

NEWS RELEASE

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**Groups Ask Supreme Court to Reconsider Legislative Public Records Case
Society of Professional Journalists and AP Editors File Supporting Brief**

INDIANAPOLIS - Today, the Energy and Policy Institute (EPI), Citizens Action Coalition (CAC) and Common Cause Indiana (CCIN) filed a petition for rehearing with the Indiana Supreme Court regarding their lawsuit to require the House Republican Caucus to comply with the Indiana Access to Public Records Act (APRA). Also filed with the Court today was an amicus brief filed by The Indiana Professional Chapter of the Society of Professional Journalists and the Indiana Associated Press Media Editors supporting the groups' request for rehearing.

In their lawsuit, the groups had asked the court to declare that both Rep. Eric Koch, the Chair of the Indiana House Utilities, Energy and Telecommunications Committee, and the Caucus are subject to APRA, which the GOP legislators have denied. Additionally, the groups requested that the court order the disclosure of correspondence between Rep. Koch and the paid lobbyists representing the electric utility monopolies which had been previously sought by EPI. The correspondence related to House Bill 1320, a highly controversial bill addressing solar energy and net-metering issues introduced by Rep. Koch in the 2015 legislative session.

Last month, in a 4 – 1 ruling, the Indiana Supreme Court agreed with the groups bringing the lawsuit that APRA does apply to the General Assembly, but the Court still did not require disclosure of the correspondence. Instead, on its own accord, the Court ruled that whether or not the correspondence constituted “work product” and should be exempt under the law was non-justiciable under the Indiana Constitution’s separation of powers clause.

“Leaving the decision of whether or not e-mails and other correspondence between paid lobbyists and politicians should be public or not up to the very politicians who have been denying access to the documents all along is ludicrous when considering the enormous amounts of cash those lobbyists feed our legislators every single year” said Kerwin Olson, Executive Director at CAC. “I guess the old saying isn’t true, you can have your cake and eat it too.”

“In our requests for public records, Rep. Koch and the House Republican Caucus repeatedly claimed that APRA did not apply to the General Assembly,” stated Matt Kasper, fellow with EPI. “Now that the Court has rejected that unwarranted claim, we believe justice requires that we have a chance to make our case as to what should be shielded from the public under the work product exemption and what should be disclosed. This case is especially important given how much money is spent by special interests’ lobbyists in Indiana to influence legislation.”

“[This ruling not only denies the public’s] right to know what influence a lobbyist exerted on [Rep. Koch], it is denied the right to determine whether the communication ever occurred. This result might be expected in a totalitarian state, but in a system that venerates and depends on transparency, it shocks the conscience,” stated the amicus brief filed by Society of Professional Journalists and the Indiana Associated Press Media Editors.

EPI, CAC and CCIN believe that the Supreme Court’s decision to give the General Assembly total say in what constitutes “work product” will allow them, and any other governmental entity, an easy and effective shield against transparency. In their amicus brief, the SPJ and AP agreed, stating, “The purpose of the APRA is to ensure government transparency at all levels of state

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government. To permit a branch of government the unfettered and unreviewable power to decide what records it will provide not only denies transparency, but the very hope of transparency.”

The ruling has already had a negative impact on State House transparency with Governor Mike Pence’s office using it to defend their refusal to turn over emails in a separate lawsuit. “Unless the Court agrees to reconsider its April 19 ruling, Hoosiers’ right to be fully informed of the activities of those who serve them in state government will have been damaged beyond repair,” stated William Groth, the lead attorney for the groups.

Common Cause Indiana Policy Director Julia Vaughn said, “The Supreme Court’s decision last month has already hurt transparency in state government and every Hoosiers’ right to be fully informed about the actions of their elected officials. We hope the Court will recognize how significantly their decision undermines the effectiveness of our state’s sunshine laws and give this issue a rehearing.”

Since the ruling was issued, newspapers across Indiana have responded to the Court’s ruling with strong editorials condemning the decision. Citations to the editorials by the Fort Wayne Journal-Gazette, the Fort Wayne News-Sentinel, the Indianapolis Business Journal, and the South Bend Tribune were included in the petition filed today by attorneys for the groups. The Fort Wayne News-Sentinel editorialized that this Court had “dealt a severe blow to the cause of government transparency” and called its opinion in this case a “huge setback for transparency. The South Bend Tribune opined that this Court’s opinion “strikes a devastating blow to the public’s right to know.”

A copy of the petition and related documents are available upon request.

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About Energy & Policy Institute: The Energy and Policy Institute is a pro-clean energy think tank working to expose attacks on clean technology and counter misinformation by fossil fuel and utility interests.