

## 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

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

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

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

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

16 Section 1311. Administrative appeals.

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

26 (b) Ruling.--

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

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

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

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

58 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.