

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

PARTNERSHIP FOR CIVIL JUSTICE FUND)	
)	
Plaintiff,)	Civil Action No. 2009 CA 000748 B
)	Hon. Judith N. Macaluso
v.)	
)	Next Event: June 10, 2011
THE DISTRICT OF COLUMBIA)	Dispositive Motions Hearing
)	
Defendant.)	
)	

NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff respectfully notes the recent U.S. Supreme Court case of Milner v. Department of the Navy and also submits the legislative history pertinent to D.C. Code § 2-534(e), which forms the basis of the District’s assertion that the Court is authorized to judicially create or recognize a general “law enforcement privilege” for withholding materials under the D.C. FOIA.

Milner v. Dep’t of the Navy, 131 S. Ct. 1259, 179 L. Ed. 2d 268, 2011 U.S. LEXIS 2101 (2011)

Plaintiff respectfully notes the March 7, 2011 Milner case. The Department of Navy withheld explosives data and maps pertaining to the storage of munitions on a naval base on the basis that the release would pose a security risk and would “risk circumvention of agency regulation.” The Ninth Circuit affirmed withholding, finding it permissible under a statutory exemption “for any matter relating solely to the internal management of an agency,” an exemption which for decades has been applied by federal circuit courts to affirm such withholding.

The Supreme Court reversed, finding such application to be beyond the scope of the statutory exemption. “We have often noted ‘the Act’s goal of ‘broad disclosure’ and insisted that

the exemptions be ‘given a narrow compass.’” Id. at 1255-56 (citing Dep't of Justice v. Tax Analysts, 492 U.S. 136, 151 (1989)) (and collecting similar cases regarding narrowness of interpretation of exemptions).

The Court reviewed the relevant legislative history and found the Navy’s interpretation untenable given the “scant history” that could support the Navy’s arguments regarding legislative intent.

The Court did allow, however, that if the withholding could be found within existing exemptions as narrowly interpreted, the withholding could be sustained, even if the Navy classified the information to fall within the exemption for classified information.

Legislative History of Provision D.C Code § 2-534(e)

Plaintiff respectfully submits for this Court, the legislative history pertaining to D.C. Code § 2-534(e), on which the District of Columbia relies in support of its contention that agencies may withhold “law enforcement sensitive” materials under a judicially created or recognized “law enforcement privilege.”

The District’s argument relies the subprovision which provides in relevant part that “The deliberative process privilege, the attorney-client work product privilege, and the attorney-client privilege are incorporated under the inter-agency memoranda exemption listed in subsection (a)(4) of this section, and these privileges, among other privileges that may be found by the court, shall extend to any public body that is subject to this subchapter.” D.C. Code § 2-534(e).

The plaintiff has contended that the Council did not intend to reverse or restrict the long-standing and fundamental rule under both the D.C. FOIA and the federal FOIA that the Court’s equitable “power does not include the authority to create additional exemptions from disclosure. The statutory exemptions are intended to be exclusive. . . Moreover, any doubts about the

applicability of a particular exemption must be resolved in favor of disclosure.” Barry v. Wash. Post Co., 529 A.2d 319, 321 (D.C. 1987) (citing Hawkes v. IRS, 467 F.2d 787, 795-96 (6th Cir. 1972)).

Plaintiff contends the proper understanding of the subprovision at issue is that the Court may apply existing privileges where they can be found within the existing statutory exemptions, as for example the attorney-client and other cited privileges are specifically identified as being found within the exemption at subsection (a)(4). Plaintiff contends the Council did not intend to reverse, overrule or restrict the Barry case nor did it intend to diverge from the federal FOIA by creating a whole new area of judicially-created and applied privilege based exemptions.

Given this to be a matter of significant statutory interpretation, plaintiff is hereby submitting the legislative history for the Act which added this provision, the “Freedom of Information Legislative Records Clarification Amendment Act of 2004.” This includes the Committee report (which includes as attachments) the original proposed legislation and the final committee print after amendment.

Plaintiff submits there is nothing in this history to evidence an intent to diverge from federal FOIA practice on this issue, to overrule or restrict the long-standing rules reflected in Barry and other cases, or the creation of a whole new category of judicially created or applied privileges beyond those which are within the scope of existing statutory exemptions.

June 9, 2011

Respectfully submitted,

/s/ Carl Messineo
Carl Messineo (#450033)
Mara Verheyden-Hilliard (#450031)
PARTNERSHIP FOR CIVIL JUSTICE FUND
617 Florida Avenue NW
Washington, DC 20001
(202) 232-1180

CERTIFICATE OF SERVICE

I hereby certify that this 9th day of June, 2011, I did cause to be served a copy of the foregoing motion, with all attachments, to defense counsel Chad Copeland and to the Honorable Judge Judith N. Macaluso by service through the Court's CaseFileExpress electronic filing and service system.

/s/ Carl Messineo
Carl Messineo #450033

**Council of the District of Columbia
Committee on Government Operations**

RECEIVED

John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, DC 20004

OFFICE OF THE
SECRETARY

To: All Councilmembers
From: Vincent Bernard Orange, Sr., Chairperson
Date: August 27, 2004

Subject: Report on Bill 15-483, the "Freedom of Information Legislative Records Clarification Amendment Act of 2004".

The Committee on Government Operations reports favorably on Bill 15-483, the "Freedom of Information Legislative Records Clarification Amendment Act of 2004", as amended, and recommends its adoption by the Council of the District of Columbia.

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- II. Legislative History
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- V. Section-by-Section Analysis
- VI. Analysis of Impact on Existing Law
- VII. Committee Action
- VIII. Attachments

I. BACKGROUND. PURPOSE AND EFFECT

The purpose of Bill 15-483 is to amend the District of Columbia Administrative Procedure Act to bring the District's Freedom of Information Act into greater conformity with the federal Freedom of Information Act, to clarify that the Freedom of Information Act law enforcement or investigatory records exemption applies equally to the Council of the District of Columbia's investigatory proceedings, that the inter-agency memorandum exemption applies to Council records, to provide that records containing the identity of whistleblowers are exempt from disclosure, that the Council may assert exemptions on behalf of public bodies from which it receives information, and that final decisions of the Council may not be appealed to the Mayor.

II. LEGISLATIVE HISTORY

October 7, 2003

Chairman Cropp introduced Bill 15-483.

October 7, 2003	Bill 15-483 referred to the Committee on Government Operations.
October 17, 2003	Notice of Council intent to act on BELL 15-483 is published in the District of Columbia Register (see volume 50, number 42, page 8774).
April 16, 2004	Notice of Public Hearing by Committee on Government Operations on BILL 15-483 is published in the District of Columbia Register (see volume 51, number 16, page 3246).
May 12, 2004	The Committee on Government Operations holds a Public Roundtable on BILL 15-483.
June 22, 2004	The Committee on Government Operations holds a committee meeting to mark-up BILL 15-483.

III. SUMMARY OF TESTIMONY

> *Sheryl Hobbs Newman, Secretary of the District of Columbia*
 Ms. Hobbs Newman testified that Bill 15-483 would, among other things, modify the language of the DC-FOIA exemptions so that it now tracks the language in the federal FOIA. She stated that this was a very important amendment because there is very little legal precedence in the DC Court of Appeals interpreting the scope and applicability of the exemptions from disclosure in the DC-FOIA. With the local and federal statutes being identical, federal court of appeals cases would provide authoritative guidance in the interpretation of the DC-FOIA exemptions.

> *Leonard H. Becker, General Counsel in the Office of the Mayor*
 Mr. Becker testified that Bill 15-483 will update the DC FOIA exemptions to mirror those at the federal level, and that it will clarify that the DC-FOIA exemptions apply to records maintained by the Council, and that any FOIA request denied by the Council by the Council may be reviewed in DC Superior Court. Mr. Becker stated that the Administration supported the Council's efforts to ensure that the statutory exemptions apply to Council records and to clarify the judicial process for denials of access to such records.

> *Kathryn Sinzinger, Editor & Publisher of the Common Denominator*
Ms. Sinzinger testified in opposition to the bill. She stated that the bills before the committee would "largely layer more complexity and bureaucracy upon the already burdensome process that is routinely required to obtain public information from the D.C. Government." Ms. Sinzinger also stated that, as originally conceived, FOIA laws were not intended to provide a routine procedure for requesting public information. FOIA laws were meant to be a tool that citizens could use to compel their government to disclose public documents when public officials refused to do so.

> *Eric N. Lieberman, Associate Counsel, Washington Post*
Mr. Lieberman testified in opposition to the legislation, noting that Bill 15-483 proposes to bring certain substantive exemptions contained in the District's freedom of information law into greater conformity with their counterparts in the federal Freedom of Information Act. He asserted that the bill does not explain why conformity is desirable in this context, and that the Post believes that the District's law should only be amended to conform to the federal law if doing so would further the District's own public policy. Mr. Lieberman further stated that the proposed amendments are not consistent with the District's public policy. "None of the witnesses at the hearing provided any evidence of problems in the current law and, absent such evidence, public access should not be further restricted."

> *Talibah Chikwendu, Editor of the Afro American Newspaper*
Ms. Chikwendu testified in opposition to the legislation, noting particularly that full access to Council records is needed in order to see how decisions are being made and how the thought process of Councilmembers is reflected in their voting decisions. Ms. Chikwendu stated that access to the information that public officials utilize in making decisions is crucially important for the public because elected officials are speaking on behalf of the public that they represent.

> *Michael Sindrum, District of Columbia Resident*
Mr. Sindrum testified in opposition to the legislation, stating that he continues to be unsuccessful in his attempts to obtain various kinds of information from several District agencies including, most recently, the District of Columbia Office of Human Rights.

IV. COMMITTEE REASONING

Councilmember Patterson, with the support of Councilmembers Ambrose and Graham introduced an amendment in the nature of a substitute to Bill 15-483. The amendment served to negate many of the provisions

proposed in the underlying bill. Specifically, the amendment would clarify that the Freedom of Information Act law enforcement or investigatory records exemption applies equally to the Council of the District of Columbia's investigatory proceedings, that the inner-agency memorandum exemption applies to Council records, that the Council may assert exemptions on behalf of public bodies from which it receives information, and that final decisions of the Council may not be appealed to the Mayor.

Councilmember Patterson stated that the amendment preserves what is important to the Council, and added that more of the Council's documents should be made public. Councilmember Ambrose agreed, noting that she is aware of the difficulty in ascertaining information from District government agencies.

Chairman Orange stated that he would not vote for the amendment because the discussion had only been raised in the committee forum and should have taken place before the full Council. The bill was introduced by Council Chairman Linda Cropp, but debate regarding the amendment in the nature of a substitute excluded the introducer of the underlying bill as well as the rest of the Council. Councilmember Schwartz agreed with Chairman Orange, stating that she would prefer a broader discussion of the amendment.

V. SECTION - BY - SECTION ANALYSIS

Section 1 states the title of this resolution.

Section 2 amends Title II of the District of Columbia Administrative Procedure Act in several substantive ways as noted in the attached legislation.

Section 3 states that the act shall apply with respect to any requests for records pending on the effective date of the act, whether or not the request was made prior to that date, and shall apply to any civil action pending on that date.

Section 4 provides the fiscal impact statement.

Section 5 provides that the act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review.

VI. ANALYSIS OF IMPACT ON EXISTING LAW

This bill (prior to being amended) would amend the District of Columbia Administrative Procedure Act to bring the District's Freedom of

Information Act into greater conformity with the federal Freedom of Information Act, clarify that the Freedom of Information Act law enforcement or investigatory records exemption applies equally to the Council of the District of Columbia's investigatory proceedings, provide that the inter-agency memorandum exemption applies to Council records, provide that records containing the identity of whistleblowers are exempt from disclosure, ensure that the Council may assert exemptions on behalf of public bodies from which it receives information, and establish that final decisions of the Council may not be appealed to the Mayor.

VII. COMMITTEE ACTION

The Committee on Government Operations held a committee meeting to mark-up the Freedom of Information Legislative Records Clarification Amendment Act of 2004 on June 22, 2004 and reported favorably on an amendment in the nature of a substitute offered by Councilmember Patterson.

Members of the Committee on Government Operations Present:
Chairman Vincent B. Orange, *ST.*, Councilmembers Schwartz, Ambrose, Graham & Patterson.

Members of the Committee on Government Operations Absent:

Members of the Committee on Government Operations Voting in Favor: Councilmembers Patterson, Graham & Ambrose.

VIII. ATTACHMENTS

- a. BILL 15-483
- b. Notice of May 12, 2004 Public Hearing.
- c. Witness list from May 12, 2004 Public Hearing and testimony submitted for the record.
- d. Fiscal Impact Statement
- e. Committee Print (amendment in the nature of a substitute)

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Memorandum

To: Members of the Council

From: Phyllis Jones, Secretary to the Council

Date: October 15, 2003

Subject: Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on October 7, 2003. Copies are available in Room 2, the Legislative Services Division.

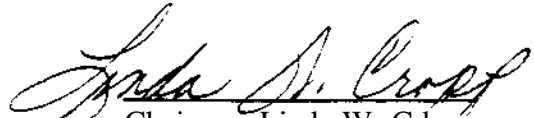
TITLE: "Freedom of Information Legislative Records Clarification Amendment Act of 2003", Bill 15-0483

INTRODUCED BY: Chairman Cropp

CO-SPONSORED BY: Councilmembers Orange, Catania, Allen, Schwartz,
Chavous, Evans, Patterson, Graham and Mendelson

Retained by the Council.

cc: **General** Counsel
Legislative Services Division


Chairman Linda W. Crbpp

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A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the District of Columbia Administrative Procedure Act to bring the District's Freedom of Information Act into greater conformity with the federal Freedom of Information Act, to clarify that the Freedom of Information Act law enforcement or investigatory records exemption applies equally to the Council of the District of Columbia's investigatory proceedings, that the inter-agency memorandum exemption applies to Council records, to provide that records containing the identity of whistleblowers are exempt from disclosure, that the Council may assert exemptions on behalf of public bodies from which it receives information, and that final decisions of the Council may not be appealed to the Mayor.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA. That this act may be cited as the "Freedom of Information Legislative Records Clarification Amendment Act of 2003".

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Sec. 2. Title II of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), is amended as follows:

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(a) Section 204 (D.C. Official Code § 2-534) is amended as follows:

23

(1) Subsection (a) is amended as follows:

24

(A) Paragraph (1) is amended by striking the phrase "outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained" and inserting the phrase "a person and privileged or confidential" in its place.

(B) Paragraph (2) is amended by striking the phrase "Information of a personal nature where the public disclosure thereof and inserting the phrase "Personnel and medical files and similar files the disclosure of which" in its place.

(C) Paragraph (3) is amended as follows:

(i) The lead-in language is amended by striking the phrase "Investigatory records" and inserting the phrase "Records or information" in its place.

(ii) Strike the word "would".

(iii) Subparagraph (A) is amended by striking the phrase "Interfere with enforcement" and inserting the phrase "Could reasonably be expected to interfere with enforcement, or Council investigatory" in its place.

(iv) Subparagraph (B) is amended by striking the word "Deprive" and inserting the phrase "Would deprive" in its place.

(v) Subparagraph (C) is amended by striking the word "Constitute" and inserting the phrase "Could reasonably be expected to constitute" in its place.

(vi) Subparagraph (D) is amended by striking the word "Disclose" and inserting the phrase "Could reasonably be expected to disclose" in its place.

(vii) Subparagraph (E) is amended by striking the word "Disclose" and inserting the phrase "would disclose" in its place.

(viii) Subparagraph (F) is amended as follows: 1

(I) Strike the word "Endanger" and insert the phrase "Could 2
reasonably be expected to endanger" in its place. 3

(II) Strike the phrase "law-enforcement personnel" and 4
insert the phrase "any individual" in its place. 5

(D) A new paragraph (3A) is added to read as follows: 6

"(3A) Records or information in the possession of the Council that are compiled for 7
purposes of a Council investigation, including records or information compiled prior to the 8
initiation of the investigation. The Council may assert an exemption on behalf of any public 9
body from which the records or information were obtained." 10

(E) Paragraph (4) is amended to read as follows: 11

"(4) Inter-agency or intra-agency memorandums or letters, including memorandums or 12
letters generated or received by the staff or members of the Council, which would not be 13
available by law to a party other than a public body in litigation with the public body." 14

(F) A new paragraph (11) is added to read as follows: 15

"(11) Records or information, the disclosure of which could reasonably be expected to 16
reveal the name of an employee providing information under the provisions of the Whistleblower 17
Reinforcement Act of 1998, effective October 7, 1998 (D.C. Law 12-160; D.C. Official Code §§ 18
1-615.51 *etseq.*, and 2-223.01 *etseq.*)." 19

(2) A new subsection (a-1) is added to read as follows: 20

"(a-1) The Council may assert, on behalf of any public body from which it obtains records or information, any exemption listed in subsection (a) of this section that could be asserted by the public body pertaining to the records or information."

(3) A new subsection (e) is added to read as follows:

"(e) All exemptions available under this section shall apply to the Council of the District of Columbia as well as executive branch agencies of the District of Columbia government. The deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege are incorporated under the inter-agency memoranda exemption listed in subsection (a)(4) of this section, and these privileges, among other privileges that may be found by the court, shall extend to any public body that is subject to this act. Memoranda created by or exchanged between staff and members of the District of Columbia Council shall be exempt from disclosure to the extent that such memoranda represent predecisional documents that were written in the process of developing legislation, drafting budget reports, or conducting oversight hearings."

(b) Section 207 (D.C. Official Code § 2-537) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "Any person" and inserting the phrase "Except as provided in subsection (a-1), any person" in its place.

(2) A new subsection (a-1) is added to read as follows:

"(a-1) Any person denied the right to inspect a public record in the possession of the Council may institute proceedings in the Superior Court for the District of Columbia for injunctive or declaratory relief, or for an order to enjoin the public body from withholding the

record and to compel the production of the requested record as set forth in subsection (a)(1) or (2) of this section.".

(3) Subsection (b) is amended by striking the phrase "subsection (a)" and inserting the phrase "subsection (a) or (a-1)" in its place.

Sec. 3. Applicability.

This act shall apply with respect to any requests for records pending on the effective date of this act, whether or not the request was made prior to that date, and shall apply to any civil action pending on that date.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-602.02(c)(1)). and publication in the District of Columbia Register.

**COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR FISCAL IMPACT STATEMENT**

Type: Emergency () Temporary () Permanent (X)	Date Reported: June 22, 2004
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Subject/Short Title: "Freedom of Information Legislative Records Clarification Amendment Act of 2004"

Part 1. Summary of the Fiscal Estimates of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	(X)
b) It will affect federal expenditures.	()	(X)
c) It will affect private/other expenditures.	()	(X)
d) It will affect intra-District expenditures.	()	(X)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue.	()	(x)
d) It will impact intra-District revenue.	()	(x)
Explanation:		
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	()	(X)

Part II. Other Impact of the Bill		
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
	YES	NO
1. It will affect an agency and/or agencies in the District.	()	()
2. Are there performance measures/output for this bill?	()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? If this bill is not enacted, the Council of the District of Columbia will not receive the same FOIA exemptions existing in current federal FOIA law.	(x)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(x)

Sources of information: Staff	Councilmember: Vincent B. Orange, Sr.
	Staff Person & Tel: Marc K. Battle (202) 724-8153
	Council Budget Director's Signature: <i>t^V^S^"V^Xi</i>

6/21/04

1 Committee Print
2 Committee on Government Operations
3 June 22, 2004
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6 A BILL
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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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16 To amend the District of Columbia Administrative Procedure Act to bring the District's
17 Freedom of Information Act into greater conformity with the federal Freedom of
18 Information Act, to clarify that the Freedom of Information Act law enforcement
19 or investigatory records exemption applies equally to the Council of the District
20 of Columbia's investigatory proceedings, that the inter-agency memorandum
21 exemption applies to Council records, that the Council may assert exemptions on
22 behalf of public bodies from which it receives information, and that final
23 decisions of the Council may not be appealed to the Mayor.
24

25 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

26 That this act may be cited as the "Freedom of Information Legislative Records
27 Clarification Amendment Act of 2004".

28

29 Sec. 2. Title II of the District of Columbia Administrative Procedure Act,
30 effective March 25, 1977 (D.C. Law 1-96; D. C. Official Code § 2-531 *etseq.*), is
31 amended as follows:

32

33 (a) Section 204 (D.C. Official Code § 2-534) is amended as follows:

34

(1) Subsection (a) is amended as follows:

35

(A) Paragraph (3) is amended as follows:

36

(i) by amending the lead-in language to read as

37

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1 follows: "Investigatory records compiled for law-enforcement purposes, including the
2
3 records of Council investigations, but only to the extent that the production of such
4
5 records would:";

6
7 (ii) by amending subparagraph (A) to read as
8 follows: "Interfere with enforcement proceedings, or with Council investigations;"

9 (B) Paragraph (4) is amended to read as follows:

10
11 "(4) Inter-agency or intra-agency memorandums or
12 letters, including memorandums or letters generated or received by the staff or members
13 of the Council, which would not be available by law to a party other than a public body in
14 litigation with the public body."

15 (2) A new subsection (a-1) is added to read as follows:

16 "(a)1) The Council may assert, on behalf of
17 any public body from which it obtains records or information, any exemption listed in
18 subsection (a) of this section that could be asserted by the public body pertaining to the
19 records or information."

20 (3) A new subsection (e) is added to read as follows:

21
22 "(e) All exemptions available under this section shall apply
23 to the Council of the District of Columbia as well as executive branch agencies of the
24 District of Columbia government. The deliberative process privilege, the attorney work-
25 product privilege, and the attorney-client privilege are incorporated under the inter-
26 agency memoranda exemption listed in subsection (a)(4) of this section, and these
27 privileges, among other privileges that may be found by the court, shall extend to any
28 public body that is subject to this act.

1 (b) Section 207 (D.C. Official Code § 2-537) is amended as follows:

2

3 (1) Subsection (a) is amended by striking the phrase "Any person"
4 and inserting the phrase "Except as provided in subsection (a-1), any person" in its place.

5 (2) A new subsection (a-1) is added to read as follows:

6

7 "(a) Any person denied the right to inspect a public
8 record in the possession of the Council may institute proceedings in the Superior Court
9 for the District of Columbia for injunctive or declaratory relief, or for an order to enjoin
10 the public body from withholding the record and to compel the production of the
11 requested record as set forth in subsection (a)(1) or (2) of this section."

12 (3) Subsection (b) is amended by striking the phrase "subsection

13

14 (a)" and inserting the phrase "Subsection (a) or (a-1)" in its place.

15

16 Sec. 3. Applicability.

17

18 This act shall apply with respect to any requests for records pending on the
19 effective date of this act, whether or not the request was made prior to that date, and shall
20 apply to any civil action pending on that date.

21 Sec. 4. Fiscal impact statement.

22

23 The Council adopts the fiscal impact statement in the committee report as the
24 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home
25 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
26 206.02(c)(3)).

27 Sec. 5. Effective date.

28

29 This act shall take effect following approval by the Mayor (or in the event of veto
30 by the Mayor, action by the Council to override the veto), a 30-day period of

1 Congressional review as provided in section 602(c)(1) of the District of Columbia Home
2 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
3 602.02(c)(1)), and publication in the District of Columbia Register.

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