

112TH CONGRESS  
1ST SESSION

# S. 627

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IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2011

Referred to the Committee on Oversight and Government Reform

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## AN ACT

To establish the Commission on Freedom of Information  
Act Processing Delays.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. COMMISSION ON FREEDOM OF INFORMATION**  
2 **ACT PROCESSING DELAYS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the  
4 “Faster FOIA Act of 2011”.

5 (b) **ESTABLISHMENT.**—There is established the Com-  
6 mission on Freedom of Information Act Processing Delays  
7 (in this Act referred to as the “Commission” for the pur-  
8 pose of conducting a study relating to methods to help  
9 reduce delays in processing requests submitted to Federal  
10 agencies under section 552 of title 5, United States Code  
11 (commonly referred to as the “Freedom of Information  
12 Act”).

13 (c) **MEMBERSHIP.**—

14 (1) **IN GENERAL.**—The Commission shall be  
15 composed of 12 members of whom—

16 (A) 2 shall be appointed by the chairman  
17 of the Committee on the Judiciary of the Sen-  
18 ate;

19 (B) 2 shall be appointed by the ranking  
20 member of the Committee on the Judiciary of  
21 the Senate;

22 (C) 2 shall be appointed by the chairman  
23 of the Committee on Government Reform of the  
24 House of Representatives;

1 (D) 2 shall be appointed by the ranking  
2 member of the Committee on Government Re-  
3 form of the House of Representatives;

4 (E) 1 shall be appointed by the Attorney  
5 General of the United States;

6 (F) 1 shall be appointed by the Director of  
7 the Office of Management and Budget;

8 (G) 1 shall be appointed by the Archivist  
9 of the United States; and

10 (H) 1 shall be appointed by the Comp-  
11 troller General of the United States.

12 (2) QUALIFICATIONS OF CONGRESSIONAL AP-  
13 POINTEES.—Of the 2 appointees under each of sub-  
14 paragraphs (A), (B), (C), and (D) of paragraph (1)  
15 at least 1 shall have experience as a FOIA re-  
16 questor, or in the fields of library science, informa-  
17 tion management, or public access to Government  
18 information.

19 (3) TIMELINESS OF APPOINTMENTS.—Appoint-  
20 ments to the Commission shall be made as expedi-  
21 tiously as possible, but not later than 60 days after  
22 the date of enactment of this Act.

23 (d) STUDY.—The Commission shall conduct a study  
24 to—

25 (1) identify methods that—

1 (A) will help reduce delays in the proc-  
2 essing of requests submitted to Federal agen-  
3 cies under section 552 of title 5, United States  
4 Code; and

5 (B) ensure the efficient and equitable ad-  
6 ministration of that section throughout the  
7 Federal Government;

8 (2) examine whether the system for charging  
9 fees and granting waivers of fees under section 552  
10 of title 5, United States Code, needs to be reformed  
11 in order to reduce delays in processing requests; and

12 (3) examine and determine—

13 (A) why the Federal Government’s use of  
14 the exemptions under section 552(b) of title 5,  
15 United States Code, increased during fiscal  
16 year 2009;

17 (B) the reasons for any increase, including  
18 whether the increase was warranted and wheth-  
19 er the increase contributed to FOIA processing  
20 delays;

21 (C) what efforts were made by Federal  
22 agencies to comply with President Obama’s  
23 January 21, 2009 Presidential Memorandum on  
24 Freedom of Information Act Requests and  
25 whether those efforts were successful;

1 (D) any recommendations on how the use  
2 of exemptions under section 552(b) of title 5,  
3 United States Code, may be limited; and

4 (E)(i) whether any disparities in proc-  
5 essing, processing times, and completeness of  
6 responses to FOIA requestors have occurred  
7 based upon political considerations, ideological  
8 viewpoints, the identity of the requestors, affili-  
9 ation with the media, or affiliation with advoca-  
10 cacy groups;

11 (ii) if any disparities have occurred, why  
12 such disparities have occurred; and

13 (iii) the extent to which political appointees  
14 have been involved in the FOIA process.

15 (e) REPORT.—Not later than 1 year after the date  
16 of enactment of this Act, the Commission shall submit a  
17 report to Congress and the President containing the re-  
18 sults of the study under this section, which shall include—

19 (1) a description of the methods identified by  
20 the study;

21 (2) the conclusions and recommendations of the  
22 Commission regarding—

23 (A) each method identified; and

24 (B) the charging of fees and granting of  
25 waivers of fees; and

1           (3) recommendations for legislative or adminis-  
2           trative actions to implement the conclusions of the  
3           Commission.

4           (f) STAFF AND ADMINISTRATIVE SUPPORT SERV-  
5 ICES.—

6           (1) IN GENERAL.—The Archivist of the United  
7           States shall provide to the Commission such staff  
8           and administrative support services, including re-  
9           search assistance at the request of the Commission,  
10          as necessary for the Commission to perform its func-  
11          tions efficiently and in accordance with this section.

12          (2) PAYMENT OF EXPENSES.—

13           (A) STAFF SALARIES.—The Archivist of  
14           the United States shall pay staff expenses relat-  
15           ing to salaries under this subsection from avail-  
16           able appropriations in the applicable account  
17           for salaries of the National Archives and  
18           Records Administration.

19           (B) ADMINISTRATIVE SUPPORT SERV-  
20           ICES.—Except as provided under subparagraph  
21           (A), the Archivist of the United States shall pay  
22           staff and administrative expenses under this  
23           subsection from available appropriations in the  
24           operating expenses account of the National Ar-  
25           chives and Records Administration.

1           (3) APPROPRIATIONS REQUESTS.—Expenses  
2           paid under this subsection shall not form the basis  
3           for additional appropriations requests from the Na-  
4           tional Archives and Records Administration in the  
5           future.

6           (g) INFORMATION.—To the extent permitted by law,  
7           the heads of executive agencies, the Government Account-  
8           ability Office, and the Congressional Research Service  
9           shall provide to the Commission such information as the  
10          Commission may require to carry out its functions.

11          (h) COMPENSATION OF MEMBERS.—Members of the  
12          Commission shall serve without compensation for services  
13          performed for the Commission.

14          (i) TRAVEL EXPENSES.—

15               (1) IN GENERAL.—The members of the Com-  
16               mission shall be allowed travel expenses, including  
17               per diem in lieu of subsistence, at rates authorized  
18               for employees of agencies under subchapter I of  
19               chapter 57 of title 5, United States Code, while  
20               away from their homes or regular places of business  
21               in the performance of services for the Commission.

22               (2) PAYMENT OF EXPENSES.—The Adminis-  
23               trator of General Services shall pay travel expenses  
24               under this subsection from available appropriations

1 in the operating expenses account of the General  
2 Services Administration.

3 (3) APPROPRIATIONS REQUESTS.—Expenses  
4 paid under this subsection shall not form the basis  
5 for additional appropriations requests from the Na-  
6 tional Archives and Records Administration in the  
7 future.

8 (j) TRANSPARENCY.—All meetings of the Commis-  
9 sion shall be open to the public, except that a meeting,  
10 or any portion of it, may be closed to the public if it con-  
11 cerns matters or information described in chapter 552b(c)  
12 of title 5, United States Code. Interested persons shall be  
13 permitted to appear at open meetings and present oral or  
14 written statements on the subject matter of the meeting.  
15 The Commission may administer oaths or affirmations to  
16 any person appearing before the Commission.

17 (k) TERMINATION.—The Commission shall terminate  
18 30 days after the submission of the report under sub-  
19 section (e).

Passed the Senate May 26, 2011.

Attest:

NANCY ERICKSON,

*Secretary.*