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## VBH BOT FYI Legal FOIA

1 message

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FOIA changes create 'nuisance' class, critics say

By Jake Griffin Daily Herald  
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Changes to the state's Freedom of Information Act allow government agencies to delay response times to individuals who are deemed to have made too many requests.

The "recurrent requester" provision of the law signed by Gov. Pat Quinn Friday allows government agencies to delay responses up to 21 days for individuals who make more than seven requests in a week, 15 requests in a month or 50 requests in a year. The state's FOIA law requires government agencies to fulfill information requests within five days, though taxing bodies can demand a five-day extension if they deem the request to be too time-consuming.

The new changes do not apply to journalists or nonprofit academic or scientific organizations.

"The bill discourages public participation," said Maryam Judar, a community lawyer at the Elmhurst-based Citizen Advocacy Center. "It's obviously anti-democratic because it creates a tiered system of entitlement."

Other critics believe governments could save themselves time and trouble by simply posting common information online.

"If you had everything online — minutes, agenda, contracts, reports — then there's no need for a FOIA request," said Jean Kaczmarek, co-chairwoman of the DuPage chapter of the Illinois Ballot Integrity Project.

But supporters of the law say the changes allow governments to prioritize information requests.

"Recurrent requests, and even commercial requests, have been elbowing out other legitimate FOIA requests," said state Sen. Ron Sandack, a Republican from Downers Grove who co-sponsored the bill.

In addition to the recurrent requester provision, the law also allows governments to treat commercial information requests differently and charge commercial requesters for time and data.

Judar called the commercial component a "slippery slope." Before 2010, government bodies could set arbitrary fees for anyone seeking copies of information. Judar fears a return to those days.

"FOIA has been labeled a primary purpose of a public body," she said.

"These costs should be baked into the cake."

Natalie Bauer, a spokeswoman for Illinois Attorney General Lisa Madigan, said the recurrent requester provision doesn't keep individuals from receiving the information, it just delays it. She said the office doesn't believe it will be employed against many individuals.

"This recurrent provision is very narrow and it will be very, very

difficult to meet the requirements," Bauer said.

Anyone who is deemed a recurrent requester can appeal their status to Madigan's office.

Judar said there are no immediate plans to seek repeal of the changes to the FOIA law. Instead, her organization will monitor the provision's use and application to make sure it isn't abused.

Bauer believes other changes in the FOIA law change will affect requesters and government more. Governments will no longer seek pre-authorization from Madigan's public access office to deny requests for information deemed private or in "draft" form. In the past two years, requests for information were delayed exponentially as governments flooded Madigan's office with these pre-authorization requests. Bauer said these types of requests from government accounted for more half of the public access office's workload each year.

"By eliminating what has been a lengthy and unenforceable process, it will very much streamline the work for that office and allow us to dedicate our very limited resources to issuing binding opinions, which are enforceable in a court of law," she said.

Judar said the Citizen Advocacy Center supports these changes as well.

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