



House of Representatives

General Assembly

File No. 81

January Session, 2025

House Bill No. 6882

House of Representatives, March 12, 2025

The Committee on Government Oversight reported through REP. DATHAN of the 142nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
FREEDOM OF INFORMATION COMMISSION FOR REVISIONS TO THE
FREEDOM OF INFORMATION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 1-205 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2025*):

4 (e) The Freedom of Information Commission shall conduct training
5 sessions, at least annually, for members of public agencies for the
6 purpose of educating such members as to the requirements of this
7 section and sections [1-7 to 1-14, inclusive, 1-16 to 1-18, inclusive,] 1-200
8 to 1-202, inclusive, as amended by this act, [1-205] 1-205a, 1-206, 1-210 to
9 [1-217] 1-219, inclusive, as amended by this act, 1-225 to 1-232, inclusive,
10 as amended by this act, and 1-240 [, 1-241 and 19a-342] to 1-242,
11 inclusive.

12 Sec. 2. Subdivision (17) of subsection (b) of section 1-210 of the general

13 statutes is repealed and the following is substituted in lieu thereof
14 (*Effective October 1, 2025*):

15 (17) [Educational] Education records which are not subject to
16 disclosure under the Family Educational Rights and Privacy Act, 20
17 USC 1232g;

18 Sec. 3. Subsection (d) of section 1-210 of the general statutes is
19 repealed and the following is substituted in lieu thereof (*Effective October*
20 *1, 2025*):

21 (d) Whenever a public agency, except the Judicial Department or
22 Legislative Department, receives a request from any person for
23 disclosure of any records described in subdivision (19) of subsection (b)
24 of this section under the Freedom of Information Act, the public agency
25 shall promptly notify the Commissioner of Administrative Services or
26 the Commissioner of Emergency Services and Public Protection, as
27 applicable, of such request, in the manner prescribed by such
28 commissioner, before complying with the request as required by the
29 Freedom of Information Act. If the commissioner, after consultation
30 with the chief executive officer of the applicable agency, believes the
31 requested record is exempt from disclosure pursuant to subdivision (19)
32 of subsection (b) of this section, the commissioner may direct the agency
33 to withhold such record from such person. In any appeal brought under
34 the provisions of section 1-206 of the Freedom of Information Act for
35 denial of access to records for any of the reasons described in
36 subdivision (19) of subsection (b) of this section, such appeal shall be
37 against (1) the chief executive officer of the executive branch state
38 agency or the municipal, district or regional agency that maintains or
39 has custody of the requested record, and (2) the commissioner who
40 issued the directive to the public agency that maintains or has custody
41 of such record to withhold such record pursuant to subdivision (19) of
42 subsection (b) of this section, [exclusively, or,] except in the case of
43 records concerning Judicial Department facilities, such appeal shall be
44 against the Chief Court Administrator [or] and, in the case of records
45 concerning the Legislative Department, such appeal shall be against the

46 executive director of the Joint Committee on Legislative Management.

47 Sec. 4. Subsection (g) of section 1-212 of the general statutes is
48 repealed and the following is substituted in lieu thereof (*Effective October*
49 *1, 2025*):

50 (g) Any individual may copy a public record through the use of a
51 hand-held scanner. A public agency may establish a fee structure not to
52 exceed twenty dollars for an individual to pay each time the individual
53 copies records at the agency with a hand-held scanner. As used in this
54 section, "hand-held scanner" means a battery operated electronic
55 scanning device the use of which (1) leaves no mark or impression on
56 the public record, and (2) does not unreasonably interfere with the
57 operation of the public agency. "Hand-held scanner" includes, but is not
58 limited to, a mobile telephone, a camera or any other portable device
59 capable of capturing an image of a public record.

60 Sec. 5. Section 1-200 of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective October 1, 2025*):

62 As used in this chapter, the following words and phrases have the
63 following meanings, except where such terms are used in a context
64 which clearly indicates the contrary:

65 (1) "Public agency" or "agency" means:

66 (A) Any executive, administrative or legislative office of the state or
67 any political subdivision of the state and any state or town agency, any
68 department, institution, bureau, board, commission, authority or official
69 of the state or of any city, town, borough, municipal corporation, school
70 district, regional district or other district or other political subdivision of
71 the state, including any committee of, or created by, any such office,
72 subdivision, agency, department, institution, bureau, board,
73 commission, authority or official, and also includes any judicial office,
74 official, or body or committee thereof but only with respect to its or their
75 administrative functions, and for purposes of this subparagraph,
76 "judicial office" includes, but is not limited to, the Division of Public

77 Defender Services;

78 (B) Any person to the extent such person is deemed to be the
79 functional equivalent of a public agency pursuant to law; or

80 (C) Any "implementing agency", as defined in section 32-222.

81 (2) "Meeting" means any hearing or other proceeding of a public
82 agency, any convening or assembly of a quorum of a multimember
83 public agency, and any communication by or to a quorum of a
84 multimember public agency, whether in person or by means of
85 electronic equipment, to discuss or act upon a matter over which the
86 public agency has supervision, control, jurisdiction or advisory power.
87 "Meeting" does not include: Any meeting of a personnel search
88 committee for executive level employment candidates; any chance
89 meeting, or a social meeting neither planned nor intended for the
90 purpose of discussing matters relating to official business; strategy or
91 negotiations with respect to collective bargaining; a caucus of members
92 of a single political party notwithstanding that such members also
93 constitute a quorum of a public agency; an administrative or staff
94 meeting of a single-member public agency; and communication limited
95 to notice of meetings of any public agency or the agendas thereof. A
96 quorum of the members of a public agency who are present at any event
97 which has been noticed and conducted as a meeting of another public
98 agency under the provisions of the Freedom of Information Act shall not
99 be deemed to be holding a meeting of the public agency of which they
100 are members as a result of their presence at such event.

101 (3) "Caucus" means (A) a convening or assembly of the enrolled
102 members of a single political party who are members of a public agency
103 within the state or a political subdivision, or (B) the members of a
104 multimember public agency, which members constitute a majority of
105 the membership of the agency, or the other members of the agency who
106 constitute a minority of the membership of the agency, who register
107 their intention to be considered a majority caucus or minority caucus, as
108 the case may be, for the purposes of the Freedom of Information Act,
109 provided (i) the registration is made with the office of the Secretary of

110 the State for any such public agency of the state, in the office of the clerk
111 of a political subdivision of the state for any public agency of a political
112 subdivision of the state, or in the office of the clerk of each municipal
113 member of any multitown district or agency, (ii) no member is
114 registered in more than one caucus at any one time, (iii) no such
115 member's registration is rescinded during the member's remaining term
116 of office, and (iv) a member may remain a registered member of the
117 majority caucus or minority caucus regardless of whether the member
118 changes his or her party affiliation under chapter 143.

119 (4) "Person" means natural person, partnership, corporation, limited
120 liability company, association or society.

121 (5) "Public records or files" means any recorded data or information
122 relating to the conduct of the public's business prepared, owned, used,
123 received or retained by a public agency, or to which a public agency is
124 entitled to receive a copy by law or contract under section 1-218, as
125 amended by this act, whether such data or information be handwritten,
126 typed, tape-recorded, videotaped, printed, photostated, photographed
127 or recorded by any other method.

128 (6) "Executive sessions" means a meeting of a public agency at which
129 the public is excluded for one or more of the following purposes: (A)
130 Discussion concerning the appointment, employment, performance,
131 evaluation, health or dismissal of a public officer or employee, provided
132 that such individual may require that discussion be held at an open
133 meeting; (B) strategy and negotiations with respect to pending claims or
134 pending litigation to which the public agency or a member thereof,
135 because of the member's conduct as a member of such agency, is a party
136 until such litigation or claim has been finally adjudicated or otherwise
137 settled; (C) matters concerning security strategy or the deployment of
138 security personnel, or devices affecting public security; (D) discussion
139 of the selection of a site or the lease, sale or purchase of real estate by the
140 state or a political subdivision of the state when publicity regarding such
141 site, lease, sale, purchase or construction would adversely impact the
142 price of such site, lease, sale, purchase or construction until such time as

143 all of the property has been acquired or all proceedings or transactions
144 concerning same have been terminated or abandoned; and (E)
145 discussion of any matter which would result in the disclosure of public
146 records or the information contained therein described in subsection (b)
147 of section 1-210, as amended by this act.

148 (7) "Personnel search committee" means a body appointed by a public
149 agency, whose sole purpose is to recommend to the appointing agency
150 a candidate or candidates for an executive-level employment position.
151 Members of a "personnel search committee" shall not be considered in
152 determining whether there is a quorum of the appointing or any other
153 public agency.

154 (8) "Pending claim" means a written notice to an agency which sets
155 forth a demand for legal relief or which asserts a legal right stating the
156 intention to institute an action in an appropriate forum if such relief or
157 right is not granted.

158 (9) "Pending litigation" means (A) a written notice to an agency which
159 sets forth a demand for legal relief or which asserts a legal right stating
160 the intention to institute an action before a court if such relief or right is
161 not granted by the agency; (B) the service of a complaint against an
162 agency returnable to a court which seeks to enforce or implement legal
163 relief or a legal right; or (C) the agency's consideration of action to
164 enforce or implement legal relief or a legal right.

165 (10) "Freedom of Information Act" means this chapter.

166 [(11) "Governmental function" means the administration or
167 management of a program of a public agency, which program has been
168 authorized by law to be administered or managed by a person, where
169 (A) the person receives funding from the public agency for
170 administering or managing the program, (B) the public agency is
171 involved in or regulates to a significant extent such person's
172 administration or management of the program, whether or not such
173 involvement or regulation is direct, pervasive, continuous or day-to-
174 day, and (C) the person participates in the formulation of governmental

175 policies or decisions in connection with the administration or
176 management of the program and such policies or decisions bind the
177 public agency. "Governmental function" shall not include the mere
178 provision of goods or services to a public agency without the delegated
179 responsibility to administer or manage a program of a public agency.]

180 [(12)] (11) "Electronic equipment" means any technology that
181 facilitates real-time public access to meetings, including, but not limited
182 to, telephonic, video or other conferencing platforms.

183 [(13)] (12) "Electronic transmission" means any form or process of
184 communication not directly involving the physical transfer of paper or
185 another tangible medium, which (A) is capable of being retained,
186 retrieved and reproduced by the recipient, and (B) is retrievable in paper
187 form by the recipient.

188 Sec. 6. Section 1-218 of the general statutes is repealed and the
189 following is substituted in lieu thereof (*Effective October 1, 2025*):

190 (a) For purposes of this section, "governmental function" means the
191 administration or management of a program of a public agency, which
192 program has been authorized by law to be administered or managed by
193 a person, where (1) the person receives funding from the public agency
194 for administering or managing the program, (2) the public agency is
195 involved in or regulates to a significant extent such person's
196 administration or management of the program, whether or not such
197 involvement or regulation is direct, pervasive, continuous or day-to-
198 day, and (3) the person participates in the formulation of governmental
199 policies or decisions in connection with the administration or
200 management of the program and such policies or decisions bind the
201 public agency. "Governmental function" does not include the mere
202 provision of goods or services to a public agency without the delegated
203 responsibility to administer or manage a program of a public agency.

204 (b) Each contract in excess of two million five hundred thousand
205 dollars between a public agency and a person for the performance of a
206 governmental function shall (1) provide that the public agency is

207 entitled to receive a copy of records and files related to the performance
208 of the governmental function, and (2) indicate that such records and files
209 are subject to the Freedom of Information Act and may be disclosed by
210 the public agency pursuant to the Freedom of Information Act. No
211 request to inspect or copy such records or files shall be valid unless the
212 request is made to the public agency in accordance with the Freedom of
213 Information Act. Any complaint by a person who is denied the right to
214 inspect or copy such records or files shall be brought to the Freedom of
215 Information Commission in accordance with the provisions of sections
216 1-205, as amended by this act, and 1-206.

217 Sec. 7. Subsection (b) of section 1-211 of the general statutes is
218 repealed and the following is substituted in lieu thereof (*Effective October*
219 *1, 2025*):

220 (b) Except as otherwise provided by state statute, no public agency
221 shall enter into a contract with, or otherwise obligate itself to, any person
222 if such contract or obligation impairs the right of the public under the
223 Freedom of Information Act to inspect or copy the agency's nonexempt
224 public records existing on-line in, or stored on a device or medium used
225 in connection with, a computer system owned, leased or otherwise used
226 by the agency. [in the course of its governmental functions.]

227 Sec. 8. Subsection (d) of section 1-225 of the general statutes is
228 repealed and the following is substituted in lieu thereof (*Effective October*
229 *1, 2025*):

230 (d) (1) Notice of each special meeting of every public agency, except
231 for the General Assembly, either house thereof or any committee
232 thereof, shall be posted not less than twenty-four hours before the
233 meeting to which such notice refers on the public agency's Internet web
234 site, if available, and given not less than twenty-four hours prior to the
235 time of such meeting by filing a notice of the time and place thereof in
236 the office of the Secretary of the State for any such public agency of the
237 state, in the office of the clerk of such subdivision for any public agency
238 of a political subdivision of the state and in the office of the clerk of each
239 municipal member for any multitown district or agency.

240 (2) The secretary or clerk shall cause any notice received under this
241 section to be posted in his or her office, and in the case of a notice of a
242 public agency of the state filed with the secretary, on the Secretary of the
243 State's Internet web site. Such notice shall be given not less than twenty-
244 four hours prior to the time of the special meeting; provided, in case of
245 emergency, except for the General Assembly, either house thereof or
246 any committee thereof, any such special meeting may be held without
247 complying with the foregoing requirement for the filing of notice but a
248 copy of the minutes of every such emergency special meeting
249 adequately setting forth the nature of the emergency and the
250 proceedings occurring at such meeting shall be filed with the Secretary
251 of the State, the clerk of such political subdivision, or the clerk of each
252 municipal member of such multitown district or agency, as the case may
253 be, not later than seventy-two hours following the holding of such
254 meeting. The notice shall specify the time and place of the special
255 meeting and the business to be transacted. No other business shall be
256 considered at such meetings by such public agency.

257 (3) In addition, such written notice shall be delivered by electronic
258 transmission or by mail to the usual place of abode of each member of
259 the public agency so that the same is received prior to such special
260 meeting. The requirement of delivery of such written notice may be
261 dispensed with as to any member who at or prior to the time the meeting
262 convenes files with the clerk or secretary of the public agency a written
263 waiver of delivery of such notice. Such waiver may be given by
264 [telegram] electronic transmission or by mail. The requirement of
265 delivery of such written notice may also be dispensed with as to any
266 member who is actually present at the meeting at the time it convenes.

267 (4) Nothing in this section shall be construed to prohibit any agency
268 from adopting more stringent notice requirements.

269 Sec. 9. Subdivision (1) of section 4d-30 of the general statutes is
270 repealed and the following is substituted in lieu thereof (*Effective October*
271 *1, 2025*):

272 (1) "Contract" means a contract for state agency information system

273 or telecommunication system facilities, equipment or services, which is
274 awarded pursuant to this chapter, [or subsection (e) of section 1-205,]
275 subsection (c) of section 1-211, [subsection (b) of section 1-212, section 4-
276 5,] subsection (a) of section 10a-151b [,] or subsection (b) of section 19a-
277 110.

278 Sec. 10. Section 4d-47 of the general statutes is repealed and the
279 following is substituted in lieu thereof (*Effective October 1, 2025*):

280 With respect to any state employee whose position is eliminated or
281 who is laid off as a result of any contract or amendment to a contract
282 which is subject to the provisions of this chapter and [subsection (e) of
283 section 1-205,] subsection (c) of section 1-211, [subsection (b) of section
284 1-212, section 4-5,] section 4a-50, 4a-51, subsection (b) of section 4a-57,
285 subsection (a) of section 10a-151b [,] or subsection (b) of section 19a-110,
286 or any subcontract for work under such contract or amendment, (1) the
287 contractor shall hire the employee, upon application by the employee,
288 unless the employee is hired by a subcontractor of the contractor, or (2)
289 the employee may transfer to any vacant position in state service for
290 which such employee is qualified, to the extent allowed under the
291 provisions of existing collectively bargained agreements and the general
292 statutes. If the contractor or any such subcontractor hires any such state
293 employee and does not provide the employee with fringe benefits which
294 are equivalent to, or greater than, the fringe benefits that the employee
295 would have received in state service, the state shall, for two years after
296 the employee terminates from state service, provide to the employee
297 either (A) the same benefits that such employee received from the state,
298 or (B) compensation in an amount which represents the difference in the
299 value of the fringe benefits that such employee received when in state
300 service and the fringe benefits that such employee receives from the
301 contractor or subcontractor.

302 Sec. 11. Section 4d-48 of the general statutes is repealed and the
303 following is substituted in lieu thereof (*Effective October 1, 2025*):

304 No contract or subcontract for state agency information system or
305 telecommunication system facilities, equipment or services may be

306 awarded to any business entity or individual pursuant to this chapter or
 307 [subsection (e) of section 1-205,] subsection (c) of section 1-211,
 308 [subsection (b) of section 1-212, section 4-5,] subsection (a) of section 10a-
 309 151b [,] or subsection (b) of section 19a-110, if such business entity or
 310 individual previously had a contract with the state or a state agency to
 311 provide information system or telecommunication system facilities,
 312 equipment or services and such prior contract was finally terminated by
 313 the state or a state agency within the previous five years for the reason
 314 that such business entity or individual failed to perform or otherwise
 315 breached a material obligation of the contract related to information
 316 system or telecommunication system facilities, equipment or services. If
 317 the termination of any such previous contract is contested in an
 318 arbitration or judicial proceeding, the termination shall not be final until
 319 the conclusion of such arbitration or judicial proceeding. If the fact-
 320 finder determines, or a settlement stipulates, that the contractor failed
 321 to perform or otherwise breached a material obligation of the contract
 322 related to information system or telecommunication system facilities,
 323 equipment or services, any award of a contract pursuant to said chapter
 324 or sections during the pendency of such arbitration or proceeding shall
 325 be rescinded and the bar provided in this section shall apply to such
 326 business entity or individual.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2025</i>	1-205(e)
Sec. 2	<i>October 1, 2025</i>	1-210(b)(17)
Sec. 3	<i>October 1, 2025</i>	1-210(d)
Sec. 4	<i>October 1, 2025</i>	1-212(g)
Sec. 5	<i>October 1, 2025</i>	1-200
Sec. 6	<i>October 1, 2025</i>	1-218
Sec. 7	<i>October 1, 2025</i>	1-211(b)
Sec. 8	<i>October 1, 2025</i>	1-225(d)
Sec. 9	<i>October 1, 2025</i>	4d-30(1)
Sec. 10	<i>October 1, 2025</i>	4d-47
Sec. 11	<i>October 1, 2025</i>	4d-48

GOS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes a variety of changes related to the Freedom of Information Act (FOIA), FOIA related process, and updates statute to meet current training practice for the Freedom of Information Commission resulting in no fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 6882*****AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE FREEDOM OF INFORMATION COMMISSION FOR REVISIONS TO THE FREEDOM OF INFORMATION ACT.*****SUMMARY**

This bill makes several unrelated changes to the Freedom of Information Act (FOIA). Among other things, it:

1. conforms the law on trainings given by the Freedom of Information Commission (FOIC) to current practice (§ 1);
2. clarifies which public agencies must be named in an appeal to FOIC when a request to inspect or copy a record is denied under FOIA's safety risk exemption (§ 3);
3. explicitly allows the copying of public records using mobile telephones or cameras (§ 4);
4. limits the applicability of FOIA's definition of "governmental function" so that it applies only to one statute on contracts for performing a governmental function, rather than throughout FOIA (§§ 5-7); and
5. allows notices of a special meeting to be sent to a public agency's members electronically (§ 8).

Additionally, the bill specifies that FOIA's disclosure exemption for records covered by the federal Family Educational Rights and Privacy Act (FERPA) applies to education records, rather than "educational" records (§ 2). This conforms with terminology used in FERPA (20 U.S.C. § 1232g(4)).

Lastly, the bill makes technical and conforming changes. Among

other things, it amends provisions on the awarding of state government information technology contracts to remove erroneous references to (1) FOIC training and fees for copying public records and (2) the statutory list of department heads (§§ 9-11).

EFFECTIVE DATE: October 1, 2025

§ 1 — FOIC TRAINING

The law requires FOIC to hold annual training sessions for members of public agencies on FOIA's provisions (e.g., meeting-related requirements). The bill eliminates requirements for FOIC to hold training on (1) physical requirements for public records (e.g., standard ink) and (2) the general prohibition on smoking indoors (e.g., tobacco and cannabis). It adds requirements for the commission to hold trainings on (1) contracts for the performance of a governmental function, (2) veterans' military records, (3) court actions involving FOIA, and (4) the commission's recommended budget appropriations and allotments.

§ 3 — SAFETY RISK APPEALS

Under FOIA, an executive branch state agency that receives a request to disclose records potentially subject to FOIA's safety risk exemption (CGS § 1-210(b)(19)) must consult with the Department of Administrative Services (DAS) commissioner before disclosing the records. A municipal, regional, or district agency must consult with the Department of Emergency Services and Public Protection (DESPP) commissioner. In both cases, FOIA allows the applicable commissioner to direct the custodial agency to withhold the record from disclosure.

Under current law, any FOIC appeal of a denial based on FOIA's safety risk exemption must be filed against the state, municipal, regional, or district agency that issued the directive to withhold the record. Under the bill, the appeal must be filed against both the agency with custody of the record and the commissioner (DAS or DESPP, as applicable) that directed the agency to withhold the record.

§ 4 — USING MOBILE PHONES AND CAMERAS TO MAKE COPIES

The bill explicitly allows people to copy public records using mobile telephones, cameras, or other portable devices capable of capturing an image of a public record. It does so by deeming these devices to be “hand-held scanners” under FOIA’s copies and scanning of public records provision, which also allows public agencies to set a fee structure for copying records with a hand-held scanner at the agency.

FOIA allows (1) individuals to use a hand-held scanner to copy records and (2) public agencies to charge up to \$20 each time an individual uses a scanner to copy records at the agency. Currently under FOIA, a “hand-held scanner” is a battery-operated electronic scanning device that leaves no mark or impression on the records and does not unreasonably interfere with the agency’s operations.

§§ 5-7 — GOVERNMENTAL FUNCTION

Under FOIA, a “governmental function” generally includes a public agency program’s administration or management by a person that, among other things, participates in making governmental policies or decisions connected to the program’s administration or management. It does not include the mere provision of goods or services to a public agency without delegated program management or administration responsibilities.

The bill limits this definition’s applicability so that it applies only to one statute on contracts for performing a governmental function, rather than throughout FOIA as under current law (see BACKGROUND). In doing so, the bill clarifies that the statutory definition does not apply at common law, where “governmental function” has a similar (though not identical) meaning (see BACKGROUND).

Under current law, “governmental function” also appears in a FOIA provision generally prohibiting public agencies from entering into contracts that impair the public’s right to inspect or copy records stored in a computer system the agency owns, leases, or uses in the course of its governmental functions. The bill makes a conforming change by eliminating the reference to governmental functions.

§ 8 — NOTICE ABOUT A SPECIAL MEETING

FOIA generally requires public agencies to provide at least 24 hours' notice of a special meeting unless there is an emergency. A special meeting is one held to consider business that (1) was unforeseen when scheduling regular meetings and (2) should be addressed before the next regular meeting.

The bill allows notices about a special meeting to be sent to a public agency's members electronically or by mail to their homes. Current law requires that the notice be delivered to the member's home. Current law also allows members to waive delivery of the notice by filing a written waiver with the agency's clerk or secretary. The bill allows members to submit these waivers electronically or by mail and eliminates the option for them to submit by telegram.

BACKGROUND

Contract for Performance of a Governmental Function

By law, each contract exceeding \$2.5 million between a public agency and a person for the performance of a "governmental function" must state that the public agency is entitled to a copy of records and files related to the performance of the governmental function. The contract must also indicate that these records or files are subject to FOIA and may be disclosed by the public agency under FOIA.

Governmental Function: Common Law

By law, FOIA applies to non-public entities to the extent they are deemed to be the functional equivalent of a public agency (CGS § 1-200(1)(B)). To determine whether a person is the "functional equivalent" of a public agency courts and FOIC apply a four-part test established by the Connecticut Supreme Court in *Board of Trustees of Woodstock Academy v. FOIC*, 181 Conn. 544 (1980). One component of this test is whether the entity performs a governmental function.

In applying the functional equivalent test in a 1998 case, the

Connecticut Appellate Court held that “[p]erforming a government service pursuant to contract does not make an entity a public agency subject to [FOIA].... The key to determining whether an entity is a government agency or merely a contractor with the government is whether the government is really involved in the core of the program” (*Domestic Violence Services of Greater New Haven, Inc. v. FOIC*, 47 Conn. App. 466 (1998)).

COMMITTEE ACTION

Government Oversight Committee

Joint Favorable

Yea 9 Nay 0 (02/25/2025)