

January 26, 2023

House Government and Veterans Affairs Committee HB 1198
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CHAIRMAN SCHAUER AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Newspaper and Broadcasters Associations. We are opposed to this bill and respectfully request a Do Not Pass.

North Dakota has a long and proud history of open meetings and records. There were open meeting and record provisions in our territorial pre-statehood laws. The current law, and its many, many amendments stems from the Revised Code of 1943. We are one of only a handful of states that have open meeting and records provisions in our State Constitution.

And in all of those 130+ plus years never has the name and address of a person requesting information been required – until HB 1198.

There are many reasons why a person may not want to give his or her name when requesting records. A newspaper, radio or television station may be doing an investigation of a public entity or official, and the name will be a tip off. There may be a whistle blower. The state has already enacted laws to protect them from retaliation. There may be a potential candidate for public office who is trying to gather information before considering a run. They don't want their intentions known since it may not pan out. There may be a person researching a certain field in order to publish a book and doesn't want others to know yet that he or she is planning this publication. I could go on and on.

There is only one reason this bill is here, and that is to enable a public entity to retaliate against the a requestor or otherwise make his or her life difficult. That's it. Plain and simple.

You have heard that some institutions have gotten multiple requests that have disrupted their normal operations. Our law already takes care of that situation in §44-034-18(13) set out below. It's also on page 5, lines 14-19, of the bill.

If repeated requests prove too disruptive, the agency can refuse them. The requestor can then appeal this refusal to the Attorney General.

This bill is not needed and will put into law a stumbling block to citizen access to government information – a proud North Dakota tradition since territorial days.

Therefore, we respectfully request a Do Not Pass vote.

Thank you for your time and consideration. I would be happy to answer any questions if I can.

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Subsection 13 of Section 44-04-18, NDCC:

13. If repeated requests for records disrupt other essential functions of the public entity, the public entity may refuse to permit inspection of the records, or provide copies of the records. A public entity refusing to provide access or copies of public records under this section shall state in writing the reasons supporting the refusal and provide the reasoning to the requester. The requester may seek an attorney general's opinion under section 44-04-21.1, on whether the public entity's decision was proper.