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Joint Committee on Administrative,
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THE MARYLAND HOUSE OF DELEGATES
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Testimony in Support of HB 183
Public Information Act - Revisions (Equitable Access to Records Act)
February 11, 2021 * Health and Government Operations Committee

What this bill does

This legislation builds on the important work done by Del. Bonnie Cullison and Sen. Jamie Raskin in 2015 in creating the PIA Ombudsman and PIA Compliance Board. These two entities have now proven to be invaluable in their efforts, yet their value is stymied because of the limited authority given to them. [A report authored by the Ombudsman and published in December 2019](#) reviews the efficacy of the public information act in Maryland and recommends updates to the law - this legislation is based on that report.

The legislation's key provisions provide that:

- The jurisdiction of the PIA Compliance Board will be expanded to review and issue decisions on any PIA disputes that are not resolved through mediation with the Ombudsman. The Act will increase the Board's review to cover disputes including denials of inspection, fee waivers, and timely response and lowers the floor for fee disputes from \$350 to \$200.
- The PIA Compliance Board may order custodians to correct violations and also to review custodian requests for relief regarding requestors who make PIA demands that are frivolous, vexatious, or in bad faith.
- Custodians publish an annual report on their PIA requests and responses, to the extent feasible. If they do not have a website, the custodian shall store the report in a place easily accessible to the public.
- It will be the practice of all public agencies to adopt a policy of proactive disclosure and share documents whenever appropriate or feasible, including responses to past requests.

Why this bill matters

Without a better process for resolution and enforcement of existing provisions of law, public information is inaccessible to those who seek it - it is not truly public. Maryland's Ombudsman and Compliance Board structure are important tools to make sure the promise of the PIA is fulfilled.

The Ombudsman is in an impossible position of having no enforcement authority if agencies refuse to cooperate with citizens as the mediation process is strictly voluntary. When disputes go unresolved, the only remaining option is for the requester to take the agency to court, which is not a feasible option for many. This legislation ensures that institutions and agencies can fulfill their promise to Maryland citizens, while also providing assistance to over-burdened custodians.

HB183 is more urgent in light of the pandemic. In October 2020, the [Baltimore Sun reported](#) that it is taking longer for people to get information through public records requests, and disputes over records are taking longer to resolve. According to the PIA ombudsman, “just 24% of cases involving disputes between agencies and requesters over public records were resolved within three weeks during the first six months of 2020, down from 44% in 2019...Just 37% of cases are being resolved within six weeks this year, compared with 73% in 2019.” This all comes at a time of heightened government spending, sweeping executive orders, and increased citizen engagement with Government agencies like the Department of Labor for unemployment, the Department of Human Services for SNAP, and the Department of Health for health insurance.

This legislation targets agencies that have been blatantly underperforming in their PIA duties, such as MDE. Environmental Groups have reported that their PIA requests to MDE often go unfulfilled for months on end, and are only fulfilled after numerous reminders by the requesters. This bill is not intended to and should not negatively impact institutions that are doing good work, such as the PIA offices at our public universities in Maryland. For instance, in the past 5 years, only 2 PIA Compliance Board opinions have involved University of Maryland institutions. The PIA Ombudsman *rarely* engages with these institutions because they are resolving PIA requests with residents directly, successfully. This bill should not increase the workload of high-performing PIA offices. Nothing in this bill makes it easier to file a PIA; it simply changes the PIA review process itself.

Why should you vote for this bill

Our representative democracy depends on an informed electorate, and no electorate can be informed without access to public government information. This bill will ensure that our constituents and our agencies are working together to provide access to public information. It is a common sense, low-cost solution that is critical to improving citizens’ trust in Government, and by way, our Democracy.