

**FINAL REPORT  
PUBLIC ACCESS AND ACCOUNTABILITY LEGISLATION  
CONNECTICUT GENERAL ASSEMBLY  
2013 REGULAR SESSION**

By  
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*Summary of Legislative Session:*

The 2013 legislative session was a long session during which numerous pieces of legislation affecting the cause of open and accessible government in Connecticut were raised. Although a few proposals would have increased the public's right to access (*e.g.*, SB 204, SB 1096, HB 5112, HB 5900, HB 6566 and HB 6605, *discussed below*), there were many more proposals that would have further curtailed access to public records and meetings (*e.g.*, SB 846, SB 970, SB 1148, SB 1149, SB 1160, HB 5421, HB 5733, HB 6157, HB 6353, HB 6354, HB 6424 and HB 6495, *discussed below*). Fortunately, with various groups of individuals and organizations working together, most of the proposals detrimental to the public's right to access were defeated.

Significantly, the greatest challenges this session pertained to: (1) budgetary autonomy and reorganization; (2) pardon applications; (3) redefinition of "meeting" in the FOI Act; (4) search and inspection fees; (5) redaction of residential addresses; (6) death certificates; and (7) records of law enforcement and victims of homicides.

***(1) FOIC Budgetary Autonomy and Reorganization:***

Early in the session, the Governor's Office again attempted to gain control over the watchdog agencies (*i.e.*, HB 6353, *An Act Concerning State Budget Reform* and HB 6354, *An Act Implementing the Governor's Budget Recommendations Concerning General Government*).

In 2011, the Governor's Office proposed a bill to consolidate the watchdog agencies (including the Freedom of Information (FOI) Commission, Office of State Ethics (OSE) and State Elections Enforcement Commission (SEEC)) with a gubernatorial appointee at its head. The Governor's Office also proposed to eliminate the budgetary independence of the watchdog agencies.<sup>1</sup> The proposed consolidation was viewed as a grand scale mechanism that would change the entire structure and legal work of the agencies and create many conflicts. The

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<sup>1</sup> Several years ago, in a nearly unanimous bi-partisan vote, the General Assembly granted the Commission budgetary autonomy after a previous Governor sought to slash the watchdog agencies' budgets during a time when he was under investigation. Currently, the Commission's budget must be passed through the Governor's Office, without change, to the legislature. Of course, the legislature is able to make changes to the Commission's budget, and has done so, when needed. The Commission has always acted in a fiscally conservative manner and has made every concession asked of it during these difficult economic times; there was no need to attempt to remove its budgetary autonomy and make it susceptible to one political official.

consolidation would not save money and was simply bad public policy in the view of the FOI Commission.

In the end, the legislature passed Public Act 11-48, *An Act Implementing Provisions of the Budget Concerning General Government*, which consolidated nine agencies (including the FOI Commission) into an Office of Governmental Accountability (OGA). Fortunately, although consolidated, the agencies were able to retain their independent decision-making authority and budgetary independence. The personnel, payroll, affirmative action, administrative and business office functions of the nine OGA agencies, and the information technology associated with such functions, were merged and consolidated, and a newly created position of executive administrator was filled to oversee such limited functions. The bill also created a new Government Accountability Commission (GAC), of which the FOI Commission is a part, to hire and fire the executive administrator. Such authority was an important safeguard on independence.

A mere two years later, the Governor's Office proposed two bills that would further consolidate the watchdog agencies. House Bill 6353, *An Act Concerning State Budget Reform*, was another attempt to eliminate the budgetary independence of the FOI Commission (as well as strip the OSE and SEEC of their budgetary autonomy).

In addition, House Bill 6354, *An Act Implementing the Governor's Budget Recommendations Concerning General Government*, would further consolidate the watchdog agencies and would adversely impact the FOIC's independence as well as its internal processes and functions. If this proposal became law, the executive administrator would answer only to the governor, and a political appointee would be in control of the legal staffs of the currently independent commissions and boards within the OGA. House Bill 6354 proposed to transfer the staff and substantive functions from the FOI Commission and other watchdog agencies into a new legal and enforcement division (*i.e.*, Office of Hearings). The formation of this new division would create an unnecessary layer of bureaucracy and would weaken the watchdog agencies. The watchdog agencies would be stripped of most of their legal and administrative staff, and such employees would be placed under the authority of a gubernatorial appointee.

Fortunately, the General Assembly recognized that these proposals were ill-considered, and both proposals failed.

## ***(2) Recidivism & Pardon Applications:***

The Governor's Office also submitted a proposal regarding recidivism and reintegration that would limit access to public records. Senate Bill 846, *An Act Decreasing Recidivism and Promoting Responsible Reintegration* made a number of changes regarding the parole process and the composition and operations of the Board of Pardons and Paroles ("Board"). Senate Bill 846 included, among others, a provision exempting from public disclosure all records (*e.g.*, applications, reports and records) submitted to the Board for its consideration in connection with

the granting of a pardon. By extension, this would mean that the Board could also deliberate in executive session regarding the pardons.<sup>2</sup>

Supporters of the confidentiality provision, including the New Haven Legal Assistance Association, argued that confidentiality was critical to the pardons process (*e.g.*, to encourage applicants to be forthcoming in giving details about their efforts to rehabilitate). The FOI Commission believed that although responsible reintegration into society of those who have served their sentences and been granted a pardon may be a laudable goal, this sweeping confidentiality provision, unlimited in both scope and time, would permit the Board to keep secret all information upon which its decisions to pardon applicants are based. If passed, the public would lose oversight over the decisions the Board makes regarding whether or not to grant pardons, and whether the decision-making process is fair, unbiased and free from influence.

Senate Bill 846 made it out of committee, but was later recommitted by the Senate to the Judiciary committee. (Notably, an amendment striking this confidentiality provision was offered by Senator John Kissel (R-7<sup>th</sup> District) but was never called).

### ***(3) Definition of “Meeting” in the FOI Act:***

Early in the session, a bill was proposed that would basically eviscerate the open meetings provisions in the FOI Act. Senate Bill 1148, *An Act Redefining “Meeting” for Purposes of the Freedom of Information Act*, exempted, from the open meeting requirements, negotiations between leaders of a public agency from different political parties, with respect to proposed legislation or a proposed agency action. The exemption would apply even if the leaders constitute a quorum of the agency.

As written, Senate Bill 1148, would permit a quorum of a multi-member public agency such as, for example, a local town council, or the state Board of Regents of Higher Education, to meet, deliberate, and come to consensus on major decisions affecting the public, completely out of the public view, and with no public notice. Thus, citizens would be disenfranchised from the deliberations that went into the agency decision-making and would only have the right to attend later “rubberstamp” meetings. If passed, this bill would be a huge blow to open government in Connecticut.

It is unclear who submitted the bill or for what reason. Some expressed concerns regarding the public’s right to access and the process by which legislation is screened and negotiated by the General Assembly. However, no person claimed ownership of the bill, nor did anyone speak in its favor.

The bill was voted out of committee (with most Republicans voting against it), but was later recommitted by the Senate to the Government Administration and Elections (GAE) committee. Although the bill was defeated this session, the Commission is

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<sup>2</sup> Pursuant to Section 1-200(6) of the FOI Act, an agency may enter into executive session to discuss any matter that would result in disclosure of the information in public records that are exempt from disclosure.

concerned that a similar proposal limiting access to public meetings may be resurrected next session.

***(4) Search & Inspection Fees:***

Another proposal limiting access to public records was also introduced in House Bill 6424, *An Act Concerning Fees for Searches of Accident and Investigative Reports of the Department of Emergency Services and Public Protection*. House Bill 6424 required a person who requests to inspect an accident or investigative report of the Department of Emergency Services and Public Protection (DESPP) to pay a search fee even if the person does not obtain a copy of the report. The bill, as originally written, sought to amend Conn. Gen. Stat. §29-10b, to permit the Commissioner of DESPP to impose a sixteen dollar flat fee on a member of the public seeking to simply review a report in the possession of the agency.

In written testimony, the Commissioner of DESPP indicated that the reason for the proposed legislation was a trial court decision that would require DESPP to make accident and investigative reports available for review without a search fee.<sup>3</sup> The Commissioner contended that this is likely to result in a large increase in requests for searches alone, creating an administrative burden on the agency and negatively impacting revenues.

The Commission argued that allowing for free access to inspect public records, as opposed to free copies, is an important measure to ensure that individuals who may not be able to afford copies can still have access to government records. Permitting an agency to charge a significant fee for each individual search will discourage requests for information. The concept of open and accessible government would be trampled, as many individuals would be unwilling or unable to pay search fees.

After a public hearing, the bill was amended to permit the agency to charge 25 cents per page for inspection (and not the \$16 flat rate), but the substitute bill was never taken up by the General Assembly.

***(5) Section 1-217, G.S., and Redaction of Residential Addresses:***

Since the enactment of the residential address exemption in §1-217, G.S., there have been several legislative proposals to add to the 12 categories of public officials and employees whose residential addresses are exempt from disclosure, and proposals attempting to clarify what public records are subject to the residential address exemption. This legislative session, there were proposals to add sworn motor vehicle inspectors of the Department of Motor Vehicles and certain University of Connecticut Health Center (“UConn Health Center”) employees to the list

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<sup>3</sup> Currently, §29-10b, G.S., contemplates the assessment of such a fee by the DESPP only when a member of the public requests a copy of a record. The FOI Commission recently determined that imposing such a “search” fee is inconsistent with the plain language of §29-10b, G.S., as well as with the general policy of the FOI Act that access to inspect public records is free. On appeal, the superior court affirmed the Commission’s determination with regard to §29-10b, G.S. See Connecticut Department of Emergency Services & Public Protection v. Freedom of Information Commission et al., Docket No. CV116012370S, 2012 Conn. Super. LEXIS 2072 (Conn. Super. Ct. Aug. 10, 2012).

of public employees whose residential addresses are exempt from disclosure. (See Senate Bill 889, Senate Bill 970 and House Bill 6495). The proponents of the bills argued that protection was needed in order to ensure the safety and security of such employees.

The Commission argued, however, that adding sworn motor vehicle inspectors and UConn Health Center employees to the residential address list would not provide the blanket panacea that the bills' proponents may believe the exemption to be. Section 1-217, as amended by the General Assembly during the 2012 legislative session,<sup>4</sup> no longer imposes a blanket ban on disclosure of residential addresses. For example, public agencies can redact a covered employee's residential address contained in his or her personnel file, but land records, voter lists, and grand lists are subject to disclosure. The FOIC also questioned why these classes of employees are any more "at risk" than any other class of public employees. In addition, the FOI Act already exempts disclosure of any information pertaining to any person from a personnel, medical or similar file *if* disclosure would constitute an *invasion of personal privacy*. Further, such residential address information is already widely available through simple computerized Internet searches.

Ultimately, neither the sworn motor vehicle inspectors nor the UConn Health Center employees were added to the 1-217 exemption list.

#### ***(6) Death Certificates:***

There were also bills proposed to restrict access to death, birth and/or marriage certificates. (e.g., HB 5421, HB 5733 and 6157). The impetus of the bills derived from requests for death certificates received by the Newtown registrar of vital records from the media after the Newtown tragedy in December 2012. Supporters of the proposals argued that restricting access to the death certificates would protect private and sensitive information and would deter identity theft.

The FOIC was sympathetic to the desire to protect families of deceased minors, and mindful of how distressing it may have been for the Newtown Clerk to process media requests during an emotionally upsetting time. However, the Commission argued that the information on the death and marriage certificates is of vital public interest. For example, in the past, the public and media have used death certificates to uncover wrongful deaths of children in state custody, and even crimes (e.g., the Hartford Courant used information gathered from death certificates in

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<sup>4</sup> In an attempt to clarify what records are subject to the 1-217 exemption, the General Assembly passed Public Act 12-3, *An Act Concerning the Exemption from Disclosure of Certain Addresses under the Freedom of Information Act*. Public Act 12-3 provides, in part, that land records, voter lists and grand lists are no longer subject to the nondisclosure requirements of §1-217, G.S. In addition, P.A. 12-3 provides that all other records are permitted to be disclosed without redaction of residential addresses, *except* when (1) the address is contained in the personnel, medical and similar file of an agency's employees, who are members of one of the protected groups; (2) a requester *specifically names* a person who has requested address confidentiality; or (3) the request is for an existing list derived from a searchable electronic database or for any list that the agency voluntarily creates in response to a FOI request, and the individual has requested address confidentiality.

its investigation of deadly restraints); genealogists require access to death and marriage certificates in their work; and a marriage certificate is evidence that a marriage license was issued properly and the persons who actually did marry were eligible to do so. In addition, the most sensitive information surrounding a minor's death, or any death, is already exempt from mandatory disclosure in autopsy reports.

Ultimately, none of the proposals restricting access to death, birth and marriage certificates passed.

***(7) Law Enforcement Records, Visual Images of Homicide Victims, Audio Recordings, 9-1-1/Calls for Assistance:***

In the early morning hours of the last day of the session, the General Assembly passed, without a public hearing or debate, a bill that amends the FOI Act and restricts access to certain law enforcement records, visual images of homicide victims and audio recordings. The proposal arose in response to the horrific tragedy in Newtown and the desire to protect the privacy of the victims and their families.

An earlier draft of the proposal (submitted out of the public view to legislators) by the State's Attorney's Office was extremely broad in that it would amend the law enforcement exemption of the FOI Act to exempt from disclosure *all* criminal investigation photographs, films, videotapes, other images or recordings or reports depicting or describing victim or victims. A later "working draft" narrowed the proposal to apply only to records compiled in connection with the investigation of the Newtown tragedy, including, but not limited, to 9-1-1 calls and death certificates.

After significant outcry from both victim advocates and advocates of open government, the bill was broadened with respect to some records, but narrowed with respect to others. The bill was broadened to include visual images of and recordings describing the condition of all homicide victims, not just records relating to the Newtown tragedy. The bill, however, does not apply to 9-1-1 calls, calls for assistance and death certificates. Audio tapes or other recordings requested *after* May 7, 2014, are also not covered under the bill. In addition, with respect to the disclosure of visual images, such images are exempt only *if* disclosure of the record could reasonably be expected to constitute an unwarranted invasion of the personal privacy of the victim or victim's surviving family members. Although the new law will most likely give surviving family members the right to keep private the homicide photographs of loved ones, the newly adopted 27<sup>th</sup> exemption to the FOI Act is not an absolute prohibition on disclosure.

The Commission is concerned with the secret process by which the bill was drafted and negotiated, and the new restrictions on access to public records. The final outcome, however, could have resulted in greater restrictions on the public's right to access.

A summary of Senate Bill 1149 (as amended by LCO No. 8864), *An Act Making Technical Changes to the Statute concerning Access to Public Records*, is attached for your reference. The new law applies to all requests for records pending on or made on or after June 5, 2013.

***Acknowledgements:***

We would like to provide special recognition to Claude Albert, Jim Smith and Chris VanDeHoef for their tireless efforts during the legislative session to advocate for freedom of information and good government. The successful defeat of numerous anti-FOI proposals this session was due in large part to the rapid response of the media and members of CCFOI. The FOIC thanks them for writing about the subject and raising the necessary questions, with the right people, in such a timely manner. Their efforts made a significant and positive impact.

We also thank the following legislators for their assistance: Senator Beth Bye (D-5<sup>th</sup> District); Representative Stephen Dargan (D-115<sup>th</sup> Assembly District); Senator Bob Duff (D-25<sup>th</sup> District); Representative Bob Godfrey (D-110<sup>th</sup> Assembly District); Senator Toni N. Harp (D-10<sup>th</sup> District); Representative Ed Jutila (D- 37<sup>th</sup> Assembly District); Representative David Kiner (D-59<sup>th</sup> Assembly District); Senator John Kissel (R-7<sup>th</sup> District); Senator Edward Meyer (D-12<sup>th</sup> District); Senator Anthony Musto (D-22<sup>nd</sup> District); Representative Peter Tercyak (D-26<sup>th</sup> Assembly District); and Representative Toni E. Walker (D-93<sup>rd</sup> Assembly District).

***Bill Tracking:***

During the regular legislative session, we monitored a total of 121 bills. A total of 86 received public hearings and FOIC staff prepared statements for and/or testified on 21 of those bills. As of June 18, 2013, of the 86 bills that received public hearings, a total of 19 bills have become public acts and 8 bills have been signed by the Governor.

Below is a brief description of the bills of note:

**FAVORABLE RESULTS - BILLS PASSED**

**SB 1096; P.A. 13-\_\_.** AN ACT CONCERNING GOVERNANCE OF THE STATE EDUCATION RESOURCE CENTER.

Senate Bill 1096 (as amended by the Senate and adopted by the General Assembly) subjects the State Education Resource Center (SERC) to competitive bidding requirements, audits by the Auditors of Public Accounts and the FOI Act.

According to testimony submitted by the Department of Education to the Education Committee, SERC provides a variety of services to the statewide education system and is a valuable resource in ensuring Connecticut students receive a high-quality education.

Recently, however, SERC was surrounded in controversy because the state's personal service agreement procedures and its contracting procedures were not followed. In response to such controversy, SB 1096 was proposed to make SERC a "state contracting agency" for purposes of awarding contracts for supplies, materials, equipment, and contractual services, and to make all SERC meetings public and all records available for public inspection. Hopefully, with the passage of SB 1096, SERC's actions will meet state agency requirements for transparency and accountability.

**HB 6495; P.A. 13-89.** AN ACT CONCERNING REVISIONS TO THE MOTOR VEHICLE STATUTES.

As originally written, House Bill 6495 proposed to add sworn motor vehicle inspectors to the list of public employees whose residential addresses are exempt from disclosure under Section 1-217 of the FOI Act. Fortunately, the bill made it out of committee, but was later revised and adopted by the General Assembly without the address exemption language.

*Please also see discussion of the address exemption proposals, above.*

**UNFAVORABLE RESULTS - BILLS PASSED**

**SB 1149; P.A. \_\_.** AN ACT MAKING TECHNICAL CHANGES TO THE STATUTE CONCERNING ACCESS TO PUBLIC RECORDS.

*Please see discussion of SB 1149, above.*



**SB 1160; P.A. 13-3. AN ACT CONCERNING GUN VIOLENCE PREVENTION AND CHILDREN'S SAFETY.**

Early in the session, the General Assembly passed a comprehensive gun control law. The bill makes numerous changes in the laws governing (1) firearms, (2) mental health insurance coverage and service provision, and (3) security for K-12 public schools and institutions of higher education.

With respect to access to public records, the bill also mandates that the Department of Emergency Services and Public Protection establish and maintain a deadly weapon offender registry of everyone (1) convicted of an offense committed with a deadly weapon or (2) found not guilty by reason of mental disease or defect for such an offense, notwithstanding any pending appeal. The registry must include name, identifying information (physical description, fingerprints, photograph), home and email addresses, criminal history record (description of offense, date of conviction, date released from incarceration). The registry information, however, will not be a public record for purposes of the FOI Act.

Interestingly, the media reported that some legislators might be open to future legislation to make the registry public. For now, the registry information can be disclosed to law enforcement only.

**FAVORABLE RESULTS - BILLS DEFEATED**

**SB 846. AN ACT DECREASING RECIDIVISM AND PROMOTING RESPONSIBLE REINTEGRATION.**

*Please see discussion of SB 846, above.*

**SB 970. AN ACT EXEMPTING THE ADDRESSES OF CERTAIN UCONN HEALTH CENTER EMPLOYEES FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT.**

Senate Bill 970 proposed to add to the list of public employees whose residential addresses are exempt UConn Health Center employees who provide direct care to inmates or patients with psychiatric or mental health disorders.

Senate Bill 970 never made it out of committee, but the address exemption proposal was added (as substitute language) to Senate Bill 889, *An Act Concerning the University of Connecticut and Competitive Bidding for Agricultural Purchases by the Constituent Units of Higher Education*. Fortunately, when Senate Bill 889 was taken up by the General Assembly, an amendment proposed by Senator Bye was adopted striking the address exemption provision from SB 889. (Senate Bill 889 is now P.A. 13-177).

**SB 1148. AN ACT REDEFINING “MEETING” FOR PURPOSES OF THE FREEDOM OF INFORMATION ACT.**

*Please see discussion of SB 1148, above.*

**HB 5421. AN ACT EXEMPTING DEATH CERTIFICATES OF MINORS FROM PUBLIC DISCLOSURE FOR A SIX-MONTH PERIOD.**

House Bill 5421, as originally proposed, would exempt death certificates of minors from public disclosure for a period of ten years after the death of such minor. After a February 22, 2013, public hearing, the GAE committee drafted a proposal that would, with certain exceptions, restrict access for a six-month period following the minor’s death. The exceptions were (1) the minor’s parent, sibling, grandparent or guardian; (2) the licensed funeral director or embalmer acting on behalf of such relatives and directly responsible for disposing of the minor’s remains; and (3) agents of a state or federal agency, as approved by Department of Public Health (DPH). The bill made it out of committee, but was never raised by the House.

*Please also see the discussion concerning access to death certificates, above.*

**HB 5733. AN ACT CONCERNING ACCESS TO DEATH CERTIFICATES.**

House Bill 5733, as originally proposed, allowed DPH and the registrars of vital statistics to restrict access to the copy of the death certificate for a child under eighteen years of age when the disclosure of the death certificate is likely to cause undue hardship for the family of the child.

The bill was voted out of committee with substitute language requiring town clerks and DPH to issue, with certain exceptions, a “short form” to requestors for copies of death certificates less than 100 years old. Under the bill, the short form must include only the decedent’s name and gender as well as the cause, date, and place of death. The bill made it out of committee, but was never raised by the House.

*Please also see the discussion concerning access to death certificates, above.*

**HB 6157. AN ACT CONCERNING CERTIFICATIONS OF BIRTH AND MARRIAGE AND DEATH CERTIFICATES.**

The stated purpose of proposed bill 6157 was to “protect against identity theft,” and “to provide confidentiality while ensuring appropriate public access to vital records.” Specifically, the bill recommended that: personally identifying information on marriage certifications must be redacted before being provided to requesters who are not parties to the marriage; and personally identifying information on death certifications must be redacted before being provided to requesters who are not family members, funeral homes making arrangements for family members, or physicians of the deceased person.

After the public hearing on the proposed bill, the Public Health committee drafted a committee bill making only technical changes to the statute concerning vital records. The bill never made it out of committee.

*Please also see the discussion concerning access to death certificates, above.*

**HB 6353. AN ACT CONCERNING STATE BUDGET REFORM.**

*Please see discussion of HB 6353, above.*

**HB 6354. AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING GENERAL GOVERNMENT.**

*Please see discussion of HB 6354, above.*

**HB 6424. AN ACT CONCERNING FEES FOR SEARCHES OF ACCIDENT AND INVESTIGATIVE REPORTS OF THE DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION.**

*Please see discussion of HB 6424, above.*

**UNFAVORABLE RESULTS - BILLS DEFEATED**

**SB 204. AN ACT REQUIRING MARKETING CONTRACTS INVOLVING PUBLIC INSTITUTIONS OF HIGHER EDUCATION TO BE SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT.**

Senate Bill 204 would increase the transparency of marketing contracts made on behalf of public institutions of higher learning. The Commission argued that the bill would close an unfortunate loophole that now shields from public scrutiny some deals that are struck between private organizations and agents of Connecticut public universities. By channeling the marketing deals through a private third-party, a public university can avoid the disclosure requirements of the FOI Act and effectively hide the details of the deal. Subjecting the marketing contracts to disclosure under the FOI Act ensures necessary transparency while still permitting legitimate exemptions from disclosure to protect disclosure of trade secrets and certain commercial information.

Senate Bill 204 never made it out of committee.

## **HB 5112. AN ACT CONCERNING THE DISCLOSURE OF THE NAMES AND ADDRESSES OF PERSONS HOLDING HANDGUN PERMITS.**

Representative Stephen Dargan (D-115<sup>th</sup> District) introduced House Bill 5112 which would make the name and address of a person who holds a permit to sell or carry a pistol or revolver, or an eligibility certificate for a pistol or revolver, subject to the disclosure provisions of the FOI Act.

The Commission supports changing the law for the following reasons, among others:

- The public has a basic interest in knowing who has been granted all different types of licenses;
- If the public cannot find out who has been given handgun licenses, or who has applied for such licenses, they cannot report disqualifying information (*e.g.*, felony convictions); and, without the assistance of the public, there is no practical way to assure that the information provided by an applicant is correct.
- If the public cannot find out who has been given such licenses, it cannot monitor whether licensing authorities are performing their duties thoroughly and properly, and whether they are granting or denying applications due to bias or favoritism.
- The proliferation of handguns makes it imperative that people be able to find out who may be acquiring handguns and therefore placing them at risk.

Opponents of the bill feared that thieves might use gun permit information to steal guns. However, such fears are purely speculative. Indeed, a case can be made that gun owners would want thieves to know they are armed so that the thieves would be *dissuaded* from trying anything nefarious. Opponents also argued that allowing the disclosure of the names and addresses of persons holding hand gun permits would lead to the disclosure of the residential addresses of judges, law enforcement officers and other similar officials whose employment puts them at risk. However, the Legislature has already made provisions for the protection of certain residential addresses in section 1-217 of the FOI Act, which allows a protected individual to take appropriate steps to protect his or her address.

House Bill 5112 never received a public hearing.

## **HB 5900. AN ACT REQUIRING MORE TRANSPARENCY IN THE DEPARTMENT OF EDUCATION AND THE STATE EDUCATION RESOURCE CENTER.**

Similar to Senate Bill 1096 (*discussed above*), House Bill 5900, as drafted by the GAE committee, subjects SERC to competitive bidding and FOI Act requirements. It also requires the Department of Education to submit an annual report to certain legislative committees regarding contracts awarded by the department or the center, sources of funding and amounts paid to employees and consultants of the department or center.

Senate Bill 5900 was unanimously voted out of committee, but was never taken up by the House.

## **HB 6566. AN ACT CONCERNING TRANSPARENCY IN ECONOMIC ASSISTANCE PROGRAMS.**

Raised Bill 6566 proposed to increase the public's access to information about our state's economic development efforts, budget and tax structure. The proposal required that the names of those receiving economic assistance from the state, in the form of a tax credit or abatement, be posted on a publicly accessible, searchable online database. Additional information such as the amount of state funds expended, the type of, and statutory authority for, such economic assistance, a description of the specific purpose for the assistance, the number of jobs created or retained, and analysis of net direct and indirect state economic benefit, would also be available. With this information, a member of the public, or a policy maker, could much more easily evaluate the success (or failure) of a particular economic development program or expenditure.

The Commission argued that large government expenditures (*e.g.*, investments by the state of hundreds of million dollars a year in economic assistance programs) deserve public scrutiny and applauded the type of proactive disclosure contemplated by this bill. The FOI Commission also supported, in particular, that portion of the proposal that would require the Office of Policy and Management to post the state budget on its web site, showing all line item appropriations in a downloadable database.

The FOI Commission also noted that the proposal appeared to strike the proper balance between openness and the protection of what might arguably be confidential financial information.

Subsequent to the public hearing, the proposal was amended to seemingly address some of the concerns by various parties, including the CT Business and Industry Association, about disclosure of "proprietary information." The substitute bill reduced the amount of information required to be proactively disclosed.

The bill, as amended, appeared to have had overwhelming support from the public, open government advocates and legislators, and was unanimously adopted by the House. However, it was never raised by the Senate.

## **HB 6605. AN ACT CONCERNING TRANSPARENCY OF EXPENSES.**

House Bill 6605 would increase transparency in public institutions of higher education by prohibiting unvouchered expenses. Specifically, the proposal required each constituent unit of the state system of public higher education to document every expenditure made by such constituent unit at the time the expenditure is made. The proposal also required that documentation of such expenditures be made available for public inspection upon request in accordance with the FOI Act.

The Commission argued that government expenditures, including compensation and reimbursements paid to top officials in the Connecticut State University system, are clearly of public concern (especially during a period of fiscal crisis in the state) and deserve public scrutiny. House Bill 6605 would make such expenditures public and advance and promote accountability in government spending.

Unfortunately, although HB 6605 made it out of committee with unanimous support, the bill died on the House calendar.

### **NEUTRAL - BILLS PASSED**

#### **HB 5598 P.A. 13-\_\_\_. AN ACT CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND THE DISPOSITION OF SURPLUS STATE PROPERTY, SHORT TERM EMERGENCY LEASES, THE DEFINITION OF EXECUTIVE SESSION AND DUPLICATIVE STATEMENTS OF FINANCIAL INTEREST.**

House Bill 5598 proposed, in part, to amend §1-200(6)(D) of the FOI Act to allow the state (as well as political subdivisions of the state) to meet in executive session to discuss real estate transactions, including the discussion of the selection of a site or the lease, sale or purchase of real estate that would adversely impact the price for the public agency. As originally written, the proposal would only address situations when publicity regarding the selection of a site, lease, sale, purchase or construction would adversely impact the price *paid* by the public agency, but would not address situations where the price *received* by the public agency would be adversely impacted. The FOI Commission worked with the Department of Administrative Services and suggested language that clarified, in keeping with the intent behind the provision when it first passed, that the existing executive session provision in §1-200(6)(D), G.S., applied to real estate transactions that would adversely impact the price paid and received by the public agency.

The bill made it out of committee with the agreed upon language. HB 5598 (with an amendment) passed the House and Senate.

#### **HB 6492; P.A. 13-\_\_\_. AN ACT CONCERNING THE CONFIDENTIALITY OF EMPLOYEES SUPPLYING INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS.**

As originally written, House Bill 6492 proposed to exempt from disclosure the *name* of an employee who provides the Auditors of Public Accounts information regarding alleged fraud or weaknesses in the control structure of an agency that may lead to fraud and *all the documentation* of such information. The auditors, in conjunction with a standard audit under Conn. Gen. Stat. §2-90, question employees about the potential for fraud at public agencies.

The Commission understood the auditors' concerns that the disclosure of the name of an employee, who is interviewed as part of an audit in which fraud is found, may have a chilling effect and an interviewed employee may hesitate to candidly discuss the potential for fraud at an agency for fear that they would be retaliated against by their co-workers and/or supervisors. The proposed language, however, was overly broad and would run counter to the principles of open and accountable government.

In an attempt to address both the FOI Commission's and the auditors' concerns, the Commission and the auditors came to a mutual agreement that is narrow for purposes of transparency but provides the confidentiality needed by the auditors. The language suggested by the FOI Commission and the auditors exempts *only* the identity of an employee who provides information or any portion of a document which may reveal the identity of such employee.

The bill with substitute language was unanimously adopted by the General Assembly.

### **FOI COMMISSION PROPOSALS**

The FOI Commission submitted two proposals to the legislature, which the Commission believed would be beneficial. The same proposals were introduced and raised for a hearing during the 2012 legislative session in HB 5463, *An Act Concerning Requests for Records under the Freedom of Information Act and Appointments to the Freedom of Information Commission*. The FOIC proposed to change the term of the legislatively appointed members of the FOI Commission from two to four years, and to clarify that requests under the FOI Act may be oral as well as written. Neither proposal was raised by the GAE Committee.