

Feb 12, 2018

Testimony on HB 401**Public Information Act - Remote Access, Fee Complaints, Fee Waivers, and Inspection of Judicial Records
(Open Government, Better Government Act)****Judiciary****Position: Favorable**

Common Cause Maryland supports HB 401 would build on the successful implementation of the Public Information Act (PIA) Compliance Board and the Ombudsman program as well as ensure the process for requesting records under the PIA is equitable.

HB 401 would establish that custodians adopt an internet use policy that would expand remote access to public records and increase the transparency of government. Transparency is vital to a proper functioning government and individuals should be given every opportunity to seek information on the institutions that significantly impact their lives.

HB 401 would also give authority to the Public Information Act Compliance Board to preside over complaints alleging that a custodian unreasonably failed to waive a fee. The compliance board is under utilized and there currently is not a mechanism by which individuals can be given authoritative relief for fees that are believed to be inaccurate and unjust can. Essentially this legislation would close a loophole by which custodians could avoid disseminating information by charging unreasonable fees.

This legislation also alters the minimum fee charged under which the Board has authority to review a complaint. By lowering the current \$350 threshold to \$200, ensuring more disputes involving fees and the denial of fee waivers are able to be reviewed by the Board. This will allow the Board the opportunity to ensure that custodians are making the determination on an individualized, case-by-case basis. While the fee waiver process is still left at the discretion of the agency, many of which deny waivers with no discretion, we do believe this is a good starting point that begins to address the limited transparency available to low-income Marylanders. It also eliminates the process for judicial review of an agency's fee waiver decision which is inaccessible to a requester who is asking for a waiver.

Maryland citizens deserve access to information. They need fair and open access to data and public records concerning health, safety, natural resources, civil liberties and how government funds and subsidies are sent. While the General Assembly has taken important steps towards more open and accessible government, our current PIA dispute-resolution process leaves many requesters questioning the overall fairness and efficiency of the PIA.

The PIA Compliance Board and Ombudsman program play an integral role in ensuring government transparency which is vital to a healthy democracy. Expanding the Board's jurisdiction will improve the PIA process while ensuring requesters with limited means receive a more equitable treatment.

We urge a favorable report on HB 401.