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For Immediate Release

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House approves bill strengthening public records law

Representative Kane initiates adopted amendment to minimize financial exposure for cities and towns

BOSTON – Representative Hannah Kane (R-Shrewsbury) joined with her colleagues in the House of Representatives today to support legislation updating the state’s public records law.

House Bill 3858, An Act to Improve Public Records, was approved unanimously on a vote of 157-0. The bill attempts to strike a balance between making government documents more easily accessible to the general public while also acknowledging concerns raised by some city and town clerks about their ability to comply with such requests.

“This bill represents the first significant changes to the public records law in more than 40 years,” said Representative Kane. “These changes will help create more openness and transparency throughout state and local government.”

During debate, Representative Kane voted for an amendment, offered by Assistant Minority Leader Brad Hill (R-Ipswich), to establish a special legislative commission to “examine the accessibility of information concerning the legislative process of the general court.” As part of its mission, the commission will examine the constitutionality and practicality of subjecting the legislative, executive and judicial branches to the public records law, and will issue a report and recommendations by December 1, 2016. This amendment passed unanimously on a vote of 157-0.

The public records bill requires cities, towns and state agencies to designate a Records Access Officer (RAO) who will be responsible for handling requests for public documents. Requests may be made in person, by mail or by e-mail.

RAOs will be required to furnish copies of documents within 10 business days of a request being filed. If they are unable to fulfill the request within the specified time period, they must notify the person making the request in writing. Depending on the nature of the request, the time frame for compliance could be extended to a maximum of 60 days for a state agency and up to 75 days

for a municipality. RAOs may also contract with an outside vendor to complete a request if it is beyond their technical or technological capabilities, in which case an enforceable written agreement must be signed by the requester to compensate the RAO for producing the requested records.

Language inserted in the bill through an amendment offered by House Minority Leader Bradley H. Jones, Jr. (R-North Reading) allows RAOs to deny a public records request from any individual who had previously failed to compensate the agency or municipality for a prior public records request. Representative Jones filed this amendment in response to concerns raised by Representative Hannah Kane (R-Shrewsbury), who also serves on the Shrewsbury Finance Committee and has been looking for ways to minimize the financial exposure faced by municipal officials when fulfilling public records requests.

“Representative Kane had expressed her concerns to me about situations where town clerks will process a public records request, only to have the person making the request fail to return for the documents or pay for the work done to retrieve them,” said Representative Jones. “This amendment will hopefully eliminate this problem and help to ensure that town officials are not forced to expend valuable resources without being adequately compensated.”

The bill limits fees for printed black and white copies at 5 cents per page, but allows state agencies and municipalities to factor other costs into the amount charged for a records request, including time spent retrieving and preparing the requested documents. State agencies are prohibited from charging for the first four hours spent on fulfilling a request, but can charge up to \$25 per hour for requests that exceed four hours. Cities and towns cannot charge for the first two hours of work, but beyond that may charge an hourly rate “equal to or less than the hourly rate attributed to the lowest paid employee who has the necessary skill required to search for, compile, segregate, redact or reproduce the record or records requested.”

If the RAO fails to comply with a public record request, or denies the request by claiming the information is not a public document, the person making the request can file an appeal through the superior court system. The courts can award “reasonable attorney fees and other litigation costs” if the appeal is successful, along with punitive damages ranging from \$1,000-\$5,000.

The bill now heads to the Senate for further action.

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