



## MEMO OF SUPPORT

### [A5357-A \(Steck\) / S5801-A \(Liu\)](#)

*Strengthens FOIL attorneys' fees*

May 31, 2024

#### **TITLE OF BILL**

An act to amend the public officers law, in relation to the award of reasonable attorneys' fees in certain proceedings.

#### **SUMMARY OF PROVISIONS**

Section 1 amends Public Officers Law §89(4)(c) to require agencies to reimburse attorneys' fees when a FOIL requester has successfully sued for access to records. This bill simplifies the law and makes it so that requesters only have to prevail, not “substantially” prevail, in order to be reimbursed.

Section 2 amends Public Officers Law §107(2) to make the same changes as Section 1 for lawsuits involving violations of the Open Meetings Law.

Section 3 states that the bill takes effect immediately.

#### **STATEMENT OF SUPPORT**

Our groups support this bill because we believe it will bring more sunlight to NYS government.

In 2017, NYS passed [the FOIL attorneys' fees law](#), which made it so that state agencies *must* reimburse records requestors who “substantially prevail” in their lawsuit.

The law was a big step forward for transparency, but the requirement that requestors “substantially” prevail is burdensome and overly broad compared to other jurisdictions. At least 11 other states, including California, Illinois, Michigan, and New Jersey, require that requestors simply “prevail” in FOIL cases. Passing this legislation will remove the word “substantially” and bring New York’s transparency laws up to par with other states.

We urge the Legislature to pass the bill, and the Governor to sign it.