

Senate Judiciary Committee

Jennifer Horgan 271-3092

HB 178, establishing a commission to study processes to resolve right-to-know complaints.

Hearing Date: March 28, 2017

Time Opened: 10:53 a.m.

Time Closed: 11:20 a.m.

Members of the Committee Present: Senators Carson, Lasky, French and Gannon

Members of the Committee Absent : Senator Hennessey

Bill Analysis : This bill establishes a commission to study processes to resolve right-to-know complaints.

Sponsors :

Rep. Weyler
Rep. Spillane
Sen. Birdsell

Rep. Souza
Sen. Guida
Sen. Avard

Rep. Itse
Sen. Gray

Who supports the bill: Representative Weyler; Senator Avard; Senator Guida; Senator Birdsell; Representative Horrigan; Representative Hagan; Representative Kenison; Representative Wuelper; Representative Janvrin; Representative Wall; Representative Itse; Darryl Perry (Liberty Lobby LLC); David Saad (Right to Know NH); Ian Freeman (NH Liberty Party); Cordell Johnston (NH Municipal Association); Harriet Cady; Gloria Riel; Will Anderson; Sylvia Yeates

Who opposes the bill: Representative Keans; Tim King (NH Police Association); Marc Beaudoin (NH Troopers Association)

Summary of testimony presented in support:

Representative Kenison

- This bill was introduced to simplify the process of complaints in regards to Right to Know.
- The House Judiciary Committee agreed this was an important thing to do, but amended the bill to add other members to the Commission including, increasing the number of House members, adding a municipal official, a school board member, and a county official.
- Wanted to have all of the stakeholders involved in this process.
- Municipalities are interested in making this more cost effective and efficient.

Representative Wuelper

- We all believe the Right to Know process needs improvement.
- In cases of dispute, there is no way to resolve it without going to court, which is a costly process.
- There has to be a way to amend this process to be more amenable and cost effective.

Representative Itse

- The Right to Know process is cumbersome and broken.

- Even when there is a ruling in favor of the person who is seeking the Right to Know, sometimes the governmental agency ignores it.
- There are restrictions, usually in relation to the cost.
- The government should be held accountable at all times.
- Need to find some way to keep an eye on the cost, but always ensure it is open, accountable and accessible to the people.

Cordell Johnston (NH Municipal Association)

- Enforcement of the Right to Know law can be expensive for both sides.
- Fully agrees that it would be wonderful if there were easier and quicker way to resolve these complaints.
- There will always be cases where people have to go to court, but believes a number of them can be resolved through another process.

David Saad (Right to Know NH) (provided written testimony)

- The Right to Know Act's preamble states "to ensure the greatest possible access"
- Currently, in NH, the way citizens assert their rights is to go to court.
- Last year, the Center for Public Integrity gave NH an F, 49 out of 50 states, on the access of information. A key factor of that rating was the lack of formal mechanism for appealing an agency's rebuff of an information request.
- This commission will look at ways to reduce the number of complaints and the expenses.
- NH is one of only 19 states where the only option is to go to court.
- The majority of other states have some independent board, arbiter, advisory council, ombudsmen, etc.
- This commission will also look at ways to improve compliance with the law.
- Currently, there is very little training of government employees on how to ensure compliance.
- Senator French asked how many Right to Know complaints are brought to court each year.
 - Believes it is somewhere in the range of ten per year. This is a situation where that is the tip of the iceberg. The chances of getting compensation for attorney fees is not high, so many citizens cannot afford to go to court.
- Senator French asked if the study commission were to come up with a committee to oversee this, would that open the door for an overwhelming number of complaints.
 - It is hard to know what the size of the iceberg is. This bill is just to study the issue and to hear recommendations on this.

Darryl Perry (Liberty Lobby LLC)

- Shared his experience of filing Right to Know requests and the rebuff he has received from some agencies.
- The only resolution for these situations would be to go to court.
- This is the first step.

Harriet Cady (provided written testimony)

- Shared her personal experience of filing Right to Know requests.
- Has gone to court 27 times and has only lost one case.
- There is a real problem out there with these requests.
- The law leaves it up to the citizen to enforce.
- Most people do not have the money to go to court.

Summary of testimony presented in opposition :

None

Future Action: Pending

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Date Hearing Report completed: March 30, 2017