

# **SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE**

**BILL NO.** Senate Bill 444

**PRINTER'S NO.** 2226

**AMOUNT**

Minimal Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

April 26, 2013

**PRIME SPONSOR**

Senator Pileggi

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 444, as amended, amends the Right-to-Know Law (Act 3 of 2008) by addressing and updating a number of issues with respect to the act.

The legislation makes the following changes to the Right-to-Know Law:

- Clarifies the news media exception to the new fee structure for commercial requests.
- Adds "campus police" to the definition of "local agency" so that they are covered by the law just as local police departments are.
- Adds "other financial institution account" to the definition of "personal financial information."
- Clarifies how the Right-to-Know Law applies to the Pennsylvania Interscholastic Athletic Association.
- Removes the "unduly burdensome request" language.
- Creates a new fee structure for commercial requests, allowing agencies to charge more for these types of requests.
- Adds records of volunteer fire companies, volunteer ambulance services and other volunteer emergency providers to the list of exceptions, other than financial records if the organization has a contract with a local agency.
- Creates a new section covering inmate access to records, specifying what records inmates may request.

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- Clarifies that safety inspection reports are public.
- Clarifies that if a public record exists in a specific computer file format, the agency must provide the record in that format upon request.
- Clarifies the law's application to records related to third-party contractors, ensuring that the contract and "any public records of the agency relating to the contract" are available under the law.
- Clarifies that an agency's bank account numbers, bank routing numbers, credit card numbers or passwords are not public.
- Expands the definition of "local agency" to clarify that entities such as economic development authorities and industrial development authorities are covered.
- Allows requests to be made to the head of an agency (e.g., a department secretary) in addition to an agency's open-records officer.
- Clarifies that certain tax forms (e.g., federal Form W-2) are "personal financial information" and not public.
- Establishes that certain payment records, such as those requested from water and sewer authorities, are to be made available through a "clearance certificate" process.
- Allows agencies to require pre-payment if record duplication costs are expected to exceed \$50, rather than the \$100 threshold in current law.
- Changes the time frame for responses depending on how the original request was submitted. In most cases, the existing five-day response time remains in effect. For requests submitted by postal mail, agencies will have 10 days from the postmark date to provide a response.
- Conforms the definitions of "state-affiliated entity" and "independent agency" to other statutes.
- Makes changes to the time frame for the appeal process, reflecting the real-world experience of the Office of Open Records ("OOR"), and clarifies that the OOR may conduct in camera record reviews.

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- Establishes the Office of Open Records as an independent agency, clarifies that the OOR has standing and may participate in appeals of OOR decisions, and requires the OOR to abstain from public comment on pending proceedings.
- Ensures that even as an independent agency, OOR will receive payroll and administrative support from the Department of Community and Economic Development.
- Expands the scope of the Right-to-Know Law as it relates to the four state-related institutions (Penn State, Temple, Pitt and Lincoln).
- Requires the disclosure of the top 200 salaries paid to employees of the institution for institutions with 2,500 or more employees.
- Requires institutions with fewer than 2,500 employees to disclose the top 25 salaries paid.
- Requires each institution to post on its freely accessible public website an online database (searchable, sortable and downloadable) which includes:
  1. Extensive budget, revenue and expenditure data;
  2. Number of employees and aggregated, non-personal employee data;
  3. Number of students and aggregated, non-personal student data;
  4. The most recent audited financial statement; and
  5. Minutes of each public meeting of the board of trustees.
- Adds contracts from state-related institutions, valued at \$5,000 or more, to the state's existing online contract database maintained by the state Treasurer.
- Makes other clarifying and technical changes.

The effective date for the changes to Chapter 15 of the law, which affect the state-related universities, is July 1, 2015. The databases being developed by these institutions will take longer than 60 days to develop. The remainder of the act shall take effect in 60 days.

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### **FISCAL IMPACT:**

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

Senate Bill 444 creates a new fee structure for commercial requests, allowing agencies to charge more for these types of requests. Under the legislation, these increased fees must be calculated at no more than the hourly wage of the lowest-paid public employee of the agency who is capable of performing the work necessary to comply with the request.

A review of the Commonwealth's Report of Revenue and Receipts for the fiscal year ending June 30, 2013 indicates that total revenue of \$28,660 was received by Commonwealth agencies for Right-to-Know fees. It is likely that the new fee for commercial requests will raise minimal income for the Commonwealth. In any case, the fee income is designed to offset the costs of complying with Right-to-Know requests and not to be a source of General Fund revenue.

The legislation also allows agencies to require pre-payment if record duplication costs are expected to exceed \$50, rather than the \$100 threshold in current law. Under this provision, fees may be paid to the Commonwealth sooner, but the overall fee charged should remain unchanged.