



MEMO OF SUPPORT

S8671-A (Hoylman-Sigal) / A9621-A (McDonald)

Requires agencies to submit FOIL logs to Committee on Open Government

May 24, 2024

TITLE OF BILL

An act to amend the public officers law, in relation to requiring agencies to report information about FOIL inquiries to the committee on open government.

SUMMARY OF PROVISIONS

Section 1 rennumbers Public Officers Law (POL) §90 as §90-a, and adds a new POL §90 requiring all state agencies to submit to the Committee on Open Government (COOG) their logs of Freedom of Information Law (FOIL) requests. The logs shall:

- Cover all requests received or pending within a 12-month range;
- Be submitted on a schedule determined by COOG;
- Be in a machine-readable, tabular format;
- Be submitted in a method determined by COOG;
- Include, at a minimum, the following:
 - The requestor's name
 - The requestor's affiliation
 - The date the request was received
 - The date the agency acknowledged the request
 - The date of the agency's stated expected response time
 - The number of extensions of time to respond to date
 - The date of the final response or closure of the request

- Whether the request was granted or denied in part or in full
- A list of exemptions cited as part of any denial
- If denied, whether the agency determined there were no such records
- The date an appeal of the final response was filed or whether one was not filed
- The result of the appeal
- Exemptions cited in any appeal's denial
- The dollar amount of fees collected from requestors;
- How many documents were produced
- How many pages were produced
- Whether there were any redactions
- Whether the request received an Article 78 proceeding, and if so, the status and/or result.
- Logs shall also be published on the agency's website, if it has one.

Paragraph 2 provides that local municipal agencies shall annually submit to COOG the number of FOIL requests received, and the number closed.

Paragraph 3 provides that by January 1st of each year, COOG must publish on a single webpage all agency FOIL logs it has received in a machine-readable format such as a CSV, in addition to any other format allowed. COOG will transmit the logs to the state open data portal for publishing online in an open data format.

Paragraph 4 provides that COOG shall include a summary of logs received in its annual report, including total number of logs received, and is authorized to further analyze the data in the logs.

Paragraph 5 provides that by January 1, 2027, COOG shall provide a report on the benefits and feasibility of local agencies submitting request logs to the committee. COOG will publish the report on its website and submit copies to the Governor, Senate President, Assembly Speaker, and Local Government and Government Operations committee chairs in the Senate and Assembly.

Section 2 provides that the bill takes effect 90 days after being signed.

STATEMENT OF SUPPORT

Our groups support this legislation because we believe it will help the public and government better understand how FOIL is working in New York and what steps are necessary to improve it.

It is impossible to assess the state of NYS FOIL because agencies are not required to publicly report basic information about how they deal with the FOIL requests they are receiving. The public must literally FOIL the agency FOIL logs to analyze the state of FOIL.

This bill requires agencies to annually report FOIL data such as when each request was received, how it was resolved, and more to the Committee on Open Government. Publishing this data will show legislators and the public which agencies are complying with FOIL and which are shirking it. Access to this data is essential to keep implementation of our state's core transparency law – FOIL – transparent. If our systems of transparency are themselves opaque, they are unlikely to be effective.

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