

February 11, 2020

House Bill 502

Public Information Act - Revisions

House Health and Government Operations Committee

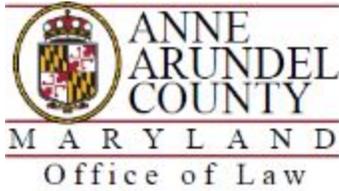
Position: Support with Amendments

The Anne Arundel County Office of Law **SUPPORTS with AMENDMENTS** House Bill 502 – Public Information Act - Revisions. This Bill proposes many positive changes to increase transparency and accountability of government departments and agencies. However the Office of Law has some areas of concern, which are outlined below.

Section 4-104 of the Bill requires each County custodian to adopt a policy of “proactive disclosure of public records” that are available for inspection. This imposes an additional and unnecessary requirement on all County custodians. If it is more efficient for a department to have certain records available on its departmental website, the department is already permitted to make them available. Accordingly, the Office of Law would ask that this provision be stricken from the bill.

The reporting requirements proposed in the Bill require every County custodian to report annually on 12 pieces of information. In addition to the amount of time County custodians/MPIA representatives must spend to process requests, these employees will have to spend significant amounts of time recording all of this information for every request received and consolidating it all before July 1 each year. This would take time/resources away from the County’s custodians/MPIA representatives performing the MPIA’s real purpose of responding to requests for documentary material. If this provision passes, the County will have to devote noticeably more resources to satisfy the reporting requirements. Accordingly, the Office of Law would ask that this provision be stricken from the bill.

Sections 4-1A-04 through 4-1A-06 and 4-1B-04 expands the scope of matters heard by the Public Information Act Compliance Board (“Board”) and sets forth the process for how the Board hears MPIA disputes. The Board’s jurisdiction would include denials of inspection, unreasonable denial of fee waivers, and failing to respond within the MPIA time limits. The proposed changes also increase the Board’s authority by allowing it to order custodians to: 1) produce certain records if it finds a custodian denied inspection in violation of the MPIA; 2) waive the fee or reconsider the fee waiver request if Board finds custodian unreasonably denied fee waiver request; and 3) promptly respond and potentially waive fees if Board finds the custodian failed to timely respond to a request. These changes also propose allowing custodians to lodge complaints to the Board for frivolous, vexatious, or bad faith requests as well as



providing authority for the Board to order the custodian to ignore such requests or respond to a less burdensome version of the requests as determined by the Board. All of the above types of matters can be heard by the Board only after either the applicant or custodian exhaust resolution with the MPIA Ombudsman. While the proposed changes would allow the County to seek relief from the Board, we do not believe there need to be more matters within the Board's purview and oppose these proposals. Accordingly, the Office of Law would ask that this provision be stricken from the bill.

The proposed stricter requirements on timely responses to requests in Section 4-402 prohibits custodians from responding late to MPIA requests, unless the custodian requests an extension or dispute resolution through the Ombudsman. If the custodian does neither and is late to respond, then the custodian is prohibited from charging the applicant any fees for processing the Request. Current MPIA provisions suffice to prevent untimely responses and this places more restrictions on County agencies. Accordingly, the Office of Law would ask that this provision be stricken from the bill.

For all of these reasons, the Anne Arundel County Office of Law respectfully requests a **FAVORABLE with AMENDMENTS** report on House Bill 502.