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**HB 401**

February 12, 2020

**TO:** Members of the House Judiciary Committee  
**FROM:** Nicholas Blendy, Deputy Director of Government Relations  
**RE:** House Bill 401 – Public Information Act – Revisions  
**POSITION: OPPOSE**

Chair Clippinger, Vice-Chair Atterbeary, and Members of the Committee, please be advised that the Baltimore City Administration **opposes** House Bill (HB) 401.

As currently written, this bill changes the meaning of “public interest” in Maryland’s Public Information Act (“PIA”) and thereby essentially removes Part IV (Denial of Part of a Public Record) from the PIA, which currently allows the government to deny access to records when disclosing them is not in the “public interest.” The exemptions listed in Part IV include denials of copies of answer keys to for licensing tests (4-345), details of state research projects (4-346), locations of endangered species (4-350), files of ongoing criminal investigations (4-351), and emergency response plans (4-351). Denial of access to these types of records has been considered to be in the “public interest” because we all benefit when firefighters are not able to cheat on their exams with publicly available answer keys, endangered wildlife habitats are not disclosed and the police can complete an investigation before revealing confidential information that helped lead to an arrest, as examples.

Yet, the proposed language in Section 4-206(3) of the bill would mean that none of these records could be kept confidential because they all shed light on government operations, contribute significantly to public understanding and are not for commercial purposes.

Additionally, the bill would mandate fee waivers for search/review fees for all media requests. The City cannot dedicate enough staff to search and review records for such requests. The bill would also give PIA Compliance Board jurisdiction over any “unreasonable failure to waive a fee.” Since there is no legislative guidance on what is an “unreasonable failure to waive” and the City would be unable to gauge what large requests it could ask an applicant to narrow and which ones it could not.

We respectfully request an **unfavorable** report on HB 401.