

Absent a state statute or federal law expressly providing for their confidentiality, the Commission concluded that such ballots are public records and ordered their disclosure. However, consistent with its prior decisions recognizing that the act of casting a ballot is presumptively secret, the Commission permitted the town to redact any personally identifying information, to the extent it existed, from the ballots.

The Commission believes that instead of creating a wholesale exemption to disclosure, the committee consider shielding only personally identifying information from ballots cast at municipal referenda, as the Commission did in its Final Decision. Such an approach would ensure that the identities of voters are protected, but will also ensure more transparency over the municipal standalone referendum process, for which there is currently less state oversight than there is over elections and referenda conducted in conjunction with them.

For the foregoing reasons, the Commission urges the **rejection** of Sections 24 and 26 of Senate Bill 226.

For further information contact: Colleen M. Murphy, Executive Director and General Counsel or Paula Pearlman, Managing Director and Associate General Counsel, at (860) 566-5682.