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## House passes FOIA bill

### 'Public record' term redefined

BY DAVID BEARD The Dominion Post

CHARLESTON — A freedom of information bill sparked by a newspaper editorial passed unanimously in the House on Wednesday.

Delegate Barbara Evans Fleischauer, D-Monongalia, sponsored HB 2402, redefining the term "public record," in response to a November 2009 The Dominion Post editorial on a state Supreme Court ruling.

The measure passed, 93-0, Wednesday, with seven members absent or not voting. Bill co-sponsor Mike Caputo, D-Marion, was absent. Freshman Delegate Amanda Pasdon, DMonongalia, told the House clerk she didn't get her button pushed in time, and filed a note to have her support registered.

The ruling determined that emails between former Supreme Court Justice Elliott "Spike" Maynard and then-Massey Energy CEO Don Blankenship were not public records even though they were generated on publicly owned property and concerned Maynard's run for public office.

The editorial said the relationship between the two men — Blankenship has financially supported Maynard's campaigns for office — should have factored into the ruling. It did agree with the court's recommendation that the Legislature should tweak public records law to account for context as well as content.

The bill changes one sentence in code section 29B-1-2, pertaining to public records defined in the Freedom of Information Act. The existing wording is: " 'Public record' includes any writing containing information relating to the conduct of the public's business."

The new sentence would say, " 'Public record' includes any writing containing information prepared or received by a public body, the content or context of which, judged either by its content or context relates to the conduct of the public's business."

Delegate Charlene Marshall, DMonongalia, was a co-sponsor.

The bill goes to the Senate, where it will likely be sent to the Judiciary Committee, Fleischauer said. She hasn't yet had a chance to contact her Senate colleagues to drum up support.

Local Senate Judiciary Committee members include Bob Beach, D-Monongalia, and Bob Williams, D-Taylor.

