



HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE

House Bill 183

Public Information Act – Revisions
(Equitable Access to Records Act)

February 11, 2021

Unfavorable Report

Chair Pendergrass, Vice Chair Pena-Melnyk and members of the Committee, thank you for the opportunity to offer comments about House Bill 183. This bill makes significant changes to the Public Information Act (PIA) by, among other things, expanding the Public Information Act Compliance Board’s authority to hear any disputes, lowering the threshold for appeals of fees charged from \$350 to \$200; requiring custodians of records to adopt a proactive disclosure policy, track numerous metrics and publish an annual report.

Bowie State often receives requests for voluminous records that bear no relation to its core teaching and learning mission. Increasingly, we receive requests from corporations whose sole purpose is to profit from the information we are obligated to provide. The university has no staff devoted exclusively to the job of responding to PIA requests. Proactive disclosure of records along with new tracking and reporting will create additional work for staff who have other responsibilities. In anticipation of more complaints being filed, House Bill 183 provides for additional staff support for the Office of the Public Access Ombudsman and the Public Information Act Compliance Board, but no additional resources are provided for agencies to implement the sweeping changes in House Bill 183. Thus, Bowie State would have to institute new tracking and online reporting, and respond to more complaints using existing, strained resources.

Equally troubling in House Bill 183 is the limitation of agency authority to determine whether to deny access to records based on a discretionary exemption. Many records we hold are unique to higher education. We do not believe the Compliance Board should substitute its judgment for that of our employees in assessing whether our records should be disclosed and whether the time and fees associated with our efforts are deemed “reasonable”. Yet House Bill 183 expands the authority of Compliance Board to waive fees, including fees for requests not fulfilled within 30 days. Given the complexity and breadth of the requests we receive, the search, compilation, review and sometimes redaction of information from records sometimes involve multiple offices and personnel and can take longer than 30 days to complete. Lowering the threshold for what is considered a “reasonable” fee from \$350 to \$200 will significantly impact the workload of custodians.

Bowie State takes very seriously its obligation to provide access to records. We are proud of our history of compliance with the PIA with zero complaints filed by requestors. House Bill 183 imposes unfunded and unnecessarily burdensome mandates on custodians, exposing them to potential civil or criminal liability for noncompliance, while doing little to actually improve access. For these reasons, we urge an unfavorable report.