

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 411 Session of 2015

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

REFERRED TO STATE GOVERNMENT, FEBRUARY 5, 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, providing  
 13 for inmate access; in procedure, further providing for  
 14 access, for requests, for written requests, for production of  
 15 certain records and for exceptions for public records; in  
 16 agency response, further providing for general rule and for  
 17 extension of time; in appeal of agency determination, further  
 18 providing for filing of appeal and for appeals officers; and,  
 19 in judicial review, further providing for Commonwealth  
 20 agencies, legislative agencies and judicial agencies, for fee  
 21 limitations and for Office of Open Records.

22 The General Assembly of the Commonwealth of Pennsylvania  
 23 hereby enacts as follows:

24 Section 1. The definitions of "confidential proprietary  
 25 information," "independent agency," "local agency," "personal  
 26 financial information," "requester" and "State-affiliated  
 27 entity" in section 102 of the act of February 14, 2008 (P.L.6,

1 No.3), known as the Right-to-Know Law, are amended and the  
2 section is amended by adding definitions to read:

3 Section 102. Definitions.

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

7 \* \* \*

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

9 (1) for the purpose of selling or reselling any portion  
10 of the record;

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

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

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

21 \* \* \*

22 "Confidential proprietary information." Commercial or  
23 financial information received or created by an agency:

24 (1) which is privileged or confidential; and

25 (2) the disclosure of which would cause substantial harm  
26 to the competitive position of the person that submitted the  
27 information.

28 \* \* \*

29 "Independent agency." Any board, commission, authority or  
30 other agency or officer of the Commonwealth, that is not subject

1 to the policy supervision and control of the Governor. The term  
2 does not include a legislative or judicial agency.

3 \* \* \*

4 "Local agency." Any of the following:

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

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

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

16 \* \* \*

17 "Personal financial information." An individual's personal  
18 credit, charge or debit card information; bank account or other  
19 financial institution account information; bank, credit or  
20 financial statements; account or PIN numbers; forms required to  
21 be filed by a taxpayer with a Federal or Commonwealth taxing  
22 authority; employee benefit election information; and other  
23 information relating to an individual's personal finances.

24 \* \* \*

25 "Requester." A person that is a legal resident of [the  
26 United States] this Commonwealth and requests a record pursuant  
27 to this act. The term includes an agency.

28 \* \* \*

29 "State-affiliated entity." A Commonwealth authority or  
30 Commonwealth entity. The term includes the Pennsylvania Higher

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

13 \* \* \*

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

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

19 (2) The time the PSAP contacted or dispatched the  
20 appropriate agency for response.

21 (3) The time the appropriate agency responded.

22 (4) The time the appropriate agency arrived on the  
23 scene.

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

25 (6) The address of the incident or the cross street or  
26 mile marker nearest the scene of the incident.

27 \* \* \*

28 Section 2. The act is amended by adding sections to read:

29 Section 307. Pennsylvania Interscholastic Athletic Association.

30 For purposes of this act, the Pennsylvania Interscholastic

1 Athletic Association is considered to be a local agency and  
2 shall provide public records in accordance with this act.  
3 Section 508. Inmate access.

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

6 (b) Records.--An agency shall provide an inmate with copies  
7 of the following records as they pertain directly to the inmate  
8 if the disclosure of the record will not diminish the safety or  
9 security of any person or correctional facility:

10 (1) Criminal records relating to the criminal commitment  
11 of the inmate.

12 (2) Institutional housing information.

13 (3) The inmate's financial records.

14 (4) The inmate's work records.

15 (5) The inmate's educational records.

16 (6) The inmate's disciplinary records.

17 (7) Disciplinary, housing and other policies adopted by  
18 the correctional institution or the Department of  
19 Corrections.

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

22 (9) The inmate's tax records.

23 (10) The inmate's voting records.

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

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

30 Section 3. Sections 701, 702, 703 and 707 of the act are

1 amended to read:

2 Section 701. Access.

3 (a) General rule.--Unless otherwise provided by law, a  
4 public record, legislative record or financial record shall be  
5 accessible for inspection and duplication in accordance with  
6 this act. A record being provided to a requester shall be  
7 provided in the medium, computer file format or other format  
8 requested if it exists in that medium, computer file format or  
9 other format; otherwise, it shall be provided in the medium in  
10 which it exists. Public records, legislative records or  
11 financial records shall be available for access during the  
12 regular business hours of an agency.

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

16 Section 702. Requests.

17 Agencies may fulfill verbal[, written or anonymous verbal] or  
18 written requests for access to records under this act. If the  
19 requester wishes to pursue the relief and remedies provided for  
20 in this act, the request for access to records must be a written  
21 request.

22 Section 703. Written requests.

23 A written request for access to records may be submitted in  
24 person, by mail, by e-mail, by facsimile or, to the extent  
25 provided by agency rules, by any other electronic means. A  
26 written request must be addressed to the open-records officer  
27 designated pursuant to section 502 or to the administrative  
28 office of the agency. [Employees of an] The administrative  
29 office of the agency shall [be directed to] promptly forward  
30 requests for records to the open-records officer of the agency

1 that received the request. A written request [should] shall  
2 include the physical mailing address of the requester, shall  
3 identify or describe the records sought with sufficient  
4 specificity to enable the agency to ascertain which records are  
5 being requested and shall include the name and address to which  
6 the agency should address its response. [A] Except as required  
7 under section 707(d), a written request need not include any  
8 explanation of the requester's reason for requesting or intended  
9 use of the records unless otherwise required by law. A written  
10 request must include the name and address of the requester and  
11 the name of the agency to which the request is addressed.

12 Section 707. Production of certain records.

13 (a) General rule.--If, in response to a request, an agency  
14 produces a record that is not a public record, legislative  
15 record or financial record, the agency shall notify any third  
16 party that provided the record to the agency, the person that is  
17 the subject of the record and the requester.

18 (b) Requests for trade secrets.--An agency shall notify a  
19 third party of a request for a record if the third party  
20 provided the record and included a written statement signed by a  
21 representative of the third party that the record contains a  
22 trade secret or confidential proprietary information.

23 Notification shall be provided within five business days of  
24 receipt of the request for the record. The third party shall  
25 have five business days from receipt of notification from the  
26 agency to provide input on the release of the record. The agency  
27 shall deny the request for the record or release the record  
28 within ten business days of the provision of notice to the third  
29 party and shall notify the third party of the decision.

30 (c) Transcripts.--

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

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

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

13 (d) Commercial requests.--An agency may require a requester  
14 to certify in writing whether the request is for a commercial  
15 purpose. Certification shall be submitted on a form developed by  
16 the Office of Open Records that shall provide a checkoff for the  
17 requester to use to indicate whether the request is for a  
18 commercial purpose. A requester that submits a false written  
19 statement shall be subject to 18 Pa.C.S. § 4904 (relating to  
20 unsworn falsification to authorities).

21 (e) Home address.--If a request includes a home address of  
22 an employee of the agency, the agency must notify the subject of  
23 the request at least 14 days prior to release of the record. If  
24 the subject of the request notifies the agency that the  
25 exception under section 708(b)(1)(ii) applies, the agency shall  
26 determine if the home address shall be withheld.

27 Section 4. Section 708(b)(10)(i) and (ii), (13), (17) and  
28 (18) and (c) of the act are amended and subsection (b) is  
29 amended by adding paragraphs to read:

30 Section 708. Exceptions for public records.

1 \* \* \*

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

5 \* \* \*

6 (5.1) The payment records of a person receiving services  
7 from a municipal water or sewer authority or other municipal  
8 authority, municipality or cooperative that provides  
9 electricity, water, sewer, storm water, natural gas or  
10 similar service. The authority, municipality or cooperative  
11 shall establish a process to provide a clearance certificate  
12 to a person to certify that all fees and charges owed have  
13 been paid. A reasonable fee for a clearance certificate may  
14 be charged. This paragraph shall not apply to reports of  
15 aggregate payments made by a municipality, authority or  
16 cooperative to assist low-income consumers or other consumers  
17 in obtaining services. If funds are owed, the amount of the  
18 delinquency shall appear on the clearance certificate.

19 \* \* \*

20 (10) As follows:

21 (i) A record that reflects, contains or includes:

22 (A) The internal, predecisional deliberations of  
23 an agency, its members, employees or officials or  
24 predecisional deliberations between agency members,  
25 employees or officials and members, employees or  
26 officials of another agency, including predecisional  
27 deliberations relating to a budget recommendation,  
28 legislative proposal, legislative amendment,  
29 contemplated or proposed policy or course of action  
30 or any research, memos or other documents used in the

1           predecisional deliberations.

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

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

12           \* \* \*

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

22           \* \* \*

23          (17) [A] Except for a safety inspection report made  
24          pursuant to Federal or State law, a record of an agency  
25          relating to a noncriminal investigation, including:

26           (i) Complaints submitted to an agency.

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

29           (iii) A record that includes the identity of a  
30          confidential source, including individuals subject to the

1 act of December 12, 1986 (P.L.1559, No.169), known as the  
2 Whistleblower Law.

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

5 (v) Work papers underlying an audit.

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

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

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

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

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

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

24 (18) Emergency dispatches as follows:

25 (i) Records or parts of records, except time  
26 response logs, pertaining to audio recordings, telephone  
27 or radio transmissions received by emergency dispatch  
28 personnel, including 911 recordings.

29 (ii) This paragraph shall not apply to a 911  
30 recording, or a transcript of a 911 recording, if the

1 agency or a court determines that the public interest in  
2 disclosure outweighs the interest in nondisclosure.

3 (iii) The home address of the individual who  
4 accesses emergency dispatch.

5 \* \* \*

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

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

9 (i) A volunteer ambulance service.

10 (ii) A volunteer fire company.

11 (iii) A volunteer rescue company.

12 (iv) A volunteer water rescue company.

13 (v) A volunteer organization that provides hazardous  
14 materials response services.

15 (vi) A volunteer organization that provides  
16 emergency medical services.

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

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

27 \* \* \*

28 Section 5. Sections 901, 902 and 1101 of the act are amended  
29 to read:

30 Section 901. General rule.

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

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

17 Section 902. Extension of time.

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

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

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

25         (3) a timely response to the request for access cannot  
26 be accomplished due to bona fide and specified staffing  
27 limitations;

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

30         (5) the requester has not complied with the agency's

1 policies regarding access to records;

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

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

6 (8) time is required to provide notice under section  
7 707(e).

8 (b) Notice.--

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

14 (2) The notice shall include a statement notifying the  
15 requester that the request for access is being reviewed, the  
16 reason for the review, a reasonable date that a response is  
17 expected to be provided and an estimate of applicable fees  
18 owed when the record becomes available. If the date that a  
19 response is expected to be provided is in excess of 30 days,  
20 following the five business days allowed for in section 901,  
21 the request for access shall be deemed denied unless the  
22 requester has agreed in writing to an extension to the date  
23 specified in the notice.

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

28 Section 1101. Filing of appeal.

29 [(a) Authorization.--

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

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

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

9 (ii) The appeal shall [state the grounds upon which  
10 the requester asserts that the record is a public record,  
11 legislative record or financial record and shall address  
12 any grounds stated by the agency for delaying or denying  
13 the request.] include the following:

14 (A) A copy of the original request.

15 (B) The agency denial.

16 (C) A list of the records that were denied.

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

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

24 (b) Determination.--

25 (1) Unless the requester agrees otherwise, the appeals  
26 officer shall make a final determination which shall be  
27 mailed to the requester and the agency within 30 days of  
28 receipt of the appeal filed under subsection (a). The appeals  
29 officer may extend this deadline by up to 15 days by  
30 providing notice to both parties. If a hearing or in-camera

1 review is held under section 1102(a)(2), the appeals officer  
2 may extend the deadline up to 90 additional days.

3 (1.1) If the issue before the office is substantially  
4 the same as an issue currently on appeal to Commonwealth  
5 Court, the appeals officer may stay the appeal until  
6 Commonwealth Court issues a decision on the matter.

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

10 (3) Prior to issuing a final determination, a hearing  
11 may be conducted. The determination by the appeals officer  
12 shall be a final order. The appeals officer shall provide a  
13 written explanation of the reason for the decision to the  
14 requester and the agency.

15 (c) Direct interest.--

16 (1) A person other than the agency or requester with a  
17 direct interest in the record subject to an appeal under this  
18 section may, within 15 days following receipt of actual  
19 knowledge of the appeal but no later than the date the  
20 appeals officer issues an order, file a written request to  
21 provide information or to appear before the appeals officer  
22 or to file information in support of the requester's or  
23 agency's position.

24 (2) The appeals officer may grant a request under  
25 paragraph (1) if:

26 (i) no hearing has been held;

27 (ii) the appeals officer has not yet issued its  
28 order; and

29 (iii) the appeals officer believes the information  
30 will be probative.

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

3 Section 6. Section 1102(a) of the act is amended and the  
4 section is amended by adding a subsection to read:

5 Section 1102. Appeals officers.

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

8 (1) Set a schedule for the requester and the open-  
9 records officer to submit documents in support of their  
10 positions.

11 (2) Review all information filed relating to the  
12 request. The appeals officer may hold a hearing or conduct an  
13 in-camera review, in which case the appeals officer may  
14 extend the deadline in section 1101(b)(1) by up to 90 days. A  
15 decision to hold or not to hold a hearing is not appealable.  
16 The appeals officer may admit into evidence testimony,  
17 evidence and documents that the appeals officer believes to  
18 be reasonably probative and relevant to an issue in dispute.  
19 The appeals officer may limit the nature and extent of  
20 evidence found to be cumulative.

21 (3) Consult with agency counsel as appropriate.

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

24 \* \* \*

25 (c) Review.--The Office of Open Records may require an  
26 agency to submit a record for the purpose of conducting an in-  
27 camera review to determine if the record is a public record.

28 Section 7. Section 1301 heading and (a) of the act are  
29 amended to read:

30 Section 1301. Commonwealth agencies, legislative agencies

1           [and], judicial agencies and the Office of Open  
2           Records.

3           (a) General rule.--Within 30 days of the mailing date of the  
4 final determination of the appeals officer relating to a  
5 decision of a Commonwealth agency, a legislative agency [or], a  
6 judicial agency or the Office of Open Records issued under  
7 section 1101(b) or the date a request for access is deemed  
8 denied, a requester or the agency may file a petition for review  
9 or other document as might be required by rule of court with the  
10 Commonwealth Court. The court shall notify the Commonwealth  
11 agency, legislative agency, judicial agency or Office of Open  
12 Records of the appeal. The decision of the court shall contain  
13 findings of fact and conclusions of law based upon the evidence  
14 as a whole. The decision shall clearly and concisely explain the  
15 rationale for the decision.

16           \* \* \*

17           Section 8. Section 1307(h) of the act is amended and the  
18 section is amended by adding a subsection to read:  
19 Section 1307. Fee limitations.

20           \* \* \*

21           (g.1) Additional fees.--

22           (1) Notwithstanding subsection (e), each agency may  
23 assess fees for responding to commercial requests under this  
24 act. In addition to fees under subsections (a) and (b),  
25 reasonable standard charges may be charged for document  
26 search, retrieval, review and redaction for documents for  
27 commercial use.

28           (2) Fees under paragraph (1) must be calculated at no  
29 more than the hourly wage of the lowest-paid public employee  
30 of the agency who is capable of searching, retrieving,

1 reviewing and providing for redaction of the information  
2 necessary to comply with the request.

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

6 (h) Prepayment.--Prior to granting a request for access in  
7 accordance with this act, an agency may require a requester to  
8 prepay an estimate of the fees authorized under this section if  
9 the fees required to fulfill the request are expected to exceed  
10 [\$100] \$50.

11 Section 9. Section 1310 of the act is amended to read:

12 Section 1310. Office of Open Records.

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

17 (1) Provide information relating to the implementation  
18 and enforcement of this act.

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

20 (3) Provide annual training courses to agencies, public  
21 officials and public employees on this act and 65 Pa.C.S. Ch.  
22 7 (relating to open meetings).

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

25 (5) Assign appeals officers to review appeals of  
26 decisions by Commonwealth agencies or local agencies, except  
27 as provided in section 503(d), filed under section 1101 and  
28 issue orders and opinions. The office shall employ or  
29 contract with attorneys to serve as appeals officers to  
30 review appeals and, if necessary, to hold hearings on a

1 regional basis under this act. Each appeals officer must  
2 comply with all of the following:

3 (i) Complete a training course provided by the  
4 Office of Open Records prior to acting as an appeals  
5 officer.

6 (ii) If a hearing is necessary, hold hearings  
7 regionally as necessary to ensure access to the remedies  
8 provided by this act.

9 (iii) Comply with the procedures under section  
10 1102(b).

11 (6) Establish an informal mediation program to resolve  
12 disputes under this act.

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

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

19 (9) Annually report on its activities and findings to  
20 the Governor and the General Assembly. The report shall be  
21 posted and maintained on the Internet website established  
22 under paragraph (7).

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

30 (c) Limitation.--The executive director shall not seek

1 election nor accept appointment to any political office during  
2 his tenure as executive director and for one year thereafter.

3 (d) Staffing.--The executive director shall appoint  
4 attorneys to act as appeals officers and additional clerical,  
5 technical and professional staff as may be appropriate and may  
6 contract for additional services as necessary for the  
7 performance of the executive director's duties. The compensation  
8 of attorneys and other staff shall be set by the Executive  
9 Board. The appointment of attorneys shall not be subject to the  
10 act of October 15, 1980 (P.L.950, No.164), known as the  
11 Commonwealth Attorneys Act.

12 (e) Duties.--

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

16 (2) The Department of Community and Economic Development  
17 shall provide payroll and administrative support to the  
18 office.

19 (3) The executive director shall promulgate regulations  
20 to administer this act. Initial rulemaking under this  
21 paragraph shall be initiated no later than December 31, 2015.

22 (e.1) Public comment.--The office shall abstain from public  
23 comment about a pending proceeding before the office. This  
24 subsection shall not prohibit employees of the office from  
25 making public statements in the course of official duties, from  
26 issuing written advisory opinions, from making general comments  
27 on this act that are not related to a specific pending case or  
28 from explaining the procedures of the office.

29 (f) Appropriation.--The appropriation for the office shall  
30 be in a separate line item and shall be under the jurisdiction

1 of the executive director.

2 (g) Participation.--The office may participate as amicus  
3 curiae in an appeal from a decision of the office and may, upon  
4 approval of an appellate court, participate in oral argument.

5 Section 10. This act shall take effect in 60 days.