



May 30, 2011

ATTORNEY GENERAL MADIGAN SUPPORTS EFFORT TO IMPROVE PUBLIC ACCESS COUNSELOR'S ROLE, INCREASE TRANSPARENCY IN ILLINOIS***Amendment Would Significantly Simplify, Speed, Strengthen FOIA Process***

Springfield—Attorney General Lisa Madigan today supported a proposed change to the Freedom of Information Act that would increase transparency in Illinois by simplifying, speeding and strengthening the process for accessing public information.

The bill (HB 1716, Senate Amendment 1) will eliminate a provision in FOIA, that while initially helpful as an educational tool, has too often become a hindrance to the efficient and speedy release of public information. This non-binding process currently requires public bodies, in each and every instance, to ask the Public Access Counselor for pre-authorization to use two commonly cited exemptions in responding to requesters.

Eliminating the pre-authorization process would enable the Public Access Counselor to devote its limited resources to resolving disputes over access to public information, including by issuing binding opinions and engaging in enforcement efforts, and to continue to educate public officials on how to apply the law. The Attorney General believes an emphasis on enforcement, especially through the issuance of binding opinions, will strengthen transparency laws in Illinois. The pre-authorization requests make up more than half of all inquiries to the Public Access Counselor. In 2010 alone, 62 percent of the Public Access Counselor's work involved reviewing pre-authorization matters, which have no enforcement mechanism. The elimination of the pre-authorization process would allow the PAC to shift its focus and enforcement efforts to public bodies intent on withholding information.

"By streamlining the FOIA review process and increasing our ability to enforce the law, we will help to ensure greater transparency at all levels of government in Illinois," Attorney General Madigan said. "This important change to the FOIA process will allow the Public Access Counselor to focus on enforcement of the law and reduce delays in the public's access to information about our government."

The legislation is also designed to simplify and speed up the process to obtain public records. Initially established to focus on the most frequently cited exemptions, the pre-authorization process can be lengthy and time consuming and, in many instances, unnecessary if the proposed exempt information is not significant to the requester. As a result, the process has often unintentionally created an extra step before information is released, delaying requesters' access to information. And in instances where a public body seeks to delay the release of information, this process has provided an opportunity to do that. As a result, eliminating the pre-authorization process will help to reduce delay in responding to FOIA requests.

Additionally, by focusing on resolving disputes and increasing enforcement of FOIA through binding decisions, the Public Access Counselor will provide increased guidance to public officials on how to apply FOIA. The Public Access Counselor also will continue its work in educating public officials on transparency laws and their proper application through statewide training seminars and online training programs, all with an eye toward improving the process and continuing to increase access to information at all levels of government in Illinois.

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