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Susan Gouveia

From: Lashway, Lisa
Sent: Thursday, July 18, 2013 9:17 AM
To: Canning, Sean; Susan Gouveia
Subject: FW: Borough of Butler Resolution In Opposition to Senate Bills 2511 and 2512 and Assembly Bills 3712 and 3713
Attachments: R 2013-68 Opposing S 2512 and A 3712.pdf; R 2013-67 Opposing S 2511 amd A 3713.pdf

correspondence

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From: Mary O'Keefe [mailto:mokeefe@butlerborough.com]
Sent: Wednesday, July 17, 2013 11:26 AM
To: sensweeney@njleg.org; senweinberg@njleg.org; senpennacchio@njleg.org; Aswoliver@njleg.org; Asmjohanson@njleg.org; Aswdecroce@njleg.org; Asmwebber@njleg.org
Cc: lbucklew@njslom.org; TwpClerk@WestMilford.org; Jane McCarthy; (lharvin@jeffersonstownship.net); Boonton Town Clerk; Boonton Township Clerk; cathy Amelio; Chatham Borough Clerk; Chatham Township Clerk; Chester Borough Clerk; Chester Township Clerk; Clerk; Debbie Evans; Denville Clerk; Dover Clerk; East Hanover Township Clerk; Florham Park Borough Clerk; Gail McKane; Hanover Township Clerk; karen Iuele; Maborough Clerk; Mendham Clerk; Mendham Township Clerk; Michele Reilly; Montville Clerk; Morris Clerk; Morris Plains Borough Clerk; Morris Township Clerk; Lashway, Lisa; Parsippany Municipal Clerk; 'Patricia Korpos'; Randolph Clerk; Riverdale Borough Clerk; Rockaway Borough; Rockaway Township Clerk; Roxbury Clerk; Town of Morristown Clerk; Wharton Clerk
Subject: Borough of Butler Resolution In Opposition to Senate Bills 2511 and 2512 and Assembly Bills 3712 and 3713

In an effort to reduce the expenditure of public funding for correspondence purposes, attached to this email are certified copies of the following resolutions R 2013-67 and R 2013-68 which were adopted at the July 16, 2013 Regular Borough Council meeting of the Borough of Butler opposing Senate Bills 2511 and 2512 and Assembly Bills 3712 and 3713.

Mary A. O'Keefe
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BOROUGH OF BUTLER
RESOLUTION NO. 2013-68

RESOLUTION OF THE BOROUGH OF BUTLER OPPOSING SENATE BILL 2512 AND ASSEMBLY
BILL 3712 AMENDING THE OPEN PUBLIC RECORDS ACT

WHEREAS, legislation has been introduced to reform and modernize the Open Public Records Act (S-2512 and A-3712), however, these amendments will not only be a cost driver for local and state government but make governments less effective; and

WHEREAS, these amendments provide that a special service charge may only be imposed when the time expended responding to the request exceeds a total of four hours thereby assuming that the records custodian should spend half of their work day responding to a single open public records act request; and

WHEREAS, amendments to S-2512 and A-3712 would change the recovery of legal fees by a prevailing requestor from permissive to mandatory, which removes the flexibility of the Government Records Council and the Courts to award reasonable attorney's fees based on the given circumstances of a particular case; and

WHEREAS, these bills do not address the Commercial use of public records municipalities have experienced a marked increase in records requests from private companies who use record data bases for purely commercial benefit at the expense of taxpayers with no expectation to contribute to the cost recovery for developing and maintaining such records; and

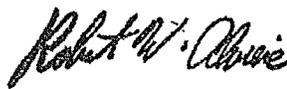
WHEREAS, the New Jersey Conference of Mayors and the League of Municipalities strongly believe that while government records should be readily accessible and transparent, there must be an appropriate balance between the need for openness and transparency in government and a citizens' reasonable expectation of privacy; and

WHEREAS, we must oppose these amendments to the Open Public Records Act as the changes proposed in S-2512 and A-3712 do not give an appropriate balance between the need for openness and transparency in government.

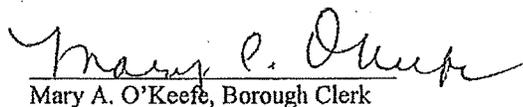
NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Butler for the aforementioned reasons do hereby oppose S-2512 and A-3712, as currently drafted and amended and strongly urges the State Senate and Assembly to oppose this bill.

BE IT FURTHER RESOLVED that a certified copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, the legislators of the 26th legislative district, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

Adopted: July 16, 2013

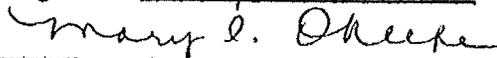


Robert W. Alviene, Mayor



Mary A. O'Keefe, Borough Clerk

Certification of a true & lawful copy of a
Resolution/Ordinance/Minutes adopted by the
Borough Council of the Borough of Butler,
County of Morris, State of New Jersey at its
meeting held on July 16, 2013



Borough Clerk

**BOROUGH OF BUTLER
RESOLUTION NO. 2013-67**

**Opposing Senate Bill 2511 and Assembly Bill 3713 Amendments to Open Public Meetings Act
(OPMA)**

WHEREAS, legislation has been introduced to reform and modernize the Open Public Meetings Act (S-2511 and A-3713); and

WHEREAS, the Borough Council of the Borough of Butler agrees with and supports the statement that "the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of public bodies, is vital to the enhancement and proper functioning of the democratic process"; and

WHEREAS, the changes, however, proposed in S-2511 and A-3713 will not only be a cost driver for local and State government but make government less effective; and

WHEREAS, S-2511 and A-3713 includes a number of proposed requirements which involve costly unfunded mandates, impractical requirements and impediments to the democratic process; and

WHEREAS, S-2511 and A-3713 creates a new definition of subcommittees that expands subcommittees to be overly inclusive; and

WHEREAS, subcommittees would be required to provide public notice of subcommittee meetings, if the governing body determines them to be open; and

WHEREAS, subcommittees would be required to submit at least one report to the governing body detailing the number of meetings, names of members of the committee and a concise statement of the matters discussed. The governing body would be required to establish a schedule of when the subcommittee reports shall be filed; and

WHEREAS, subcommittees do not commit the governing body to action or expend public funds; and

WHEREAS, the requirements for subcommittees meetings would, among other things, necessitate additional administrative support for all subcommittees as well as increased legal advertising cost; and

WHEREAS, the new requirement that electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting become part of the minutes and renders the recordings a permanent municipal record, is unworkable and unmanageable as the technology does not always exist to make "hard copies" or digital copies of text messages and the records custodian does not always have access to them, and which is an unprecedented expansion of the meeting concept; and

WHEREAS, the new requirement that the public be allowed to speak for a minimum of three minutes, at the start of the public meeting, without the ability of the public body to limit the length of the public comment could disrupt public meetings, lead to filibustering and prevent the governing body from conducting business; and

WHEREAS, the provisions of S-2511 and A-3713 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-2511 and A-3713 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, the provisions of S-2511 and A-3713 continue to exempt the Legislature from the requirements placed on municipalities; and

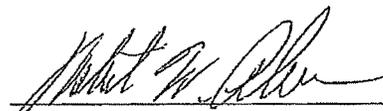
WHEREAS, while we appreciate Senator Weinberg's efforts to address our concerns, we must continue to oppose the amendments to the Open Public Meeting Act as the changes proposed in S-2511 and A-3713 will not only be a cost driver for local and State government but make government less effective;

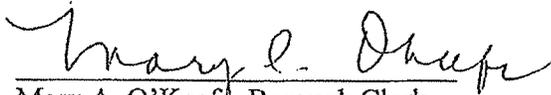
NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Butler, for reasons stated above, does hereby oppose S-2511 and A-3713, as currently drafted, and strongly urges the State Senate and Assembly to oppose these bills, and

BE IT FURTHER RESOLVED that the Borough Council of the Borough of Butler does hereby strongly urge the Legislature, in the interest of transparency and openness, to remove the various exceptions in the Open Public Meetings Law that apply to the Legislature. The rules that the legislation makes applicable to other governmental bodies should apply equally to all governmental levels and officials; and

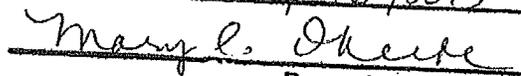
BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Assembly Speaker Sheila Oliver, Assemblyman Gordon Johnson, the legislators of the 26th legislative district, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

Adopted: July 16, 2013


Robert W. Alviene, Mayor


Mary A. O'Keefe, Borough Clerk

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