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To: Education, Energy & Environment Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: February 18, 2025

Re: OPPOSE SB 554

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of news media organizations, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Maryland Gazette to publications such as The Daily Record, the Baltimore Times, and online-only publications such as Maryland Matters and Baltimore Brew.

The Press Association, ACLU, Common Cause Maryland, Disability Rights Maryland and Public Justice Center oppose HB 806. This bill is meant to help solve situations in which bad actors take advantage of the Public Information Act to submit an overwhelming number and/or frequency of requests meant to unduly burden a custodian's ability to respond to requests. This is not a new issue; in 2022, the legislature approved substantial powers for the Public Information Act Compliance Board to allow custodians to be unresponsive or to respond to a less burdensome version of the request if the Board finds the applicant's request or pattern of requests is "frivolous, vexatious, or in bad faith."

SB554 goes much farther than the existing remedies, adding "ABUSIVE" to the list of frivolous, vexatious and bad faith, and allows the Board to direct the custodian to ignore future requests on the same or similar topics by the applicant. Further, this bill would provide for virtually unlimited relief from the applicant's requests for any amount of time the Board feels appropriate, 4-1A-04.(b)(3)(III) PROVIDE ANY OTHER NONMONETARY RELIEF THAT, IN THE BOARD'S DISCRETION, IS APPROPRIATE UNDER THE CIRCUMSTANCES, INCLUDING AN ORDER THAT THE CUSTODIAN NEED NOT RESPOND TO FUTURE REQUESTS FROM THE APPLICANT OR ANOTHER PERSON MAKIGN AN REQUEST ON BEHALF OF THE APPLICANT FOR A SPECIFIED PERIOD OF TIME."

We believe that these draconian measures are not needed as the Public Information Act Compliance Board is dealing with these issues and can issue binding opinions that can guide custodians. The PIA Ombudsman, in her 2024 report, noted that about 1% of her caseload concern "vexatious" requests. While that percentage is small, we understand that they are painstaking and time consuming cases. The PIA Compliance Board issued two opinions in 2024 on this very issue that can provide guidance in dealing with these issues. We believe that there is no need at this time for this bill. We have discussed concerns with the OAG.

Opinion 24-29, James Alford, Applicant and Opinion 24-106, SM, et. al, Applicant provide definitions for vexatious, frivolous, and bad faith. Although the situations outlined in the opinion was egregious, the current law worked. We urge an unfavorable report.