

**BILL NUMBER: SENATE BILL 67 / HOUSE BILL 42**

**SUBMITTED BY: CITY OF ANNAPOLIS (Opposed)**

**ATTENTION: Senate Committee on Education, Health and Environmental Affairs,  
House Committee on Health and Government Operations**

### **TESTIMONY IN OPPOSITION**

*We write today in opposition to SB 67 (cross-filed with HB 42), a bill to decrease the time periods within which a custodian of records is required to grant or deny applications for public records.*

The City of Annapolis has no dedicated staff, office or department to address requests submitted in accordance with the current Maryland Public Information Act. In order to comply with the Act, the City routinely requires its staff (in all departments and at all pay grades) to dedicate work hours to these requests, instead of performing their primary statutory and essential tasks.

In recent years, the volume and complexity of these requests has increased exponentially.

No longer are these requests simply for hard copy documents that are easy to find and reproduce. Like the property owner who wants a copy of their building permits, or a homeowner who wants a copy of their water bills, or a citizens group attempting to hold public officials accountable. The requests more frequently are coming from (1) private companies planning to use City records and data for their own commercial purposes, i.e. government contract proposal preparation; (2) law firms who use these requests to speed up and/or circumvent discovery guidelines for a judicial proceeding; (3) reporters who want every City email related to a story running the next day or the next week.

Unfortunately, finding and reproducing these records is only half the task.

The City is also legally responsible for ensuring that confidential and sensitive records be handled and released in accordance with all applicable laws. Our Fire Department must protect the health records of a patient it transports to a local

hospital. Our human resources office must protect the personnel records of all current and former City employees. The City's Purchasing Office must protect confidential information submitted by bidders. The Information Technology Office must protect all electronic communications, as well as the overall security of the City network. The Recreation and Parks Department must protect all juvenile records. The Law Office must protect attorney-client privileged communications.

Legally protecting these records, as required by state and federal laws, requires attorneys to assist City staff in review of all records prior to release, with possible redaction. An inordinate amount of time is required to redact records sufficiently, and in the case of police body-worn camera footage, requires the expensive assistance of an outside vendor to redact live footage.

While the City does have fees related to these requests, those fees do not begin to cover the actual necessary staff time. Per the Act, the City is not permitted to assess review/preparation fees for the first two hours of time. This results in requesters breaking their requests into smaller partial requests, so that each smaller request gets the free two hours. To avoid copying charges, requesters ask for everything to be sent electronically, even when the data or information is not stored electronically necessitating the creation of PDFs using more data storage space than planned in agency budgets. And, of course, too many requesters believe for one reason or another that the fees should be waived for them.

The City is already struggling to balance the transparency requirements of the Act with the confidentiality requirements of other state and federal laws requiring thorough reviews of releases under the current Act's time limits. Reducing those time limits as proposed by the subject legislation at the state level would push City staff resources to limits which might force the City to not be able to meet the time limits and thus clog the Courts with needless litigation, as well as stretching an overworked staff to perform less quality work in order to serve a population of requesters who are increasingly private commercial companies or litigants, rather than ordinary City citizens attempting to increase government accountability.

We humbly ask that this bill be voted down or withdrawn for the reasons stated above.

For additional information, questions or concerns, please contact D. Michael Lyles, City Attorney at 410-263-7954 or by email at [dmlyles@annapolis.gov](mailto:dmlyles@annapolis.gov).