

## AMENDMENTS TO SENATE BILL NO. 1

Sponsor: REPRESENTATIVE MAHONEY

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1 Amend Table of Contents, page 2, line 11, by striking out "to  
2 public records"

3 Amend Table of Contents, page 2, by inserting between lines  
4 23 and 24

5 Section 905. Administrative denial.  
6 Section 906. Record discard.

7 Amend Table of Contents, page 3, line 8, by striking out  
8 "Clearinghouse" and inserting

9 Office of Open Records

10 Amend Table of Contents, page 3, by inserting between lines  
11 18 and 19

12 Section 3101.1. Relation to other law or judicial actions.

13 Amend Sec. 102, page 4, line 20, by inserting after "The"

14 Office of

15 Amend Sec. 102, page 6, by inserting between lines 15 and 16

16 (1.1) Political party caucuses of the Senate.

17 Amend Sec. 102, page 6, by inserting between lines 16 and 17

18 (2.1) Political party caucuses of the House of  
19 Representatives.

20 Amend Sec. 102, page 6, line 29, by striking out "Includes  
21 the following information" and inserting

22 Any of the following

23 Amend Sec. 102, page 6, line 30, by striking out "or standing

1 committee"

2 Amend Sec. 102, page 7, line 9, by inserting after "AT"

3 a public hearing or a public committee meeting

4 Amend Sec. 102, page 8, by inserting between lines 7 and 8

5 (18) Proposed regulations, final-form regulations and

6 final-omitted regulations submitted to a legislative agency.

7 Amend Sec. 102, page 9, line 12, by inserting after "notice"

8 to a requester

9 Amend Sec. 102, page 9, line 23, by inserting after

10 "includes"

11 the Pennsylvania Gaming Control Board, the

12 Pennsylvania Game Commission, the Pennsylvania Fish

13 and Boat Commission,

14 Amend Sec. 102, page 9, line 24, by inserting after "Agency"

15 and all nonprofit corporations established thereby

16 Amend Sec. 301, page 10, line 28, by inserting after

17 "requester"

18 unless otherwise provided by law

19 Amend Sec. 302, page 11, line 4, by inserting after

20 "requester"

21 unless otherwise provided by law

22 Amend Sec. 305, page 11, line 19, by inserting before "A"

23 (a) General rule.--

24 Amend Sec. 305, page 11, by inserting between lines 25 and 26

25 (b) Legislative records and financial records.--A

26 legislative record in the possession of a legislative agency and

27 a financial record in the possession of a judicial agency shall

28 be presumed to be available to the public unless:

29 (1) the record is exempt under 708(c) or (d);

30 (2) the record is protected by a privilege; or

31 (3) the record is exempt from disclosure under any other

32 Federal or State law or regulation or judicial order or

33 decree.

34 Amend Sec. 502, page 12, line 10, by inserting after

35 "Representatives,"

1           or a political party caucus of the Senate or the  
2           House of Representatives

3       Amend Sec. 503, page 13, by inserting between lines 26 and 27

4           (iii) A political party caucus of the Senate or the  
5           House of Representatives.

6       Amend Sec. 503, page 14, line 4, by striking out "LAW  
7 ENFORCEMENT"

8       Amend Sec. 506, page 16, line 11, by striking out "for" and  
9 inserting

10           on behalf of

11       Amend Sec. 506, page 16, line 17, by striking out "public"

12       Amend Sec. 506, page 16, line 18, by inserting after "the"

13           public

14       Amend Sec. 506, page 16, line 21, by striking out "The" and  
15 inserting

16           Upon a determination to grant the request, the

17       Amend Sec. 506, page 16, line 23, by inserting after "and"

18           upon collection shall

19       Amend Sec. 701, page 17, line 2, by striking out "to public  
20 records"

21       Amend Sec. 701, page 17, line 6, by inserting after "record"

22           being provided to a requester

23       Amend Sec. 701, page 17, line 6, by striking out "to a  
24 requester"

25       Amend Sec. 701, page 17, line 7, by striking out "the ~~public~~  
26 record" and inserting

27           it

28       Amend Sec. 701, page 17, line 13, by striking out "the  
29 computer" and inserting

30           any computer either

31       Amend Sec. 703, page 17, line 26, by striking out "in" and

1 inserting

2 pursuant to

3 Amend Sec. 703, page 18, line 2, by inserting after "records"

4 unless otherwise provided by law

5 Amend Sec. 704, page 18, lines 13 and 14, by striking out

6 "use the electronic access" and inserting

7 access the record electronically

8 Amend Sec. 704, page 18, lines 14 and 15, by striking out

9 "submit a written request to the agency"

10 Amend Sec. 704, page 18, line 16, by inserting after

11 "notification,"

12 submit a written request to the agency

13 Amend Sec. 706, page 18, line 30, by striking out "under

14 section 305 or 708"

15 Amend Sec. 708, page 20, line 16, by striking out all of said

16 line and inserting

17 (a) Burden of proof.--

18 (1) The burden of proving that a public

19 Amend Sec. 708, page 20, by inserting between lines 19 and 20

20 (2) The burden of proving that a legislative record is

21 exempt from public access shall be on the legislative agency

22 receiving a request, by a preponderance of the evidence.

23 (3) The burden of proving that a financial record of a

24 judicial agency is exempt from public access shall be on the

25 judicial agency receiving a request, by a preponderance of

26 the evidence.

27 Amend Sec. 708, page 21, line 7, by striking out "life,"

28 Amend Sec. 708, page 22, lines 16 and 17, by striking out "an

29 individual's" and inserting

30 a person's

31 Amend Sec. 708, page 22, line 17, by inserting after

32 "number;"

33 date of birth;

1 Amend Sec. 708, page 22, line 19, by striking out "home,  
2 cellular or personal"

3 Amend Sec. 708, page 22, line 20, by striking out "number"  
4 where it appears the first time and inserting  
5 numbers

6 Amend Sec. 708, page 22, line 20, by striking out "address"  
7 and inserting  
8 addresses

9 Amend Sec. 708, page 22, line 20, by striking out "number;"  
10 and inserting  
11 numbers; or

12 Amend Sec. 708, page 22, line 21, by striking out "number"  
13 and inserting  
14 numbers

15 Amend Sec. 708, page 22, line 24, by striking out all of said  
16 line and inserting

17 (ii) Nothing in this paragraph shall:  
18 (A) Prevent an agency from providing access to  
19 the date of birth of a deceased person for  
20 genealogical purposes.  
21 (B) Preclude the

22 Amend Sec. 708, page 26, line 4, by inserting after  
23 "correspondence"  
24 , videos

25 Amend Sec. 708, page 27, line 28, by striking out all of said  
26 line and inserting

27 (18) Records or parts of records pertaining to audio  
28 recordings, telephone or radio transmissions received by  
29 emergency dispatch personnel, including 911 recordings.  
30 However, a transcript of a recording may be released when the  
31 agency or a court determines that the public interest in  
32 disclosure outweighs the interest in nondisclosure.

33 Amend Sec. 708, page 28, line 2, by inserting after "of"  
34 an autopsy report,

1 Amend Sec. 708, page 28, line 8, by inserting after "cause"  
2 and manner

3 Amend Sec. 708, page 28, line 13, by striking out "Minutes"  
4 and inserting

5 Draft minutes of any meeting of an agency and minutes

6 Amend Sec. 708, page 29, line 25, by striking out "or"

7 Amend Sec. 708, page 30, line 9, by removing the period after  
8 "abuse" and inserting

9 ; or

10 (iii) identifying a person that requests assistance  
11 or constituent services from a member of the General  
12 Assembly.

13 Amend Sec. 708, page 30, line 10, by striking out "The" and  
14 inserting

15 With respect to financial records, the

16 Amend Sec. 708, page 30, lines 11 and 12, by striking out all  
17 of line 11 and "financial records protected under" in line 12

18 Amend Sec. 708, page 30, lines 12 through 14, by striking out  
19 "or" in line 12, all of line 13, "information PROTECTED under  
20 subsection (b)(5)" in line 14 and inserting

21 , (4) or (5) shall apply

22 Amend Sec. 708, page 30, line 14, by striking out "may" and  
23 inserting

24 shall

25 Amend Sec. 708, page 30, line 21, by striking out "shall not"  
26 and inserting

27 (1), (2), (3), (4) or (5) shall

28 Amend Sec. 708, page 30, lines 22 through 23, by striking out  
29 ", except for data protected under subsection (b)(1), (2), (3)  
30 or (4)"

31 Amend Sec. 901, page 31, line 2, by inserting after

1 "request."

2           The response shall include a notice of applicable  
3           fees.

4       Amend Bill, page 33, by inserting between lines 4 and 5

5 Section 905. Administrative denial.

6       The following shall apply:

7           (1) An agency may deny access to a public record,  
8       legislative record or financial record due to the failure of  
9       the requester to pay the applicable fee.

10          (2) An agency may deny access to a public record,  
11       legislative record or financial record due to the failure of  
12       the requester to pay any fee associated with a previous  
13       request made by the requester to the same agency.

14 Section 906. Record discard.

15       If an agency response to a requester provides that the  
16       requested records are available for delivery at the office of an  
17       agency and the requester fails to retrieve the records within 60  
18       days of the agency's response, the agency shall send a written  
19       notice to the requester specifying that the requested copies  
20       will be held for an additional 30 days, within which time the  
21       requester may return to the agency to retrieve the records.  
22       Thereafter, the agency may dispose of any copies which have not  
23       been retrieved and retain any fees paid to date.

24       Amend Sec. 1101, page 33, line 11, by inserting after

25 "appropriate"

26           legislative or judicial

27       Amend Sec. 1307, page 38, line 26, by striking out all of

28 said line and inserting

29           (2) (i) The fees must be reasonable and based on  
30           prevailing

31       Amend Sec. 1307, page 38, by inserting between lines 28 and

32 29

33           (ii) Fees for copying data, collections of data and  
34       compiled data, including, but not limited to, geographic  
35       information systems and property lists, may be based on  
36       consideration of the reasonable market value of same or  
37       closely comparable data, collections of data or compiled  
38       data.

39       Amend Sec. 1307, page 39, lines 1 through 5, by striking out

40 all of said lines

41       Amend Sec. 1310, page 41, line 1, by striking out

42 "Clearinghouse" and inserting

1 Office of Open Records

2 Amend Sec. 1310, page 41, line 3, by striking out "Community  
3 and Economic Development an" and inserting

4 State the Office of

5 Amend Sec. 1310, page 41, lines 20 and 21, by striking out  
6 "provided by the clearinghouse"

7 Amend Sec. 1310, page 42, by inserting between lines 8 and 9

8 (10) To make available in electronic form to persons  
9 making requests for public records, examples of previous  
10 requests for public records by other persons and the  
11 documents to which the other persons were given access. In  
12 performing this duty, the office may not reveal any  
13 information relating to the identity of the persons who made  
14 the previous requests.

15 (11) Enter into an agreement with the Department of  
16 Community and Economic Development to provide the training  
17 required by paragraphs (3), (4) and (5)(i).

18 Amend Sec. 1701, page 45, line 4, by striking out "All  
19 parties to the contract" and inserting

20 The name and business address of all parties  
21 executing the contract

22 Amend Sec. 1701, page 45, line 7, by striking out "format"  
23 and inserting

24 file

25 Amend Sec. 1701, page 45, line 8, by striking out "format"  
26 where it appears the first time and inserting

27 file

28 Amend Sec. 1701, page 45, line 8, by striking out "format  
29 provided by" and inserting

30 file provided by Treasury Department

31 Amend Sec. 1701, page 45, line 16, by inserting after  
32 "Treasurer."

33 The contract provided to the Treasury Department pursuant to  
34 this chapter shall be redacted in accordance with applicable  
35 provisions of this act by the agency providing the contract to  
36 the Treasury Department.

37 (d) Contracts provided pursuant to The Fiscal Code.--The

1 copy of a contract provided to the Treasury Department pursuant  
2 to section 1701 shall be in addition to any copy of the contract  
3 provided to the Treasury Department under the act of April 9,  
4 1929 (P.L.343, No.176), known as The Fiscal Code. Copies of  
5 contracts received by the Treasury Department, Office of Auditor  
6 General, or Department of Revenue from an agency pursuant to The  
7 Fiscal Code shall not be made available to a requester by the  
8 State Treasurer, Auditor General or the Department of Revenue.

9 Amend Sec. 1702, page 45, lines 18 through 23, by striking  
10 out "The Treasury Department shall make each" in line 18, all of  
11 lines 19 through 23 and inserting

12 Except as otherwise provided in this chapter, a request for a  
13 copy of a contract shall only be made to an agency who is a  
14 party to the contract.

15 Amend Sec. 1702, page 45, line 24, by inserting after  
16 "Posting.--"

17 The Treasury Department shall make each contract filed pursuant  
18 to section 1701 available for public inspection either by  
19 posting a copy of the contract on the Treasury Department's  
20 publicly accessible Internet website or by posting a contract  
21 summary on the department's publicly accessible Internet  
22 website.

23 Amend Sec. 3101, page 46, lines 13 and 14, by striking out  
24 all of said lines and inserting

25 (1) This act shall apply to requests for information  
26 made on or after December 31, 2008.

27 (2) With respect to an agency as defined under section  
28 103, this act shall apply prospectively.

29 (3) In addition to paragraph (2), with respect only to  
30 an agency which was an agency as defined under the former act  
31 of June 21, 1957 (P.L.390, No.212), referred to as the Right-  
32 to-Know Law, this act shall apply retroactively.

33 Amend Sec. 3101, page 46, line 15, by striking out "(2)" and  
34 inserting

35 (4)

36 Amend Sec. 3101, page 46, line 17, by striking out "(3)" and  
37 inserting

38 (5)

39 Amend Sec. 3101, page 46, line 18, by striking out "the  
40 effective date of this section" and inserting

1                   June 30, 2008

2           Amend Sec. 3101, page 46, line 19, by striking out "(4)" and  
3 inserting

4                   (6)

5           Amend Sec. 3101, page 46, line 20, by striking out "the  
6 effective date of this section" and inserting

7                   June 30, 2008

8           Amend Bill, page 46, by inserting between lines 20 and 21

9   Section 3101.1. Relation to other law or judicial actions.

10       If the provisions of this act regarding access to public  
11 records conflict with any Federal or State statute, the  
12 provisions of this act shall not apply.

13       Amend Sec. 3103, page 47, line 8, by striking out all "in 180  
14 days." and inserting

15 as follows:

16       (1) Sections 101, 102, 1310, 3101 and 3102(1)(i) and  
17 (ii)(B) and (2) shall take effect July 1, 2008.

18       (2) This section shall take effect immediately.

19       (3) The remainder of this act shall take effect January  
20 1, 2009.