



LEAGUE OF WOMEN VOTERS® OF MASSACHUSETTS

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May 9, 2016

Senate President Stanley C. Rosenberg  
Senator Joan Lovely  
Senator Jason Lewis  
Senator Donald Humason  
The State House  
Boston, MA 02133

Speaker of the House Robert A. DeLeo  
Representative Peter Kocot  
Representative Stephen Kulik  
Representative Mathew Muratore

Dear President Rosenberg, Speaker DeLeo and Conference Committee Members:

The League of Women Voters of Massachusetts has long been a proponent of greater openness and transparency in all levels of government. We were strongly encouraged by the likelihood that Massachusetts would finally make public records easily available and testified in support of the initial legislation. The legislation passed by the Senate, S.2120, comes close to accomplishing the goal of making our public records public.

We are now extremely concerned about the length of time this legislation has remained in conference committee, and we are further concerned legislation without teeth that remedies few of the existing problems could come out of the conference committee.

At a minimum, the public records legislation needs to provide for mandatory attorney fee awards in limited circumstances such as judicial orders and consent decrees, with reasonable exceptions (such as exist in the Senate bill) and without any exceptions based solely on a supervisor's determination. Judges should have reasonable discretion, including when the supervisor initially rules against the requestor. The appeals process must not take a step backward. The current law is good in this regard, and new procedures should not be added allowing agencies to appeal. All of this should be without a statute of limitations, as is the case in the current law.

Response timeliness is another key feature. Many records requests are time-sensitive and stalling tactics must be curtailed. The Senate version of the bill deals appropriately with these issues.

Costs that are unreasonably high will deter requests and are unacceptable. Both the House and Senate versions deal well with keeping costs reasonable, with one important exception. The House's "vendor provision" is a loophole that would undermine all of the other provisions.

Where electronic records exist, such records should be provided in a searchable, machine-readable format. In the future, agencies should ensure that all records are accessible and searchable.

We support creation of a commission to study transparency in all three branches of government. We also support requiring records access officers and their supervisors to report on implementation of changes to meet this new law. Please do not pass up this opportunity to move Massachusetts into the mainstream of having public records actually available to the public.

The League urges you to report a strong public records access bill out of the conference committee, and we look forward to supporting it.

Thank you.

Sincerely,

Jean Cherdack

A handwritten signature in black ink that reads "Jean Cherdack". The signature is written in a cursive, flowing style.

President