



SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

Senate Bill 449

Public Information Act - Revisions

February 23, 2020

Unfavorable Report

Chair Pinsky, Vice Chair Kagan and committee members, thank you for the opportunity to share our thoughts on Senate Bill 449. The bill expands the jurisdiction of the Public Information Act (PIA) Compliance Board to include additional types of disputes; institutes an integrated PIA complaint resolution process that includes the Public Access Ombudsman; and requires a custodian to adopt a proactive disclosure policy.

Implementing these changes will require the University System of Maryland to devote significantly more resources to this task. In attempting to meet this broad array of mandates, given the consistently high volume and complexity of PIA requests received, information technology and legal services would need significant investments in resources. For fiscal year 2021, the combined estimated fiscal impact for one USM institution is expected to be \$775,000 – not including benefits.

The required proactive disclosure of records and the required recordkeeping and reporting will simply create additional work for institutions. The expanded jurisdiction of the PIA Compliance Board to include disputes over fee charges over \$200, disputes over withheld documents, and disputes over missed deadlines will increase the workload of institutions that will have to respond to complaints filed with the Board. Moreover, the Board's authority to waive fees will result in reduced recovery of the value of time spent in fulfilling requests, as fee payments will go down.

Senate Bill 449 gives the Board the authority to review and resolve complaints of agencies regarding requesters whose "request or pattern of requests is frivolous, vexatious, or in bad faith." While this is a potentially positive development, USM institutions still receive multiple and/or repetitive requests over extended periods of time from specific individuals. The remedies as proposed in the bill are inadequate; there are less intrusive and burdensome methods to address this narrow problem.

In sum, the alleged benefits of the bill are far lower than the significant costs which will result should the legislation pass. Thank you for allowing the USM to share our thoughts regarding Senate Bill 449 and urge an unfavorable report.