



# Modest Burden, Modest Value

## Extending FOIL to the NY State Legislature

January 13, 2016

### Summary

Reinvent Albany supports expanding the NY State Freedom of Information Law to the New York State legislature. Twenty-three state legislatures are already subject to their state FOI laws, as are local legislatures in New York, including the NYC City Council. Based on the experience of these state legislatures, and local legislatures in NY State, we believe FOIL will not impose an undue burden on the NY State Senate and NY State Assembly.

However, we also believe that extending FOIL to the legislature will do relatively little to increase the overall transparency of government in New York. Overwhelmingly, the public is interested in records produced by the executive branch, not the legislature. The executive branch is far larger than the legislative branch and is the branch that provides services and spends public funds. In New York City, mayoral agencies receive approximately 50,000 FOIL requests a year compared to fewer than 70 a year for the New York City Council.

Entity	Year	Legislative FOILs	Executive FOILs
New York City Council	2013	70	50,000
Suffolk County Board of Legislators	2014	16	–
Hawaii House of Representatives	2014	11	1,713
West Virginia House of Delegates	2014	28	–
South Carolina House of Representatives	2014	15	–

## Background

According to the National Association of Counties, 23 state legislatures are covered by state Freedom of Information laws. Five of these states are like New York and have modeled their FOI laws on the federal Freedom of Information Act. We examined the FOIL requests to state legislatures in three of those states: Hawaii, South Carolina, and West Virginia, as well as the New York City Council and Suffolk County's Board of Legislatures. (While New York's FOIL does not cover the state Assembly or the Senate, it does apply to the legislatures of local governments.)

In particular, we point to FOIL in New York City, where the City Council received approximately 70 FOIL requests in 2013 compared to more than 50,000 requests for mayoral agencies. That is about 71 FOILs to mayoral agencies for each FOIL to City Council.

## Legislative FOIL Will Not Create an Undue Burden

Members of the central staff of the Assembly and State Senate have expressed concerns about the burden of being subject to FOIL. However, we have spoken with a representative sampling of central staff and legislative staff members of the NYC City Council, which is a large, professional legislature of full-time legislators and well-paid, professional staff members. City Council staff have not expressed consternation about the effect of FOIL on their productivity or ability to serve the public, Council leadership, or membership. The City Council staff is probably not perturbed by FOIL requests because they get so few—fewer than 70 a year—and most of those are requests for routine information.

We also spoke to FOI litigators and advocates in Colorado. They said they hear regular complaints about FOI from executive branch agencies, but not from the state legislature, which is subject to FOI. They believe this is probably because of the small volume and routine nature of FOI requests received by the legislature.

## Summary of Legislative FOIL Requests

Sources: FOIL requests for the Hawaii House of Representatives, West Virginia House of Delegates, and the South Carolina House of Representatives.

Records Requested	Number
Per Diems and Allowances	28
Correspondence	17
Grants for Community Projects	8
Ethics Committee Opinions	4
Other	13

## State Legislatures Subject to State FOI Laws

1. Alabama
2. Arizona
3. Hawaii\*
4. Idaho
5. Indiana\*
6. Iowa
7. Kansas
8. Maryland
9. Mississippi
10. Montana
11. Nebraska
12. Nevada
13. New Mexico\*
14. North Carolina
15. Ohio
16. Pennsylvania
17. South Carolina\*
18. South Dakota
19. Tennessee
20. Utah
21. West Virginia\*
22. Wisconsin
23. Wyoming

\* = Resembles federal FOIA (as does New York)