

Dear Chair Birong and fellow committee members,

WCAX, as a member of the Vermont Broadcasters Association, the Vermont Journalism Coalition and the New England First Amendment Coalition's Vermont Advisory Committee, submits the following written testimony on the proposed amendments to the Public Records Act.

### **Threat To Press Freedom And Government Accountability**

These proposals represent a fundamental threat to press freedom, government transparency, and the public's right to know. The legislative proposal from the Vermont League of Cities and Towns would effectively create financial barriers to accessing public records and undermine the essential watchdog function of journalism in Vermont. Vermont has a proud tradition of accessible government and civic engagement. This proposal would mark a significant retreat from that tradition.

### **Extended Response Time Will Hamper Timely Reporting**

Timeliness is essential to newsworthiness. Stories delayed by 14 days can lose relevance and public interest. In today's fast-paced news world, controversial government actions can fade from public consciousness during extended delays, reducing accountability. A 14-business-day standard (potentially 20 calendar days) would make Vermont one of the slowest-responding states in the nation, and slower than other nearby states.

### **Financial Barriers Will Chill Press Freedom and Public Oversight**

The proposal's fee provisions would create insurmountable financial barriers for Vermont's small news organizations and for individual citizens, simply seeking to understand their government's actions.

When I was a young journalist, most state and local public records could be obtained through a simple phone call. Today's process has become challenging and at times adversarial. Public officials and records custodians often act as if they are the owners of records rather than stewards. Journalists seeking records frequently meet with delays that far exceed the statutory limits. Denials often come with vague references to applicable exemptions that must be appealed, further delaying access.

### **The Proposal Mischaracterizes the "Problem"**

The VLCT memo frames responding to public records requests as an undue burden. Record-keeping and providing public access to those records are not impositions. They are essential government functions, that provide the transparency that is fundamental to our democracy.

The cost of this transparency is the cost of democracy itself. Government agencies should adequately budget for this essential government service.

If the number of records requests is increasing, that may reflect a growing public concern over the actions of government.

### **Inspection Rights Remain Meaningful**

These proposed changes would serve to eliminate the careful balance the Vermont Supreme Court established in *Doyle v. Burlington Police Department* (2019 VT 66)

which highlighted the distinction in the current statute between inspection of records and copying of records. This distinction maintains a baseline level of access that doesn't depend on ability to pay. And allows citizens to determine whether records are worth copying before incurring costs.

The court clearly understood that records custodians would incur the same staff and legal costs to prepare the records for inspection as they would for copying, but believed that was the legislature's intent.

### **The "Vexatious Request" Provision Is Dangerously Vague**

The proposal to create relief from "vexatious requests" lacks clear standards and could be weaponized against:

- **Investigative journalists** conducting in-depth reporting requiring multiple requests
- **Advocacy organizations** monitoring government compliance with laws
- **Citizens** persistently seeking accountability on issues of public concern

If truly vexatious requests exist, they should be addressed through narrow, well-defined standards with robust due process protections.

### **Alternative Solutions**

Rather than erecting financial barriers to transparency, state and local governments should consider:

- Investing in better records management systems that reduce research and redaction time.
- Creating online portals for commonly requested records
- Reducing the number of exemptions in the PRA that need to be considered during legal reviews.
- Providing state funding to municipalities for records compliance.
- Creating a fee waiver system for journalists and non-profit requesters.

### **Conclusion**

Obtaining public records in Vermont is already exceedingly difficult. Agencies routinely ignore statutory deadlines. Excessive exemptions allow many documents to be withheld or so heavily redacted as to be meaningless.

The VLCT proposal would further transform Vermont's Public Records Act from a tool for transparency into a mechanism for obstruction.

WCAX joins other media organizations in urging this committee to reject these proposed amendments.

Sincerely,

**Roger Garrity**