OPEN Government Act Approved by House Subcommittee

On Wednesday, September 27, the House Government Reform Committee’s Government Management, Finance, and Accountability Subcommittee held a markup in which it approved H.R. 867, the Openness Promotes Effectiveness in our National Government Act of 2005.

The OPEN Government Act, as it is commonly called, was first introduced on February 16, 2005, by Rep. Lamar Smith (R-TX-21), but saw no action throughout most of the 109th Congress (2005-2006). The bill is designed to enhance the public’s access to government information by expediting federal agencies’ processing of data requests under the Freedom of Information Act (FOIA).

Among other things, H.R. 867 provides for stricter enforcement of the current 20-day deadline the government has for responding to FOIA requests; would create a telephone or Internet system for tracking the status of individual FOIA requests; permits independent journalists to have access to FOIA-fee waivers traditionally reserved for journalists associated with news organizations; and establishes an Office of Government Information Services, which includes a FOIA ombudsman who mediates disputes between the public and government over information requests.

Last week, the Senate Judiciary Committee approved a companion bill, S. 394, which is sponsored by Sen. John Cornyn (R-TX).

During the markup, the Subcommittee adopted an amendment to H.R. 867 offered by Rep. Henry Waxman (D-CA-30); its purpose is to eliminate some executive branch restrictions on government information and thus could make the bill controversial. The amendment revokes an October 12, 2001 memo by then-Attorney General John Ashcroft that restricts the release of government information under FOIA, and one by former White House Chief of Staff Andrew Card that safeguards government information considered “sensitive but unclassified.” S. 394 does not include this language.

While the Senate bill has been placed on its calendar and is available for floor consideration in that chamber, H.R. 867 has yet to be approved by the full House Government Reform Committee. Therefore, it is highly unlikely the OPEN Government Act will be passed in this Congress.
Nevertheless, we ask you to please contact your Members of Congress and urge them to support this important legislation. In doing so, you will help build support and momentum for this measure next year during the 110th Congress.

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