

AMENDMENTS TO SENATE BILL NO. 1 (As amended by A04720)

Sponsor: REPRESENTATIVE TANGRETTI

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1 Amend Title, page 1, by inserting before line 1 (A04720)

2 Amend Title, page 1, line 5, by striking out "an Open Records
3 Clearinghouse" and inserting

4 the Pennsylvania Public Records Office

5 Amend Table of Contents, page 2, line 5, by striking out all
6 of said line and inserting
7 Section 503. (Reserved).

8 Amend Table of Contents, page 1, by inserting between lines 6
9 and 7 (A04720)

10 Amend Table of Contents, page 2, line 26, by striking out all
11 of said line

12 Amend Table of Contents, page 1, lines 13 and 14 (A04720), by
13 striking out all of said lines and inserting
14 Section 3101.2. Severability.

15 Amend Sec. 102, page 1, lines 13 and 14 (A04720), by striking
16 out all of said lines and inserting

17 Amend Sec. 102, page 4, lines 13 through 21, by striking out
18 all of said line

19 Amend Sec. 102, page 2, by inserting between lines 6 and 7
20 (A04720)

21 Amend Sec. 102, page 9, by inserting between lines 8 and 9
22 "Records office." The Pennsylvania Public Records Office
23 established under section 1310.

24 Amend Bill, page 3, lines 3 through 7 (A04720), by striking
25 out all of said lines and inserting

26 Amend Sec. 503, page 13, lines 9 through 30; page 14, lines 1
27 through 7, by striking out all of said lines on said pages and
28 inserting

1 Section 503. (Reserved).
2 Amend Sec. 504, page 14, line 11, by striking out
3 "clearinghouse" and inserting
4 records office
5 Amend Sec. 504, page 14, line 12, by inserting after "agency"
6 where it appears the first time
7 , legislative agency
8 Amend Sec. 504, page 14, line 17, by striking out
9 "clearinghouse" and inserting
10 records office
11 Amend Sec. 505, page 14, line 23, by striking out
12 "agencies.--The clearinghouse" and inserting
13 agencies and legislative agencies.--The records
14 office
15 Amend Sec. 505, page 14, line 24, by inserting after
16 "Commonwealth"
17 agencies, legislative agencies
18 Amend Sec. 505, page 14, line 28, by striking out
19 "clearinghouse's" and inserting
20 record office's
21 Amend Sec. 505, page 15, lines 2 through 5, by striking out
22 all of said lines and inserting
23 records office.

24 Amend Sec. 708, page 4, by inserting between lines 18 and 19
25 (A04720)

26 Amend Sec. 708, page 20, lines 17 and 18, by striking out
27 "Commonwealth or local"

28 Amend Bill, page 7, lines 24 through 30 (A04720), by striking
29 out all of said lines and inserting

30 Amend Sec. 1101, page 33, line 11, by striking out all of
31 said line and inserting
32 records office within 15
33 Amend Sec. 1101, page 33, lines 18 through 20, by striking
34 out "a" in line 18, all of line 19 and "assign an appeals
35 officer to" in line 20 and inserting
36 an agency, the records office shall
37 Amend Sec. 1101, page 33, lines 22 and 23, by striking out
38 "appeals officer" and inserting
39 records office
40 Amend Sec. 1101, page 33, line 26, by striking out "appeals
41 officer" and inserting
42 records office
43 Amend Sec. 1101, page 33, line 29, by striking out "appeals
44 officer" and inserting
45 records office
46 Amend Sec. 1101, page 33, line 30, by striking out "appeals
47 officer" and inserting
48 records office
49 Amend Sec. 1101, page 34, line 8, by striking out "appeals
50 officer" and inserting
51 records office
52 Amend Sec. 1101, page 34, line 9, by striking out "appeals
53 officer" and inserting

1 records office
2 Amend Sec. 1101, page 34, line 12, by striking out "appeals
3 officer" and inserting
4 records office
5 Amend Sec. 1101, page 34, line 15, by striking out "appeals
6 officer" and inserting
7 records office
8 Amend Sec. 1102, page 34, lines 19 through 30; page 35, lines
9 1 through 21, by striking out all of said lines on said pages
10 Amend Sec. 1301, page 35, line 27, by striking out "appeals
11 officer" and inserting
12 records office
13 Amend Sec. 1302, page 36, line 12, by striking out "appeals
14 officer" and inserting
15 records office
16 Amend Sec. 1303, page 37, line 3, by striking out "appeals
17 officer" and inserting
18 records office
19 Amend Sec. 1304, page 37, line 6, by striking out "appeals
20 officer" and inserting
21 records office
22 Amend Sec. 1307, page 38, lines 21 through 26, by striking
23 out the colon after "established" in line 21 and all of lines 22
24 through 26 and inserting
25 by the records office.
26 (2) (i) The fees must be reasonable and based on
27 prevailing

28 Amend Sec. 1310, page 7, lines 41 and 42; page 8, lines 1
29 through 17 (A04720), by striking out all of said lines on said
30 pages and inserting

31 Amend Bill, pages 41 and 42, lines 1 through 30, by striking
32 out all of said lines on said pages and inserting
33 Section 1310. Pennsylvania Public Records Office.
34 (a) Establishment.--The Pennsylvania Public Records Office
35 is established within the State Ethics Commission, which shall
36 appoint an executive director of the public records office who
37 shall hire other staff as necessary to operate the office.
38 (b) Powers and duties.--The director of the public records
39 office has the following powers and duties:
40 (1) To receive and respond to requests for information
41 from persons who have been denied access to public records by
42 a Commonwealth agency, a local agency, the General Assembly
43 or a legislative agency under this act.
44 (2) To receive and respond to requests for information
45 from a Commonwealth agency, a local agency, the General
46 Assembly or a legislative agency regarding compliance with
47 this act.
48 (3) To order a Commonwealth agency, a local agency, the
49 General Assembly or a legislative agency to comply with
50 provisions of this act upon finding that a request for access
51 to a public record was properly made.
52 (4) To issue advisory opinions on compliance with this
53 act.
54 (5) To request information from Commonwealth agencies,
55 local agencies, the General Assembly and legislative agencies

1 in order to make compliance determinations under this act.
2 All information supplied by a Commonwealth agency, a local
3 agency, the General Assembly or a legislative agency which is
4 relevant to a request shall be subject to confidentiality
5 under subsection (c).

6 (6) To guide and oversee the compliance with this act by
7 all Commonwealth agencies, local agencies, the General
8 Assembly and legislative agencies.

9 (7) To provide a list to any requesting agency or
10 individual of Federal and State laws that exempt certain
11 types of records from disclosure.

12 (8) To make its advisory opinions and written decisions
13 available for review.

14 (9) To conduct training for public officials, public
15 employees and third parties relating to the Commonwealth's
16 access laws with assistance from the Department of Community
17 and Economic Development's Center for Local Government.

18 (10) To issue a report semi-annually to the General
19 Assembly and to the Governor, which report shall include, but
20 not be limited to:

21 (i) The number of requests to review denials from
22 persons making public record requests.

23 (ii) The number of public record requests which were
24 determined, upon review of the access office, to have
25 been improperly denied.

26 (iii) The number of requests made by agencies
27 seeking clarification on compliance with this act.

28 (iv) The number of orders issued by the public
29 records office directing an agency to comply with this
30 act.

31 (v) The number of advisory opinions issued by the
32 public records office.

33 (vi) The number of requests for the list of Federal
34 and State exemptions to public access of records.

35 (vii) The number of training sessions conducted for
36 public officials, public employees and third parties
37 relating to public access of records, including the
38 number of persons attending such training sessions.

39 (11) To make available in electronic form to persons
40 making requests for public records, examples of previous
41 requests for public records by other persons and the
42 documents to which the other persons were given access. In
43 performing this duty, the office may not reveal any
44 information relating to the identity of the persons who made
45 the previous requests.

46 (12) To promulgate any regulations necessary to
47 administer this act.

48 (13) Set a schedule for the requester and agency to
49 submit documents in support of their positions.

50 (14) To review all information filed relating to a
51 request. The public records office may hold a hearing, but
52 the decision to hold or not to hold a hearing is not
53 appealable. The public records office may admit into evidence
54 testimony, evidence and documents it believes to be
55 reasonably probative and relevant to an issue in dispute. The
56 public records office may limit the nature and extent of
57 evidence to be cumulative.

58 (c) Confidentiality.--All information requested by the
59 public records office from an agency in order to make a

determination of whether an agency is complying with this act shall remain confidential and shall not be subject to public access.

(d) Fees.--The following shall apply:

(1) The public records office may impose a reasonable filing fee for an appeal made under section 1101, and any fees collected under this subsection shall be deposited in a restricted account in the General Fund which is established for the public records office. The money from this account shall be appropriated as necessary for the operation of the public records office.

(2) The public records office may waive the filing fee if the person requesting access to the public record is unable to afford the fee based on guidelines established by the public records office.

Section 1311. Administrative appeals.

(a) General rule.--Notwithstanding any other provision of law, a party aggrieved by a denial or deemed denial of access to a public record by a Commonwealth agency, local agency, the General Assembly or a legislative agency may, within 30 days after a request is denied or deemed denied, appeal to the public records office by forwarding to the office a copy of the request and the written explanation for the denial, if any, provided by the Commonwealth agency, local agency, the General Assembly or legislative agency, and requesting a review of the matter.

(b) Ruling.--

(1) Within 30 business days after receipt of the appeal, the public records office shall rule either that the denial or deemed denial of access to the record by the Commonwealth agency, local agency, the General Assembly or legislative agency is upheld or that the decision to deny access to the record was improper, and a Commonwealth agency, the local agency, the General Assembly or legislative agency must provide access to the record. The public records office may hold a private hearing on the matter and may review the record.

(2) The 30-business-day period may be extended by agreement of the parties. If the parties do not agree to an extension or the public records office does not issue a ruling within 30 business days after the date of the appeal, the denial from the Commonwealth agency, local agency, the General Assembly or legislative agency shall be deemed affirmed.

(c) Explanation.--If the public records office upholds the decision of the Commonwealth agency, local agency, the General Assembly or legislative agency to deny access to the public record, the office shall fully explain in writing to the person requesting the public record the reason for the denial. If the public records office rules that the Commonwealth agency, local agency, the General Assembly or legislative agency shall provide access to the public record, it shall order the Commonwealth agency, local agency, the General Assembly or legislative agency to provide the individual with access to the record and shall fully explain in writing the reason access must be provided.

(d) Other appeals.--Costs or attorney fees shall not be awarded under this section for administrative appeal to the public records office under this section.

Amend Bill, page 10, by inserting between lines 12 and 13

1 (A04720)

2 Section 3101.1. Severability.

3 All provisions of this act are severable.