

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 1469

PRINTER'S NO. 2230

AMOUNT

No Fiscal Impact

FUND

General

DATE INTRODUCED

September 20, 2010

PRIME SPONSOR

Senator Pileggi

HISTORY OF BILL

Referred to STATE GOVERNMENT, Sept. 20, 2010

Reported as committed, Sept. 22, 2010

First consideration, Sept. 22, 2010

Second consideration, Sept. 27, 2010

Re-referred to APPROPRIATIONS, Sept. 27, 2010

Re-reported as amended, Sept. 28, 2010

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1469 amends the act of February 14, 2008 (P.L. 6, No. 3), known as the Right-to-Know Law, to address several issues that have come to light since the statute became fully effective on January 1, 2009.

Section 102 (Definitions) of the act is amended as follows:

- The definitions of "independent agency" and "state-affiliated entity" are amended to conform to other existing statutes. This change will have no practical impact on the application of the Open Records Law, as all agencies currently subject to the law will continue to be subject to it.
- The definition of "personal financial information" is amended to clarify that forms required to be filed with or by any taxing authority are exempt from disclosure.
- Adds the new definition of "time response log". A time response log is an open record; however, the original act did not provide a definition of the term. A time response log is defined, in part, as a log created, received, maintained, or retained by a public-safety answering point (PSAP) containing certain information as further specified in the definition.

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The legislation clarifies that a contract, including financial records directly relating to the contract, between an agency and a business or organization that is not in the possession of an agency but is in the possession of the business or organization shall be public under this act.

Senate Bill 1469 clarifies that a record must be provided in the medium or computer file format requested if it exists in such format. The bill expands the written requests provisions to allow requests to be addressed not only to the open-records officer of the agency but to the agency head as well.

Section 708 of the act (Exceptions for public records) is amended as follows:

- Exempts payment records of a person receiving services from a public water or sewer authority or other municipality authority, cooperative or entity that provides a utility service. The authority or entity shall establish a process to provide a clearance certificate to a person to certify that all fees and charges owed have been paid. A reasonable fee may be charged for certification.
- With regard to tax records, an agency shall establish a process to provide a clearance certificate to a person certifying that all taxes owed have been paid. A reasonable fee may be charged for certification.
- Presently under the act, the draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto is exempt from access by a requester. Senate Bill 1469 clarifies that the exemption does not apply when the record is presented to a quorum for deliberation at an advertised public meeting, regardless of whether a vote occurs at that meeting.
- Clarifies that the exception for records related to a noncriminal investigation does not apply to records reflecting the imposition of a fine or civil penalty; a notice of violation; suspension, modification or revocation of a license, permit registration, certification or similar authorization issued by an agency; the result of a regular inspection; or an executed settlement agreement unless the agreement is determined to be confidential by a court.
- Adds a new exception for records of voluntary emergency responders. This exception does not apply to the financial records of a volunteer organization if the volunteer organization has a contract with a local agency to provide services to the local agency.
- Adds a new exception for an agency's bank account numbers, bank routing numbers, credit card numbers or passwords.

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The legislation amends the general rule regarding agency response time depending on how the original request was submitted. In the case of a request submitted by email, web form, facsimile or similar means, or certified mail, the time for response shall not exceed five business days from the date the written request is received by the agency. In the case of a request submitted by first class mail or similar means, agencies must respond within ten business days from the postmark date.

Senate Bill 1469 amends the appeal of agency determination provisions by extending the due date of the appeal from 15 days to 20 days. Presently, the appeals officer must make a determination within 30 days of receipt of the appeal. The bill allows the appeal officer to extend this deadline by up to 15 days by providing notice to both parties, or, in cases where a hearing is held, the appeals officer may extend the deadline up to 15 days.

Section 1307(h) of the act regarding the prepayment of fees is amended such that prior to granting a request for access in accordance with the act, an agency may require a requester to prepay an estimate of the fees if the fees required to fulfill the request are expected to exceed \$50. The present threshold required for prepayment is \$100.

The legislation adds new subsection (g) to section 1310 regarding the establishment and duties of the Office of Open Records. Subsection (g) provides that the Office of Open Records shall have standing and may participate as a party in an appeal of a decision of the office.

The applicability section of Senate Bill 1469 makes it clear that, in addition to the other entities specified in the act, the act applies to the Pennsylvania Higher Education Assistance Agency and any entity established thereby, the Pennsylvania Interscholastic Athletic Association, and community colleges.

This act shall take effect in 60 days.

FISCAL IMPACT:

Enactment of this legislation will have no adverse fiscal impact to the Commonwealth.