

Legislative History for Connecticut Act

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SB 683      PA 347      1991

House 5346-5347, 7451-7485(37)

Senate 1584-1592, 3042, 3127-3128(12)

Government administration and Elections 230-237,  
238-251, 256-259, 268, 270, 276, 286,  
289, 292-293, 294-302, 310-311 (39)

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1991

VOL. 34  
PART 14  
5070-5460

005346

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House of Representatives

Wednesday, May 15, 1991

DEPUTY SPEAKER POLINSKY:

Representative Pelto.

REP. PELTO: (54th)

Thank you, Madam Speaker. I would move that Calendar 555 be referred to the Committee on Appropriations.

DEPUTY SPEAKER POLINSKY:

Motion is to refer this item to the Committee on Appropriations. Is there objection? Seeing no objection, so ordered.

CLERK:

Calendar 556, Substitute for Senate Bill 683, AN ACT CONCERNING COMPUTER-STORED PUBLIC RECORDS, as amended by Senate "A", "B", and "C". Favorable Report of the Committee on GAE.

REP. PELTO: (54th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Pelto.

REP. PELTO: (54th)

I move that this item be referred to the Committee on Planning and Development.

DEPUTY SPEAKER POLINSKY:

Motion is to refer this item to the Committee on Planning and Development. Is there objection? Seeing

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no objection, so ordered.

CLERK:

Calendar 564, Substitute for House Bill 7351, AN  
ACT CONCERNING POWER AND DUTIES OF CONSERVATION  
OFFICERS. Favorable Report of the Committee on  
Judiciary.

DEPUTY SPEAKER POLINSKY:

Representative Pelto.

REP. PELTO: (54th)

Madam Speaker, I move this item be referred to the  
Committee on Public Safety.

DEPUTY SPEAKER POLINSKY:

Motion is to refer this item to the Committee on  
Public Safety. Is there objection? Seeing no  
objection, so ordered.

CLERK:

Calendar 566, Substitute for House Bill 5081, AN  
ACT CONCERNING PROFITTING. Favorable Report of the  
Committee on Judiciary.

DEPUTY SPEAKER POLINSKY:

Representative Pelto.

REP. PELTO: (54th)

Madam Speaker, I move that this item be referred to  
the Committee on General Law.

DEPUTY SPEAKER POLINSKY:

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Tuesday, May 28, 1991

Committee, his mother, Linda. He's come up to watch the Legislature in process. I think he ought to be in school, but nonetheless I think he'll be served well by being here and would everyone join me in welcoming him. (Applause)

DEPUTY SPEAKER MARKHAM:

Further announcements? Representative Mintz.

REP. MINTZ: (140th)

Thank you, Mr. Speaker, for purposes of an announcement.

DEPUTY SPEAKER MARKHAM:

Proceed, Sir.

REP. MINTZ: (140th)

Judiciary Committee will meet tomorrow ten minutes prior to the convening of the House session in the Hall of the House to take up bills referred to it from the floor. Thank you.

DEPUTY SPEAKER MARKHAM:

Further announcements or points of personal privilege? Further announcements or points? If not, the Clerk please return to the Call of the Calendar.

CLERK:

556 on Page 16, Substitute for Senate Bill 683, AN ACT CONCERNING COMPUTER STORED PUBLIC RECORDS, as amended by Senate Amendments "A", "B" and "C".

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Favorable Report of the Committee on Planning and  
Development.

REP. KINER: (59th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Kiner of the 59th.

REP. KINER: (59th)

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

DEPUTY SPEAKER MARKHAM:

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

REP. KINER: (59th)

Thank you, Mr. Speaker. Mr. Speaker and ladies and  
gentlemen. The very heart and soul of freedom of  
information is its intent to allow for the free and  
open access to all non-exempt data to those who would  
request such data.

It's been said before, and I must echo the comments  
of those who have talked on this bill prior to me,  
perhaps in the Senate and in Committee, we have gone  
beyond the paper age, ladies and gentlemen. We've  
entered the computer age a long time ago.

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What this bill seeks to do is bring us into the computer age by allowing our constituents, our people, to ask for non-exempt data through FOI in any media that is reasonable to be given to these people.

Mr. Speaker, the Clerk has a number of amendments that I would like to call. The first amendment is LCO4996, Senate "A". Would the Clerk please call and may I be given leave to summarize.

DEPUTY SPEAKER MARKHAM:

The Clerk has in his possession amendment, LCO Number 4996 previously designated Senate Amendment Schedule "A". The Clerk please call the amendment.

CLERK:

LCO4996, Senate "A" offered by Senator Herbst.

DEPUTY SPEAKER MARKHAM:

The gentleman has sought leave of the Chamber to summarize. Is there objection? Is there objection? Hearing none, please proceed, Sir.

REP. KINER: (59th)

Mr. Speaker, first of all, I move that we reject, I'm not sure that I made the right motion, I move that we reject Senate "A". What we have before us shortly to be called is LCO6962 which brings into play most of Senate "A", which is again, LCO4996.

That area of Senate "A" that will not be in 6962 is

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that area of the bill that states that an agency, that any request for an appeal from an agency would go to OPM rather than through FOI. It's our belief, Mr. Speaker, ladies and gentlemen, that the Office of Policy and Management is better geared to accept appeals when it deals with computer-stored information and as such, Mr. Speaker, I ask that we reject Senate "A".

DEPUTY SPEAKER MARKHAM:

The motion is on the rejection of Senate Amendment Schedule "A". Will you remark? Will you remark? If not, let's try your minds. Those in favor of rejecting Senate Amendment Schedule "A" please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER MARKHAM:

Opposed, nay. The ayes have it. The amendment is rejected.

REP. KINER: (59th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Kiner.

REP. KINER: (59th)

The Clerk has another amendment, LCO6316 designated

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Senate "B". Would the Clerk please call and may I summarize.

DEPUTY SPEAKER MARKHAM:

The Clerk has in his possession Amendment LCO Number 6316 previously designated Senate Amendment Schedule "B".

CLERK:

LCO6316, Senate "B" offered by Senator Larson et al.

DEPUTY SPEAKER MARKHAM:

The gentlemen has sought leave of the Chamber to summarize. Is there objection? Is there objection? Hearing none, please proceed, Sir.

REP. KINER: (59th)

Mr. Speaker, the basic thrust of Senate "B" is to delay the effective date from October 1, 1991 to July 1, 1992, and there are some other technical changes, but that's the major change in Senate "B", Mr. Speaker.

I move adoption of the amendment.

DEPUTY SPEAKER MARKHAM:

The question is on adoption of Senate Amendment Schedule "B". Will you remark? Will you remark? If not, I shall try your minds. Those in favor of Senate Amendment Schedule "B" please signify by saying aye.

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Aye.

DEPUTY SPEAKER MARKHAM:

Opposed, nay.

REPRESENTATIVES:

Nay.

DEPUTY SPEAKER MARKHAM:

The ayes have it over the nay. The Senate is adopted, the amendment is adopted and ruled technical.

REP. KINER: (59th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Kiner.

REP. KINER: (59th)

Thank you, Mr. Speaker. The Clerk has one more amendment. Maybe this amendment will generate more interest than Senate "B" did. Senate "C" is LCO6131. Would the Clerk please call and read.

DEPUTY SPEAKER MARKHAM:

The Clerk has an amendment, LCO Number 6131 designated Senate Amendment Schedule "C". The Clerk please call and read the amendment.

CLERK:

LCO6131, Senate "C" offered by Senator Herbst.

Strike out lines 24 to 26 inclusive, and insert the following in lieu thereof: Any person if such contract

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or obligation impairs the right of the public under this chapter to inspect or copy the agency's non-exempt.

DEPUTY SPEAKER MARKHAM:

What is your pleasure, Sir?

REP. KINER: (59th)

I move adoption, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

The question is on adoption of Senate Amendment Schedule "C". Will you remark?

REP. KINER: (59th)

Thank you, Mr. Speaker. I believe the amendment is really self-explanatory, but it makes it clear that computer contracts must not impair the public's right to inspect or copy these non-exempt public records.

This, the language is similar to that which is found in the file copy but I believe says it a little bit better, and Mr. Speaker, I move adoption of the amendment.

DEPUTY SPEAKER MARKHAM:

Will you remark further on Senate Amendment Schedule "C". Will you remark further? If not, I shall try your minds. All those in favor of Senate Amendment Schedule "C" please signify by saying aye.

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Aye.

DEPUTY SPEAKER MARKHAM:

Opposed, nay. The ayes have it, weakly. The amendment is adopted and ruled technical.

Will you remark further on this bill as amended?

REP. KINER: (59th)

Mr. Speaker, the Clerk has still another amendment, LCO6962. Would the Clerk please call and may I be given leave to summarize.

DEPUTY SPEAKER MARKHAM:

The Clerk has in his possession an amendment, 6962 designated House Amendment Schedule "A". Will the Clerk please call the amendment.

CLERK:

LCO6962, House "A" offered by Representative Kiner et al.

DEPUTY SPEAKER MARKHAM:

The gentleman has sought leave of the Chamber to summarize. Is there objection? Is there objection? Hearing none, please proceed, Sir.

REP. KINER: (59th)

Mr. Speaker, basically, as I indicated in my opening remarks, House "A", LCO6962 brings us back to Senate "A" with that one change, and Mr. Speaker, I move adoption of the amendment.

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DEPUTY SPEAKER MARKHAM:

The question is on the adoption of House Amendment Schedule "A". Will you remark?

REP. KINER: (59th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Kiner.

REP. KINER: (59th)

Mr. Speaker, this amendment would require agencies to consider whether rather than to insure that new equipment meets FOI needs. I think probably the major heart of this amendment is found in lines 20 to 25. Rather than burdening agencies, and specifically municipalities where we've heard some of the complaints from, rather than mandating that these agencies contact the Office of Information and Technology on everything that they do, on any changes that are made, all this amendment suggests that occur is that after the original design analysis of the computer program has been set forth, at that point in time, Mr. Speaker, the agency has fulfilled its obligation and that there is no longer any need to contact OIT further on any changes unless the design analysis were to change.

The other major change, I believe, is that this amendment brings us back to the file copy in that if

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there are any appeals made concerning an aggrieved party on what that person is charged by the agency for any computer-stored documents, this amendment brings us back to the file copy once more and indicates that the person aggrieved has access through the Office of Policy and Management rather than through FOI.

Again, in my opening comments, Mr. Speaker, I indicated that it was the Committee's impression that the Office of Information and Technology is better able to determine reasonable costs when it deals with computer information rather than an FOIC, and Mr. Speaker, I move adoption of the amendment.

DEPUTY SPEAKER MARKHAM:

The question is on adoption of House Amendment Schedule "A". Will you remark? Representative Flaherty of the 68th.

REP. FLAHERTY: (68th)

Thank you, Mr. Speaker. A question through you, to the Chairman of the Government Administration and Elections Committee, please.

DEPUTY SPEAKER MARKHAM:

Frame your question, Sir.

REP. FLAHERTY: (68th)

Thank you, Mr. Speaker. Representative Kiner, I notice in House "A", it still changes in line 35 to the

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considerate whether as opposed to insure. A little further down in line 42, it talks about that in meeting its obligations, each agency shall consult with the OIT, and I'm wondering, through you, Mr. Speaker, if consult is meant that OIT must have its approval or is that the consulting simply to consider whether, which is the language which you had just changed earlier in House "A".

REP. KINER: (59th)

Through you, Mr. Speaker, for legislative intent is to consider whether.

REP. FLAHERTY: (68th)

Thank you very much, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill as amended?

REP. MEYER: (135th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Meyer.

REP. MEYER: (135th)

A question, through you, Mr. Speaker, to the proponent of the bill. Representative Kiner, many small communities have had more or less customized types of computer systems set up to meet their unique needs.

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Will, you cannot hear me?

DEPUTY SPEAKER MARKHAM:

(Gavel) If the members must engage in conversation, I would kindly request them remove themselves to the Lobby. Representative Meyer.

REP. MEYER: (135th)

Through you, Mr. Speaker, many small municipalities have set up rather customized computer systems in their communities. Will these systems have to be given an okay by any State agency?

REP. KINER: (59th)

Through you, Mr. Speaker, the answer is no. All that the bill, the amended bill seeks to do is to have all agencies that is, State and municipalities, consult with OIT to make sure that their design analysis is correct.

If they choose not to do so, that's certainly their prerogative, but I believe, Mr. Speaker, to protect the agencies involved, what we're hoping to do is to have these agencies contact OIT to make sure that the computers are programmed and the hardware, that the correct hardware is purchased so that the intent of this bill would carry through and that indeed those people seeking access to computer-stored data would be able to receive them.

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REP. MEYER: (135th)

Thank you. A further question.

DEPUTY SPEAKER MARKHAM:

Representative Meyer.

REP. MEYER: (135th)

Through you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Please frame your question.

REP. MEYER: (135th)

Representative Kiner, some of these small systems, perhaps will not be able to produce records in a form that is usable by people with say, an IBM machine. It can be done eventually, but it is a very, very costly process to change the language you might say, into a more usable form.

There is concern in the municipalities that they will perhaps be forced to go to a system that is more compatible. This will cost them money, but if they do not, then they are fearful of being brought up on charges of not making things available at a reasonable cost.

REP. KINER: (59th)

Through you, Mr. Speaker, to allay the lady's fears, I believe as we look on line 15 of the file copy, we see the word reasonably. I think again, for

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legislative intent, Mr. Speaker, given the lady's scenario, if it's beyond the capabilities of the municipality to do what is requested, then I would say that the agency is certainly within its rights to say that they cannot reasonably make such a copy.

At that point, Mr. Speaker, the person who is aggrieved by the agency's refusal would simply, by the amendment we just passed, take this complaint to OPM and at that point, Mr. Speaker, OPM will make a decision.

But I would think the word reasonably is the key word here and again, given the lady's scenario, I have every reason to expect that OPM would side with the town if they again, reasonably could not make such an adjustment.

DEPUTY SPEAKER MARKHAM:

Representative Meyer.

REP. MEYER: (135th)

Thank you very much. It is helpful. However, it does seem as if this might open up some of our smaller towns to a great deal more litigation than they might have now under this bill in the sense that they would then have to defend themselves as to why they had not been allowed to go forward.

I'm also wondering if by pushing for greater

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conformity, and I certainly can understand the need for this, that we are not almost saying that the State is going to force all of its agencies, perhaps to use a similar system or at least systems that are compatible and I wonder whether this is any infringement on the competitiveness that we have in this industry, currently.

REP. KINER: (59th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Kiner.

REP. KINER: (59th)

Also, in response to the lady's question, I was remiss in not stating as we look at lines 71 through lines 90, I guess it is. Most of these costs would indeed be passed on to the person requesting such information.

A good example is sub 2, where the agency can charge an amount equal to the cost to the agency of engaging an outside professional electronic copying service to provide such services, so that again, Mr. Speaker, the agency would simply say that our computers simply don't have the capabilities of doing what you're asking for under the law, under the bill, under the file copy. We reasonably cannot make this. However, we

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can send it out for you but it will cost you X number of dollars and then it's up to the particular individual to make that determination as to whether or not they want to spend the money.

So I wouldn't be fearful of litigation, nor would I be fearful, Mr. Speaker, through you, of any costs that the agencies or their towns would incur, because I believe it is covered in what I've indicated to the lady.

REP. MEYER: (135th)

Thank you.

DEPUTY SPEAKER MARKHAM:

Representative Meyer.

REP. MEYER: (135th)

With the assurances of the Chairman of the Committee, some of the concerns that I have, I do feel that we should go ahead and will support the bill. Thank you.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the amendment?  
Representative Langlois of the 51st.

REP. LANGLOIS: (51st)

Yes, thank you, Mr. Speaker. Just to respond a little bit to the questions raised by Representative Meyer. The way I read this bill in lines 11 and

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thereafter, is that non-exempt data contained in public records is what is subject to disclosure under this.

I do not read, and if I'm wrong, I would ask the Chairman of the GAE to point it out to me, but I do not read that people can ask for the data to be formatted in any particular way or in any particular language. That may be, in fact, something that we want to do before this bill takes effect. If there's some reasonable formatting or some reasonable middle ground on that issue.

What the bill does, however, is it allows people to specify what medium that such a copy will be made on and there are a number of conversion houses which offer that service and that will be passed along to the person requesting a copy.

My own feeling is that yet may be a little bit too broad, but I think the overall importance of this bill in that we're opening up the data banks of government to people on a form that is usable by a great number of people or it can be converted to a usable form, I think, is a major step in public access to records.

However, I do have two other issues with the bill and they're addressed in an amendment. And I would ask that the Clerk call LCO6950 and may I be allowed to summarize.

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DEPUTY SPEAKER MARKHAM:

Representative Langlois, we're still on the pendency of House Amendment Schedule "A".

REP. LANGLOIS: (51st)

I'm very sorry. I will naturally withdraw that request to call and amendment.

DEPUTY SPEAKER MARKHAM:

Naturally, Sir. Is there anyone who wishes to comment further on House Amendment Schedule "A".

Representative Gill of the 142nd.

REP. GILL: (142nd)

Thank you, Mr. Speaker. I would like to ask a question of the Chairman of the GAE Committee. In line 90 and 91 we are striking number 5, any cost which can be approved by the agency. Why was that done?

Through you, Mr. Speaker.

REP. KINER: (59th)

Through you, Mr. Speaker, in consultation with the director of OIT, Mr. Colarusso, he was of the impression that all areas were covered in 1 through 4, there could be no other expenses that could possibly be incurred.

Originally, I've got to be honest with the lady, number 5 was my idea. I had asked that to be put into the file copy. It was not in the original file copy.

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After consultation with OIT, we have since learned again, Mr. Speaker, through you, that 1 through 4 of the file copy covers any conceivable expense that could be incurred by an agency and charged to the person making the request.

REP. GILL: (142nd)

Thank you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Will you remark further on House Amendment Schedule "A". Will you remark further? If not, I shall try your minds. Those in favor of House Amendment Schedule "A" please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER MARKHAM:

Opposed, nay. The ayes have it. The amendment is adopted and ruled technical.

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House Amendment Schedule "A".

In line 35, strike out "ENSURE THAT" and insert "CONSIDER WHETHER" in lieu thereof

In line 45, after the period, insert the following:  
"NOTHING IN THIS SUBSECTION SHALL REQUIRE AN AGENCY TO CONSULT WITH SAID OFFICE PRIOR TO ACQUIRING A SYSTEM, EQUIPMENT OR SOFTWARE OR MODIFYING SOFTWARE, IF SUCH ACQUISITION OR MODIFICATION IS CONSISTENT WITH A DESIGN ANALYSIS FOR WHICH SUCH AGENCY HAS PREVIOUSLY CONSULTED WITH SAID OFFICE."

In line 48, after "ACCESS" insert "TO"

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In line 71, after "INCLUDE" and before the colon, insert "ONLY"

In line 86, after the semicolon and before "(4)", insert "AND"

In line 90, strike out "; AND" and insert a period in lieu thereof

Strike out line 91 in its entirety

In line 92, strike out "AGENCY."

In line 101, strike out "BETWEEN" and insert "AMONG" in lieu thereof

In line 142, after "commission" insert "."

In line 143, after "TECHNOLOGY" insert the following "WITH RESPECT TO ACCESS TO AND DISCLOSURE OF COMPUTER-STORED PUBLIC RECORDS."

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DEPUTY SPEAKER MARKHAM:

Now, Representative Rapo -- Representative Langlois.

REP. LANGLOIS: (51st)

Thank you, Mr. Speaker, I don't know how you could confuse us. Wait, let me try again. The Clerk has an amendment, LCO6950 and would the Clerk please call it and may I be allowed to summarize.

DEPUTY SPEAKER MARKHAM:

Sir, I thought you had a novel approach to dealing with the rest of the Calendar, combine everything at once. The Clerk does have an amendment, LCO6950

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designated House Amendment Schedule "A". Will the Clerk please call the amendment.

CLERK:

LCO6950, House "B", offered by Representative Langlois of the 51st District.

DEPUTY SPEAKER MARKHAM:

House "B", yes, Representative Langlois. Is there objection to the gentleman summarizing the amendment. Hearing none, please proceed.

REP. LANGLOIS: (51st)

Okay, essentially, this amendment handles two issues. One is that it would require the Office of Information and Technology to adopt written guidelines to assist municipal agencies in carrying out the purposes of that subsection and secondly, it would exempt software modifications that do not impinge on the public's right to gain access to public records and I would move adoption.

DEPUTY SPEAKER MARKHAM:

The question is on adoption of House "B". Will you remark?

REP. LANGLOIS: (51st)

Yes, Mr. Speaker, thank you. I would note that written guidelines are exactly what they're intended to be, written guidelines.

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I would specifically note and it is my intent not to require compliance with those guidelines. There is an amendment which has been drawn which would require compliance and I am specifically not calling that amendment because I believe that these should be guidelines and we should operate that way until there is, you know, until there is some evidence that we have to tighten it down, but I think municipalities are making reasonably good decisions in the data processing areas and I hope that they will see the intent of the Legislature to open up their regulations and that they will cooperate with that.

And secondly, this removes any requirement of a consultation regarding software modifications. A software modification is a single machine instruction. There are many software modifications made on a daily basis by municipal employees. There are many software modifications that are acquired by municipalities through consultants and many of these just fix small bugs in the system, whether it be making a system page number right, or whether a column isn't adding right or a number of different things.

And to ask that the municipality go and essentially check in with OIT on every single modification, I don't think it's the intent of this nor do I believe it to be

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good public policy, so I would ask my colleagues to support this amendment.

DEPUTY SPEAKER MARKHAM:

Will you remark further on House "B".

Representative Farr of the 19th.

REP. FARR: (19th)

I yield to Representative Kiner.

DEPUTY SPEAKER MARKHAM:

Representative Kiner, of the 59th.

REP. KINER: (59th)

Thank you, Mr. Speaker. Thank you, Representative Farr. Just one question to Representative Langlois. Representative Langlois, you're deleting from the file copy, the mandate that municipalities have to consult with OIT prior to acquiring this computer system.

For legislative intent, I want to be sure that municipalities still have the ability, if they so desire, to contact OIT if there's a question. Through you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Langlois.

REP. LANGLOIS: (51st)

Through you, Mr. Speaker, perhaps answering a question with a request for a clarification. I don't see in the amendment where it deletes the consultation

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except in the case of a software modification. Is that to which you refer?

REP. KINER: (59th)

Through you, Mr. Speaker, the language of the file copy says that all agencies, both State and municipal, shall consult with OIT. The gentleman's amendment removes that mandate that municipalities have to consult with OIT.

All that I'm asking the gentleman, through you, Mr. Speaker, is for legislative intent. This will hopefully not preclude the ability of the municipalities to phone OIT to consult with OIT if they so desire. Through you, Mr. Speaker.

REP. LANGLOIS: (51st)

Through you, Mr. Speaker, in line 42, a change is made which establishes that each public agency shall consult and then we're adding a new sentence which removes the requirement to consult in the case of a software modification.

In the case of a substantial software modification which perhaps there was a question in terms of whether or not it impinged on the right of the public under this chapter to receive information, I would think that certainly in that case that a consultation would be in order.

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REP. KINER: (59th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Kiner.

REP. KINER: (59th)

The original intent of the file copy that's being amended now by Representative Langlois' amendment I felt was to protect the towns. That if someone litigates against a town with the feeling that they were denied access to computer-stored documents, the file copy makes it very clear, in effect, that the burden is upon OIT. OIT would have given municipalities the correct direction to go.

I think Representative Langlois' amendment talking about the guidelines that must be given to municipalities goes part of the way toward alleviating that potential problem of litigation.

I believe in answer to my question, Representative Langlois did state at the end of his remarks, that there is nothing indeed in the file or the amendment that would preclude a municipality from consulting with OIT if they so desire and if I understand Representative Langlois' answer correctly, then I would say that this amendment in effect complements the LCO6962 and I would ask my colleagues to accept this

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amendment.

DEPUTY SPEAKER MARKHAM:

Will you remark further on House Amendment Schedule "B"? Will you remark further? If not, I shall try your minds. Those in favor of House Amendment Schedule "B" please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER MARKHAM:

Opposed, nay. The ayes have it. The amendment is adopted and ruled technical.

\*\*\*\*\*

House Amendment Schedule "A".

In line 42, after "EACH", INSERT "STATE PUBLIC"

In line 45, after the period, insert the following:  
"THE OFFICE OF INFORMATION AND TECHNOLOGY SHALL ADOPT WRITTEN GUIDELINES TO ASSIST MUNICIPAL AGENCIES IN CARRYING OUT THE PURPOSES OF THIS SUBSECTION."

In line 49, after the period, insert the following:  
"THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO SOFTWARE MODIFICATIONS WHICH WOULD NOT AFFECT THE RIGHTS OF THE PUBLIC UNDER THIS CHAPTER."

\*\*\*\*\*

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill as amended?

REP. YOUNG: (143rd)

Mr. Speaker.

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DEPUTY SPEAKER MARKHAM:

Representative Young.

REP. YOUNG: (143rd)

Through you, for either Representative Kiner or Representative Langlois. It was referred to earlier in some questions by Representative Meyer that some towns had less than the most well designed computer systems for providing information. They're either hand designed or hand programmed, or what have you and as a result, it may be that they have computer tapes or disks or storage devices, whatever, that combine both exempt and non-exempt information.

So, under the situation where they were asked to provide information, would they have the right to simply edit the disk and produce printouts of the non-exempt information that they're supposed to give. Through you?

REP. KINER: (59th)

Through you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Kiner.

REP. KINER: (59th)

Through you, Mr. Speaker, if the person requesting the information were to be satisfied with a computer printout then the answer is yes.

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However, as the gentleman knows, this bill goes beyond the paper chase if you will and if the person is not satisfied with the computer printout but requests information in other media, whether it be a disk or tape, whatever, if the agency can reasonably delineate, separate, if you will, the exempt from the non-exempt, then that disk or whatever media that the person's requesting the information in, is to be given to that person.

If the agency cannot comply because the agency does not have the computer hardware, the computer capabilities of doing that, the agency does have the ability to contract this information out and charge the person for it.

If again, it is unreasonable or if there's something else within the law that pre-empts the agency from doing that, then again we go back to line 15 of the bill and simply stated, Mr. Speaker, the key word is reasonable. If it's done reasonable, then the answer is no, the person would not obtain that information.

Let me give you another example of reasonableness. I'm not sure this will answer the Representative's question, but as an example, if perhaps somebody is asking for computer-stored information during tax time

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and the tax bills are going out and perhaps there's only one or two people working within the agency, it would seem to me, Mr. Speaker and ladies and gentlemen, it would be unreasonable at that point in time to get this information out in that particular format if these people are busy with something else.

The key word again is reasonable and, Mr. Speaker, with that, I hope I've answered the gentleman's question.

REP. YOUNG: (143rd)

Okay. I think, through you, again, Mr. Speaker, then I gather that the reproducing agency or whatever you want to call it, would then be responsible for editing out the non-exempt portions of the tape and the charge for having them do that would have to be reasonable.

REP. KINER: (59th)

Through you, Mr. Speaker, that is indeed correct. The file copy indeed delineates four categories by which the agency can charge a reasonable fee and again, if the person is aggrieved as is true in current law, the person does have the ability to appeal to a higher body.

REP. YOUNG: (143rd)

Thank you, Mr. Speaker.

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DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill as amended.  
Representative Arthur of the 42nd.

REP. ARTHUR: (42nd)

Yes, Mr. Speaker. I have several questions,  
through you, please.

DEPUTY SPEAKER MARKHAM:

Please frame your question, Sir.

REP. ARTHUR: (42nd)

Representative Kiner, this talks about public  
agencies and it seems like most of the information or  
questions, is focused on municipal government, but this  
in fact includes all State agencies. Is that not  
correct?

REP. KINER: (59th)

Through you, Mr. Speaker, the gentleman is correct.

REP. ARTHUR: (42nd)

Does it also include the Judicial Department and  
their records? Through you, Mr. Speaker.

REP. KINER: (59th)

Through you, Mr. Speaker, I believe just that data  
that is considered non-exempt, non-exempt, that's  
right. There is certain data in our statutes that  
delineate what areas of the Judiciary are exempt and  
what is not exempt. Just those that are not exempt

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will be allowed to be passed on to the public. Through you, Mr. Speaker.

REP. ARTHUR: (42nd)

A further question, through you, Mr. Speaker. Questions concerning budgetary matters and expenditures by an agency on a monthly basis or a weekly basis. Can I ask that that be made available to me from the Department of Administrative Services or the Department of Higher Education or UConn? Through you, Mr. Speaker.

REP. KINER: (59th)

Through you, Mr. Speaker, I believe those, that's not exempt data and is open to the public. And if my impression is correct, and I believe, indeed, that it is, then the gentleman's question, then the answer is in the affirmative. That information rather than current law, which allows someone to obtain the information in a written printout, can now receive the information on a computer disk.

REP. ARTHUR: (42nd)

So, through you, a further question to Representative Kiner. One of the problems we, the legislative branch has, is getting budgetary information from all the different agencies. Can we now say that they all have to provide this whenever we

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request it on a monthly basis? Through you, Mr. Speaker.

REP. KINER: (59th)

Through you, Mr. Speaker, if it's reasonable. I know I've contacted OFA on a number of occasions. Ninety percent of the time, perhaps more than that, OFA has complied with my questions. There are times, especially during these budgetary times, when it's very difficult for OFA to respond and as such, they've apologized and say you've got to wait, Representative Kiner, because we're dealing with the Finance and Appropriations Committees.

Again, Mr. Speaker, through you to Representative Arthur, I refer the gentleman back to line 15. I think it's unreasonable to ask some of these agencies for information at certain times of the year when it's totally beyond the realm of comprehension that these agencies can do this stuff. Assuming that they can, assuming that it's reasonable, then the answer to the gentleman's question is yes.

REP. ARTHUR: (42nd)

Thank you, Mr. Speaker, I look forward to getting that information when we're not even in session and not in a budgetary crunch.

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Will you remark further on the bill as amended?

Representative Zajac of the 83rd.

REP. ZAJAC: (83rd)

Yes, Mr. Speaker, I can readily appreciate why we're having so much difficulty on the floor with this bill and so many amendments. I had difficulty in Committee, as did many of us and the Committee vote was not unanimous coming out of Committee.

And I still have problems with this. I think, you know, if what we really wanted to achieve was to say, if you wanted to achieve a piece of information through the Freedom of Information Act, then any agency that had that be it State or city, regardless of the type of computers or software, whatever you may have, whatever languages you use, whatever hardware you have, whatever it is, if it's on this type of diskette or that, or whatever, and we're searching for part of the diskette, a piece of information, you must, you must give this, make it attainable, either in hard copy or reproduce that portion of the diskette on another tape.

That would be too simple, though. So we have a bill here that indeed, mandates and so often we have talked about here, we will never mandate another thing on the municipalities. This mandates in line 42, it says, shall, it says each agency including municipal

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agencies, shall consult with the office of OIT.

You read on page 7 of the OL report on the thing and the explanation it says must. Shall and must is obligatory. This is a certain mandate. It says to meet these two obligations and as part of the design analysis that proceeds the acquisition of the new system, equipment or software, the agency, meaning the municipality, 169 agencies, municipalities, who we have just previously mandated they must confer, here is must now consult with OIT before it makes the acquisition.

We have now just declared that OIT is in fact, the super power thieftom agency that will be the purchasing agent for all our 169 municipalities. That's how at least I read the bill, Mr. Speaker.

And I won't belabor it and go forward with it because I think it's fraught with problems. I think you'll hear more from your municipalities when they digest this, but I'm hopeful that by the time this reaches the Senate with all its amendments, perhaps it will find a better fate. Thank you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

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

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CLERK:

The House of Representatives is voting by roll.  
The House of Representatives is voting by roll call.  
Members to the Chamber. Members to the Chamber,  
please. The House is voting by roll.

DEPUTY SPEAKER MARKHAM:

Have all members voted? Have all members voted?  
Please check the roll call machine to see that your  
vote is properly cast. The machine will be locked.  
The Clerk please take a tally.

The Clerk please announce the tally.

CLERK:

Senate Bill 683 as amended by Senate Amendments  
"B" and "C" and House Amendments "A" and "B".

Total number voting	145
Necessary for passage	73
Those voting yea	120
Those voting nay	21
Those absent and not voting	6

DEPUTY SPEAKER MARKHAM:

The bill as amended is passed. Are there any  
announcements or points of personal privilege?  
Representative Marotta of the 5th.

REP. MAROTTA: (5th)

Thank you, Mr. Speaker. For purposes of an

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in attorney's fees in action brought against employers who act against them in ways that are prohibited in existing law and it also updates our statutes.

THE CHAIR:

Thank you very much, Senator. Would anybody else wish to comment or remark on this bill? Any other remarks on this bill, Senate Calendar 136, Substitute SB64? Any further remarks? Senator Avallone.

SENATOR AVALLONE:

I would move it to Consent.

THE CHAIR:

Is there any objection in placing Senate Calendar 136, Substitute SB 64 on the Consent Calendar? Any objection? Hearing none, so ordered. Mr. Clerk.

THE CLERK:

Calendar Page 8, Calendar 237, File 395, Substitute SB683, AN ACT CONCERNING COMPUTER-STORED PUBLIC RECORDS. Favorable Report of the Committee on GOVERNMENT ADMINISTRATION AND ELECTIONS. The Clerk is in possession of four amendments.

THE CHAIR:

Thank you very much, Mr. Clerk. The Chair recognizes Senator Herbst.

SENATOR HERBST:

Thank you, Madam President. I move the Joint

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Favorable Committee's report and acceptance of the bill.

THE CHAIR:

Thank you very much, Senator. Mr. Clerk.

SENATOR HERBST:

I believe there are some amendments. I will give you the order. I would like to have LCO4996 first please.

THE CLERK:

LCO4996 designated Senate Amendment Schedule "A"  
offered by Senator Herbst of the 35th District.

THE CHAIR:

Senator Herbst.

SENATOR HERBST:

Thank you. I would like to waive the reading and summarize, please?

THE CHAIR:

Please proceed, Senator.

SENATOR HERBST:

This amendment strikes out some language that needed to be clarified, insure that whether in Lines 35, etc. The main portion of this bill is to strike out that portion of the bill that deals with the Office of Information Technology assuming the responsibility of accepting grievances against or complaints against

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fees that have been charged. We withdrew that section to give it to the Freedom of Information Commission because they are already in charge of that for the paper complaints that are made by people who feel as if they have been charged too many fees for the paper they receive or the public records that they receive from the various public agencies.

THE CHAIR:

Would anyone else wish to remark on LCO4996? Any further remarks? Any further comments or remarks on LCO4996? If not, would you please let me know your mind. All those in favor of the amendment, please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The ayes have it. The amendment is adopted.

SENATOR HERBST:

I would like to call LCO6316 next, please.

THE CLERK:

LCO6316 designated Senate Amendment Schedule "B"  
offered by Senator Herbst of the 35th District.

SENATOR HERBST:

This amendment is to reschedule the time for

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implementation and for the plan of implementation to be presented to the General Assembly. We have struck out the dates of October and July 1 of 1991 and inserted July 1 of 1992 and struck out the dates of July 1 of 1991...January 1, 1992 to January 1, 1993. Basically what this does is says that the plan for implementation must be presented in January of 92 and the plan itself will be implemented beginning July 1 of 1992 and the reason for that is to make sure that the plan has its parameters and duties and responsibilities clearly defined before implementation.

THE CHAIR:

Thank you very much, Senator. Would you care to move the adoption of LCO6316?

SENATOR HERBST:

Yes.

THE CHAIR:

Thank you. Would anyone else wish to remark on the amendment, LCO6316? Any further remarks? If not, would you please let me know your mind. All those in favor of the amendment please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The ayes have it, the amendment is

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adopted.

SENATOR HERBST:

Thank you. And then LCO...

THE CLERK:

LC06131 designated Senate Amendment Schedule "C"  
offered by Senator Herbst of the 35th District.

THE CHAIR:

Senator Herbst.

SENATOR HERBST:

Yes. If you will look at lines 24 to 26 there was a question as to whether or not it was clearly stated as to exactly what we meant by the word impair and we have included in those wordings, any person in such contract or obligation impairs the right of the public under this chapter to inspect or copy the agency's non-exempt. I think it is a little clearer than just the word impair itself and that is reason for putting in the additional language.

THE CHAIR:

And do you move passage of this amendment?

SENATOR HERBST:

Yes, I do.

THE CHAIR:

Thank you. Would anyone else wish to remark on LC06131? Any further comments or remarks? If not,

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please let me know your mind on amendment LCO6131? All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The ayes have it. The amendment is adopted.

THE CLERK:

No further amendments.

THE CHAIR:

Senator Herbst we recognize you now for the purposes of discussing SB683 as amended.

SENATOR HERBST:

Thank you, Madam President. This bill is going to be basically if passed a landmark piece of legislation. We are presently moving from the age of paper to the age of communication revolution where computers and technology are taking over our lifestyle. This bill does not call for any procedures that are more expensive. There are recovery of costs by public agencies for the information that is requested and this provides for a very open and efficient government.

It does not in any way attempt to redefine non-exempt or exempt information that is already defined in other parts of our statute. What the bill

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intends to do and hopefully upon its implementation July 1, 1992 is to allow the public to now have access to non-exempt information in the form of a disc or tape or printout. This is not been the case in some of the issues that have been presented in GAE. It also has in the bill a section that deals with training sessions for public agencies to be held by the Office of Information Technology and the Freedom of Information in order to explain the need for public agencies to check in with the Office of Information Technology and the FOI to make sure that the computers that they are buying, the hardware and software are of such a nature that you can separate the non-exempt from the exempt information.

This is also an attempt to get more interfacing between public agencies in terms of the exchanging of information such as we will be heading for in the future, information that deals with the automated fingerprint system, information that deals with the present studies that are going to be conducted by the Secretary of State that deals with the centralized computerized voter registration list.

We presently have agencies in our government who have set up databases to help the public know about various issues and information but at the present time

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there is sometimes no procedure available that is inexpensive enough or in any way available enough to provide the data to the public. We are trying to avoid conditions of this kind. Also, it has been noted that there are some public agencies that have bought computers and have put their non-exempt and exempt information together and now are unable to get non-exempt away from the exempt material and are running into problems when people are requesting information from that particular agency.

I urge the Senate to unanimously support this bill. First, not only because it is landmark legislation, but because I believe that this is probably one of the few bills this year that really speaks to open and efficient government.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to comment on Substitute SB683 as amended? Any further remarks or comments? If not, Senator Herbst.

SENATOR HERBST:

Madam Chairman, I would like a roll call vote, please.

THE CHAIR:

Mr. Clerk, would you please make the necessary announcement for a roll call vote?

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THE CLERK:

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber.

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber.

THE CHAIR:

Thank you very much, Mr. Clerk. The issue before the Calendar is Calendar 237, Substitute SB683 as amended. The machine is open. You may record your vote. Senator Freedman and Senator Nickerson, do you wish to vote? Thank you very much. Have all Senators voted that wish to vote? The machine is closed.

The result of the vote.

34 Yea

0 Nay

2 Absent

The bill is passed.

Mr. Clerk.

THE CLERK:

Calendar 258, File 306, Substitute HB5280, AN ACT CONCERNING THE ACCEPTANCE OF HIGHWAYS BY MUNICIPALITIES AND THE REPAIR OF PRIVATE DRIVEWAY BY LOCAL OFFICIALS. Favorable Report of the Committee on TRANSPORTATION. The Clerk is in possession of three amendments.

THE CHAIR:

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THE CHAIR:

Is there any objection in placing Senate Calendar #200, SB632 and Senate Calendar #237, Substitute SB683 on the Consent Calendar? Is there objection to either or both of those items being placed on the Consent Calendar? Hearing none, it is so ordered.

SENATOR O'LEARY:

Calendar #239 is marked Go, #291 is Go.

On Page 2, two items to the Consent Calendar, Calendar #306, Substitute SB860, Calendar #350, Substitute SB917, I move to the Consent Calendar.

THE CHAIR:

Is there any objection in placing Senate Calendar #306, Substitute SB860 and Calendar #350, Substitute SB917 on the Consent Calendar? Is there any objection to either or both of those items being placed on the Consent Calendar? Hearing none, it is so ordered.

SENATOR O'LEARY:

On Page 23, under the Petition Item, Calendar #560 is marked Go.

In the Foot of the Calendar, last Page 25, I move that we take Calendar #178 off the Foot and mark it Go.

THE CHAIR:

Is there any objection in removing Calendar #178, Substitute SB592 from the Foot of the Calendar and

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Thank you very much, Mr. Clerk. Mr. Clerk, would you be good enough to read the items that have been placed on Consent Calendar #1.

THE CLERK:

Madam President, the first Consent Calendar begins on Calendar Page 1, Calendar 588, HJ131. Calendar Page 2, Calendar 589, HJ132. Calendar 56, Substitute HB5497. Calendar Page 6, Calendar 551, Substitute HB5600. Calendar Page 7, Calendar 572, Substitute HB7192.

Calendar 573, Substitute HB6825. Calendar 575, Substitute HB6097. Calendar Page 8, Calendar 576, Substitute HB7101. Calendar 577, Substitute HB5379. Calendar 579, Substitute 5479. Calendar Page 12, Calendar 603, Substitute HB7377.

Calendar Page 15, Calendar 617, Substitute HB7184. Calendar Page 17, Calendar 443, Substitute SB964. Calendar Page 18, Calendar 444, Substitute SB856. Calendar Page 19, Calendar 488, Substitute HB7341. Calendar Page 20, Calendar 95, Substitute SB633. Calendar 160, Substitute SB792.

Calendar Page 21, Calendar 200, SB632. Calendar 267, Substitute SB683. Calendar...correction, that was Calendar 237, Substitute SB863. SB683. It must be after eight. Calendar 239, Substitute SB347. Calendar

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291, Substitute HB6877.

Calendar Page 22, Calendar 306, Substitute SB860.  
Calendar 350, Substitute SB917. Calendar Page 23,  
Calendar 560, Substitute SB892. Madam President, that  
completes the first Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk, you did a fine job. You have  
heard the items that have been placed on Consent  
Calendar #1 for the date, June 3, 1991. The machine is  
open. You may record your vote. Thank you very much.  
The machine is closed.

The result of the vote.

36	Yea
0	Nay
0	Absent

The Consent Calendar is adopted.

And just for the record, Senate Calendar 239,  
Substitute SB347 now has been passed, now constitutes a  
Committee on Conference.

THE CLERK:

Madam President, returning to the Calendar,  
Calendar Page 2, Calendar 75, File 57, Substitute  
HB5570, AN ACT CONCERNING ADMINISTRATIVE PROCEDURES OF  
THE DEPARTMENT OF PUBLIC UTILITY CONTROL AND THE  
STATUTORY DEFINITIONS OF ELECTRIC COMPANY, GAS COMPANY

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sr GOVERNMENT ADMINISTRATION  
AND ELECTIONS

March 1, 1991  
12:30 p.m.

PRESIDING CHAIRMEN: Senator Meotti  
Representative Kiner

COMMITTEE MEMBERS PRESENT:

SENATORS: DeLuca

REPRESENTATIVES: Avitabile, Lesco, Fahrbach,  
Gill, Godfrey, Knowles,  
LeBeau, Marotta, Osler,  
Moynihan, Rapoport, Zajac,  
Schlesinger

REPRESENTATIVE KINER: I would like to call the  
Committee to order. We have a number of Bill today  
on the agenda that all relate to freedom of  
information and privacy. By our rules the first  
hour of the public hearing will be for legislators  
and agency heads followed by the public. The first  
person to testify is our Attorney General Richard  
Blumenthal. Attorney General it's a pleasure to see  
you again.

ATTY. GEN. RICHARD BLUMENTHAL: Nice to see you. Thank  
you, Mr. Chairman. Mr. Chairman and members of the  
Committee, I'm here in support of a bill that is  
important not only in my office, but the entire  
government of the state of Connecticut and the  
people of the state of Connecticut. It is SB683,  
AN ACT CONCERNING COMPUTER STORED PUBLIC RECORDS.  
And it's goal is to make our freedom of information  
law more compatible with modern computer  
technology.

In 1975, as you know, the General Assembly had the  
forethought and wisdom to pass one of the strongest  
freedom of information laws in the entire nation  
and to create the only independent freedom of  
information commission to enforce that law. In  
those days, much of the state's business was  
conducted by typewriter and files. Indeed our  
office, the Attorney General's office, didn't  
acquire and office-wide computer system until 1985.

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G.A.E.

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We've come a long way. Most documents, lists and records are now kept on computers. And access to public information on computers, in my view, should be as easy as information, access to information, in our file cabinets. Yet, in practice, that's not always the case.

We've struggled for several years to make the Freedom of Information Act work in this computer age. In 1984, the Connecticut state Supreme Court held that the Commission has authority to order an agency to supply information on computer tape. With the proliferation of personal computers, more people are requesting public information on computer disks and this form of information is more useful to the requester than reams of printouts.

As a practical matter, if the public information must be manually separated from confidential information, the cost to the public may be so prohibitive that the information is not really open to the public. In most instances, the public agency finds disclosure on a computer disk to be cheaper and easier, but in many situations, such as personnel records, the information on the computer is a mix of public and confidential information which is very, very difficult to unscramble.

And that's why the goal of SB683, is so laudable. We must be more sensitive to storing information on computer in a manner that facilitates public access to that information. This bill is a balanced approach to attaining this goal. It contemplates that the Commission will provide technological assistance to a state agency to ensure that the agencies are aware of what information should be open to the public and the best software and computer systems that will make that information easily available.

As a result, the legislation should lower the cost of public access to information for both the public and the agency. The bill, however, imposes no obligation on the state agency to absolutely or rigidly follow the advise of the Commission. There are other factors that, no doubt, the agency should consider. The Commission's role is an advisory one and thus the bill strikes a very balanced approach, taking into account of the costs and

difficulties of making this information and storing it on computers. And provides for the information to be more accessible to the public. Thank you.

REP. KINER: Thank you, Dick. Are there any questions from the members of the Committee? Seeing none, thank you, Dick.

ATTY. GEN. RICHARD BLUMENTHAL: Thank you very much.

REP. KINER: Dan Colarusso.

DAN COLARUSSO: Good afternoon, Mr. Chairman, representatives of the Committee. My name is Daniel Colarusso. I am the Executive Director of the Office of Information and Technology for the state of Connecticut. I am here on behalf of the Office of Policy and Management to testify on SB683, AN ACT CONCERNING COMPUTER STORED PUBLIC RECORDS.

Ensuring appropriate access to computer stored data from parties inside and outside of government is an important objective and one which we support. However, implementation needs careful thought if access is to be feasible and meaningful. There are inevitable implementation issues when imposing a broad mandate, such as proposed in this bill. Agencies face very different situations in terms of the data they collect and the confidentiality requirements on that data. They will need to interpret the provisions of the act very carefully in the context of these facts.

Agency hardware and software is at different stages of development and therefore the cost of implementing these requirements can be very significant. A number of agency personnel have expressed concerns in this regard and are reflected herein. In addition, we recommend the following technical changes to the bill. In Section 1-A, we feel that it should specify that all requests for data, for such data, must be specified in a nature to avoid requests that could unnecessarily burden the agencies.

In Section 1-B, as currently drafted, the bill will obligate the state to produce information on any media no matter what the cost if the requestor

deems that cost reasonable. We should bear in mind that the law could be used by very large companies whose perception of what is reasonable could be well beyond a state agency's resources. In addition, there have been many computer mediums which the state does not currently have in its technology profile.

Accordingly, the bill should ensure that the medium type is technically feasible and is currently supported by the agency or as specified as an OIT standard. In such cases that non-standard medium requests are necessary they can be made available to the requestor at the full recovery cost to the state. Section 1-C, requiring each agency to consult with the Freedom of Information Commission as part of the agency's design analysis prior to requiring such computer system equipment or software, it is a duplication of responsibility as defined in Public Act 89257, in the creation of the Office of Information and Technology.

And, therefore, could impose an unworkable requirement on agencies. We recommend that the Freedom of Information Commission not perform the technological review, but that this be done by OIT as part of their statutory authority and current practice that FOI requirements be included as part of the technologic acquisition process.

In this Section we also suggest that reference to the review at the design and analysis stage is inappropriate and should read, "planning stage". The design and analysis stages of a project development occur after the budget approval cycle. Providing for FOI confidentiality, security and access issues may incur an additional expense which should be considered in the planning stage prior to the budget submission.

This terminology is consistent with the OIT planning, development and acquisition guidelines. Under Section 2-B, while the cost criteria as defined in the current language are not unreasonable, they are subject to individual interpretation and, therefore, there is a need to ensure that there is consistency between agencies. Provisions need to be made in this bill to permit

the Office of Information and Technology to ensure cost determinations are reasonable and consistent across all agencies.

There are some other areas that are not covered that should be considered. The bill should specify more clearly that the agency has the responsibility to make the critical determination of what is exempt and what is not as the agency has the working knowledge of it's obligations for confidentiality and privacy. The bill should specify that the data should not be obtainable under FOI for commercial purposes, unless the charge for the data is equivalent to it's commercial value. A pricing structure for commercially used data should be set in accordance with the Office of Information and Technology and the Office of Policy and Management through a developed regulation.

The bill should include language for an audit function in OPM to ensure that the requested data is not being used for commercial purposes, unless defined as such. Consideration also needs to be given in this bill as how best to ensure that the state has not violated any proprietary agreement as it pertains to the release of stored data. We recommend that the proprietary and commercial agreements for information access be negotiated through the Office of Information and Technology.

In conclusion, the issues as addressed by this bill are timely in nature but require careful deliberation. This Office stands ready to assist the Committee and the Freedom of Information Commission in achieving this timely objective in a prudent and sound manner that will meet our obligations as the custodians of public data and our responsibility to the individuals rights to confidentiality and privacy.

REP. KINER: Thank you, Mr. Colarusso. Does any member of the Committee have any questions for Mr. Colarusso? If not, thank you, sir. I'd like to ask of those people who will be testifying shortly that if you have a prepared statement, that is before the Committee at this point, if perhaps you could simply summarize your remarks since we

already have a prepared statement and certainly can then read it. Sheila Murphy, followed by Richard Akeroyd.

SHEILA MURPHY: Mr. Chairman, members of the Committee, my name is Sheila Murphy. I am legislative and regulations specialist with the Commission on Hospitals and Health Care. First, let me state that the Commission on Hospitals and Health Care completely supports the purposes of this bill. It is very important to secure free access to automated information for the public. However, we are testifying before you today because there are sections of SB683 which we feel will interfere with the eternal operation of our agency.

We cannot support oversight by the Freedom of Information Commission on computer hardware and software as set out in Section 1-C. We believe the review of computer systems and software should be left to a technical agency, with expertise in the design and development of information processing systems. This Section could create serious conflicts between developing the type of system which would be to the agency's best advantage in carrying out it's primary mission and the Freedom of Information Commission's primary mission of getting information to the public.

We also oppose Section 2-C, which explicit details which costs can be included in determining the cost of a Freedom of Information request. We feel that the details set forth in the bill ignores many charges which, in many cases, are valid expenses in the processing of freedom of information requests. For example, in cases where an outside contractor performs the data processing on behalf of an agency, the contractor's labor charges, printing charges, programming expenses, computer time expenses, special processing expenses, for instance, those related to special processing to ensure confidentiality, postage and incidental charges all are justifiable expenses in processing a given freedom of information request.

Since many of these charges are ignored in this bill, the agency is left to absorb the cost. In the cost of our Agency, with many of freedom of information requests, this is not an insignificant

amount. We feel the home agency should be allowed greater latitude in determining the make-up of these freedom of information charges. Thank you.

REP. KINER: Thank you, Sheila. There are no questions. Richard Akeroyd.

RICHARD AKEROYD: Mr. Chairman and members of the Committee, my name is Richard Akeroyd, I'm the state librarian. And I wish to comment favorably on SB683. In essence this bill seeks to broaden our citizen's access to the vast array of information not being produced by their government. Such broadened access will ensure a better informed citizenry and one better equipped to participate in a governmental and policy making process.

The bill also brings up to date our traditional concepts of records, documents, and information as things that are primarily created, stored and used in paper formats. For both of these reasons, this important public policy legislation, this is important public policy legislation which should be approved by your Committee. I'll refrain from reading the rest of my statement except to reiterate that I urge your support of this bill. Thank you.

REP. KINER: Thank you, Richard, we appreciate that. Thank you very much. Amalia Figlewski, followed by Senator Steven Spellman.

AMALIA FIGLEWSKI: Good afternoon. My name is Amalia Figlewski and I appear before you as a representative of the Judicial Department. I'd like to speak briefly on SB683, AN ACT CONCERNING COMPUTER STORED PUBLIC RECORDS. SB683 requires, in part, each agency to consult with the Freedom of Information Commission as part of the agency's design and analysis prior to acquiring any computer system equipment or hardware.

The Department has several concerns with the provision in this bill. Specifically, we are unclear as to how much authority the Freedom of Information Commission would have over negotiations for the purchase of any such computer system equipment or hardware. Also the bill does not

address how disagreements between the impacted agency and the Freedom of Information Commission will be resolved.

Furthermore, we anticipate that passage of this bill will result in additional cost to the Department. Such costs would ensue from delays in purchasing the equipment and added capacities to the system. The Department supports public access to non-exempt public records, however, it is reluctant to support legislation that appears contrary to the trend of minimizing the layers of interference with planning and action.

The Department respectfully requests that the Committee consider these issues in contemplating action on this bill. Thank you.

REP. KINER: Thank you, Amalia. Seeing no questions, Senator Steven Spellman. Is the Senator here? Mr. Pearlman followed by Jack Kelly. And we'll return to Senator Spellman after Jack Kelly's testimony should Senator Spellman return.

MITCHELL PEARLMAN: Good afternoon. My name is Mitchell Pearlman. I'm the Executive Director and General Counsel of the state Freedom of Information Commission with company. And I'm here to speak on each of these bills, some briefly, some more extensively that are set on the agenda for today's hearing. With respect to HJ5 and HJ6, the Commission is not taking a position on them other than to say that the Commission does recognize as an important right, the right of privacy.

The Freedom of Information Commission and the Freedom of Information Act contemplates privacies as one of the considerations that are taken into account in determining whether records are, indeed, available to the public. What the Commission, of course, opposes is unnecessary secrecy in government. And while these are statements of principle that are not fully developed, within these proposals, the Commission wanted to make it's position clear with respect to those two issues.

The next bill is a bill that the Commission asked that this Committee to raise. Raised SB683, AN ACT CONCERNING COMPUTER STORED PUBLIC RECORDS. I have prepared some background and an explanation of this bill. And it's many pages long. First of all, I'd like to explain to you what it does not do before I explain to you what it's designed to do. First of all, it is not designed to determine in any way what are public and what are not public records. What are confidential and what are not, what records are confidential and what records are not confidential.

Throughout the bill it uses the expression "non-exempt public records" as what is at issue here. The Commission, the bill also does not attempt to interfere with any of the processes of developing and using computer or electronic equipment or media by any agency in the state of Connecticut. It merely wants to have considered as part of any determination public access issues for those records, or portions of records, that the public has a right to do it. There are many issues that this bill does not address.

It does not address what should be confidential, what should be private, what isn't. It just assumes what these things are. Because those issues, as I explained them in my written statement, are very complicated issues, they're issues that not only have to be address on a state basis, they have to be addressed on a national basis and, indeed, on an international basis as we talk about the emerging global village.

These determinations, to a large extent, will be subject to not only legislative determinations, but also international conventions and negotiations. Because, for example, if the European Common Market may have a provision in their computer access laws that say we will provide access to our records to the extent to we are entitled to similar provision with our trading partners. For example, the United States. So, those factors have to be taken into consideration as well.

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So, I think that those issues, and they're very complicated issues, should be left for another day. What we want to do by introducing this bill is two things. First of all, to make an awareness that computer access to government records at all levels, not just in Connecticut but worldwide, is probably going to be one of the major issues facing our society during the next ten years. Experts say, for example, that personal computers will be as common within 10 years as the home VCR and the microwave oven are today.

And that has to be understood and we have to start thinking about these issues. And secondly, there are certain things that we know are problems now that are fairly minor in the total picture of computer access. And that we can address and we can be on the forefront of. And those are the elements that comprise this bill. So, now what the bill does is four things. Number one, it provides that if a person makes a request for a non-exempt public records and requests it on a medium other than a piece of paper, the agency must provide that if it's reasonably possible.

Two, that the agency can charge costs not to exceed it's actual cost for providing that information on a computer medium other than paper with the criteria set forth in the bill itself. Let me make one, concentrate on one exception to this. There are basically, the government keeps two kinds of records, if you can think of it this way. One kind has to do with the operation of government itself. What's really at the heart and soul of freedom of information.

And they also have records that are in aid of commerce, land records for example, filings with the Secretary of State, maybe information about infrastructure, labor statistics, things that would help bring business into Connecticut. Things that are part of the commerce structure and that are not at the core of governmental functions. So, the provision in cost, for example, provides that except as otherwise provided by statute these criteria shall be used.

So, for example, if the Legislature decides that it wants to charge more money for these non-core governmental functions, higher price, to offset taxes, that's the way it should be done and has been done with hard copies. For example, there are specific cost provisions for copies of papers filed with the Secretary of State, municipal land records, motor vehicle records, a whole host of those things that are not core functions of government.

I don't think it is workable to make a distinction between who the requestor is, whether it's a commercial entity or not. There's constitutional issues, how do you know it's true. What I think you ought to do is make a determination as you have in the 15 years that the Freedom of Information Act has been around, is what sort of records are core functions, keep those minimally, and other functions provide on a case by case basis what the charge instead of who the requestor is.

But the provision is in this bill that the operating costs, except as otherwise provided by state statute, and that's what we have defined there. The third provision of this bill, is that no public agency in Connecticut can contract away the public's right to know. That is, there are some situations that we're aware of around the United States where vendors will come in to a public agency and say we will handle all of your computer operations for you. However, if anybody wants a copy of these records you have to send them to us and we're going to charge them more money because we want to make a profit on this thing. Or maybe we'll enhance the process by putting an index or something like that.

Now these are all well and good but if it's a public record and the public has a right to know about what these things are, if the Legislature has set a price for it, a contract between an agency and a vendor ought not to supercede that policy. I don't think that is a major problem in Connecticut. It is a problem in other jurisdictions and we want to make that point clear.

And the fourth point is the one that, I think, is the most creative and is the first of our knowledge anywhere in the world except for the Province of Ontario in Canada. Which recognizes that there's a whole host of problems and very costly problems they are, in designing computer systems for government purposes. Agencies, these are marvelous tools if used well, and their potential for cost savings, efficiency and everything else is wonderful. And when agencies generally design computers, they go to it with an analysis that starts in that, what does the agency want to do, how can it best do it, what are the products available, as well as fiscal restraints.

What you don't see as part of this analysis is the consideration of public access. These are somewhat technical, but it's also public policy. And so, for example, we come across and heard of examples of situations where somebody will sell a product that is perfectly in contemplation of the design of what the agency has, but cannot for example do a simple function like separating confidential information from non-confidential information.

And if you think of the design of a computer system, whether it's a program or the hardware or the architecture, is the term that they use now, as constructing a building, say, a 10-story building. And if the building is constructed and you find that the plumbing is on floor 2, doesn't work, you may have several very bad alternatives to consider. One, is scraping the whole building because the work won't, because you can't get plumbing any where above the second floor. Or you may have to pull the building apart to the second floor to correct the problem and then rebuild it.

Both of which are very, very cost prohibitive. The only, as I mentioned to you, the only place in the world where provision like this that provides for public access in the law itself, is Ontario Province. And as part of the material I've submitted to you, as an appendix to my statement, is a letter written to me by the official, the highest official of that Province who's responsible for the data processing systems for the entire Province.

That's a province of about, I understand, of about 7 million people and an operating budget of about 35 billion dollars. And, from a cost effectiveness point of view, to have this one consideration as in any other considerations where there's design flaws, the potential savings are probably around 100 percent if you can figure out and see the problem in advance as opposed to designing the system and then finding out that it doesn't work and then having to reconstruct it some other way.

So, we think that we can save potentially millions of dollars over a relatively short period of time, by putting the Commission's expertise to work for an agency. Now, what we are not contemplating is that agencies must submit, for the approval of the Commission, their computer designs. What we are talking about is consultation. There is no obligation in the bill, and I want to make that clear, there's no obligation that agencies have to use the advice that they hear from the Commission.

But the Commission does know a bunch of things. They know, for example, through 4,000 cases and God knows how many inquiries, what kind of records people are apt to seek. We have decisions, the repository of decisions, from all over the state and country on what kind of information is confidential and what kind of information isn't confidential and we can help people with that information so that they can design systems that can separate the confidential from the non-confidential.

As an example, I've heard about, I don't know that this is true or not, but it's good for an example, that a number of communities, police departments have purchased a computer program to put their daily log on computers as opposed to having it manually filled out. Now, daily computer blotters, or activity sheets, contain both information that the public is entitled to, arrest information, and information that the public is not entitled to, like name of juveniles and victims of sexual crimes and so forth.

As I understand it, this program cannot separate between those two categories. Therefore, the police departments are unwilling to disclose the contents of their logs altogether, even though they recognize that information, information about arrests, is required to be made public. If this factor, before they bought this, was considered presumably at very low expense they could have made the programming changes necessary, or had the programming changes made that were necessary by the vendor, as opposed to what would be the problem, I think, if they find out that they can't do this and either have to not use the program at all or have it corrected after the thousands of lines of programming that interrelate to one another have already been written.

We think that this is a very valuable bill. Obviously, there are, you know, language can always be improved or to the extent that we can make clear what is designed here. That this is not designed as a barrier. It's designed to help people. That we're not trying to be the technical experts on design. If any of you have started to read the Thomas Commission reports, you know there's going to have to be major work in Connecticut because of the wastefulness of tens if not hundreds of millions of dollars. That should be determined on their own merits.

This is something that will help agencies. We have an expertise. We've developed this thing. We've been working with the issue for 16 years. We have been talking to people from around the world who are considering similar types of things and we think we can help agencies in the state of Connecticut not only to deal with what Mr. Colarusso said as their missions, but also to deal with their responsibilities under Freedom of Information to provide information to the public at the least possible cost to the agency and to the people who request it.

REP. KINER: Mr. Pearlman, before you go on beyond SB683, I just have one question before you. Could you respond to the testimony from a number of people who spoke about the Office of Information and Technology as being an office that should be

involved either with you or alone, if you will, in designing certain systems. What's your response to that?

MITCHELL PEARLMAN: I think Mr. Colarusso misunderstood our function. I don't think it would be appropriate for them, that agency. And I don't believe they have the expertise that we have. On the other hand, I don't believe that we have the expertise that they have. We're not trying to, the expertise, that is, in designing an efficient computer system, those technical components. We're not trying to compete or to take charge of any such issues.

What we want to do is to be helpful. And I think that the Office of Information and Technology just does not have either the appreciation or the expertise of what the Freedom of Information issues are. If you go to them and ask them, is this category of record exempt from disclosure or confidential or not, I don't know how they would know other than to call us up and ask.

REP. KINER: Senator Meotti.

SEN. MEOTTI: There are few questions I wanted to ask you dealing with some of the fine points of this bill. One of the issues is to make the records available and able to request certain media. Can you...? Media obviously is a very broad term. Can you give us...? And in some sense one could say that most of what you're talking about is simply maintained in the magnetic media. There are some other technologies, more recent, that might be called something else. But, what do you mean by media? And in a practical sense, what does that mean to someone that would, does that mean that someone could come in and say...? I guess my specific example would be, could someone say, well you have it on tape, I prefer it on the small diskettes or the floppies, or whatever. Where do you see that falling?

MITCHELL PEARLMAN: Well, we use the word media, precisely, Senator, for the reason you suggested, the technology changes and we use the broader word in our material we use examples. Whether it's a diskette or a tape or CD, whatever it is. The key

is that the agency has the ability to provide it on that medium if it's reasonably possible. It must do so. The cost of doing it, of course, is borne by the requestor, to provide it in that medium.

If it is not reasonably possible, for the agency to do it, the agency does not have an obligation. Please understand that we're talking in a situation that exists now, and there are many media, many systems that are out there that are just not compatible with each other. That's one of the great problems that the world is facing in organizing a computer network that will really go all over the world.

Hopefully, at some point in time there will be a degree of compatibility that will make this problem fairly insignificant. Right now, it is a very significant problem. So, what we have addressed it in terms of, if an agency can do it it may be cheap it may be expensive, but if it can do it reasonably it must do so, but the requestor bears the cost. So, if the cost is very prohibitive, I would assume it need not be done.

SEN. MEOTTI: I need to follow up on that because, again, it's a very broad subject and you're speaking about it in a very general way. And I guess I's ask you the specific question, if an agency maintains the records on a computer system that is maintained, that maintains this information on a tape basis, and the agency itself has no need and does not have the equipment to convert that to 3 1/2 or 5 1/4 diskettes, would you think that this law should require the agency to acquire the equipment to convert it to the diskettes?

MITCHELL PEARLMAN: No. I don't believe so, unless the person is willing to pay for it. Now, if they're willing to buy the agency the equipment that will translate it, why not? If there is a vendor who is willing to do it at a certain cost and the requestor is willing to pay that high cost for it, why not?

SEN. MEOTTI: I guess, what's the problem with the agency, in that circumstance making the tape available and then the requestor can take it any one of a number of commercial services that can

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translate that? Because even if you buy the agency the equipment, you still need someone to run it. It is not, having had a limited amount of personal experience with it, it is not always the simplest thing to do to translate those things. And I'm just concerned about imposing an obligation on...

I can see the rationale behind requiring the state agency to make available whatever it has, and I don't mean the records, I mean the media, but to ask the state agency to move into new median, okay, that's not what you're....?

MITCHELL PEARLMAN: It's not that. But we use the term, you know, as reasonably as possible, as reasonably, as something that they reasonably can. Obviously, if what you've just proposed, if somebody came to me and we use diskettes on our computer system, I'd like it on tape. I probably can offer to do it more cheaply if I say, let me give it to you on diskette and then you can have it translated as opposed to us going us and, you know, contracting and you pay whatever that is. That's just a reasonable solution to the problem.

But we're not compelling, by this bill, any agency to buy any particular kind of equipment or software to comply with FOI. In fact, it seems to me that the unification of these kinds of equipment and these kinds of devices is something that properly belongs into some unified data processing and communications agency. Like the Office of Information and Technology. That's not what we're concerned with.

SEN. MEOTTI: On another point that you talked about that was, I think, very helpful is you indicated that advisory role that you see yourself playing in the preliminary stages of computer acquisition, or whatever, is that your advise would be not what technology would be involved, but instead would be presented with a list of these are the items in the records that we, or pieces of information that we intend to have in a system, and you would then be able to advise agencies to these are the areas where you're going to, that you're unlikely to have any confidentiality protections under the law.

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MITCHELL PEARLMAN: If I may just add, over time I expect that we're going to get familiar with what other agencies have done to comply with it. For example, there may be an agency in one town or another town doing the same thing. We can say, hey look, this is how town A solved the problem, you want to talk to those people.

SEN. MEOTTI: You do issue advisory opinions now. Correct.

MITCHELL PEARLMAN: Yes.

SEN. MEOTTI: It would be possible for any municipality or state agency embarking upon a new computer process to be able to present you through the advisory opinion process some description of the type of information that they were going to put into this computer system and you would be able to opine as to the proper treatment as far as what's a public record and what isn't?

MITCHELL PEARLMAN: Yes. I think we can do that under current law, but what we really contemplate with this is a much more informal contact. Where somebody comes to us and says, we're looking for some software to handle this particular kind of information. Could you tell us, give us some, you know, what may exempt or non-exempt or do you think that there's a big public, there will be a big public interest in this kind of information? Things like that.

I think it will become much more expensive and time consuming if we have to go through formal procedures as opposed to somebody calling us up or sitting down or just running a program to see whether it works or not.

SEN. MEOTTI: And that leads right into my final question which really at this point is more of a legal and philosophical question. As you start to give informal advise on something that will lead, could lead in certain circumstances to substantial acquisition costs of a municipality or an agency, and they act on that you're also, obviously, an adjudicatory agency and you've have a long

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experience in dealing with integrating your role as an advisory agency as well as a adjudicatory agency.

But if you start to give informal advise on something in this area, which I think, you may have been giving informal advise in the past I think we're now, this is something of a new situation, do you start to see the possibility of conflict where you have given informal advice to someone, they rely upon it, and in this area there frequently is a problem between translating what you think you can achieve into reality given the complexity of the systems that entities as large as the state some of our larger cities use. Do you see an area of a problem where you, for example, give advice, their advice is relied upon, the advice is, in fact, complied with and yet the system does not work because of a technological problem.

And then someone comes to you and seeks to adjudicate the issue that this agency or municipality is failing to meet the FOI requirements, and yet it is doing what you advised it to do.

MITCHELL PEARLMAN: Yes, I certainly see the problem and in fact we deal with this all the time. We get something in the neighborhood of 10,000 inquiries from people, you know, what are my responsibilities as agencies, what are my responsibilities under the law, what am I entitled to? We get about 500 case now a year. Basically what we, the way we deal with these kind of problems is that we build Chinese walls. That is, if somebody gives advice and that becomes the subject of a case, that person does not get involved in any fashion in the decision making.

And so we separate our functions that way. So that if somebody deals with an agency and the agency says, well, thank you very much, but we think for whatever reasons, we think we're going to go a different way, and somebody winds up filing a case against it, the person who dealt with that agency would not, in any way, be subject to, would be involved in the adjudicatory function.

As a practical matter, I think many administrative agencies have to do that or we've just sit around waiting for 500 cases instead of handling 10,000 problems.

SEN. MEOTTI: At this level of technological complexity, that advice no longer is truly the advice legally of the FOI Commission. It's just sort of the informed advice of someone who happens to work for the Commission. Because the Commission is then going to separate that person out and action that as if that advice never took place.

MITCHELL PEARLMAN: That's right. If you look at the technical drafting of the bill, it provides for the really, this will be a staff function, not a direct Commission function. One of the reasons for that, of course, is that the Commissioners themselves are the ultimate decision makers. Now if it comes to a formal advisory opinion, if one is requested or deemed necessary, then the Commission makes that determination itself as it should.

SEN. MEOTTI: That obviously is the pitfall in any time an adjudicatory agency which has a well protected process for giving advisory opinions gets into the business, which I know they must, I recognize that, and others do, gets into the business of giving informal advice.

MITCHELL PEARLMAN: Yeah, I mean, if we save 9,500 cases a year by talking to people over the phone, that's obviously a much more cost effective way of dealing with the problems.

REP. KINER: Representative Godfrey.

REP. GODFREY: Mitch, one of the previous witnesses talked about the cost when they contract outside to have this information processed and that sometimes those costs could run higher than the list of things in this bill. Could you comment on that please?

MITCHELL PEARLMAN: Yes. What the Commission, of course is interested in, primarily, because the purpose behind the bill is those, that information in government files that are at the core of

governmental processes. And the theory behind the Freedom of Information Act from day 1 is that that information should essentially be at the least possible cost to the public.

In delineating the criteria that we delineate there, which is essentially an at cost, we tried to keep that to a minimum. But in that Section, it says "except as otherwise provided by state statute". So, if there's a class of information or record of information that is not core, and that the Legislature determines it would like to charge a higher fee for, that's the vehicle for doing it. We chose this as opposed to what Mr. Colarusso is suggesting as making, an agency makes a determination whether it's commercial enterprise.

Or do you want to distinguish between newspapers and others? If somebody comes up and says, I promise I'm not going to use it for commercial purposes. It's just not workable. So, we think, as has been the, how the Legislature has organized this from the beginning, that you look at the class of information of the record and make the determination on cost. So, when we use those criteria that we set forth, both to try to get reasonable costs, but to keep it on the court function to a minimum.

REP. GODFREY: And this Act carries and appropriation of 130,000 dollars. What would that be used for?

MITCHELL PEARLMAN: The appropriation would be for two additional staff members, for the advisory functions, plus some ancillary computer equipment, PC's to be connected to our computer system.

REP. GODFREY: The two staff members. What kind of roughly, what kind of skills would they be having?

MITCHELL PEARLMAN: We're talking about FOI legal or administrative skills. We're not talking about computer technicians.

REP. GODFREY: So, at least one attorney and one computer person.

MITCHELL PEARLMAN: It depends on what the actual money comes out to be. But it was priced on that basis.

REP. GODFREY: What the actual money comes out to be is the answer to a lot of questions.

REP. KINER: The chair doesn't wish to cut off testimony, nor cut off questions from the Committee, but I would remind those involved here that there are two people who still wish to testify after Mr. Pearlman. And this segment of the public hearing is over in about 15 minutes. Thank you, Mr. Pearlman.

MITCHELL PEARLMAN: Thank you. I would like to go on with the remainder of the bills, if I might. The next bill by number is SB787, AN ACT CONCERNING DISCLOSURE OF CRIMINAL RECORDS. This would add, as a category, to the provisions of the FOI Act which exempts disclosure of public records, certain law enforcement records, including copies of records of matters pending before the criminal division of the Superior Court which are subject to the rules of discovery.

The Commission opposes this for very, I think, very important reasons. Please understand that the FOI Act already has in place, in this very section, that law enforcement agency records which, among other things, identify informants, information, to be used in a prospective law enforcement action, if prejudicial to that action, investigatory techniques, not otherwise known to the public, etc, etc, are already exempt.

In addition, the judicial, the non-administrative records of the judicial records are exempt from, are not subject to FOI. In addition, the records of the Division of Criminal Justice in their non-administrative functions are exempt from FOI. In addition, there's a provision of the FOI Act that says that nothing herein shall affect the status of judicial records including, or effecting, the rights of litigants under the laws of discovery of the state of Connecticut.

When you add all those things up, we're not quite sure what's really left to be covered by this proposed language, other than the fact that what may, in a speculative, and purely speculative, sense may be subject to discovery in a criminal

REP. KINER: Now I know we have problems.

MITCHELL PEARLMAN: One more bill, please. HB7046. AN ACT CONCERNING PENDING CLAIMS AND LITIGATION UNDER THE FREEDOM OF INFORMATION ACT. This bill is designed to cure another problem that the Supreme Court, in a recent decision involving the Ridgefield Board of Education caused, by interpreting the pending claims and litigation purpose for going to executive session as really meaning impending claims whenever there's, potentially, whenever there's a mere threat of litigation.

Basically, the approach that we've suggested in this legislation would be to codify as the extent of the law, what that decision says. By defining pending claims and litigation as really impending claims or litigation to the extent that the agency has received a written demand for legal relief evidencing the intention to institute imminently a claim or litigation before a quasi-judicial body of such relief is not granted by the agency.

So it opens the door a bit, but it cannot be used if somebody wants to get around the open meetings law by saying, oh, I'll sue, clear the room. And we will have, without that limitation essentially an illusory open meetings law. Thank you very much.

REP. KINER: Thank you, Mr. Pearlman. Jack Kelly followed by Senator Steven Spellman.

CHIEF STATE'S ATTY. JOHN KELLY: Good afternoon. I'm John Kelly representing the Division of Criminal Justice. I, too, am a lawyer, but I'll try to be brief. The first bill I'd like to testify on concerns SB683, AN ACT CONCERNING COMPUTER STORED PUBLIC RECORDS. The Division of Criminal Justice vehemently opposes this proposal. It appears that this is a poorly veiled effort to expand the authority of the Freedom of Information Commission into an area where it has no right.

That Commission, by statute, is an administrative, adjudicative entity. To attempt to expand it's authority into the computer area of state and local

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agencies then to sit as an oversight Commission as to whether the agency is properly using it's computer technology is an insult to the agencies involved and at least at the state level to the Department of Administrative Services who quite properly has responsibility for state data systems.

Also, please note on Line 131, this proposal attempts to tamper with the Division of Criminal Justice's exemption to Commission requirements. This exemption was granted by you, the members of the General Assembly, because of the sensitivity of criminal cases handled by the Division. The last speaker indicated that this bill was an effort to help many of us in government it's a help, frankly, we don't want and don't need.

I would point out to you, also, with reference to other aspects of the bill, it's rather evident when you look at it's language, it is mandatory not permissive. Who would determine what it not exempt material under this proposal? Of course it would be Freedom of Information Commission. There could be no contract for the purchase or installation of computer equipment without FOI approval.

As an example, my agency currently has over 330,000 dollars worth of computer equipment either in my office or in some of the other offices that we have. This could mean any time we have to purchase something in the future it may or may not be compatible with the existing computer equipment that we have. If we modify it, where do the funds come from? We're not talking about permissive consultation, we are talking about mandatory consultation.

I would also point out to you, on Line 170 of the bill you have this polite word here, any public agency requesting the assistance of the Commission. If you look at earlier language, you don't request it, you must seek it's assistance. Finally, in these very difficult budget times, that Commission is asking for 130,000 dollars for this proposal. We currently have prosecutorial positions we can't fill because we don't have money. I would gladly take that 130,000 dollars and like to fill some of those positions. So, for all of those stated reasons the Division opposes that proposal.

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With reference to SB787, AN ACT CONCERNING DISCLOSURE OF CRIMINAL CASES. This is a proposal of the Division of Criminal Justice and we strongly support passage of this proposal. I have submitted to members of the Committee, a letter from the Executive Director and General Counsel of the Commission, which was previously sent to police chiefs in Connecticut, wherein he and not the courts, interpret Connecticut law and directed police departments to release records and report even before a case has been presented before the Superior Court for a prosecution.

An enactment of this proposal would allow the Connecticut General Assembly, and not the Executive Director and General Counsel of the Commission to make this decision. Right now we have litigation pending in court that concerns itself with pending criminal cases where we all know there are mandated discovery rules and those rules were promulgated by the judges of the Superior Court.

There is a direct conflict between the Freedom of Information opinions in this area and the rules of discovery promulgated by those judges. There's a direct confrontational, constitutional confrontation occurring here and that matter is going to be resolved. It's initially going to be ruled on in Superior Court and ultimately the appellate Courts will have to rule on it. But what we're talking about here is protecting both the state's rights and the defendant's rights.

We're talking about someone who's arrested, who's case is pending in court and what happens to that police file? The police reports, the witnesses statements, and everything else that's in a police file that ultimately gets into the hands of the prosecutor. The prosecutor has certain ethical responsibilities not to disclose certain of that information and to make sure also the police don't disclose that.

And the defense attorney, obviously, wants to have his clients case litigated in court rather than in a newspaper when it's in the pending criminal cases area. When we're talking about a closed case, no one has a problem. But, no, this directs itself

only to those persons who have been arrested who's cases are pending in court, where there are established discovery rules that the judges oversee.

And all we're saying is this proposal would ensure that there's no dispute in this area. That the court rules have to prevail to protect the rights of the defendant under a document many of us still remember called the United States Constitution and the Connecticut Constitution. I'm available for any questions.

REP. KINER: Thank you, Jack.

CHIEF STATE'S ATTY. JOHN KELLY: Thank you. I hope I was brief.

REP. KINER: We still have 2 minutes left, Senator Spellman. Are you a lawyer, too, Senator Spellman?

SEN. SPELLMAN: Yes, Representative, but I'm one of those rare lawyers who can get his message in in two minutes. I'd like to speak in favor of Raised HB7046. I think the first thing that occurs to me in regard to this bill is the system of checks and balances that we were all taught as civics in grade school and high school. But usually when you think of that you think of the Legislature controlling the Executive and the Judiciary controlling the Legislative actions.

But I see a disturbing trend in regard to decisions by our Connecticut Supreme Court that are limiting what I felt was a very clear and historic directive by the General Assembly when we adopted the Sunshine Laws, indicating that any decisions involving governmental processes that are affecting people will be conducted in the open so that you can see what's happening and you can participate. If there's a failure on the Legislative part, it's perhaps that we did not define every place that we should have in order to protect that interest.

And I think with this piece of legislation we have an opportunity to reassert the goals that we were pursuing when we adopted that initial piece of legislation. Certainly we don't want a situation where anyone who raises the threat of litigation

Commission consistently rules that the public interest and disclosure outweighs any existing personal privacy rights. As a result they have required local and regional boards of education to disclose such items as the names of private citizens who made donations for student class trip. The student complaints contained in a teacher personnel file. Evaluation forms used by individual members of the board of education to record their personal comments concerning a superintendent's performance and other similar documents.

It is extremely important to return to that notion of the balancing test and we feel that this legislation will help put the focus in that area.

CABE opposes the provisions in SB683 concerning computer stored records, which would require public agencies to insure that new computer systems equipment or software adequately provide for the rights of the public. We are very concerned that this is a vague standard which will clearly lead to additional controversy, and the last thing that any of us need are more cases before the Freedom of Information Commission.

Obviously, many factors go into a decision to purchase computer equipment. Cost is one of those factors. The needs of the agency is another. And clearly accessibility of those records to both staff and the public is another factor. To establish this standard seems inappropriate and will further infringe on the ability of school districts to administer their records.

Finally, we strongly oppose HB6827, and I would concur with the testimony of Mitch Pearlman on this issue. To restrict membership on the Freedom of Information Commission by excluding any public officials from commission membership will create an imbalance in the representation of the public interest on the commission.

The issue of a possible conflict of interest can clearly be dealt with in the same way as every other public agency currently deals with it, the member abstains from participating in those decisions on which they may have a conflict. But

issue fully. I ask you also not to simply put it on the shelf without any further action, but to use whatever legislative tools you have to convene a study task force or some other kind of forum in order to do that. And as Shelly did before, CROF and other organizations like it, offer our assistance in preparing legal research and testimony to help you more fully consider this proposal. Thank you very much.

REP. KINER: Thank you, Leslie. Ron Thomas, followed by Deborah McDonald.

RON THOMAS: Representative Kiner, members of the GAE Committee, good afternoon. My name is Ronald Thomas legislative associate with the Connecticut Conference of Municipalities. CCM is here today to testify on the following bill of interest to cities and towns. SB683, AN ACT CONCERNING COMPUTER STORED PUBLIC RECORDS.

CCM urges you to oppose this bill. The bill would, among other things, require agencies including municipalities to provide a cost non-exempt computer stored information to the public on any median, person's request, providing it to be reasonably, quote unquote, provided nonimpaired by contract or otherwise obligated itself to any computer system that would infringe on public rights under FOI.

Consult with FOI before acquiring computer systems equipment or software to store or retrieve non-exempt public records. Enactment of this legislation might require additional personnel to be hired to computer access all requests for information. There is no appropriation for funds to municipalities for compliance, although there is to FOI to hire a consultant.

There is also no mention of how long municipalities must wait for consultation with FOIC neither does it spell out what powers FOIC has in designating what sort of system should be adopted, etc.

Municipalities have their own tight schedules to adhere to, a real delay could be costly. This bill really represents another addition to the already 256 statutory mandates on cities and towns. CCM urges you to reject SB683.

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REP. KINER: Thank you sir. Chief Dennis Anziano followed by Janet Reynolds.

CHIEF DENNIS ANZIANO: Chairman Kiner, members of the GAE Committee, my name is Dennis Anziano, Chief of Police Madison Department of Police Services. I am here as a representative of the Connecticut Police Chief's Association to speak in opposition to SB683 for the following reasons. The existing legislation is more than adequate for the purpose of disseminating non-exempt data to the public upon request.

The bill as submitted would place an impressive burden on law enforcement administrators by causing us to distinguish exempt data from non-exempt data in the system design stage of any proposed computer solution. Computer solutions and application vary from agency to agency dependent on the particular needs of that agency, not to mention the application from division to division within an individual agency. We have serious reservations that the FOIC as an administrative body does not have the expertise to require, dictate or even suggest which software, hardware or systems solution would be more desirable over another solution. Let alone the expertise to understand the agency's individual needs.

We are also opposed to the sum of \$130,000 be appropriated to the FOIC to accomplish this task. This money can be better utilized elsewhere such as the municipal Police Academy budget or other areas of law enforcement. That's all I have. Thank you.

REP. KINER: Thank you Chief. Jan Reynolds, followed by Lillian Koegler.

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JANET REYNOLDS: Good afternoon, Representative Kiner and the rest of the Committee who are still here and I thank you for having this hearing, but I want to speak personally to you and just express my concern. We have heard speakers say that when you want to have social action quickly you change statutes. We have had them say it's a complicated issue and I say to you this is not a complicated issue, it's a very simple issue. Do we want our

than it already has abdicated in too many ways to that other branch of government over which I have absolutely no influence as a citizen.

This is the place to do legislation. I would have to agree with the Anti-Abortion people that I don't think you ought to defer to the experts, you folks are the experts, we elect you folks to be the experts, to make these very difficult decisions for us and not to defer to people we do not elect. If I could go on to the SB683 about computer stored records.

I certainly wasn't surprised to see the Chief State's Attorney and the representative, the Association of Boards of Education against this sort of thing, not wanting any help in determining what their computer systems are. This legislation certainly does raise a couple of questions. I think as the lady from the Judicial Department mentioned, but the big point here is to remind all these agencies who they are working for. They are working for the public and that certain information, as defined here in this building is to be available to the public. I do not respect the attitude that the Chief State's Attorney and the Boards of Education showed here today that the public is somehow meddling in their affairs. Those folks, I think, ought to be reminded as this bill reminds them that they do work for the public and that they have to expect a certain amount of public accountability.

I don't think this inconveniences them any more than the general principle of democracy would inconvenience them. In regard to SB787 about closing off police records. I wish that the Chief State's Attorney had explained to us exactly what the problem is here. It seems to me that we already have a good balance in the law that determines what information is public and what information is private. Again this seems to me to be an attempt by government agency to exempt itself from ever having to answer to anybody. We heard the Chief State's Attorney today make the comment, well, he doesn't want to try the case in the newspapers. We hear that all the time. What folks who really use that line mean is don't try the cases at all. I think if the Chief State's

reporters to gather the kind of information that we need simply to convey rudimentary information about crime and arrests. So we would clearly ask that this one not be considered.

On the ACT CONCERNING COMPUTER STORED PUBLIC RECORDS, SB683, again, access to information has traditionally been by the conveyance of paper. That has been outmoded in recent days by the computer age that we are now in and I think the points have been well made that access should continue to be guaranteed in those areas. There is one other consideration that I don't think anyone has made so far and I would just like to make it for the record. And that is an individual going down now to ask for say a block of information may well be subjected to 50 or 60 pounds of computer paper. And in an age when more increasingly concerned with environmental issues, I think the ecology would be better served by transmission of one small floppy disk than by all of that paper which ends up back in the wastestream. It was worth a try anyway.

Two other issues. On the HB7046, concerning pending claims, clearly an issue under adjudication does already enjoy some protection from public disclosure and we don't seek to change that part of the issue. However we would ask that this committee consider in its resolution of this bill to include that some service must be necessary prior to closing public meetings because the give and take of public bodies and the people who are there is very important to the furtherment of justice and the furtherment of government which should be conducted in the open and unfortunately in all too many cases members of boards and commissions find it far too easy to close doors to the public and to discuss these issues in private. It is more convenient for them. It doesn't subject them to any public review. Their motives may not be totally bad but at the same time it doesn't serve the best public interest. Those are the only bills I have to discuss this afternoon. Thank you very much.

REP. KINER: Thank you. Alan Church followed by Mary Ann Rhyme.

The Supreme Court tore a hole in the pending claims and litigation exception that could lead to a rip across the fabric of the FOI law. This definition should reinforce the edges of the definition so that nothing larger than say a school bus can be driven into executive session. It is my hope that HB7046 will receive your favorable attention. Thank you very much.

SEN. MEOTTI: Thank you. For the record I should note that in the absence of the two Co-Chairman, I am invoking the Alex Haig rule and I am in charge here and if they stay away long enough we might start to report out some of those bills of mine which they wouldn't even give public hearings to. Mary Ann Rhyme to be followed by Colleen Murn.

MARY ANN RHYME: Committee members, I am Mary Ann Rhyme, President of Connecticut Council of Freedom of Information and also the bureau chief for Associated Press in Connecticut. For those of you who might not know Associated Press is a not for profit cooperative of newspapers, radio and television stations. My purpose today is to give you some perspective of how government agencies around the country already are making records available via computer as envisioned under SB683. I have gathered this information with the help of some of my AP colleagues around the country.

There are currently five major sources of computer records, the federal government, courts, cities and counties, states and legislatures. At the federal government level there is now a growth of on-line information services from government agencies and even universities. The Census Bureau and the Labor Department, for example, distribute news releases and data by computer. Other participants include agencies ranging from NASA to the National Weather Service.

Among the courts, the U.S. Supreme Court now transmits its opinions to the AP in Washington for distribution electronically to newspapers across the nation. The 6th U.S. Circuit Court of Appeals in Cincinnati and the 9th Circuit in San Francisco offer similar information. In Minnesota the largest county makes available by computer its

district court information. And the 13 largest counties in South Dakota are on a uniform computer system to which the public has access. On the city and county level Arizona county clerks now make available information for governmental election or election campaign purposes.

A variety of states are making records available by computer. Election returns and or campaign finance reports are available by computer in at least a half dozen states including Texas and South Dakota. In South Dakota state officials went so far as to give the returns by computer to the press as well as to political parties and even installed toll free numbers that voters could call to get returns for their favorite candidates. Minnesota's Secretary of State now makes available corporate records and uniform commercial code files. In Arizona the state database is available to the public and the Motor Vehicle database in New York is available for a \$3 sign on fee.

Legislatures have also entered the computer age in many states. States including Minnesota, Texas, Florida and North Dakota have terminals available for the public to access information on bills and their status for free. In summary the computer age is already arrived for many local and state governments across the country. I think it's time that Connecticut citizens could take advantage of these tools also.

SEN. MEOTTI: Thank you. Ed Frede followed by Brent Houston.

ED FREDE: Thank you. I am Ed Frede. I am on the Executive Committee of the Connecticut Council on Freedom of Information and also the Editor of the News Times in Danbury. Ridgefield is in our service area and that is the town where this case involving HB7046 arose. We did not bring the case, Steve Collins who is known to probably many of you on the Committee and who was a major factor in getting FOI in Connecticut had a rule that FOIA was not a crutch for lazy reporters and that is a reason why we have not burdened the FOIC with appeals I think I could count on one hand the number of cases we brought.

This case was brought by the lawyer who threatened to sue the school board, cave in to his demands in settling a case. I don't think the citizens of the State should be burdened with bad decisions made behind closed doors because like the man who yelled fire in the theater when there was no fire, someone can threaten orally or in writing to sue a town to force action that may not be in the best interests of that town.

I urge you to make whole again our Freedom of Information Act by defining what pending claims and litigation mean. Thank you very much.

SEN. MEOTTI: Thank you. Brant Houston to be followed by Dick Conrad.

BRANT HOUSTON: I am Brant Houston, a Reporter from the Hartford Courant and I am speaking on SB683. I am going to focus state records and what I have to say and I hope to offer you little nuts and bolts from why this bill is needed. The bill promotes an efficient open government by mandating the common sense practice of providing information in a least expensive and least time consuming manner. Many state agencies now have the ability to provide public records on computer tape or diskettes. A clerk or manager can go to a computer, hit three or four keys to consistently and completely the confidential portions of those records and deliver a thousand records on a small diskette within a few minutes.

The cost to the State a few minutes of a state employee's time, say about five bucks. And yet many state agencies prefer to have that same state employee spend hours retrieving one thousand sheets of paper, blacking out the confidential information, sometimes sloppily and ineffectively and copying those records to another one thousand sheets of paper. The cost to the State, assuming the employee making \$30,000 spending four hours on the job, about \$50, ten times as much. This raises an interesting question. If providing public information via computer is so much cheaper and efficient, why do so many state managers insist on taking the costlier route? Out of ignorance,

stubbornness, or are they attempting to delay or prevent scrutiny that might reveal the waste or misuse of valuable taxpayer dollars?

Given the thousands of requests for public information the state receives each year such backwardness is costing taxpayers a small fortune. This bill would free the public from its dependence on the wisdom for whims of particular managers and make it clear that they should provide information in the form that it is kept. The bill also provides for fair and reasonable charges if the request requires more than a few simple keystrokes. In the past three years the Courant has obtained computerized records from many cooperative state agencies, including the controllers office, the Judicial Department, Office of Policy and Management, the Department of Health Services, the Department of Administrative Services and the Department of Public Works.

Like many federal agencies most of these departments understand the common sense value of providing information in a computerized form, realizing that form saves the state money and makes for a better informed public. The common sense has not always been so common. The Department of Correction has to wait for months a decision on providing computerized records that it readily and agreeably provides on paper. The Department of Motor Vehicles has demanded an exorbitant fee for the non-commercial use of records that might help to protect the lives of school children and the public.

In a stunning reversal of policy the Department of Administrative Services recently refused to provide computerized records after doing so for two years. In an apparently arbitrary and capricious manner the Department refused to not only provide the computerized time and attendance of state employees, but also refused to explain or discuss that decisions. The stoppage to provide those records on printout makes an analysis of those records difficult if not impossible. What is the Department trying to hide, inefficiency and waste or poor record keeping on its part?

Another part of the bill would require that dissemination of information be considered and planned for when agencies set up their computer systems. This also is a clear need. The Department of Environmental Protection has responsibly attempted to set up computer data bases that will help the public know about pollution and toxic waste in their communities, but if you ask for a copy of those data bases the Department has no efficient way to provide a copy because their system is not set up to do that. Just nine years short of the 21st century it is time that Connecticut moved into the computerized 20th century and opened up this electronic file cabinet. Thank you.

SEN. MEOTTI: Brant, I want to ask you in a particular area that is mostly technical in this bill...and you might have heard some of my questions earlier with Mr. Pearlman. In your experience with a variety of different agencies as you come across a variety of different computer technologies, do you have any problem with having access to the material, the computer material, the media that they have it in, have you...

BRANT HOUSTON: No, I think the point of this is for people to be cooperative and work out a reasonable solution. If they have had it on tape and they don't have the ability to put it on diskette but usually they do, I say fine, give us the tape, it is our responsibility to get it in that other form or just get it to tape or whatever the form is.

Those agencies I listed and really the Controller's Department and the Judicial Department have been extremely helpful. It is a process of sitting down and working it out and that's the nuts and bolts of the FOI law. The law doesn't specify every single situation you are going to come into, you use common sense, you are reasonable. As a reporter you try to cost the state as little as possible, or local communities. So we have had no problem where the agency says (inaudible).

In other cases an agency may say, look we have old

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equipment, we are not sure we can give it to you in that form we will do the best we can and that's all we are asking. Thank you.

REP. OSLER: Some of us are not terribly computer literate and I am just wondering if you asked for something that was on a computer tape about some employee, let's say and they gave you the whole tape, that would have a whole lot of other stuff on it....that could be damaging.

BRANT HOUSTON: Right, but what I would like...

REP. OSLER: Expedition...

BRANT HOUSTON: What I would like to do is address that. I have been a reporter for 15 years and when you get something on paper, as I said in this example, say 1,000 records and everyone agrees that the Social Security number won't be given out, so they assign some poor person to sit there with a black pen and cross them out and they get tired and they get sloppy and quite frankly there are many times that I have just ignored the Social Security number, the press does have a sense of responsibility about these things. When you get a computer tape you have various categories of information and say there are various categories in there which are considered confidential. It is much easier with a computer to write a very small program that says anytime this particular category is filled with confidential information, eliminate it and eliminate it in every record, all the way down.

REP. OSLER: The agency would do this?

REP. KINER: Oh yes, and we have to trust the government, to a degree, for the longest time I have often wondered what was behind the really blacked out things and I have wondered the same things with computers. The point of this is that the form doesn't matter in terms of...we are talking about the substance. If the information is confidential and that (inaudible) is confidential fine, but we are talking about an efficient way to do business with the public and the state or a community and this is just a lot faster and it's a

lot more efficient, it is going to take a lot less time...when the state is going to face a lot of understaffing and the same for municipalities.

REP. OSLER: May I have a follow up on that. Do you feel that there might reach a point, it perhaps already has when officials are not putting a whole lot of stuff in writing or on tape because they know it will be subject to freedom of information. I think that happened in school records, for instance, a number of years ago, and that's not very current anymore, but a lot more used to be in a kid's permanent record card...I worked in a school I certainly had those great big things a thousand years ago...people don't write that down on a kid's record anymore. It might be losing a lot in the process of making your demands.

BRANT HOUSTON: Well, you can always go back in and ask for the hard copy for the printout for the actual record itself. In fact a number of times we may do that if we are concerned that perhaps the data entry is sloppy, in other words when someone typed the information into the computer. But once again we go back to whether it is paper or computer, somebody is not putting it down or they are not typing it in, that's an issue...that's a much broader issue. I mean, we are getting down to the nuts and bolts of how a government works.

SEN. MEOTTI: Representative Gill.

REP. GILL: Thank you. Well, I am a little familiar with computers and I would say that one of the major problems that you have with computers is transferring the format which costs a lot of money, redoing the software. I would say that if this information has not been available before where they have categories of confidential information that it probably isn't put in that format and the computer doesn't know what is confidential and what isn't confidential except by categories, if you put it in a different field. So you are going to have a huge cost, I think, I cannot believe that all the records of the State of Connecticut is put in already in the format of this should be open and this should be confidential. So you are going to take your software and figure it out.

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BRANT HOUSTON: Can I speak from practical experience with the agencies I have worked with that have been cooperative. Every single one of those problems, I believe, has been worked out at a very low cost. If we get into what you are talking about where there is a category that contains confidential information and it might be hard to extract it, well, let's....

REP. GILL: I am saying it was not set up that way.

BRANT HOUSTON: Let's say....

REP. GILL: If we passed the law now and we were doing all the database now you would say, aha, let's put all this in one column and then we can eliminate that one column, I mean, or that field, and that makes sense.

BRANT HOUSTON: Let me give you how we have worked it out. For example, if there is a real question about whether this would take a lot of time or money we have discussed it, come up with what the technical problems might be and what the cost might be. If it is going to be an exorbitant cost or time that has an affect on the request. I simply have said in a number of cases if it is going to be difficult to extract this information and you want to charge me \$10,000 to get that, then forget that category and we will go on. I really haven't run into that as a practical and ongoing practical problem that couldn't be resolved pretty quickly with a reasonable (inaudible) and I agree that...there are technical problems in this and we are ten years away from things really being smooth, but it can be worked out. It has been worked out pretty cleanly and pretty quickly.

But I understand what you are saying on that and quite frankly you could say give me the non-confidential information and then we have this other area that we talked about and if I really want it then heck maybe we are going to end up doing a printout, blacking out the bad parts.

REP. GILL: That's what....you could black it out clean

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or black it out on paper, it really doesn't make any difference except if you did it on the screen...

BRANT HOUSTON: You could do it either way. The reasonable response is whatever way will work. We all have to be practical.

SEN. MEOTTI: Thank you Mr. Houston. I'm sorry, Representative LeBeau.

REP. LEBEAU: Your statement was the Motor Vehicle Department has demanded exorbitant fees for non-commercial records that might help to protect the lives of school children...could you expand on that?

BRANT HOUSTON: I will give you a couple of hypothetical ones, not necessarily what we would be working on, but hypothetically what it could do. We have a large number of school bus drivers in this state and we have had some significant accidents, I would think, over the past few years. It would be nice to get for a decent fee who those drivers are and on a database that you could really handle it and it would be awfully nice to know what their driving histories are. For example.

I don't think there would be a lot of parents that would necessarily would want a school bus driver who had a significant number of citations against him or her driving the bus or they would at least like to know about it and have some input into the decision as to whether that person should be a bus driver. There are many other forms of transportation in this state that require special licenses and I think it would be to all our benefits to know the driving history or have the ability to quickly know the driving history of that particular individual.

SEN. MEOTTI: Thank you Mr. Houston. Dick Conrad followed by Ellen Pappalardo.

DICK CONRAD: Good afternoon, I am Dick Conrad, the computer systems editor of the New Haven Register. I was a reporter for a good many years before being really captured by the electronic beasts and now I can comfortably speak computer mumbo, jumbo. I

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would like to give you an example of why we need B683 and that is about a year and a half ago we asked the City of New Haven for some land records. They informed us that it would cost \$4,000 to do the programming to give us the information we wanted.

I said, okay, why don't you give us your whole database, an enormous database and I will pick out what I need and they told me well, we can do that because there is confidential information in there about commercial rents and income and whatnot. So we went back and forth, we were in no man's land, they didn't really know how to get the information out simply without charging me \$4,000. They gave us a second set of tapes from which I wrote a program to extract the information that we needed. But I think, and I am a computer person on both sides, I write programs as well, it is very easy for a computer professional to say no, we can't do that, no, it's impossible, we can't information out. I think SB683 can prevent that kind of thing that by mandating when you buy a computer system, when you set up a computer system you provide for reasonable requests for information from the public.

One protection is that you don't put two pieces of information together that can't be separated, for instance, protected information and information that the public should be able to get at. Another example, I hope I don't embarrass Mitch is about three or four years ago I asked Mitch if I could have a copy on computer diskette of all the Commissions decisions. This would save driving to Hartford every time I needed a copy of the case and of course he agreed, fine, take whatever you want. Well, the computer system that the FOIC had at the time, and probably still has is rather obscure, it cost me \$300 or \$400 to get software to translate these very valuable records into something that my computer could understand and again there was an agency that was very willing to hand over the information and just didn't have the means to do it.

So I think we have to have some kind of planning that would prevent this kind of thing. The last point I want to make goes to this provision in the

bill that would make sure again, when you set up computer software you do not take away any rights of the public from getting the information. The State Legislature has a wonderful system for letting the public get in to find out what it is doing. In fact, this copy of SB683 I obtained sitting in my living room at my computer. I dialed into your computer and I said, send it over and I printed it out and it was wonderful.

REP. OSLER: And I can't figure out how to get it from upstairs to downstairs.

SEN. MEOTTI: You raised a good question. How were you able to do that? We can't even figure out how to do that?

DICK CONRAD: I will give you my card. I think it's wonderful that a school district in Groton or some senior citizen in Willimantic or whatever could sit down at one of these Tandy Computers you can pay five or six hundred dollars for and dial in and find out what their legislator is doing, what bills have been proposed on prescription drugs, get a copy of the state statute, get a copy of the state regulation. Unfortunately we are in a situation where a third party is in control of the information. The Legislature is not and that third party charges \$400 a month, flat fee in order to get into the Legislation data base. Now, even with the problems the Register is having we can still afford that.

I doubt that my daughter's school district is going to come up with \$400 for every school to get in and do that and I think this is a case where a third party should not have the control over access to public information. The pricing structure is such that people cannot afford to get in and get that information.

REP. KINER: Thank you Dick. Ellen Pappalardo followed by Joan Fitch. Paul H. Hemberger followed by Ben Proto.

H.1.5      H.T.6

PAUL HEMBERGER: Mr. Chairman and members of the Committee, my name is Paul Hemberger, I am from the Southington area. I represent myself and my family as well as the Pro-Life Organization of the

REP. KINER: I hate to interrupt you, and I don't mean to do that, and I won't do it again, but I would like to keep to the bills that are on the agenda.

ROBERT BOONE: I am going to get to those.

REP. KINER: Thanks Bob, I appreciate that.

ROBERT BOONE: ...to address the pending claims question, and to restore or bring up to date the computer technology. Let me address that one first.

One thing that may not have been stated quite as clearly as it could have been, and this is that computer records are now public information. They are public information in the definition of section 118-A, it's very clear.

SB683

An amendment was passed a few years after the initial law was passed saying that computer records had to be provided in the form of print-outs. That was an attempt at the time to help make those records available in terms of the technology that was then available. Since then, the technology has changed and when this case came into court, about access to these records, the judge looked at the letter of the law and said you can have them in printed form, and that's what the law says.

The problem with that, frankly, is it is going to end up costing towns and state government much more money as has been explained to provide information that way, then it would making practical use of more modern technology.

The Thomas Commission Report, with which you are familiar in total, has a section in it on information technology, and what it says is that at the state level, right now, information technology is a quarter billion dollar a year price tag for the state of Connecticut. 249 million dollars of which they spend 189 million basically dealing with software, hardware and these matters.

This bill before you is a practical effort to really resolve, for all its complexity and wording, a very simple matter to make the means available

for providing information that is already public by law, non-exempt information in a simpler and easier way and it is not designed to be a straight jacket, contrary to what at least one speaker said, it does not mandate any more than discussion, it is not a straight jacket for any town or municipal agency, or the town agency or state agency, excuse me.

Other speakers have elaborated, but I did want to make that very clear. I'm going to, that's SB683. HB6827 on the qualifications of members of the commission.

The Connecticut Council on Freedom of Information proposed this bill and supported it as what we felt was a simple step that could save the commission and its members a good deal of headaches over the long term. In cases where members of the commission who are also members of other public agencies could find themselves in FOI hassles, and as some of you may know, this did happen.

We felt it was a black eye for the commission. We were looking for a way to resolve this simply, and we thought we could do it without hurting present members of the commission by putting in a bill that would be prospective, would not effect current members.

Obviously we found that the commission doesn't agree with us. We think it is a good bill, but we don't particularly want to pick a fight with the commission over this issue. I'd ask the committee to consider it, we still think it is a good bill, but it's the committee's call, as it would be of course.

SB787 THE BILL CONCERNING POLICE RECORDS. There were some things that Mr. Kelly didn't tell you about this bill. One of them is he referred to litigation, what he didn't say about the litigation is that the, his agency, the Chief State's Attorney's Office, is seeking to appeal an FOIC ruling and one of its' key arguments in making this appeal is that police departments are not public agencies, are not public agencies at all. And if any of you wishes to see the documentation for that I can provide it.