



Reinvent Albany Evaluates FOIL Proposals in Executive Budget

Supports Making State Legislature Subject to FOIL

Recommends Removal of “Critical Infrastructure” Provision

Reinvent Albany today released [an analysis](#) of the Freedom of Information Law (FOIL) reforms proposed by Governor Cuomo in his [Executive Budget Public Protection and General Government bill](#), Part BB. Reinvent Albany is a government watchdog group, and is New York State’s representative of the [National Freedom of Information Coalition](#) (NFOIC.) Reinvent Albany has done extensive work on FOIL issues including winning the passage of the FOIL attorney’s fee law in 2017.

FOIL Proposals in the Governor’s Budget

The Governor’s budget changes FOIL in five ways: 1) makes the state legislature subject to FOIL requests; 2) allows the public to view union contracting agreements before they are approved; 3) limits how long trade secrets can be exempt from FOIL; 4) subjects E911 calls to FOIL; and 5) exempts disclosure of records that could “endanger critical infrastructure.”

Reinvent Albany supports four of the Governor’s proposals and continues to opposes his proposal to exempt disclosure of records that could “endanger critical infrastructure,” which we believe is uncalled for.

1) Makes the state legislature subject to FOIL requests

Opening the legislative branch by requiring it follow FOIL makes New York state government more transparent. [However, state legislatures tend to receive few FOIL requests.](#)

2) Allows the public to view union contracting agreements before they are approved

As state workers' salaries and benefits are paid for by taxpayers, greater transparency of collective bargaining agreements with unions will help the public better understand how their tax dollars are being spent.

3) Limits how long trade secrets can be exempt from FOIL

Though companies have a right to keep trade secrets confidential, certain information, such as the cost of goods and services and other deliverables provided to government agencies, should eventually be made available to the public. Placing five-year limits on trade secret exemptions (with the possibility of extension) allows the public a greater view into the workings of state contracting.

4) Subjects 911 calls to FOIL

The release of 911 records can open the public's eyes to misconduct or mismanagement by state officers or response teams, as was seen in the Pulse nightclub shootings. FOIL allows for information to be redacted during release to protect victims' privacy.

5) Exempts disclosure of records that could “endanger critical infrastructure”

We know of no known cases where courts have permitted the release of information that might endanger the public. Denying disclosures that might “endanger critical infrastructure” could become a pretext for hiding information embarrassing to state government. Reinvent Albany and 11 other groups emphasized this in [a letter to Governor Cuomo and Speaker Heastie](#) in 2016.

This analysis is the fourth in a series of evaluations of the Executive Budget completed by Reinvent Albany. We previously evaluated the [campaign finance](#), [ethics](#), and [voting](#) proposals in the Governor's budget.

Reinvent Albany's priorities for the budget are:

- 1) Codifying the agreement reached between the Governor and Comptroller DiNapoli restoring the Comptroller's authority to pre-audit contracts before they are executed;
- 2) Establishing a Database of Deals revealing all business subsidies received from the state by companies and jobs produced in return; and
- 3) Establishing a public financing system of elections akin to New York City's.

