

Legislative History for Connecticut Act

HB 7661	PA 324	1979
House - 2834-2841, 6904-6937		34
Senate - 2410-2412, 2587-2588		5
GAE- 841		1
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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1979

VOL. 22  
PART 9  
2834-3191

House of Representatives

Wednesday, April 11, 1979

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CLERK:

Calendar 480. File No. 230. House Bill No. 7661. AN  
ACT CONCERNING RECORDS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM  
OF INFORMATION LAWS. Favorable report of the Committee on  
Government Administration and Elections.

REP. WALKOVICH: (109th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Walkovich.

REP. WALKOVICH: (109th)

Mr. Speaker, I move for acceptance of the Joint Committee's  
favorable report and passage of the bill.

DEPUTY SPEAKER COATSWORTH:

The question is on acceptance of the Committee's favorable  
report and passage of the bill. And will you remark?

REP. WALKOVICH: (109th)

Yes, Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Walkovich.

REP. WALKOVICH: (109th)

This bill is merely a technical bill, which clarifies  
Sub-section C of Section 1-19 of the General Statutes. By saying  
that the records which are stated in this bill are indeed public  
records but are still non-disclosable. I move passage of the bill.

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DEPUTY SPEAKER COATSWORTH:

Will you remark further on the passage of the bill.

REP. BELAGA: (136th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Belaga.

REP. BELAGA: (136th)

Thank you, Mr. Speaker. I have an amendment to the bill.

Would the Clerk please read LCO 7057.

DEPUTY SPEAKER COATSWORTH:

Would the Clerk please call and read LCO No. 7057, hereby designated House Amendment Schedule "A".

CLERK:

LCO 7057. Offered by Rep. Leonard of the 111th to House Bill 7661. In line 4, delete the opening bracket. In line 9, delete the closing bracket and the word "DISCLOSURE".

REP. BELAGA: (136th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

You have the amendment. What is your pleasure?

REP. BELAGA: (136th)

I'd like to move passage of the amendment and ask permission to speak it.

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DEPUTY SPEAKER COATSWORTH:

The question is on adoption of the amendment. Will you remark?

REP. BELAGA: (136th)

Thank you, Mr. Speaker. I'm concerned about the particular legislation that's before us. The brackets that I'm referring to would change that which is now considered exempt from public record, to indeed, be considered part of the public record. And although it is my understanding that this is merely to change the terminology that this data is still going to be non-disclosable. It's my feeling, that non-disclosable in public record are mutually exclusive terms and you cannot use them in the same sentence.

If you read what is in the statutes and what is indeed considered exempt, you will find that what will now become public record by the inclusion of those brackets, includes such items as investigatory records, the records of juveniles, test questions, scoring keys. There are eleven items listed in the freedom of information law which are exempt from public view.

Freedom of information is a superb piece of legislation and it is important to support it and to move it forward so that the public is protected. But it's a very fine tightrope that we walk and we must assure privacy as well. If we remove those brackets, we will maintain the placement of these very important items to be exempt from public record and we will assure the

public that they can understand what we're talking about when they pick up the statutes. I for one, think it's unfair to ask the public to understand something by going to a lawyer to have him explain and I urge your support of the amendment.

DEPUTY SPEAKER COATSWORTH:

Will you remark further on the amendment?

REP. WALKOVICH: (109th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Walkovich.

REP. WALKOVICH: (109th)

Mr. Speaker, I rise to oppose the amendment. What the amendment clearly does is gut the legislation which is before us. It takes out the brackets and deletes disclosure. This is simply again, and I would just know a technical change, which was intended in the past years. I would oppose the amendment.

DEPUTY SPEAKER COATSWORTH:

Will you remark further on the amendment?

REP. JAEKLE: (122nd)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. I rise in support of the amendment

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and I wish to read the members of this Assembly some of the records that will now be deemed public records, if this amendment does not pass and the bill before us, File 230 does pass.

Some of the records that would be considered public records would include records of law enforcement agencies. They identify informants not otherwise known. These are police informants. This information would be public records. It would include juvenile arrest records, currently closed. They would be deemed public records. Certain investigatory techniques that are now confidential used by police officials would be considered public records.

While I realize that although they would be considered public records, there is a safeguard that they would not be disclosed. Do we want this highly confidential, often personal identifying information to be considered public records? I think not, and I therefore support the amendment. Thank you.

DEPUTY SPEAKER COATSWORTH:

Will you remark further on the amendment?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

Just one more example in that vein. I don't know how many

of you ever served on a local board. But if you served on a Board of Selectman or something like that and attempted to negotiate the purchase of a piece of property. If you do not adopt the amendment, all the appraisals, anything you've been doing in attempting to bargain with the owner, he can find out what your bottom line is, by asking for the records.

It's an impossible situation to negotiate. Think what it will mean to your local community.

DEPUTY SPEAKER COATSWORTH:

Will you remark further on the amendment?

REP. MAZZA: (115th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Mazza.

REP. MAZZA: (115th)

Mr. Speaker, I rise to support the amendment. I'm concerned about this legislation. Yesterday, we passed a piece of legislation here that would open Board of Finance Meeting Executive Sessions to the public. I thought that that was a bad piece of legislation and voted against it, but unfortunately the House didn't see it that way.

Here we are expanding those records that will be available to the public. I think it's a dangerous precedent and I ask the members to support the amendment.

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DEPUTY SPEAKER COATSWORTH:

Will you remark further on the amendment? Will you remark further? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER COATSWORTH:

Those opposed, no.

REPRESENTATIVES:

No.

DEPUTY SPEAKER COATSWORTH:

The Chair is not in doubt, the amendment is adopted and ruled technical.

Will you remark further on the bill as amended? Will you remark further? If not, will members please take their seats. The staff and guests come to the well of the House. The machine will be opened.

The House is voting by roll call at this time. Will all members please return to the Chamber. The House is voting by roll call at this time. Will all members please return to the Chamber.

Have all the members voted? Have all the members voted and is your vote properly recorded? Have all the members voted? If so, the machine will be locked and the Clerk will please take the tally.

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REP. MASTRIANNI: (104th)

Mr. Chairman. Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Mastrianni.

REP. MASTRIANNI: (104th)

This is on my green light and register so that I might be registered in the affirmative.

DEPUTY SPEAKER COATSWORTH:

Registered in the affirmative. Will the Clerk please note. The Clerk will please announce the tally.

CLERK:

House Bill 7661, as amended by House Amendment Schedule "A".

Total number voting	138
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Necessary for passage	70
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Those voting yea	138
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Those voting nay	0
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Those absent and not voting	13
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DEPUTY SPEAKER COATSWORTH:

The bill as amended is passed.

The Clerk will please continue with the Call of the Calendar.

CLERK:

Calendar 481, File 231, House Bill No. 5592, AN ACT CONCERNING RETIREMENT OF SAVINGS ACCOUNTS IN SAVINGS AND LOAN ASSOCIATIONS.  
Favorable Report of the Committee on Banks.

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6727-7076

CLERK:

House Bill 6377 as amended by House "A" and Senate "A"  
and "B".

Total number voting	122
Necessary for passage	62
Those voting yea	122
Those voting nay	0
Those absent and not voting	29

SPEAKER ABATE:

The bill as amended passes.

CLERK:

Calendar No. 480, Files 230, 481 and 866, House Bill No. 7661 AN ACT CONCERNING RECORDS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION LAWS, as amended by House Amendment Schedule "A" and Senate Amendment Schedule "A". Favorable Report of the Committee on Government Administration and Elections.

REP. CARRAGHER: (5th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Robert Carragher.

REP. CARRAGHER: (5th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

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SPEAKER ABATE:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence. Will you remark, sir?

REP. CARRAGHER: (5th)

Mr. Speaker, the Clerk has Senate Amendment Schedule "A" LCO 7810. I would ask the Clerk to please call and I would request permission to summarize.

SPEAKER ABATE:

The Clerk has in his possession an amendment, previously designated Senate Amendment Schedule "A", LCO No. 7810. Would the Clerk please simply call the amendment.

CLERK:

LCO 7810 offered by Senator Baker of the 24th district.

SPEAKER ABATE:

Is there objection to the gentleman summarizing this amendment in lieu of Clerk's reading? Is there objection? Hearing none, you may proceed with summarization.

REP. CARRAGHER: (5th)

First, Mr. Speaker, I move adoption of Senate "A". Mr. Speaker, this bill as originally sent to the House would make a technical change in the Freedom of Information Act. There are 11 categories of records kept by public agencies which are exempt from the Freedom of Information Act. Their disclosure cannot be

forced by using the act. The law now states that these exempt records are not public records. Under the bill originally sent to the House, the records, though still exempt from disclosure, would be designated as public records. Though the bill would have acknowledged that these records are still public records, it would not have changed the law affecting their disclosure. So the bill would have made only a technical change.

House Amendment Schedule "A" reversed the change, in effect, nullifying it. So in effect the bill as amended makes no change in the law, except for section reference corrections.

The Senate amendment would return the bill to its original form and make only the technical changes in the Freedom of Information Act. I would therefore move adoption of the amendment.

SPEAKER ABATE:

The question now is on adoption of Senate Amendment Schedule "A". Will you remark further on its adoption?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

Through you, a question to Rep. Carragher.

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SPEAKER ABATE:

State your question, please, sir.

REP. VAN NORSTRAND: (141st)

Rep. Carragher, as now amended by the Senate, what you have got is an elimination of those records that were listed when we passed this bill earlier. What is the effect on the character of those records that are now deleted, the references are now deleted.

SPEAKER ABATE:

Rep. Carragher, will you respond to the inquiry, sir?

REP. CARRAGHER: (5th)

Well, the net effect -- I know it's a little bit confusing -- the net effect of the House amendment and the Senate amendment provides that these records are still exempt from disclosure, but they are now being designated as public records rather than as not being public records, so the net effect is that they're still exempt from disclosure, but they're being designated as public record.

REP. VAN NORSTRAND: (141st)

Through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Van Norstrand.

REP. VAN NORSTAND: (141st)

So what has happened is a complete reversal of the House's action.

SPEAKER ABATE:

Rep. Carragher, will you respond, sir.

REP. CARRAGHER: (5th)

As the bill was originally sent here, it provided exactly what we are doing now. Yes, you are correct that the Senate amendment does in fact reverse the House action and returns the bill to its original form.

REP. VAN NORSTRAND: (141st)

Thank you, Rep. Carragher. Mr. Speaker, I see no sound policy basis for reversing the action taken by this body earlier this year and I urge rejection of the amendment.

SPEAKER ABATE:

Will you remark further on the adoption of Senate Amendment Schedule "A"? Will you remark further on its adoption?

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Robert Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. I'd just like to read some of the records that would now be public records if this Senate

amendment passes. Under section 119B which this amendment would affect, records of law enforcement agencies, not otherwise available to the public, would be deemed public records. This would include identity of informants, would now be deemed public record, information used in prospective law enforcement actions, investigatory techniques of law enforcement officials would be deemed public records. Arrest records of juveniles would be considered public records. Real estate appraisals for potential acquisition of state lands would be public record. Test questions, scoring keys, examination data used for various state licensing would be considered public records. Collective bargaining strategy and negotiation information would be deemed public record. Tax returns would be considered public records. I oppose this amendment. This undoes what the House did to guarantee that these records would not be deemed public records. I find this information highly personal, it should be confidential and in no way should this information be deemed public information. I urge rejection of Senate "A" and let's be consistent with what we did in the House and pass the bill leaving these protections in tact. Thank you.

REP. CARRAGHER: (5th)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further? Rep. Robert Carragher.

REP. CARRAGHER: (5th)

Mr. Speaker, unfortunately there appears again to be a misunderstanding about what the intent of this bill is. It is my understanding that under current law, section 1-18a and section 1-19a, that the records that we are talking about right now are in fact, under definition, public records. So we are not making something a public record that isn't already deemed a public record. And the important point to remember here is that even though these records are going to be designated public that under the Freedom of Information Act they are exempt from disclosure under the law. So the bottom line net effectiveness is not to disclose something that is not already discloseable. These are going to be exempt from disclosure and this bill is not going to change that one iota.

SPEAKER ABATE:

Will you remark further on the adoption of Senate Amendment Schedule "A"?

REP. MANNIX: (142nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. John Mannix.

REP. MANNIX: (142nd)

Mr. Speaker, I sympathize with Rep. Carragher. I think there's a problem here and really the problem is the definition. What we're doing here is we're making -- saying that records that really aren't open to the public are now public records. So we have non public records public. Well, I'm not sure of that, and I'm sure you're not either. So let's see if we can define what a public record is and a non-public record and then work from there. A question to Rep. Carragher, through you, sir.

SPEAKER ABATE:

State your question, please, sir.

REP. MANNIX: (142nd)

Would he please define what he means by a public record.

SPEAKER ABATE:

Rep. Carragher, will you respond to that question?

REP. CARRAGHER: (5th)

Yes, sir. Through you, Mr. Speaker, Rep. Mannix, when I refer to public records, I refer to section 1-18a of the statutes definitions of subsection d which says "public records or files means any recorded data or information relating to the conduct of the public's business, prepared, owned, used, received, or retained by a public agency, whether such data or information by handwritten, typed, tape recorded, printed, photostated, photographed, or recorded by any other method". That, sir, is

the definition that is in the statutes currently.

REP. MANNIX: (142nd)

Alright, one other question through you.

SPEAKER ABATE:

Rep. Mannix, you still have the floor, sir.

REP. MANNIX: (142nd)

Would you give us the definition as you're using in your explanation of a non-public record.

SPEAKER ABATE:

Rep. Carragher, will you respond to that inquiry, sir?

REP. CARRAGHER: (5th)

It would seem to me that any information retained by a public agency which is non-discloseable under the personal data act would fall into that category, Mr. Mannix.

REP. MANNIX: (142nd)

Thank you very much. Then it would seem to me, if what you say is accurate, Mr. Speaker and ladies and gentlemen, that the amendment, the Senate amendment is not a good amendment. I don't know if you follow this, you have to listen carefully, but the Senate amendment is not a good amendment, because it's contradictory. What we're doing is, if you follow what Rep. Carragher just said, what we're doing is we're saying that even though it's a public record, it's non-public. So the Senate amendment is not a good amendment.

SPEAKER ABATE:

Will you remark further?

REP. CARRAGHER: (5th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Carragher.

REP. CARRAGHER: (5th)

For the second time, I believe. Mr. Speaker, I completely understand what Rep. Mannix is trying to say, and I understand the point that he is trying to make, but I think that here again Rep. Mannix, in trying to answer your concern, these would in fact be made, you are correct, public records, but the important matter to remember here is that under the Freedom of Information law there are 11 exceptions which are non-discloseable records. And the records that we are speaking of in this amendment would continue under the Freedom of Information law to be non-discloseable. They would not be discloseable. We are simply changing the definition and saying, yes, if they're held by a public agency they are public records, but they are still non-discloseable, but I would therefore say that the Senate amendment is in fact correct and is the intent of the bill as originally proposed, and I still think that Senate "A" is a good amendment and should pass.

SPEAKER ABATE:

Will you remark further on the adoption of Senate Amendment Schedule "A"?

REP. SWOMLEY: (17th)

Mr. Speaker.

SPEAKER ABATE:

Rep. James Swomley.

REP. SWOMLEY: (17th)

We've heard a great deal about plain language in the last session and in this session. I wonder if someone could stand up and say in plain language exactly what the bill that was passed by this House did, and what the amendment does to that bill. I'm not satisfied that I have heard an explanation in plain language, and I suspect that a number of people around me would like such an explanation also. Thank you.

SPEAKER ABATE:

Will you remark further on the adoption of Senate "A"?

REP. EMMONS: (101st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Linda Emmons.

REP. EMMONS: (101st)

Mr. Speaker, through you a question to the proponent of the amendment.

SPEAKER ABATE:

State your question please, madam.

REP. EMMONS: (101st)

Rep. Carragher, in the discussion on this amendment there has been terminology of whether it's personal or it's private record. Could you give an instance as to why this bill is before us. What is the need for the bill? Usually something has happened in our society that has caused a need for us to pass legislation. Could you relate to one instance that requires this piece of legislation?

SPEAKER ABATE:

Rep. Carragher.

REP. CARRAGHER: (5th)

Through you, Mr. Speaker, I will certainly try. What we are trying to say here is that data and records maintained by public agencies should fall into the category of public records in order to be absolutely sure that the agencies do in fact maintain these records. If they were not public records, I think the danger exists that the agencies would not maintain these records, so we are mandating that they are public records, but at the same time, and I repeat again, we are not mandating

that they be discloseable. And that is the key phrase in this entire matter.

SPEAKER ABATE:

Rep. Emmons, you still have the floor, madam.

REP. EMMONS: (101st)

Thank you, Mr. Speaker. I still have not heard of an instance from you that would show why we need the bill. Something that happened last year or the year before, that has been the inspiration for this bill.

SPEAKER ABATE:

Rep. Carragher.

REP. CARRAGHER: (5th)

For example, -- let me try to give an example. Let's take criminal records, okay? We would want to be sure that correct and proper criminal records are maintained, although even under this bill, these criminal records would be non-discloseable.

SPEAKER ABATE:

Rep. Emmons, you still have the floor, madam.

REP. EMMONS: (101st)

Yes, Mr. Speaker, through you, another question. Are you suggesting that our criminal records have not been maintained properly?

SPEAKER ABATE:

Rep. Carragher.

REP. CARRAGHER: (5th)

Through you, Mr. Speaker, no I am not, but the lady asked me to choose an example and that's the first one that came to mind.

SPEAKER ABATE:

Rep. Emmons.

REP. EMMONS: (101st)

Yes, Mr. Speaker, through you another question.

SPEAKER ABATE:

State your question, please, madam.

REP. EMMONS: (101st)

I am asking not for a theoretical example. What I'm asking is what actual incident in the last two years has occurred to make this bill necessary.

SPEAKER ABATE:

Rep. Carragher, do you care to respond to that question?

REP. CARRAGHER: (5th)

Through you, Mr. Speaker, none to my knowledge, but I don't think that that means that we shouldn't do this.

SPEAKER ABATE:

Rep. Emmons, you have the floor, madam. Speaking directly to the amendment, it would appear to me that we are now labeling

as public documents documents that are not truly public -- income tax returns, other types of returns, juvenile records, etc.

As there have been no stated reasons, no incident that has happened in the last two years to require this legislation, provide protection which we are not so sure we are affording to people, it seems to me that the amendment should be defeated and these records that are not public records should not be included as public records because they really are confidential records and have been treated as such.

REP. PATTON: (119th)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further. Rep. Gerard Patton.

REP. PATTON: (119th)

I have a problem that I'm sure others have. It appears to me that this surely is information that is confidential, private and personal that is presently being held by public institutions, such as tax returns. And it appears to me that we are now attempting to categorize all information held by public institutions as public data. And that seems to be a very major step in taking something that was private, personal and confidential, and all of a sudden putting it underneath the umbrella of public information, and I think that's a major mistake, and I would ask then if that would develop, I would ask

of Rep. Carragher, if I may, through you, Mr. Speaker, what processes are presently available to the general public or to special interest groups to allow access to public records, and what I'm really saying is this information, private, personal, confidential, is categorized under the umbrella public record, what processes do we presently have that would allow access to public record in such a situation?

SPEAKER ABATE:

Rep. Carragher.

REP. CARRAGHER: (5th)

Through you, Mr. Speaker, the answer, sir, to your question is enumerated in section 1-15 of the General Statutes which says application for copies of public record, certified copies and fees -- it's a rather long section but it completely explains that.

SPEAKER ABATE:

Rep. Patton, you still have the floor.

REP. PATTON: (119th)

Mr. Speaker, may I just ask for a brief synopsis of the general accessibility to public records, through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Carragher, do you care to respond to that inquiry?

REP. CARRAGHER: (5th)

Yes, sir. Through you, Mr. Speaker, the normal route that one would take would be to apply to the Freedom of Information Commission requesting copies of records which had previously been denied.

SPEAKER ABATE:

Rep. Patton.

REP. PATTON: (119th)

Thank you, Mr. Speaker. Again, what it appears to me is that every piece of information held by a public agency would then be put under the umbrella of public data, no matter how personal or private that is. And I would suggest that that's a very wrong step for this body to take and I think our earlier deliberations were in the proper direction, and I would suggest that we not take that step with private information, and Mr. Speaker, in closing may I ask for a roll call vote when the vote is taken. Thank you, Mr. Speaker.

SPEAKER ABATE:

The question is on a roll call vote. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

In the opinion of the Chair, the requisite 20% having been

satisfied, when the vote is taken, it will be taken by roll.

REP. CARRAGHER: (5th)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on the adoption of Senate Amendment Schedule "A"? Rep. Carragher.

REP. CARRAGHER: (5th)

Mr. Speaker, I believe this will be the third time I request leave to speak for the third time.

SPEAKER ABATE:

Is there objection to the gentleman addressing this issue for the third time? Is there objection? Hearing none, unanimous consent exists. You may proceed to address this issue for the third time, Rep. Carragher.

REP. CARRAGHER: (5th)

Mr. Speaker, and ladies and gentlemen, I understand that we've been dealing with this matter in the Government Administration and Elections Committee now for three or four months, and it is a very confusing, frankly, and a very complex area. I would only point out, in trying to answer the questions raised by the last speaker, which most certainly are legitimate questions, that I would refer you to section 1-19 of the statutes, which delineates what are exempt records. And there are 11 separate categories that delineate what records are exempt from public

disclosure and any records that fall under those 11 categories, regardless of whether someone goes to the Freedom of Information Commission or regardless of how one were to apply for access to those records, those records would not be available to any person because they are confidential. And it seems to me that those 11 categories, when this bill was originally passed some years ago, there was great care given to making sure that the kind of records that you're talking about would not be available to the public because they are confidential. As I say, there are 11 separate sections that delineate what are exempt records from public disclosure, and this bill does not change those 11 sections in any way at all -- not at all -- so, I understand your concern, but this bill does not change the law and does not do any violence to what your concerns are.

REP. OSLER: (150th)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on the adoption of Senate Amendment Schedule "A"? Rep. Dorothy Osler.

REP. OSLER: (150th)

Mr. Speaker, through you, if I may ask a question of Rep. Carragher.

SPEAKER ABATE:

State your question please, madam.

REP. OSLER: (150th)

I think what is not coming through to all of us, Rep. Carragher, is are there any instances in which a non-discloseable public record can be disclosed. Would it be something like a court order or something like that. Is there any way that if we make these records discloseable -- no, if we keep them as non-discloseable, even though they are public records, is there any way anyone might have access to them?

SPEAKER ABATE:

Rep. Carragher.

REP. CARRAGHER: (5th)

Through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Carragher, proceed please, sir.

REP. CARRAGHER: (5th)

Through you, Mr. Speaker, there is no administrative way, under the Freedom of Information law, that any individual could administratively get hold of those records. It would be my understanding that the only way an individual could get access to the kind of records you're speaking of, would be through a court proceeding and a court order, etc., and this bill would not change that procedure in any way.

SPEAKER ABATE:

Rep. Osler.

REP. OSLER: (150th)

Thank you very much.

SPEAKER ABATE:

Will you remark further?

REP. BELAGA: (136th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Julie Belaga.

REP. BELAGA: (136th)

Thank you, Mr. Speaker. I find myself fascinated by the debate that we're hear listening to. Rep. Carragher just said that he could appreciate the confusion that we all are attempting. The GAE has worked with this issue for three or four months, and are having a very difficult time coming to grips with it. If indeed that's the case, sensible response to this is not to deal with it until we can make it definitive and have the public understand it. I, for one, find myself horrified at the confusion that this will generate in my local community. Question to Rep. Carragher.

SPEAKER ABATE:

State your question.

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REP. BELAGA: (136th)

Thank you, Mr. Speaker. Rep. Carragher, could you tell me whether this data would be available to the Freedom of Information Commission.

SPEAKER ABATE:

Rep. Carragher.

REP. CARRAGHER: (5th)

Through you, Mr. Speaker, no.

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Christopher Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. I understand that the Freedom of Information Commission wants all information that is held by public agencies to be public record, which leads me to ask what is the difference between a public record and a non-public record, and I would like to ask the proponent.

SPEAKER ABATE:

Rep. Carragher, will you respond to that inquiry?

REP. CARRAGHER: (5th)

Yes, sir. Through you, Mr. Speaker, I believe that I have answered that question on two previous occasions during this debate.

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SPEAKER ABATE:

Rep. Shays.

REP. SHAYS: (147th)

Mr. Carragher, I happened to be one who wants to support this amendment, and I'm trying to very hard to find a reason to support it. My problem is trying to appreciate the actual prudence for this, and if I could understand why the Freedom of Information Commission wants records which are now not called public records made public records, but still not discloseable, why they'd want this. I would like to support the bill because my tendencies are to have almost every record public, but I need some help in order to support it, and I would once again ask that question, if you could make one last attempt. What is the difference between a public record, which is not discloseable, and a non-public record?

SPEAKER ABATE:

Rep. Carragher, would you respond, sir?

REP. CARRAGHER: (5th)

Mr. Speaker, I think Mr. Shays, in posing the original question a second before, why does the Freedom of Information Commission want these to be designated as public records, is because these records maintained by public agencies, should be public records, but some of those public records will not be discloseable, but they are public records and should be

designated as public records.

SPEAKER ABATE:

Rep. Shays, you still have the floor, sir.

REP. SHAYS: (147th)

Thank you. Thank you, Mr. Carragher, for answering that question. May I ask you one last question. If it is designated as a public record, would that require that the agency follow certain procedures which they may not be following right now in order to maintain those records?

SPEAKER ABATE:

Rep. Carragher, will you respond, sir?

REP. CARRAGHER: (5th)

Through you, Mr. Speaker, my answer to that would be that they would not necessarily have to change any of the procedures they currently follow. They could very well, if they're doing the proper job, they could very well continue to use the same procedure they are now. All we are doing here is to try to guarantee that they in fact use proper procedure.

REP. SHAYS: (147th)

Thank you. Thank you Mr. Speaker.

REP. PARKER: (31st)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further? Rep. Antonina Parker of the 31st.

REP. PARKER: (31st)

Thank you, Mr. Speaker. A question through you to the proponent.

SPEAKER ABATE:

State your question please, madam.

REP. PARKER: (31st)

Originally, this bill started out before us as File 230. The explanation from the LCO was that it was a purely technical bill. With the House amendment, we changed it to a non-technical bill and this further adds to it. My question is if this bill is not changed, would there be any great import on the Freedom of Information agency, or can we continue to operate and can that agency continue to operate?

SPEAKER ABATE:

Rep. Carragher, will you respond?

REP. CARRAGHER: (5th)

Through you, Mr. Speaker, to answer the Representative's last question first, I'm sure if this bill were to fail that the FOI Commission is not going out of business tomorrow. But I think that there's a little confusion regarding what this bill did from the first time it arrived here. The House amendment completely changed what was a technical change in the law. The Senate amendment puts that technical change back into the law as originally proposed and knocks out the House amendment.

But the bill as amended is still a technical change.

REP. PARKER: (31st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Parker.

REP. PARKER: (31st)

In view of the total confusion of people in the House on this bill and since it now becomes a purely technical bill and no great harm is done, I would agree with Rep. Belaga that the House vote against this bill at this time.

SPEAKER ABATE:

Will you remark further on the adoption of Senate Amendment Schedule "A"?

REP. HENDEL: (40th)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on its adoption? Rep. Patricia Hendel.

REP. HENDEL: (40th)

Thank you, Mr. Speaker. Mr. Speaker, I think the nature of the debate on this amendment is very important because it relates to the fact that we're dealing with two very important basic constitutional rights in this country. One is for our freedom of information, freedom of speech, freedom of our open

discussions, disclosure and also our rights to personal privacy and these are rights that we hold equally important. When we wrote the Freedom of Information Act a few years ago, we opted to open lots of records and lots of areas for public disclosure in the public interest, and I think that's been the mood of the General Assembly. The GAE Committee do not have difficulty coming to grips with the issue. What we did do is spend a lot of time trying to find some of the problems that exist in the law, some that were substantive and some that were technical. It was our                      that this was merely a technical change. We are trying to make it easier for our local boards, local commissions, people who are living now under the Freedom of Information law, to understand it. We think that this technical amendment, if adopted, will point out that which public records may be non-discloseable. We are not changing section 1-19. What we are doing is indicating that the Commission may keep these records, which are now deemed public records, and they will continue to be non-discloseable. We're trying to make the law more understandable, more accurate, to what is really practiced. I urge adoption of the amendment.

SPEAKER ABATE:

Will you remark further on the adoption of Senate Amendment Schedule "A"?

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Robert Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. I have the statutes in front of me and listening to the debate and reading the statutes it's almost as if we're trying to interpret Internal Revenue code sections. It's highly complicated, many references to other sections of the statutes, but I will repeat that under section 1-19b, certain records of highly confidential nature, currently are not deemed to be public records. One of those that I mentioned before was information concerning the identity of confidential police informants. Well over a month ago, this body and the Senate in concurrence, enacted a law protecting the newspapers from searches that might reveal the identity of confidential informants. We felt that without that protection there might be a chilling effect on informants because we might be jeopardizing the confidentiality of their identity. Currently our law makes clear that identity of confidential informants not only are not subject to disclosure, they are not even deemed public records. The Senate amendment would make this information and other information that I mentioned before, including tax returns, public information - public records, excuse me.

Public records for the purposes of section 1-15, which concerns application for copies of public records, public records for the purpose of 1-19 which concerns access to public records, public records for the purpose of 1-21 which concerns meetings of governmental agencies, public records for purpose of section 1-21a which concerns recording or broadcasting or photographing meetings, public records for other sections, including denial of access to public records in meetings, public records for the Freedom of Information Commission under section 1-21j, and public records for the purpose of 1-21k which concerns penalties for failure to disclose public records.

If this is only a technical change, we do not need it this year. The bill that's in our files without the Senate amendment makes technical changes to our existing law. The Senate amendment will change our existing law, making highly confidential information deemed public records. I don't feel certain highly confidential, often private and personal information, should be deemed public records, and I would strongly urge that we reject Senate "A", stand firm on House Amendment "A", which undid what the original file copy was going to do, and stick with our existing law, which to my knowledge, has not created any problems. Thank you.

SPEAKER ABATE:

Will you remark further on the adoption of Senate

Amendment Schedule "A"?

REP. BARNES: (21st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Dorothy Barnes.

REP. BARNES: (21st)

One quick question to the Chairman of Government Administration and Elections Committee, please.

SPEAKER ABATE:

State your question please, madam.

REP. BARNES: (21st)

Through you, Mr. Speaker, for information purposes, over the years at public hearings, when the Freedom of Information Committee has testified, what has been their position in dealing with public records? What ones would they like to see open and what ones would they like to see closed, of those that are before us this morning?

SPEAKER ABATE:

Rep. Hendel, will you respond to that inquiry, madam?

REP. HENDEL: (40th)

Through you, Mr. Speaker, yes, what the Freedom of Information Committee has discussed with us at hearings as to what they want exempt is what is presently in the statutes. 1-19 we've been talking about and some of the ones in 1-18.

SPEAKER ABATE:

Will you remark further?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

I think Rep. Carragher has laboriously done the best he can to explain what appears to be a mire of confusion largely because, as Rep. Jaekle said, this section inter-relates with all the other Freedom of Information sections. But basically we have a simple proposition. The present law in this state is that all the enumerated exemptions, which as Rep. Carragher said will not be disclosed, the law in this state now is those are private records. As Mr. Carragher has explained, if you pass this the law would be those are public records. Why the difference? Rep. Carragher said well, it wouldn't affect administrative disclosure. Does it affect some other kind of disclosure? Why the difference? And if you can't answer why, you'd better not buy Senate "A".

SPEAKER ABATE:

Will you remark further on the adoption of Senate Amendment Schedule "A"? Will you remark further on its adoption? If not, would all the members please be seated. Would the members please

be seated. Would the staff and guests please come to the well of the House. Would all staff and guests please come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? Would the members please check the roll call machine to determine if their vote is properly recorded. The machine will be locked and the Clerk will take the tally.

Would the Clerk please announce the tally.

CLERK:

Senate "A" to House Bill 7661.

Total number voting	131
Necessary for adoption	66
Those voting yea	74
Those voting nay	57
Those absent and not voting	20

SPEAKER ABATE:

Senate "A" is adopted and ruled technical. Will you remark further on this bill? Will you remark further on the bill as amended? If not, would all the members please be seated. Would the members please be seated. Would all staff and guests

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please come to the well of the House. Would all staff and guests please come to the well of the House.

REP. CASEY: (118th)

Mr. Speaker.

SPEAKER ABATE:

Rep. T. J. Casey.

REP. CASEY: (118th)

I'll be brief, Mr. Speaker. On 4-11 we voted 138 to nothing for House Amendment "A". This only shows the fickleness of this body, and I hope that you stand behind your original decision and not kill this bill. Thank you.

SPEAKER ABATE:

Will you remark further on the bill as amended? If not, would all staff and guests please come to the well of the House. The Chair would appreciate all staff and guests coming to the well of the House on the request of the Chair and immediately on the request of the Chair. The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Would the members please check the roll call machine to determine if their vote is properly recorded. The machine will be locked and the Clerk will take the tally.

Would the Clerk please announce the tally.

CLERK:

House Bill 7661 as amended by House "A" and Senate "A".

Total number voting 132

Necessary for passage 67

Those voting yea 77

Those voting nay 55

Those absent and not voting 19

SPEAKER ABATE:

The bill as amended passes.

REP. GROPPPO: (63rd)

Mr. Speaker.

SPEAKER ABATE:

Rep. John Groppo of the 63rd Assembly district, the honorable majority leader.

REP. GROPPPO: (63rd)

Mr. Speaker, I move that we recess until 2:00 p.m.

SPEAKER ABATE:

All those in favor of the motion, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Opposed no. The ayes have it. The House stands in recess

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is so ordered. The item is placed on consent.

THE CLERK:

Calendar 485, Files 230 and 481, Favorable Report of the Joint Standing Committee on Government Administration and Elections. House Bill 7661, An Act Concerning Records Exempt From Disclosure Under The Freedom of Information Laws. (As amended by House Amendment Schedule "A").

SENATOR BAKER:

Mr. President.

THE CHAIR:

Senator Baker.

SENATOR BAKER:

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill. I believe the Clerk has an amendment.

THE CLERK:

Clerk has Senate Amendment Schedule "A", File 481, House Bill 7661, LCO 7810, offered by Senator Baker. 7810.

SENATOR BAKER:

Mr. President, I would waive reading of the amendment and try to explain it.

THE CHAIR:

Without objection, proceed, Senator.

SENATOR BAKER:

Mr. President, the main bill as originally sent to the

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House would have made a simple technical change in the Freedom of Information Act. Presently, there are eleven categories of records that are kept by public agencies which are exempt from the Freedom of Information Act. Their disclosure can't be forced by using the Act. The law now states that those exempt records are not public records. Under the bill originally sent to the House, the records, though still exempt from disclosure, would be designated as public records. Though the the bill would have acknowledged that these records are still public records, it would not have changed the law affecting their disclosure, so the bill would have made only a technical change. House Amendment "A" reversed the change, in effect, nullifying it, so in effect, the bill as amended, makes no change in the law except for section reference corrections. This amendment would return the bill to its original form, make only the technical change in the FOI Act, and I would move its adoption.

THE CHAIR:

Question is on adoption of Senate "A". Will you remark further? Hearing no further remarks, those in favor indicate by saying aye. Those in opposition to? Senate "A" is adopted. Proceed, Senator Baker.

SENATOR BAKER:

Mr. President, as I indicated, the amendment is the bill and if there's no objection, I would move it to the consent

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calendar.

THE CHAIR:

The motion is to place the item on consent. Is there further discussion on the bill? Objection to the motion?

Hearing none, so ordered.

THE CLERK:

Turning to page 7, top item on the page, calendar 493, File 476, Favorable Report of the Joint Standing Committee on the Environment. Substitute for Senate Bill 133, An Act Concerning Oil Spill Containment And Removal Within The Lower Connecticut River and Adjacent Shoreline Area.

SENATOR SKOWRONSKI:

Mr. President.

THE CHAIR:

Senator Skowronski.

SENATOR SKOWRONSKI:

I believe the Clerk has an amendment.

THE CHAIR:

First, Senator, move for the adoption or the passage of the bill and then we will ...

SENATOR SKOWRONSKI:

Thank you, Mr. President. I'm sorry. I would move the adoption of the joint committee's favorable report and passage of the bill.

HB 5464, HB 7864, HB 5880, HB 7661, SB 133, SB 790, SB 132, HB 6550, HB 6564,  
 SB 575, HB 7920, HB 7810, HB 5452, HB 7200, HB 7755, SB 1496, SB 710, SB 1509,  
 SB 1532, SB 1536, SB 1618, SB 1647, SB 1530, SB 870, SB 293, SB 497, SB 1473,  
 SB 1602, SB 1604, SB 364, SB 545, SB 1369, SB 1432, SB 1566, HB 7787, HB 7904,  
 HB 7624, HB 7900, HB 7619, HB 6001, HB 6835, HB 6977, HB 7742, HB 7751, Thursday, May 3, 1979  
 HB 7754, HB 7756, HB 5365, HB 5653, HB 5712, HB 5750,  
 HB 7843, HB 7319, SB 1593, SB 1556, SB 1483, HB 7617, HB 6752,  
 HB 6275, HB 7707, HB 5230, HB 7840, HB 7846, HB 7860, HB 7897,  
 HB 7618

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calendars 754, 755, 756. On page 26, calendar 760. On page  
 27, calendar 767, 769. On page 28, calendar 772. On page 29,  
 calendars 782, 783, 785. On page 30, all items, 787, 788, 789,  
 790, 791, 792 and on page 31, calendar 794.

SENATOR POST:

Mr. President.

THE CHAIR:

Senator Post.

SENATOR POST:

Mr. President, I would request that calendar No. 510 on SB 132  
 the bottom of page 7, File No. 488 be removed from the consent  
 calendar, Sir, <sup>as</sup> I would like to vote against that proposal.

THE CHAIR:

Bottom of page 7, calendar 510 is requested to be removed  
 from the consent calendar. It is so ordered. Senator Prete.

SENATOR PRETE:

Calendar No. 510 was never on the consent calendar. Oh,  
 yes, it was. Yes, it was. Sorry. That's my mistake.

THE CHAIR:

We will roll call that item first. Announce an immediate  
 roll call in the Senate. Will all Senators take their seats,  
 please. Announce an immediate roll call.

THE CLERK:

Immediate roll call in the Senate. Would all Senators  
 please take their seats.

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THE CHAIR:

We are voting on an item removed from the consent calendar at the bottom of page 7, calendar 510. The machine is open. Have all Senators voted? Machine is closed. The Clerk will take a tally. The vote is 32 yea, 1 nay. The bill is passed. We shall now vote on today's consent calendar. Will all Senators please take their seats. The machine is open. Have all Senators voted on the consent calendar?

THE CLERK:

Senator Murphy.

THE CHAIR:

Have all Senators voted? Machine will closed. The Clerk will take a tally. The vote is 33 yea, 0 nay. Consent calendar is passed.

SENATOR LIEBERMAN:

Mr. President.

THE CHAIR:

Senator Lieberman.

SENATOR LIEBERMAN:

I move for suspension of the rules to allow for immediate transmittal to the House of those items that should go to the House.

THE CHAIR:

Question is suspending the rules for the immediate transmittal of all items that need further House action. Is there

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MS. LAHEY: (continued)

an order to show cause. The Commission has neither the staff or the other necessary resources necessary to implement this bill. If the Commission were to hold regional hearings, further appropriations would be necessary for hearing accomodations and transportation. Furthermore, commissions who are now part-time, and our staff would have to waste valuable time in transit.

Since our statistics indicate that 71% of the complaints heard by the Commission prove successful, in less than 29% of the cases would a pre-hearing investigation do anything but add another level of time-consuming and expense laden administrative action.

We support Committee Bill 7661 and 7686 which are largely technical.

We also support Committee Bill 7687 which would bring us in line with other agencies and would allow us to have a greater control over our own budget.

We support Committee Bill 7689, An Act Concerning Access to Public Records, except for one technical problem in the drafting of the act. In an attempt to excise unnecessary language, the phrase any federal and the phrase or state statute were deleted. The consequence of these omissions will be to return the law to the situation existing before passage of the federal information act in 1975.

Under the old law, a public agency could effectively supercede the provisions of the open records statutes merely by promulgating regulations and rules, etc., all of which are part of state law. Inclusions of these limitations except as otherwise provided by any federal law or state statute was designed to limit the exceptions to public disclosure to only those set forth in federal law and state statute. We believe that this is an essential limitation if the legislature is to retain control over exemptions to public disclosure.

We also want to support Raised Committee Bill 7688, An Act Concerning Meetings of the Town Board of Finance to Set Mill Rates. The Commission supports this bill which we originally proposed. In keeping with the spirit and intent of the Freedom of Information Act, this bill would require that boards of finance meet in public session to establish local mill rates.