



Second, and perhaps most importantly, the bill allows custodians to go directly to circuit court to seek an order that a request is frivolous, vexatious, abusive, or in bad faith. When a vexatious or frivolous requester is truly disrupting the work of the agency, time is of the essence, and the agency needs faster relief from the burden of those requests to devote the time to legitimate PIA requests. In addition, courts have more authority to enforce their orders than the PIACB, and that authority will sometimes be necessary to solve the problem when, for example, the requester's true purpose is to harass the custodian. This also puts custodians on an equal playing field with requesters, who can generally choose whether to go directly to court to challenge a PIA response or instead use the PIACB process. To the extent that custodians choose to file in circuit court, it also has the benefit of freeing up the PIACB to focus on more substantive issues about the interpretation of the PIA.

Third, the bill would clarify exactly what types of relief the PIACB (or a court) can provide after determining that a request or pattern of requests is frivolous, vexatious, abusive, or in bad faith. The remedy is effectively meaningless if the PIACB or a court can only permit the agency to ignore the request(s) that gave rise to the challenge, but then the custodian would have to start the process over again if there is a new vexatious request from the same requester. The PIACB's regulations already interpret the statute to give it some latitude to preclude future PIA requests on the same topic, but the bill would clarify and expand the possible relief that the Compliance Board or a court could give. Importantly, the bill would leave it to the PIACB's or the court's discretion to make the remedy match the problem. The language is borrowed in part from Connecticut's public records law, which gives its public records commission similar powers.

Finally, the fourth aspect of the bill attempts to solve a different, but related, problem. The PIACB has been flooded over the past year with numerous *complaints* that, on their face, are frivolous, vexatious, or in bad faith. Under current law, the PIACB has had to give full consideration to those complaints, asking for a response from the custodian and issuing a full written decision. That, however, has wasted custodians' time and slowed the PIACB's ability to timely issue decisions in response to legitimate complaints and on important issues. Thus, the bill would give the PIACB more control over its own docket by authorizing the Board to immediately dismiss complaints to it that are frivolous, vexatious, abusive, or in bad faith. This would allow the PIACB to focus on the important substantive issues with its jurisdiction, rather than frivolous complaints.

The OAG thus urges a favorable report on HB 806. We emphasize that custodians have not used the existing process for challenging frivolous or vexatious PIA requests lightly—as shown by the fact that only a handful of such complaints have been brought over the past few years—and would continue to invoke the process judiciously, only as needed to prevent the PIA from being abused.