

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILLNo. **411** Session of
2015

INTRODUCED BY PILEGGI, BLAKE, BAKER, COSTA, FOLMER, FONTANA,
GORDNER, MENSCH, RAFFERTY, SMUCKER, STEFANO, TEPLITZ, VANCE,
WARD, WILLIAMS, YAW, VULAKOVICH, BOSCOLA, YUDICHAK, LEACH AND
BROWNE, FEBRUARY 5, 2015

AS AMENDED ON SECOND CONSIDERATION, OCTOBER 20, 2015

AN ACT

1 Amending the act of February 14, 2008 (P.L.6, No.3), entitled
2 "An act providing for access to public information, for a
3 designated open-records officer in each Commonwealth agency,
4 local agency, judicial agency and legislative agency, for
5 procedure, for appeal of agency determination, for judicial
6 review and for the Office of Open Records; imposing
7 penalties; providing for reporting by State-related
8 institutions; requiring the posting of certain State contract
9 information on the Internet; and making related repeals," in
10 preliminary provisions, further providing for definitions; in
11 requirements and prohibitions, providing for Pennsylvania
12 Interscholastic Athletic Association; in access, further
13 providing for open-records officer, for regulations and
14 policies and for requests, and providing for inmate access;
15 in procedure, further providing for access, for requests, for
16 written requests, for production of certain records and for
17 exceptions for public records; in agency response, further
18 providing for general rule and for extension of time; in
19 appeal of agency determination, further providing for filing
20 of appeal and for appeals officers; in judicial review,
21 further providing for Commonwealth agencies, legislative
22 agencies and judicial agencies, for fee limitations and for
23 Office of Open Records; and, in State-related institutions,
24 further providing for reporting, for contents of report and
25 for copies and posting, and providing for contracts.

26 The General Assembly of the Commonwealth of Pennsylvania

27 hereby enacts as follows:

28 Section 1. The definitions of "independent agency," "local

1 agency," "personal financial information" and "State-affiliated
2 entity" in section 102 of the act of February 14, 2008 (P.L.6,
3 No.3), known as the Right-to-Know Law, are amended and the
4 section is amended by adding definitions to read:

5 Section 102. Definitions.

6 The following words and phrases when used in this act shall
7 have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 * * *

10 "Commercial purpose." The use of a record:

11 (1) for the purpose of selling or reselling any portion
12 of the record;

13 (2) to obtain names and addresses from the record for
14 the purpose of commercial solicitation; or

15 (3) in a manner through which the requester can
16 reasonably expect to make a profit.

17 The term does not include the use of a public record by an
18 educational or noncommercial scientific institution for
19 scholarly or scientific research or the use of a public record
20 by the news media, a journalist or an author for news gathering
21 or dissemination in a newspaper, periodical, book, digital
22 publication or radio or television news broadcast.

23 * * *

24 "Independent agency." Any board, commission, authority or
25 other agency or officer of the Commonwealth, that is not subject
26 to the policy supervision and control of the Governor. The term
27 does not include a legislative or judicial agency.

28 "Inmate." An individual currently incarcerated, after having
29 been sentenced by a court of competent jurisdiction, in a
30 Federal, State or county correctional facility or prison.

1 * * *

2 "Local agency." Any of the following:

3 (1) Any political subdivision, intermediate unit,
4 charter school, cyber charter school or public trade or
5 vocational school.

6 (2) Any local, intergovernmental, regional or municipal
7 agency, authority, council, board, commission or similar
8 governmental entity. This paragraph includes an economic
9 development authority and an industrial development
10 authority. The term does not include an office of an elected
11 tax collector.

12 (3) Any campus police department of a State-owned or
13 State-related college or university.

14 * * *

15 "Personal financial information." An individual's personal
16 credit, charge or debit card information; bank account or other
17 financial institution account information; bank, credit or
18 financial statements; account or PIN numbers; forms required to
19 be filed by a taxpayer with a Federal or Commonwealth taxing
20 authority; employee benefit election information; individual
21 employee contributions to retirement plans and investment
22 options; individual employee contributions to health care
23 benefits and other benefits; individual employee contributions
24 to charitable organizations; and other information relating to
25 an individual's personal finances.

26 * * *

27 "State-affiliated entity." A Commonwealth authority or
28 Commonwealth entity. The term includes the Pennsylvania Higher
29 Education Assistance Agency and any entity established thereby,
30 the Pennsylvania Gaming Control Board, the Pennsylvania Game

1 Commission, the Pennsylvania Fish and Boat Commission, the
2 Pennsylvania Housing Finance Agency, the Pennsylvania Municipal
3 Retirement Board, the State System of Higher Education, a
4 community college, the Pennsylvania Turnpike Commission, the
5 Pennsylvania Public Utility Commission, the Pennsylvania
6 Infrastructure Investment Authority, the State Public School
7 Building Authority[, the Pennsylvania Interscholastic Athletic
8 Association] and the Pennsylvania Higher Educational Facilities
9 Authority. The term does not include a State-related
10 institution.

11 * * *

12 "Time response log." A log created, received, maintained or
13 retained by a public safety answering point (PSAP), as defined
14 in 35 Pa.C.S. § 5302 (relating to definitions), containing the
15 following information:

16 (1) The time the call was received by the PSAP.

17 (2) The time the PSAP contacted or dispatched the
18 appropriate agency for response.

19 (3) The time the appropriate agency responded.

20 (4) The time the appropriate agency arrived on the
21 scene.

22 (5) The time the appropriate agency became available.

23 (6) The address of the incident or the street block
24 identifier, the cross street or mile marker nearest the scene
25 of the incident.

26 * * *

27 Section 2. The act is amended by adding a section to read:

28 Section 307. Pennsylvania Interscholastic Athletic Association.

29 For purposes of this act, the Pennsylvania Interscholastic
30 Athletic Association is considered to be a local agency and

1 shall provide public records in accordance with this act.

2 Section 3. Sections 502 and 504 of the act are amended by
3 adding subsections to read:

4 Section 502. Open-records officer.

5 * * *

6 (c) Agency registration.--An agency shall register its open-
7 records officer with the Office of Open Records in a manner
8 prescribed by the Office of Open Records.

9 Section 504. Regulations and policies.

10 * * *

11 (c) Home address of agency employees.--

12 (1) Each Commonwealth agency and local agency shall
13 develop a policy allowing an employee to notify the agency
14 that the employee believes the exception under section 708(b)
15 (1)(ii) or any other exception applies to the employee's home
16 address.

17 (2) The agency shall review each notification under this
18 subsection and inform the employee of its decision.

19 (3) The agency is not required to notify:

20 (i) an employee of the policy under this subsection
21 more than once per year; or

22 (ii) a previously notified employee while responding
23 to a request under this act.

24 Section 4. Section 506(a) of the act is amended to read:

25 Section 506. Requests.

26 (a) Disruptive requests.--

27 (1) An agency may deny a requester access to a record if
28 the requester has made repeated requests for that same record
29 and the repeated requests have placed an unreasonable burden
30 on the agency.

1 (1.1) An agency may deny a request to a party to
2 litigation when the request:

3 (i) is material to a pending civil action or
4 proceeding to which the agency is a party and the
5 Pennsylvania Rules of Civil Procedure or the Federal
6 Rules of Civil Procedure apply; or

7 (ii) was previously made in litigation discovery.

8 (2) A denial under this subsection shall not restrict
9 the ability to request a different record.

10 * * *

11 Section 5. The act is amended by adding a section to read:

12 Section 508. Inmate access.

13 (a) Status.--Except as provided in subsection (b), an inmate
14 may not be a requester for purposes of this act.

15 (b) Records.--An agency shall provide an inmate with copies
16 of the following records as they pertain directly to the inmate
17 if the disclosure of the record will not diminish the safety or
18 security of any person or correctional facility and if there are
19 no other policies or procedures in place for the inmate to
20 obtain the requested information:

21 (1) Criminal records relating to the criminal commitment
22 of the inmate.

23 (2) Institutional housing information.

24 (3) The inmate's financial records.

25 (4) The inmate's work records.

26 (5) The inmate's educational records.

27 (6) The inmate's disciplinary records.

28 (7) Disciplinary, housing and other policies adopted by
29 the correctional institution or the Department of
30 Corrections.

1 (8) A record relating to any Federal or State benefit
2 received by the inmate or for which the inmate is eligible.

3 (9) The inmate's tax records.

4 (10) The inmate's voting records.

5 (11) Records relating to any license issued to the
6 inmate by a Commonwealth or local agency.

7 (c) Applicability.--This section shall not prohibit an
8 agency from voluntarily permitting an inmate to have access to
9 records not listed under subsection (b) or prevent an agency
10 from complying with a lawful subpoena or court order.

11 Section 6. Sections 701, 702, 703 and 707 of the act are
12 amended to read:

13 Section 701. Access.

14 (a) General rule.--Unless otherwise provided by law, a
15 public record, legislative record or financial record shall be
16 accessible for inspection and duplication in accordance with
17 this act. A record being provided to a requester shall be
18 provided in the medium, computer file format or other format
19 requested if it exists in that medium, computer file format or
20 other format; otherwise, it shall be provided in the medium in
21 which it exists. Public records, legislative records or
22 financial records shall be available for access during the
23 regular business hours of an agency.

24 (b) Construction.--Nothing in this act shall be construed to
25 require access to any computer either of an agency or individual
26 employee of an agency.

27 Section 702. Requests.

28 Agencies may fulfill verbal[, written or anonymous verbal] or
29 written requests for access to records under this act. If the
30 requester wishes to pursue the relief and remedies provided for

1 in this act, the request for access to records must be a written
2 request.

3 Section 703. Written requests.

4 A written request for access to records may be submitted in
5 person, by mail, by e-mail, by facsimile or, to the extent
6 provided by agency rules, by any other electronic means. A
7 written request must be addressed to the open-records officer
8 designated pursuant to section 502 or to the administrative
9 office of the agency. [Employees of an] The administrative
10 office of the agency shall [be directed to] promptly forward
11 requests for records to the open-records officer of the agency
12 that received the request. A written request [should] shall
13 include the name and physical mailing address of the requester,
14 shall identify or describe the records sought with sufficient
15 specificity to enable the agency to ascertain which records are
16 being requested and shall include the name and address to which
17 the agency should address its response. [A] Except as required
18 under section 707(d), a written request need not include any
19 explanation of the requester's reason for requesting or intended
20 use of the records unless otherwise required by law.

21 Section 707. Production of certain records.

22 (a) General rule.--If, in response to a request, an agency
23 produces a record that is not a public record, legislative
24 record or financial record, the agency shall notify any third
25 party that provided the record to the agency, the person that is
26 the subject of the record and the requester.

27 (b) Requests for trade secrets.--An agency shall notify a
28 third party of a request for a record if the third party
29 provided the record and included a written statement signed by a
30 representative of the third party that the record contains a

1 trade secret or confidential proprietary information.
2 Notification shall be provided within five business days of
3 receipt of the request for the record. The third party shall
4 have five business days from receipt of notification from the
5 agency to provide input on the release of the record. The agency
6 shall deny the request for the record or release the record
7 within ten business days of the provision of notice to the third
8 party and shall notify the third party of the decision.

9 (c) Transcripts.--

10 (1) Prior to an adjudication becoming final, binding and
11 nonappealable, a transcript of an administrative proceeding
12 shall be provided to a requester by the agency stenographer
13 or a court reporter, in accordance with agency procedure or
14 an applicable contract.

15 (2) Following an adjudication becoming final, binding
16 and nonappealable, a transcript of an administrative
17 proceeding shall be provided to a requester in accordance
18 with the duplication rates established in section 1307(b).

19 (3) This subsection shall not be construed to require an
20 agency to transcribe a proceeding solely for purposes of
21 responding to a request under this act.

22 (d) Commercial requests.--An agency may require a requester
23 to certify in writing whether the request is for a commercial
24 purpose. Certification shall be submitted on a form developed by
25 the Office of Open Records. A requester that submits a false
26 written statement shall be subject to 18 Pa.C.S. § 4904
27 (relating to unsworn falsification to authorities).

28 Section 7. Section 708(b)(6), (10)(i) and (ii), (13), (17)
29 and (18) and (c) of the act are amended and subsection (b) is
30 amended by adding paragraphs to read:

1 Section 708. Exceptions for public records.

2 * * *

3 (b) Exceptions.--Except as provided in subsections (c) and
4 (d), the following are exempt from access by a requester under
5 this act:

6 * * *

7 (5.1) The payment records of a person receiving services
8 from a municipal water or sewer authority or other municipal
9 authority, municipality or cooperative that provides
10 electricity, water, sewer, storm water, natural gas or
11 similar service. This paragraph shall not apply to reports of
12 aggregate payments made by a municipality, authority or
13 cooperative to assist low-income consumers or other consumers
14 in obtaining services.

15 (6) (i) The following personal identification
16 information:

17 (A) A record containing all or part of a
18 person's Social Security number, driver's license
19 number, personal financial information, home,
20 cellular or personal telephone numbers, personal e-
21 mail addresses, employee number or other confidential
22 personal identification number.

23 (B) A spouse's name, marital status or
24 beneficiary or dependent information, including the
25 number, names and ages of an employee's dependents.

26 (C) The home address of a law enforcement
27 officer [or], judge[.], ~~Commonwealth employee,~~ <--
28 ~~municipal employee or employee of a school entity.~~
29 ~~For the purposes of this clause, the term "school~~
30 ~~entity" shall include a school district, intermediate~~

1 ~~unit, area vocational technical school, charter~~
2 ~~school or cyber charter school.~~ OR EMPLOYEE OF A <--
3 ~~COMMONWEALTH AGENCY, JUDICIAL AGENCY, LEGISLATIVE~~
4 ~~AGENCY OR LOCAL AGENCY.~~

5 (ii) Nothing in this paragraph shall preclude the
6 release of the name, position, salary, actual
7 compensation or other payments or expenses, employment
8 contract, employment-related contract or agreement and
9 length of service of a public official or an agency
10 employee.

11 (iii) An agency may redact the name or other
12 identifying information relating to an individual
13 performing an undercover or covert law enforcement
14 activity from a record.

15 (iv) Nothing in this paragraph shall prevent the
16 disclosure of aggregated data of employer or employee
17 costs related to retirement benefits, health care
18 benefits or other benefits or the disclosure of options
19 made available to employees regarding retirement, health
20 care or other benefits plans.

21 * * *

22 (10) As follows:

23 (i) A record that reflects:

24 (A) The internal, predecisional deliberations of
25 an agency, its members, employees or officials or
26 predecisional deliberations between agency members,
27 employees or officials and members, employees or
28 officials of another agency, including predecisional
29 deliberations relating to a budget recommendation,
30 legislative proposal, legislative amendment,

1 contemplated or proposed policy or course of action
2 or any research, memos or other documents used in the
3 predecisional deliberations.

4 (B) The strategy to be used to develop or
5 achieve the successful adoption of a budget,
6 legislative proposal or regulation.

7 (ii) Subparagraph (i) (A) shall apply to agencies
8 subject to 65 Pa.C.S. Ch. 7 (relating to open meetings)
9 in a manner consistent with 65 Pa.C.S. Ch. 7. A record
10 which is not otherwise exempt from access under this act
11 and which is presented to a quorum for deliberation in
12 accordance with 65 Pa.C.S. Ch. 7 shall be a public record
13 regardless of whether a vote occurs at the meeting.

14 * * *

15 (13) Records that would disclose the identity of, or
16 personal financial information relating to, an individual who
17 lawfully makes a donation to or for the benefit of an agency
18 unless the donation is intended for or restricted to
19 providing remuneration or personal tangible benefit to a
20 named public official or employee of the agency, including
21 lists of potential donors compiled by an agency to pursue
22 donations, donor profile information or personal identifying
23 information relating to a donor.

24 * * *

25 (17) A record of an agency relating to a noncriminal
26 investigation, including:

27 (i) Complaints submitted to an agency.

28 (ii) Investigative materials, notes, correspondence
29 and reports.

30 (iii) A record that includes the identity of a

1 confidential source, including individuals subject to the
2 act of December 12, 1986 (P.L.1559, No.169), known as the
3 Whistleblower Law.

4 (iv) A record that includes information made
5 confidential by law.

6 (v) Work papers underlying an audit.

7 (vi) A record that, if disclosed, would do any of
8 the following:

9 (A) Reveal the institution, progress or result
10 of an agency investigation, except the imposition of
11 a fine or civil penalty, the suspension, modification
12 or revocation of a license, permit, registration,
13 certification or similar authorization issued by an
14 agency or an executed settlement agreement unless the
15 agreement is determined to be confidential by a
16 court.

17 (B) Deprive a person of the right to an
18 impartial adjudication.

19 (C) Constitute an unwarranted invasion of
20 privacy.

21 (D) Hinder an agency's ability to secure an
22 administrative or civil sanction.

23 (E) Endanger the life or physical safety of an
24 individual.

25 This paragraph shall not apply to a final safety inspection
26 report made pursuant to law or regulation.

27 (18) Emergency dispatches as follows:

28 (i) Records or parts of records, except time
29 response logs, pertaining to audio recordings, telephone
30 or radio transmissions received by emergency dispatch

1 personnel, including 911 recordings.

2 (ii) This paragraph shall not apply to a 911
3 recording, or a transcript of a 911 recording, if the
4 agency or a court determines that the public interest in
5 disclosure outweighs the interest in nondisclosure.

6 (iii) The home address of the individual who
7 accesses emergency dispatch.

8 * * *

9 (31) An agency's financial institution account numbers,
10 routing numbers, credit card numbers and passwords.

11 (32) A record of any of the following:

12 (i) A volunteer ambulance service.

13 (ii) A volunteer fire company.

14 (iii) A volunteer rescue company.

15 (iv) A volunteer water rescue company.

16 (v) A volunteer organization that provides hazardous
17 materials response services.

18 (vi) A volunteer organization that provides
19 emergency medical services.

20 Section 506(d)(1) shall apply to a volunteer organization
21 under this paragraph that contracts with a local agency to
22 provide services to the local agency.

23 (c) Financial records.--The exceptions set forth in
24 subsection (b) shall not apply to financial records, except that
25 an agency may redact that portion of a financial record
26 protected under subsection (b)(1), (2), (3), (4), (5), (6),
27 (11), (13), (16) or (17). An agency shall not disclose the
28 identity of an individual performing an undercover or covert law
29 enforcement activity.

30 * * *

1 Section 8. Sections 901, 902 and 1101 of the act are amended
2 to read:

3 Section 901. General rule.

4 (a) Determination.--Upon receipt of a written request for
5 access to a record, an agency shall make a good faith effort to
6 determine if the record requested is a public record,
7 legislative record or financial record and whether the agency
8 has possession, custody or control of the identified record, and
9 to respond as promptly as possible under the circumstances
10 existing at the time of the request. All applicable fees shall
11 be paid in order to receive access to the record requested.

12 (b) Time for response.--The time for response shall not
13 exceed, in the case of a request made in person or submitted by
14 regular mail, e-mail, web form, facsimile or similar means, five
15 business days from the date the written request is received by
16 the open-records officer for an agency. If the agency fails to
17 send the response within five business days of receipt of the
18 written request for access, the written request for access shall
19 be deemed denied.

20 Section 902. Extension of time.

21 (a) Determination.--Upon receipt of a written request for
22 access, the open-records officer for an agency shall determine
23 if one of the following applies:

24 (1) the request for access requires redaction of a
25 record in accordance with section 706;

26 (2) the request for access requires the retrieval of a
27 record stored in a remote location;

28 (3) a timely response to the request for access cannot
29 be accomplished due to bona fide and specified staffing
30 limitations;

1 (4) a legal review is necessary to determine whether the
2 record is a record subject to access under this act;

3 (5) the requester has not complied with the agency's
4 policies regarding access to records;

5 (6) the requester refuses to pay applicable fees
6 authorized by this act; [or]

7 (7) the extent or nature of the request precludes a
8 response within the required time period[.]; or

9 (8) time is required to provide notice under section
10 504(c).

11 (b) Notice.--

12 (1) Upon a determination that one of the factors listed
13 in subsection (a) applies, the open-records officer shall
14 send written notice to the requester within five business
15 days of receipt of the request for access under subsection
16 (a).

17 (2) The notice shall include a statement notifying the
18 requester that the request for access is being reviewed, the
19 reason for the review, a reasonable date that a response is
20 expected to be provided and an estimate of applicable fees
21 owed when the record becomes available. [If the date that a
22 response is expected to be provided is in excess of 30 days,
23 following the five business days allowed for in section 901,
24 the request for access shall be deemed denied unless the
25 requester has agreed in writing to an extension to the date
26 specified in the notice.] The request for access shall be
27 deemed denied if the agency fails to send a response within
28 30 days following the five business days allowed for in
29 section 901, unless the requester has agreed in writing to an
30 additional extension beyond 30 days.

1 (3) If the requester agrees to the extension, the
2 request shall be deemed denied on the day following the date
3 specified in the notice if the agency has not provided a
4 response by that date.

5 Section 1101. Filing of appeal.

6 [(a) Authorization.--

7 (1) If a written request for access to a record is]

8 (a) Authorization.--The following shall apply:

9 (1) (i) If a written request for access to a record is
10 denied or deemed denied, the requester may file an appeal
11 with the Office of Open Records or judicial, legislative
12 or other appeals officer designated under section 503(d)
13 within [15] 20 business days of the [mailing] postmark or
14 e-mail date of the agency's response or within [15] 20
15 business days of a deemed denial, whichever comes first.

16 (ii) The appeal shall [state the grounds upon which
17 the requester asserts that the record is a public record,
18 legislative record or financial record and shall] address
19 any grounds stated by the agency for delaying or denying
20 the request[.] and shall include the following:

21 (A) A copy of the original request.

22 (B) The agency denial.

23 (C) Any other information the requester believes
24 to be relevant.

25 (iii) The office shall provide a form on its
26 publicly accessible Internet website which may be used by
27 the requester to file the appeal.

28 (iv) The office may order a requester who fails to
29 include the information under subparagraph (ii) to
30 provide the required information.

1 (2) Except as provided in section 503(d), in the case of
2 an appeal of a decision by a Commonwealth agency or local
3 agency, the Office of Open Records shall assign an appeals
4 officer to review the denial.

5 (b) Determination.--

6 (1) Unless the requester agrees otherwise, the appeals
7 officer shall make a final determination which shall be
8 mailed to the requester and the agency within 30 days of
9 receipt of the appeal filed under subsection (a). The appeals
10 officer may extend this deadline by up to 15 days by
11 providing notice to both parties. If a hearing or in-camera
12 review is ordered under section 1102(a)(2), the appeals
13 officer may extend the deadline up to 90 additional days.

14 (1.1) If the issue before the office is substantially
15 the same as an issue currently on appeal to a court of common
16 pleas, the Commonwealth Court or the Supreme Court, the
17 appeals officer may stay the office's opinion until the
18 appeal is decided.

19 (2) If the office or other appeals officer fails to
20 issue a final determination within 30 days or as otherwise
21 provided under paragraph (1), the appeal is deemed denied.

22 (3) Prior to issuing a final determination, a hearing
23 may be conducted. The determination by the appeals officer
24 shall be a final order. The appeals officer shall provide a
25 written explanation [of the reason for the decision]
26 containing findings of fact and conclusions of law to the
27 requester and the agency.

28 (4) If an appeals officer designated under section 503
29 does not have jurisdiction to hear an appeal but another
30 appeals officer has jurisdiction, the appeals officer shall

1 transfer the appeal to the other appeals officer with
2 jurisdiction over the matter.

3 (c) Direct interest.--

4 (1) A person other than the agency or requester with a
5 direct interest in the record subject to an appeal under this
6 section may, within 15 days following receipt of actual
7 knowledge of the appeal but no later than the date the
8 appeals officer issues an order, file a written request to
9 provide information or to appear before the appeals officer
10 or to file information in support of the requester's or
11 agency's position.

12 (2) The appeals officer may grant a request under
13 paragraph (1) if:

14 (i) no hearing has been held;

15 (ii) the appeals officer has not yet issued its
16 order; and

17 (iii) the appeals officer believes the information
18 will be probative.

19 (3) Copies of the written request shall be sent to the
20 agency and the requester.

21 Section 9. Section 1102(a) of the act is amended and the
22 section is amended by adding a subsection to read:

23 Section 1102. Appeals officers.

24 (a) Duties.--An appeals officer designated under section 503
25 shall do all of the following:

26 (1) Set a schedule for the requester and the open-
27 records officer to submit documents in support of their
28 positions.

29 (2) Review all information filed relating to the
30 request. The appeals officer may hold a hearing or conduct an

1 in-camera review. A decision to hold or not to hold a hearing
2 is not appealable. The appeals officer may admit into
3 evidence testimony, evidence and documents that the appeals
4 officer believes to be reasonably probative and relevant to
5 an issue in dispute. The appeals officer may limit the nature
6 and extent of evidence found to be cumulative.

7 [(3) Consult with agency counsel as appropriate.]

8 (4) Issue a final determination on behalf of the Office
9 of Open Records or other agency.

10 * * *

11 (c) Review.--The Office of Open Records may require an
12 agency to submit a record and a privilege or exemption log for
13 the purpose of conducting an in-camera review to determine if
14 the record is a public record.

15 Section 10. Section 1301 heading and (a) of the act are
16 amended to read:

17 Section 1301. Commonwealth agencies, legislative agencies
18 [and], judicial agencies and the Office of Open
19 Records.

20 (a) General rule.--Within 30 days of the mailing date of the
21 final determination of the appeals officer relating to a
22 decision of a Commonwealth agency, a legislative agency [or], a
23 judicial agency or the Office of Open Records issued under
24 section 1101(b) or the date a request for access is deemed
25 denied, a requester or the agency may file a petition for review
26 or other document as might be required by rule of court with the
27 Commonwealth Court. The court shall notify the Commonwealth
28 agency, legislative agency, judicial agency or Office of Open
29 Records of the appeal. The decision of the court shall contain
30 findings of fact and conclusions of law based upon the evidence

1 as a whole. The decision shall clearly and concisely explain the
2 rationale for the decision.

3 * * *

4 Section 11. Section 1307(h) of the act is amended and the
5 section is amended by adding subsections to read:

6 Section 1307. Fee limitations.

7 * * *

8 (g.1) Additional fees.--

9 (1) Notwithstanding subsection (e), each agency may
10 assess fees for responding to commercial requests under this
11 act. In addition to fees under subsections (a) and (b),
12 reasonable standard charges may be charged for document
13 search, retrieval, review and redaction for documents for
14 commercial use.

15 (2) Fees under paragraph (1) must be calculated at no
16 more than the hourly wage of the lowest-paid public employee
17 of the agency who is capable of searching, retrieving,
18 reviewing and providing for redaction of the information
19 necessary to comply with the request.

20 (3) A fee may not be charged under paragraph (2) for the
21 first hour of search and retrieval time for all commercial
22 requests from a single requester in a 90-day period.

23 (h) Prepayment.--Prior to granting a request for access in
24 accordance with this act, an agency may require a requester to
25 prepay an estimate of the fees authorized under this section if
26 the fees required to fulfill the request are expected to exceed
27 [\$100] \$50.

28 (i) Appeal.--A fee charged under this act shall be
29 appealable to the Office of Open Records.

30 Section 12. Sections 1310, 1502, 1503 and 1504 of the act

1 are amended to read:

2 Section 1310. Office of Open Records.

3 (a) Establishment.--There is established [in the Department
4 of Community and Economic Development an] the Office of Open
5 Records, as an independent agency. The office shall do all of
6 the following:

7 (1) Provide information relating to the implementation
8 and enforcement of this act.

9 (2) Issue advisory opinions to agencies and requesters.

10 (3) Provide annual training courses to agencies, public
11 officials and public employees on this act and 65 Pa.C.S. Ch.
12 7 (relating to open meetings).

13 (4) Provide annual, regional training courses to local
14 agencies, public officials and public employees.

15 (5) Assign appeals officers to review appeals of
16 decisions by Commonwealth agencies or local agencies, except
17 as provided in section 503(d), filed under section 1101 and
18 issue orders and opinions. The office shall employ or
19 contract with attorneys to serve as appeals officers to
20 review appeals and, if necessary, to hold hearings on a
21 regional basis under this act. Each appeals officer must
22 comply with all of the following:

23 (i) Complete a training course provided by the
24 Office of Open Records prior to acting as an appeals
25 officer.

26 (ii) If a hearing is necessary, hold hearings
27 regionally as necessary to ensure access to the remedies
28 provided by this act.

29 (iii) Comply with the procedures under section
30 1102(b).

1 (6) Establish an informal mediation program to resolve
2 disputes under this act.

3 (7) Establish an Internet website with information
4 relating to this act, including information on fees, advisory
5 opinions and decisions and the name and address of all open
6 records officers in this Commonwealth.

7 (8) Conduct a biannual review of fees charged under this
8 act.

9 (9) Annually report on its activities and findings to
10 the Governor and the General Assembly. The report shall be
11 posted and maintained on the Internet website established
12 under paragraph (7).

13 (b) Executive director.--Within 90 days of the effective
14 date of this section, the Governor shall appoint an executive
15 director of the office who shall serve for a term of six years.
16 Compensation shall be set by the Executive Board established
17 under section 204 of the act of April 9, 1929 (P.L.177, No.175),
18 known as The Administrative Code of 1929. The executive director
19 may serve no more than two terms.

20 (c) Limitation.--The executive director shall not seek
21 election nor accept appointment to any political office during
22 his tenure as executive director and for one year thereafter.

23 (d) Staffing.--The executive director shall appoint
24 attorneys to act as appeals officers and additional clerical,
25 technical and professional staff as may be appropriate and may
26 contract for additional services as necessary for the
27 performance of the executive director's duties. The compensation
28 of attorneys and other staff shall be set by the Executive
29 Board. The appointment of attorneys shall not be subject to the
30 act of October 15, 1980 (P.L.950, No.164), known as the

1 Commonwealth Attorneys Act.

2 (e) Duties.--

3 (1) The executive director shall ensure that the duties
4 of the Office of Open Records are carried out and shall
5 monitor cases appealed to the Office of Open Records.

6 (2) The Department of Community and Economic Development
7 shall provide payroll, leave and benefits, budget,
8 information technology and administrative support to the
9 office.

10 (3) The executive director shall promulgate regulations
11 to administer this act. Initial rulemaking under this
12 paragraph shall be initiated no later than December 31, 2016.

13 (e.1) Public comment.--The office shall abstain from public
14 comment about a pending proceeding before the office. This
15 subsection shall not prohibit employees of the office from
16 making public statements in the course of official duties, from
17 issuing written advisory opinions, from making general comments
18 on this act that are not related to a specific pending
19 proceeding before the office or from explaining the procedures
20 of the office.

21 (f) Appropriation.--The appropriation for the office shall
22 be in a separate line item and shall be under the jurisdiction
23 of the executive director.

24 Section 1502. [Reporting] Filing.

25 No later than May 30 of each year, unless otherwise provided
26 under this chapter, a State-related institution shall file [with
27 the Governor's Office, the General Assembly, the Auditor General
28 and the State Library] the information set forth in section 1503
29 under the requirements of section 1504.

30 Section 1503. Contents of [report] filing.

1 (a) Information included.--The [report] filing required
2 under section 1502 shall include the following:

3 (1) Except as provided in paragraph (4), all information
4 required by Form 990 or an equivalent form of the United
5 States Department of the Treasury, Internal Revenue Service,
6 entitled the Return of Organization Exempt From Income Tax,
7 regardless of whether the State-related institution is
8 required to file the form by the Federal Government.

9 (2) The salaries of all officers and directors of the
10 State-related institution.

11 (3) The highest 25 salaries paid to employees of the
12 institution that are not included under paragraph (2).

13 (3.1) For a State-related institution with 2,500
14 employees or more, the next highest 175 salaries paid to
15 employees of the institution that are not included under
16 paragraph (2). The salaries of faculty members must be
17 presented in salary ranges comprised of bands of no more than
18 \$75,000 with individual faculty member names itemized
19 alphabetically in the respective salary range. The
20 institution department to which a faculty member is assigned
21 must be presented with the name of the faculty member.

22 (4) The [report] filing shall not include information
23 relating to individual donors.

24 (5) Revenue and expenditure budgets of the State-related
25 institution's academic and administrative support units for
26 the current fiscal year.

27 (6) The actual revenue and expenditures for the prior
28 year.

29 (7) For any defined project or program which is the
30 subject of a specific line item appropriation from the

1 General Fund, the State-related institution shall disclose
2 the following:

3 (i) Revenue and expenditure budgets of the defined
4 program or project for the current fiscal year.

5 (ii) The actual revenue and expenditures of the
6 defined program or project for the prior year.

7 (8) The revenue and expenditures of any auxiliary
8 enterprise which is directly funded in whole or in part by
9 tuition or a State appropriation for the current fiscal year.

10 (9) The most recent audited financial statement for the
11 State-related institution.

12 (10) The following information for the prior fiscal year
13 for each academic or administrative support unit, for each
14 defined project or program and for an auxiliary enterprise:

15 (i) The number of employees by academic rank.

16 (ii) The number of administrators, staff, clerical
17 and technical service employees, by classification.

18 (iii) Median and mean salary by academic rank.

19 (iv) Median and mean salaries of administrators,
20 staff, clerical and technical service employees, by
21 classification.

22 (v) Nonsalary compensation as a percentage of
23 salary. Nonsalary compensation shall include:

24 (A) Medical benefits.

25 (B) Life insurance benefits.

26 (C) Pension benefits.

27 (D) Leave benefits.

28 (E) Employer Social Security payments.

29 (F) Workers' compensation benefits.

30 (vi) A statement of the State-related institution's

1 retirement policies.

2 (vii) A policy statement relating to a reduction of
3 tuition for employees' family members.

4 (viii) A list by academic or administrative support
5 unit in the aggregate of the expenses of travel,
6 subsistence and lodging, whether provided or reimbursed.

7 (b) Providing information.--Each State-related institution
8 shall provide full, complete and accurate information as may be
9 required by the Department of Education or the chairman or
10 minority chairman of the Appropriations Committee of the Senate
11 or the chairman or minority chairman of the Appropriations
12 Committee of the House of Representatives.

13 (c) Financial statements.--Each State-related institution
14 shall present and report its financial statements required under
15 the provisions of this act in accordance with:

16 (1) The generally accepted accounting principles as
17 prescribed by the National Association of College and
18 University Business Officers, the American Institute of
19 Certified Public Accountants or by another recognized
20 authoritative body.

21 (2) The "Commonwealth of Pennsylvania Budget
22 Instructions for the State System of Higher Education, State-
23 Related Universities and Non-State-Related Colleges and
24 Universities."

25 (3) The financial reporting policies and standards
26 promulgated by the Commonwealth of Pennsylvania and by the
27 Federal Government that apply to the State-related
28 institutions.

29 (d) Nonpreferred appropriations.--

30 (1) In a year a State-related institution receives a

1 nonpreferred appropriation, a report shall be submitted prior
2 to September 1 and must cover the 12-month period beginning
3 with the summer term of the preceding year. The report shall
4 include:

5 (i) The following counts and distributions for each
6 term during the period:

7 (A) The definition and number of:

8 (I) Faculty members employed full time.

9 (II) Faculty members employed part time.

10 (III) Full-time students enrolled in a
11 graduate course.

12 (IV) Full-time students enrolled in an
13 undergraduate course.

14 (V) Part-time students enrolled in a
15 graduate course.

16 (VI) Part-time students enrolled in an
17 undergraduate course.

18 (B) The total number of:

19 (I) Undergraduate student credit hours,
20 divided into lower division and upper division
21 course levels.

22 (II) Graduate student credit hours, divided
23 into three course levels: master's, first
24 professional and doctoral.

25 (C) The number of different courses scheduled by
26 level of instruction and the number of sections of
27 individual instruction scheduled by level of
28 instruction, each further subdivided by two-digit
29 Classification of Instructional Program (CIP)
30 categories of instructional programs of higher

1 education as defined by the National Center for
2 Education Statistics, United States Department of
3 Education.

4 (D) The number of terms scheduled and the dates
5 of the terms.

6 (ii) For the summer term and the following academic
7 year in total and for each two-digit CIP program
8 category:

9 (A) A classification of faculty members or other
10 professional employees by title, including:

11 (I) Professor.

12 (II) Associate professor.

13 (III) Assistant professor.

14 (IV) Instructor.

15 (V) Lecturer.

16 (VI) Research associate.

17 (VII) Librarian and academic administrator.

18 (B) Faculty members or other professional
19 employees under each title to be subdivided into
20 teaching and nonteaching.

21 (C) Each set of faculty members or other
22 professional employees to be further subdivided by
23 full-time or part-time employment.

24 (D) The following aggregates for each
25 subdivided classification:

26 (I) The number of faculty and other
27 professional employees and the full-time
28 equivalence in instructional and noninstructional
29 functions.

30 (II) The sum of credits assigned to

1 undergraduate classroom courses and the sum of
2 credits assigned to graduate classroom courses
3 taught divided into lower division, upper
4 division, master's, first professional and
5 doctoral course levels.

6 (III) The sum of credits assigned to
7 undergraduate individual instruction courses and
8 the sum of credits assigned to graduate
9 individual instruction courses taught divided
10 into lower division, upper division, master's,
11 first professional and doctoral course levels.

12 (IV) The sum of undergraduate classroom
13 student credit hours and the sum of graduate
14 classroom student credit hours generated, divided
15 into lower division, upper division, master's,
16 first professional and doctoral course levels.

17 (V) The sum of undergraduate individual
18 instruction student credit hours and the sum of
19 graduate individual instruction student credit
20 hours generated, divided into lower division,
21 upper division, master's, first professional and
22 doctoral course levels.

23 (VI) The total salary paid for instructional
24 functions and for noninstructional functions and
25 the amount of salary paid for each of these
26 functions from State-related institution funds,
27 Federal funds and other funds.

28 (iii) For each term of the period covered for each
29 faculty member employed full time identified by two-digit
30 CIP program category and title, the report shall contain

1 an analysis of the average hours per week spent:

2 (A) In State-related institution-related
3 activities, stating specifically hours spent in
4 undergraduate classroom contact and graduate
5 classroom contact hours spent in preparation.

6 (B) In research.

7 (C) In public service.

8 (2) The report covering the 12-month period shall
9 include for each program of the State-related institution:

10 (i) Minimum number of credits required for a
11 baccalaureate degree and for a master's degree.

12 (ii) Number of bachelor's degrees, master's degrees,
13 first professional degrees and doctoral degrees awarded
14 for the previous five years and those estimates for that
15 year.

16 (e) Minutes.--Each State-related institution shall make a
17 copy of the minutes of each public meeting of the institution's
18 board of trustees available for public inspection in the
19 institution's library in print format and online on the
20 institution's publicly accessible Internet website. The minutes
21 shall be maintained in print and online for no fewer than 20
22 years.

23 (f) Data systems report.--Each State-related university
24 shall make a copy of the institution's integrated postsecondary
25 education data systems report available for public inspection in
26 the institution's library in print format and online on the
27 institution's publicly accessible Internet website.

28 Section 1504. [Copies and posting] Requirements for information
29 in filings.

30 [A State-related institution shall maintain, for at least

1 seven years, a copy of the report in the institution's library
2 and shall provide free access to the report on the institution's
3 Internet website.] A State-related institution shall make the
4 information required by section 1502 accessible to the public in
5 accordance with the following:

6 (1) The information shall be posted online on the
7 institution's publicly accessible Internet website in a
8 searchable, sortable and downloadable database format that is
9 freely accessible by the public. To the extent possible, a
10 State-related institution shall post the information online
11 in a similar manner in order to facilitate easy public
12 review. The information of prior years shall be maintained
13 for no fewer than ten years.

14 (2) The information shall be maintained in print format
15 in the institution's library for no fewer than ten years.

16 (3) The information shall be provided in electronic
17 format to the Department of Education and the Joint State
18 Government Commission.

19 (4) The information shall be provided in print format to
20 the General Assembly and to each of the State regional
21 library resource centers.

22 Section 13. The act is amended by adding a section to read:
23 Section 1505. Contracts.

24 (a) Scope.--By May 30 of each year, a State-related
25 institution shall file with the Governor's Office, the Secretary
26 of the Senate, the Chief Clerk of the House of Representatives
27 and the State Library an annual list of contracts in excess of
28 \$5,000 for the purchase of all goods and third-party services.

29 (b) Contents.--The list shall include all of the following:

30 (1) Date of execution.

- 1 (2) Amount of the contract.
- 2 (3) Beginning date of the contract.
- 3 (4) End date of the contract, if applicable.
- 4 (5) The name and address of the vendor.
- 5 (6) Subject matter of the contract.

6 (c) Privilege.--This section shall not apply to a contract
7 for services protected by a privilege.

8 (d) Evidence.--This section:

9 (1) shall apply to a purchase order evidencing new
10 obligations; but

11 (2) shall not apply to a purchase order evidencing
12 fulfillment of an existing contract.

13 (e) Posting.--Information under this section shall be posted
14 and maintained on the institution's Internet website.

15 Section 14. This act shall take effect as follows:

16 (1) The amendment or addition of sections 1503 and 1505
17 of the act shall take effect July 1, 2016, or immediately,
18 whichever is later.

19 (2) This section shall take effect immediately.

20 (3) The remainder of this act shall take effect December
21 31, 2015.