

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, OCTOBER 30, 2007

SESSION OF 2007

191ST OF THE GENERAL ASSEMBLY

No. 97

### HOUSE OF REPRESENTATIVES

The House convened at 10 a.m., e.d.t.

**THE SPEAKER (DENNIS M. O'BRIEN)  
PRESIDING**

#### PRAYER

The SPEAKER. The prayer will be offered by Pastor Kenneth Geise, guest of Representative Perry.

REV. KENNETH GEISE, Guest Chaplain of the House of Representatives, offered the following prayer:

Thank you.

Shall we pray together:

Our Heavenly Father, we thank You for Your majesty and Your supremacy. Thank You, Father, for Your loving care over the affairs of men.

We pray, Heavenly Father, for the body here today. We pray, Lord, that You would guide and direct, give them wisdom as they make decisions. We pray, Father, that Your name might be honored. Remember, also, the nation. We pray, Lord, for our nation. We pray that Thou would guide and direct our President and his Cabinet. We pray, Father, that You would watch over our servicemen overseas. And, Father, we pray that Your will might be done.

Again, Father, we ask Thy blessing in Jesus' name. Amen.

#### PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

#### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Monday, October 29, 2007, will be postponed until printed. The Chair hears no objection.

#### LEAVES OF ABSENCE

The SPEAKER. The Chair turns to leaves of absence. The Chair recognizes the majority whip, who indicates there are no requests for leaves on the Democratic side.

The Chair turns to leaves of absence. The Chair recognizes the minority whip. The gentleman indicates there are no requests for leaves for today.

Members will report to the floor.

#### MASTER ROLL CALL

The SPEAKER. The Chair is about to take the master roll. Members will proceed to vote.

The following roll call was recorded:

#### PRESENT—200

Adolph	Freeman	Mantz	Roebuck
Argall	Gabig	Markosek	Rohrer
Baker	Galloway	Marshall	Ross
Barrar	Geist	Marsico	Rubley
Bastian	George	McCall	Sabatina
Bear	Gerber	McGeehan	Sainato
Belfanti	Gergely	McI. Smith	Samuelson
Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Beyer	Gingrich	Mensch	Scavello
Bianucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Sipthroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Sonney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causer	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longiotti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	

Fairchild	Major	Roae	O'Brien, D.,
Fleck	Manderino	Rock	Speaker
Frankel	Mann		

ADDITIONS—0

NOT VOTING—0

EXCUSED—3

Mustio	Solobay	Wheatley
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LEAVES ADDED—12

Adolph	James	Pashinski	Smith, K.
Dally	Mensch	Roebuck	True
Gerber	Micozzie	Shimkus	Wansacz

LEAVES CANCELED—7

Gerber	Pashinski	Smith, K.	Wansacz
James	Shimkus	True	

The SPEAKER. A quorum being present, the House will proceed to conduct business.

**BILL REPORTED FROM COMMITTEE,  
CONSIDERED FIRST TIME, AND TABLED**

**SB 1017, PN 1269** By Rep. GEORGE

An Act amending the act of July 5, 1989 (P.L.166, No.31), known as the Phosphate Detergent Act, further providing for exclusions and exceptions.

ENVIRONMENTAL RESOURCES AND ENERGY.

**SENATE MESSAGE**

HOUSE BILL  
CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 33, PN 1418**, with information that the Senate has passed the same without amendment.

**BILL SIGNED BY SPEAKER**

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

**HB 33, PN 1418**

An Act authorizing and directing the Department of General Services, with the approval of the Department of Conservation and Natural Resources and the Governor, to lease to Pine Township, Clearfield County, a certain tract of land situate in Pine Township, Clearfield County, for a consideration of \$1.

Whereupon, the Speaker, in the presence of the House, signed the same.

**CALENDAR**

**RESOLUTION PURSUANT TO RULE 35**

Mr. COSTA called up **HR 480, PN 2740**, entitled:

A Resolution honoring the Pittsburgh Steelers on the occasion of their 75th season.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—200

Adolph	Freeman	Mantz	Roebuck
Argall	Gabig	Markosek	Rohrer
Baker	Galloway	Marshall	Ross
Barrar	Geist	Marsico	Rubley
Bastian	George	McCall	Sabatina
Bear	Gerber	McGeehan	Sainato
Belfanti	Gergely	McI. Smith	Samuelson
Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Beyer	Gingrich	Mensch	Scavello
Bianucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siptroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Sonney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causer	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longietti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D.,
Fleck	Manderino	Rock	Speaker
Frankel	Mann		

NAYS—0

NOT VOTING—0

EXCUSED—3

Mustio Solobay Wheatley

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

STATEMENT BY MR. COSTA

The SPEAKER. The Chair recognizes Representative Costa. Mr. COSTA. Thank you, Mr. Speaker.

Mr. Speaker and members of the House, I would like to thank all of you for supporting that resolution that we just passed honoring the Pittsburgh Steelers. I also wanted to let you know that this was a joint effort and a collaboration, not only by myself but Representative Gergely, Representatives Santoni and Sabatina. We initially were going to do one resolution for the Pittsburgh Steelers and the Philadelphia Eagles, but when we were doing the research and we got to the point about Super Bowls and we had five and they did not have any, we kind of felt bad so we separated them out.

Thank you.

The SPEAKER. The gentleman is out of order.

RESOLUTIONS PURSUANT TO RULE 35

Mr. HICKERNELL called up **HR 487, PN 2755**, entitled:

A Resolution observing the week of October 28 through November 4, 2007, as "White Ribbon Against Pornography Week" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—200

Adolph	Freeman	Mantz	Roebuck
Argall	Gabig	Markosek	Rohrer
Baker	Galloway	Marshall	Ross
Barrar	Geist	Marsico	Rubley
Bastian	George	McCall	Sabatina
Bear	Gerber	McGeehan	Sainato
Belfanti	Gergely	McI. Smith	Samuelson
Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Beyer	Gingrich	Mensch	Scavello
Biancucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siptroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Sonney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causser	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra

Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longiatti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D., Speaker
Fleck	Manderino	Rock	
Frankel	Mann		

NAYS—0

NOT VOTING—0

EXCUSED—3

Mustio Solobay Wheatley

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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Mr. REICHLEY called up **HR 489, PN 2766**, entitled:

A Resolution recognizing the week of November 11 through 17, 2007, as "Perioperative Nurses Week" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—200

Adolph	Freeman	Mantz	Roebuck
Argall	Gabig	Markosek	Rohrer
Baker	Galloway	Marshall	Ross
Barrar	Geist	Marsico	Rubley
Bastian	George	McCall	Sabatina
Bear	Gerber	McGeehan	Sainato
Belfanti	Gergely	McI. Smith	Samuelson
Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Beyer	Gingrich	Mensch	Scavello
Biancucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siptroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Sonney

Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causer	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longietti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D.,
Fleck	Manderino	Rock	Speaker
Frankel	Mann		

NAYS—0

NOT VOTING—0

EXCUSED—3

Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

**BILL ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 443, PN 2688**, entitled:

An Act requiring certain records of the Commonwealth and its political subdivisions, authorities and agencies and other public bodies to be open for examination, inspection and copying for denial or refusal of access under certain circumstances, for final agency determinations, for appeals, for court costs and attorney fees, for penalties and for immunity; establishing the Pennsylvania Public Records Office and providing for its powers and duties; and making a related repeal.

On the question,  
Will the House agree to the bill on second consideration?

Mr. **D. EVANS** offered the following amendment No. **A03854**:

Amend Sec. 2103, page 77, line 5, by striking out "IMMEDIATELY" and inserting  
July 1, 2008

Amend Sec. 2103, page 77, lines 9 and 10, by striking out "IN ONE YEAR" and inserting  
July 1, 2009

On the question,  
Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes the gentleman, Representative **EVANS**, on the amendment.

Mr. **D. EVANS**. Mr. Speaker, the purpose of this amendment is to change the date of the implementation of this particular bill if it should become law. What happens every year, Mr. Speaker, is that when we do budget negotiations, we have a basic agreement with the administration that we will not pass anything that would affect the budget in the current year.

So, generally, what I have been doing since I have been chairman, Mr. Speaker, is ensuring that that commitment is maintained and that if we have any kind of fiscal costs on that particular year, we move it back to next year so we can deal with this. This is what the practice has been since I have been chairman of the Appropriations Committee.

I would ask that members would support this particular amendment. Thank you, Mr. Speaker.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—136

Adolph	Frankel	Major	Readshaw
Argall	Galloway	Manderino	Reed
Baker	George	Markosek	Roebuck
Barrar	Gerber	Marsico	Sabatina
Belfanti	Gergely	McCall	Sainato
Biancucci	Gillespie	McGeehan	Santoni
Bishop	Gingrich	Melio	Saylor
Blackwell	Goodman	Micozzie	Seip
Boback	Grucela	Millard	Shapiro
Brennan	Haluska	Miller	Siptroth
Buxton	Hanna	Moul	Smith, M.
Caltagirone	Harhai	Mundy	Smith, S.
Casorio	Harkins	Murt	Staback
Causer	Harper	Myers	Stairs
Civera	Harris	Nailor	Steil
Clymer	Helm	Nickol	Stern
Cohen	Hennessey	O'Brien, M.	Sturla
Conklin	Hershey	O'Neill	Surra
Costa	Hess	Oliver	Tangretti
Cruz	Hornaman	Parker	Thomas
Curry	James	Pashinski	Vitali
Daley	Josephs	Payne	Vulakovich
DeLuca	Keller, M.	Payton	Wagner
Denlinger	Keller, W.	Perzel	Walko
DePasquale	Kessler	Petrarca	Wansacz
Dermody	King	Petri	Waters
DeWeese	Kirkland	Petrone	Watson
DiGirolamo	Kortz	Phillips	Williams
Donatucci	Kotik	Pickett	Wojnaroski
Eachus	Kula	Preston	Yewcic
Evans, D.	Leach	Quigley	Youngblood
Evans, J.	Lentz	Quinn	
Fabrizio	Levdansky	Ramaley	O'Brien, D.,
Fairchild	Longietti	Raymond	Speaker
Fleck	Mahoney		

## NAYS—64

Bastian	Gabig	McI. Smith	Rubley
Bear	Geist	McIlhattan	Samuelson
Benninghoff	Gibbons	Mensch	Scavello
Bennington	Godshall	Metcalfe	Schroder
Beyer	Grell	Milne	Shimkus
Boyd	Harhart	Moyer	Smith, K.
Brooks	Hickernell	Pallone	Sonney
Cappelli	Hutchinson	Peifer	Stevenson
Carroll	Kauffman	Perry	Swanger
Cox	Kenney	Pyle	Taylor, J.
Creighton	Killion	Rapp	Taylor, R.
Cutler	Mackereth	Reichley	True
Dally	Maher	Roae	Turzai
Ellis	Mann	Rock	Vereb
Everett	Mantz	Rohrer	White
Freeman	Marshall	Ross	Yudichak

## NOT VOTING—0

## EXCUSED—3

Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on second consideration as amended?

Mr. **MAHONEY** offered the following amendment No. **A03764**:

Amend Sec. 504, page 70, line 30, by striking out "THE PARTY PREVAILING IN OBTAINING" and inserting  
an aggrieved party seeking

Amend Sec. 504, page 71, lines 3 through 6, by striking out "ANY" in line 3, all of lines 4 through 6 and inserting  
a person making a request was frivolous, the court may award the agency reasonable attorney fees.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes Representative Mahoney.

## LEAVE OF ABSENCE

The SPEAKER. The minority whip requests that Representative MENSCH be placed on leave for the remainder of the day. The Chair sees no objection. The leave will be granted.

## CONSIDERATION OF HB 443 CONTINUED

The SPEAKER. The Chair recognizes Representative Mahoney.

Mr. MAHONEY. This amendment would only allow fees if someone brings a frivolous request or goes to court where they rule against you. This is very important to the taxpayers of

Pennsylvania where the common person, the taxpayer, could be reimbursed for the money they spent to go to court.

The SPEAKER. Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

Mr. MAHONEY. Yes.

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may begin his interrogation.

Mr. VITALI. Okay. I just want to understand what the amendment does. If someone seeks records, is denied by the agency, appeals to court, wins in court, but the court finds that the agency in denying was acting in good faith because of some legitimate fear the agency had, would the agency, who has acted in good faith, have to pay the person seeking the records attorney's fees?

Mr. MAHONEY. No.

Mr. VITALI. Okay.

Mr. MAHONEY. The requester can seek it, but the court is not obligated to do that.

Mr. VITALI. Okay.

Mr. MAHONEY. This is only for agencies that are trying to withhold open records.

Mr. VITALI. Okay. Thank you.

The SPEAKER. Representative Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

This is the second in a series of amendments, I guess, that we are going to have today on this open records bill, and I just want to make sure I understand it. It has to do with the awarding of attorney's fees. So the second amendment that we are dealing with today is all about attorney's fees. But I want to make sure I understand what this amendment does. I have it on my computer under the rolling session, as most people do, but it says, insert this and delete that, so I just want to see how it fits into the whole bill, and so therefore, Mr. Speaker, I was wondering if the maker of the amendment would mind standing for interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may begin his interrogation.

Mr. GABIG. Thank you, Mr. Speaker.

As I understand the amendment, it changes the bill from prevailing parties having their attorney's fees paid, a loser pays type situation, to a situation where, if someone is seeking a record from the government and does so frivolously, the court finds that it is "frivolous," I think is the term, that attorney's fees can be awarded. Is that correct?

Mr. MAHONEY. Yes.

Mr. GABIG. Now, is it a "may" provision or a "shall" provision? Does the court have to award attorney's fees if they find that the request was frivolous, or do they look at all the facts and circumstances to decide whether or not attorney's fees will be awarded?

Mr. MAHONEY. It is a "may" award.

Mr. GABIG. May.

So how is that consistent with existing law in other forms of litigation? Is that consistent with civil litigation, civil justice in Pennsylvania today?

Mr. MAHONEY. I do not know how, exactly, it does in civil suits, but it gives the court the discretion that it has that option and could do that, and the court should have the discretion to do that.

Mr. GABIG. All right. So our Republican staff was just consulting with me, as I asked the question and you were answering, and I think I was able to hear both him and you at the same time. The trained legislator that I am can hear out of both ears, hear two people.

Mr. MAHONEY. You are a lot better than I am.

Mr. GABIG. But what staff told me is either party, either the government, if they win, if the government wins and the court finds that the request was frivolous, they can get attorney's fees from the requester, so to speak, that was being frivolous in their request, or if an aggrieved party, the private party or whoever that was trying to get documents from the government, they can get attorney's fees. Is that a more complete—

Mr. MAHONEY. That is exactly correct.

Mr. GABIG. Now, the party that is going to get the attorney's fees from the government, does the court have to find— What does the court have to find in order for them to give attorney's fees? Just that they won, that they were the prevailing party, or is there a second determination that they need to make?

Mr. MAHONEY. There is nothing in the bill about that, but it is whatsoever is the standing of the court, whatever the court decides.

Mr. GABIG. So someone that is requesting, say a newspaper is requesting documents from a government, county, school district, second-class township, borough, city of the first class, the State, whomever, they are requesting documents and the government has taken that to court and litigated it and the government lost, the State lost, or the borough lost, does the borough have to pay the attorney's fees to the requesting party?

Mr. MAHONEY. The way I understand it, they do not have to but they can seek it.

Mr. GABIG. So your understanding is that it would be up to the court to award those attorney's fees or that they would be awarded because the party prevailed?

Mr. MAHONEY. It would ultimately come back to the court.

Mr. GABIG. All right. The "aggrieved party," that terminology, that is in the amendment. Is that correct? The bill as amended would term it the "aggrieved party," not the prevailing party. Is that correct?

Mr. MAHONEY. Yes, that is correct.

Mr. GABIG. Now, is the aggrieved party the same as a prevailing party? For example, if a newspaper went again and filed one of these lawsuits and there were hundreds of thousands of dollars of litigation costs, attorney's fees, et cetera, they were aggrieved but they did not prevail, they did not win the lawsuit, but they were aggrieved, is an aggrieved party defined as the prevailing party? Are those two different terms? What is the gentleman's intention, Mr. Speaker, on changing the term from "prevailing party" to "aggrieved party" in the amendment?

Mr. MAHONEY. What we are trying to do is to try to make the standard of the individual a little tighter and the agency a little harder to get the judgment for the court.

Mr. GABIG. All right. So the intent is to make it looser and tighter?

Mr. MAHONEY. Yes.

Mr. GABIG. Now, looser—

Mr. MAHONEY. Looser for the private individual.

Mr. GABIG. It is looser. So that would be the aggrieved party?

Mr. MAHONEY. Yes.

Mr. GABIG. Even though they did not prevail?

Mr. MAHONEY. Right.

Mr. GABIG. So they lost the lawsuit. There were aggrieved. I say to the court, I was aggrieved. I lost, Your Honor, but I was aggrieved so give me my attorney's fees. I want this lawyer over here to get all the attorney's fees from the taxpayer. It says, shall be it. Am I following the intention of the gentleman, the maker of the amendment, Mr. Speaker?

Mr. MAHONEY. Do you want to repeat that again.

Mr. GABIG. All right. Here is the situation: We have a private entity and they sue for records and they do not prevail, they lose the lawsuit. They have run up, they have hired attorneys, they run up all these attorney's bills, and they come into the court and say, I did not prevail. I lost the case, but I was aggrieved; aggrieved. I had an aggrievement, I guess would be the legal term, so I want attorney's fees. I want the taxpayers, the taxpayers of the borough or the school district or whomever it was they were seeking documents from—

Mr. MAHONEY. I understand. It is my understanding, it is up to all courts— The court has to make a decision. You have to win the case to make the decision, in most cases.

Mr. GABIG. All right. Let me— I think it is line 29 of page 70, lines 29 of page 70, and 30. I think that is what your amendment is dealing with. So referring you to your amendment, which is amending page 70, lines 29 and 30, it says, "IN AN ACTION SEEKING ENFORCEMENT OF RIGHTS UNDER THIS ACT, THE PARTY PREVAILING IN OBTAINING INFORMATION OR RECORDS SHALL" – shall, shall, shall – "BE AWARDED REASONABLE ATTORNEY FEES AND COURT COSTS...." And what you take out of there is the term "prevailing party" and put in "aggrieved," by striking out "THE PARTY PREVAILING IN OBTAINING" and inserting "an aggrieved party," and my concern with that is that prevailing party means you won the lawsuit. Good, justice prevailed. I am all for loser pays. I introduced a bill when I was a freshman to do that. I did not get as much support. We did not get on the floor with it. I did not get it out of committee.

But you are changing the term "prevailing party" to the "aggrieved party." And why should the taxpayers have to pay somebody that lost a lawsuit their attorney's fees, private attorney's fees? It says, "...SHALL BE AWARDED...." So, why should the taxpayers have to pay for private attorneys in that circumstance?

Mr. Speaker, there is a large conference going on around the gentleman, and I have been in those situations where you get two or three or four people talking to you, and I did not mean to put the gentleman in that kind of position. So I will withdraw that. It was somewhat argumentative anyways, I guess.

And if I could speak on the amendment?

Mr. MAHONEY. Thank you.

The SPEAKER. The gentleman is in order and may proceed.

Mr. GABIG. Here we are, we are only on the second amendment to this bill, Mr. Speaker, and there seems to be a lot of confusion about what this amendment would do to the bill. And I think the gentleman's intentions seem to be in the right place – he wanted to make things looser and tighter. The tighten up and the loosen up. He wanted to make them looser for the people, I guess, to be able to get attorney's fees but tighter for the government to go after attorney's fees.

But what he, in fact, has done is created a situation where the taxpayers are going to be subsidizing private attorneys, big shot, Philadelphia attorneys. I guarantee you, they will not be from my town of Carlisle. They will be these high-priced,

\$500-an-hour attorneys. The taxpayers from my little second-class townships that can barely afford a little solicitor, a part-time solicitor, will have to be paying these big attorney fees when they lose in court, when their claim was unjust and denied by the court and thrown out and said, get out of here, you are wasting our time, but here is money for that big shot attorney, because we want to take care of the attorneys.

This is only the second amendment, and all we care about are the attorneys. There is nothing wrong with attorneys. Some of them are, I have some very good friends that are attorneys and some of them are right here in this House, but I think that this thing is not ready for prime time, this amendment, and I would ask everyone on both sides of the aisle to vote their conscience, vote their district. If you represent a bunch of big shot Philadelphia attorneys, vote for this amendment. If you represent the taxpayers of Pennsylvania, vote it down.

The SPEAKER. Will the House agree to the amendment?

On the amendment, the Chair recognizes Representative Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

I was about ready to vote with the gentleman who just spoke until he decided to launch an unprovoked attack upon the city I represent. I think that is totally inappropriate in this debate, and I would ask that those remarks be stricken, Mr. Speaker, from the record. If we are going to debate the substance of an issue, do that, but to characterize individuals in another person's legislative district in a negative way is wrong, and we ought not to tolerate it. It is certainly not within the confines of legitimate debate.

The SPEAKER. The Chair will instruct the Parliamentarian to review the record.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—22

Bishop	Evans, D.	McCall	Sturla
Cohen	George	Mundy	Surra
Curry	Kula	Schroder	Tangretti
Daley	Leach	Siptroth	Thomas
DeWeese	Mahoney	Staback	Wansacz
Eachus	Manderino		

NAYS—177

Adolph	Gabig	Mantz	Roae
Argall	Galloway	Markosek	Rock
Baker	Geist	Marshall	Roebuck
Barrar	Gerber	Marsico	Rohrer
Bastian	Gergely	McGeehan	Ross
Bear	Gibbons	McI. Smith	Rubley
Belfanti	Gillespie	McIlhattan	Sabatina
Benninghoff	Gingrich	Melio	Sainato
Bennington	Godshall	Metcalfe	Samuelson
Beyer	Goodman	Micozzie	Santoni
Biancucci	Grell	Millard	Saylor
Blackwell	Grucela	Miller	Scavello
Boback	Haluska	Milne	Seip
Boyd	Hanna	Moul	Shapiro
Brennan	Harhai	Moyer	Shimkus
Brooks	Harhart	Murt	Smith, K.
Buxton	Harkins	Myers	Smith, M.
Caltagirone	Harper	Nailor	Smith, S.
Cappelli	Harris	Nickol	Sonney

Carroll	Helm	O'Brien, M.	Stairs
Casorio	Hennessey	O'Neill	Steil
Causser	Hershey	Oliver	Stern
Civera	Hess	Pallone	Stevenson
Clymer	Hickernell	Parker	Swanger
Conklin	Hornaman	Pashinski	Taylor, J.
Costa	Hutchinson	Payne	Taylor, R.
Cox	James	Payton	True
Creighton	Josephs	Peifer	Turzai
Cruz	Kauffman	Perry	Vereb
Cutler	Keller, M.	Perzel	Vitali
Dally	Keller, W.	Petrarca	Vulakovich
DeLuca	Kenney	Petri	Wagner
Denlinger	Kessler	Petrone	Walko
DePasquale	Killion	Phillips	Waters
Dermody	King	Pickett	Watson
DiGirolamo	Kirkland	Preston	White
Donatucci	Kortz	Pyle	Williams
Ellis	Kotik	Quigley	Wojnaroski
Evans, J.	Lentz	Quinn	Yewcic
Everett	Levdansky	Ramaley	Youngblood
Fabrizio	Longietti	Rapp	Yudichak
Fairchild	Mackereth	Raymond	
Fleck	Maher	Readshaw	O'Brien, D.,
Frankel	Major	Reed	Speaker
Freeman	Mann	Reichley	

NOT VOTING—0

EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

GUESTS INTRODUCED

The SPEAKER. Please welcome the guests of Representative Quinn and constituents of Representative Caltagirone. They are Ruby Smith, Earl Smith, Archie Perry, and Virginia Dodson. They are seated in the back of the House. Please stand and be recognized.

JILL DOUGHERTY PRESENTED

The SPEAKER. The Chair requests that Representative Adolph come to the podium for the purpose of a presentation.

Members will please take their seats.

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, today it gives me great pleasure to introduce Jill Dougherty, a ninth grade reading specialist at Springfield High School, Delaware County. Jill's professionalism and skills have earned her the respect and admiration of her colleagues, students, and parents from the school.

This past year, due to her enthusiasm and dedication to teaching Pennsylvania's children, she was awarded a 2007 Milken Family Foundation's National Educator Award. The Milken Educator Awards were first presented in 1987 to recognize the importance of outstanding educators and to encourage talented young people to choose teaching as a career.

To try to emphasize what an outstanding teacher Jill is, just imagine, only 82 educators across the entire country, there are over 3 million public educators across the nation, and Jill is one of 82. In Pennsylvania, Jill is only one of two out of

123,000 public educators that received this award. She stands as an example of the qualities that we most want in a teacher - someone who is patient, nurturing, inspiring, and, of course, energetic; someone who is committed to preparing our children for life both inside and outside the classroom.

Mr. Speaker, please join me in recognizing the great accomplishments of Jill Dougherty and congratulating her as a recipient of the Milken Family Foundation's National Educator Award. Ladies and gentlemen, would you please rise and give Jill Dougherty the recognition that she stands for.

Standing with Jill today are the principal of Springfield High School, Christopher Fulco, and Dr. James Capolupo, the superintendent of the Springfield School District.

I am proud to present this Pennsylvania citation to Jill to recognize an outstanding accomplishment.

Ladies and gentlemen, if I could just have your attention for one moment. You know, there are hardly any surprises any time anymore, but I had the privilege of going to Springfield High School last week and surprising Jill, along with the Secretary of Education and, of course, a representative of the Milken Foundation. Jill was presented a cash prize of \$25,000 for this outstanding effort. And we are so proud of Jill back in Springfield for what she does, and it just shows what an outstanding job all our teachers do in helping our kids get educated.

So, without further ado, I would like to present Jill Dougherty with this citation from the Pennsylvania House. Thank you.

### GUESTS INTRODUCED

The SPEAKER. Ladies and gentlemen, in the balcony, the Chair welcomes Mr. Gingrich, Mr. Choyka, and the senior government class of Antietam High School, who are the guests of Representative Dante Santoni. Would you please stand to be recognized.

### LEAVES OF ABSENCE

The SPEAKER. The Chair returns to requests for leaves of absence and recognizes the majority whip, who requests that Representative WANSACZ, Representative Ken SMITH, Representative PASHINSKI, and Representative SHIMKUS be placed on leave for the remainder of the day. The Chair sees no objection. The leaves will be granted.

### CONSIDERATION OF HB 443 CONTINUED

#### BILL PASSED OVER TEMPORARILY

The SPEAKER. HB 443 will be over temporarily.

### RESOLUTION PURSUANT TO RULE 35

Mr. PAYNE called up **HR 428, PN 2564**, entitled:

A Resolution congratulating Franklin D. Linn, Sr., who will retire on November 15, 2007, from the House of Representatives Republican Caucus after 45 years of service.

On the question,  
Will the House adopt the resolution?

The SPEAKER. The Chair recognizes Representative Payne on the resolution.

Mr. PAYNE. Thank you, Mr. Speaker.

Members of the House, if I could have your attention. This will only take a moment, but it is an important moment in the history of Frank Linn, Santa Claus.

Many of us know Frank, the smiling, jovial face. What some of us may not know is that he was here almost 45 continuous years, and would have been since he started in September 15, 1964, except that he was laid off for a short period of time because he was making \$7 a day. There seemed to have been a budget crisis and they could not afford Frank back then.

Now, this proclamation is signed and endorsed and cosponsored by almost everybody in this House. My secretary's phone is still ringing off the hook, so I am not going to read the proclamation. We all know what that says. But if you would bear with me for just a minute, I have prepared a special poem: "The Night Before Christmas in the State House."

'Twas the night before Christmas, when all through the House  
Not a person was stirring throughout this state house  
The members were listening to the Speaker with care,  
In hopes that Frank would soon be there;  
The members were nestled all snug in their seats  
Dreaming of future campaign feats;  
Bill fixes his bowtie and digs out his Thesaurus,  
As Sam and Punxsutawney Phil join the chorus.  
When outside the hall there arose such a clatter,  
I sprang from my seat to see what was the matter.  
Away to the door I flew in a dash  
Get out of the way, I told the Sergeant at Arms, let me pass!  
Clear the aisle, break up conferences, Denny cried.  
Gave the lustre of mid-day to constituents outside  
When, what to my wondering eyes should appear,  
But Frank and a miniature sleigh, and eight tiny reindeer,  
With Frank, so lively and quick,  
I knew in a moment it must be St. Nick.  
More rapid than eagles his coursers they came,  
And he whistled, and shouted, and called them by name;  
"Now, Mario! Now, Dave! Now, Sandy and Mike!  
On, Keith! On Dan! On, Todd and Dwight!  
To the front of the hall! To the Top of the Wall!  
Now dash away! Dash away! Dash away all!"  
Forget Committee Hearings and Caucus with exclamation  
When Santa saw no amendment to this proclamation  
He granted every member a bill to remember  
With his sleigh full of passed legislation and it wasn't even  
December!

And then, in a twinkling, I heard on the roof  
The prancing and pawing of each little hoof.  
As the Speaker hit the gavel and was turning around,  
Onto the House Floor, St. Nicholas came with a bound.  
He was dressed all in fur, from his head to his foot,  
And his clothes were all tarnished with ashes and soot;  
A bundle of legislation he had flung on his back,  
And he looked like the Governor just opening his pack.  
His eyes - how they twinkled! His dimples how merry!  
His cheeks were like roses, his nose like a cherry!  
His droll little mouth was drawn up like a bow,  
And the beard of his chin was as white as the snow;  
The stump of a pipe he would have held tight in his teeth,  
But then there is no smoking in the Chamber beneath;  
He had a broad face and a big round belly,



That shook, when he laughed like a bowlful of jelly.  
 He was chubby and plump, a right jolly old self,  
 And I laughed when I saw him, in spite of myself;  
 A wink of his eye and a twist of his head,  
 Soon gave me to know I had nothing to dread;  
 He spoke not a word, but went straight to his sack,  
 And filled all the desks in the House floor with candy and snacks;  
 And laying his finger aside of his nose,  
 And giving a nod, up to the roof he rose;  
 He sprang to his sleigh, to his team gave a whistle,  
 And away they all flew like the down of a thistle.  
 But I heard him exclaim, ere he drove out of sight:  
 "Merry Christmas to all, and to all a good-night."

Ladies and gentlemen, Santa Claus will be leaving the building today. May his spirit stay with us. Thank you.

### REMARKS BY MINORITY LEADER

The SPEAKER. The Chair recognizes the minority leader, Representative Sam Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Just if I could comment relative to the proclamation that was just presented by the gentleman from Dauphin County. I wanted to also congratulate Frank on his many, many years of service to this Commonwealth, and while each of us come from our partisan lairs, Frank is one who always had a smile on his face and was ready to help and work with the members in any way he could and was also one of those guys that had all the resources of history, of knowledge, of knowing who did what when, and how they did it.

I wanted to just comment, for the record, for those that maybe do not understand exactly why the gentleman from Dauphin would have used the Christmas analogy. If you have ever walked through Colonial Park Mall, you might, at Christmastime, if you were out doing a little shopping in the Harrisburg area, you might have been greeted by a Santa Claus who had a striking resemblance to Mr. Frank. One day he actually surprised me. I was walking through there, you know, 2 weeks before Christmas or something, and I get this shout from Santa Claus to come over and sit on his lap and give him my Christmas list.

So he has been doing that, and many other things in this community, beyond his work in this House as a loyal and dedicated staff support person. He has been doing things in his community as a township supervisor for, what, 35 years or something like that, Frank? So he has a long history of not only service to this legislature but service to his community, both publicly and from a charitable perspective. And I just wanted to congratulate him for those many, many years of service that go back to the early days of Matt Ryan. When you put it in terms that we all understand, Matt Ryan was elected in 1962, started in this House in January of '63, and Frank, of course, came soon after that. So to put that in perspective, that is a long tenure, and we congratulate you and wish you the best of all things and will look to run into you at Christmastime, perhaps.

God bless you, Frank.

### REMARKS BY MAJORITY LEADER

The SPEAKER. The Chair recognizes the majority leader, William DeWeese.

Mr. DeWEESE. On December 26, 1981, our late colleague, Tom McCall, was being viewed and his son, young Keith McCall, at the funeral home, looked up and saw the macebearer, Frank, walk in with Matthew Ryan. When Keith or those of us who are senior members realize that Frank started 19 years before Tony Payton entered the world, 18 years before Jaret Gibbons entered the world, and we think of what Sam said as far as the institutional identifications of this long-serving steward of the public weal, we are very happy as Democrats to join in this celebratory moment for such a warm, decent, happy, affable, congenial soul.

So from this side of the aisle, young man, we wish you good tidings.

### REMARKS BY MR. THOMAS

The SPEAKER. Representative Curtis Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I am honored to join my leader in extending well-wishes to Frank Linn. I do not know of anyone else, and I am sure that there are probably other people, but I do not know of anyone else who has a greater command of intergovernmental affairs than Frank Linn. And I do not know of anyone else who is willing to share information and provide wise counsel, when requested, than Frank Linn.

And so, Frank, I am going to miss you, and I know that this institution is going to miss your leadership, your smile, and your open heart. We all are going to miss that. And I only ask that, wherever you go and whatever you do, periodically take time to come back to just say hello.

Thank you, Frank.

### REMARKS BY MR. MELIO

The SPEAKER. Representative Melio.

Mr. MELIO. Thank you, Mr. Speaker. I will be brief.

I just want to say it is a sad day for the Commonwealth of Pennsylvania to lose Frank Linn. Now we are only going to have him at Christmastime. And we go back a long time. I was a First Class Township Association Commissioner for 18 years in Bristol Township, and I served on the executive board with Frank Linn, and you could not have a better leader. And when I came to Harrisburg and saw Frank Linn here, I was ecstatic. And I used to embarrass the heck out of him because whenever he was talking to some officials, I would go up, excuse myself, and plant a big kiss on his lips, and I will still do it.

And I just want you to know, Frank, you are the best. We are going to miss you terribly, and please do, as they say, stop back and say hello. Our doors will always be open for you. Thank you.

### REMARKS BY SPEAKER

The SPEAKER. It is hard to believe that 43 years ago Frank Linn came to this chamber under the sponsorship of Blaine Hocker. And the first day that he came to this chamber, as Representative DeWeese said, he was the macebearer, and many of you may have noticed that today in recognition of his many years of service, he was the macebearer today. So he came in as the macebearer, and his last day he was the macebearer.

But, as Sam Smith said, he has 23 years working for Matt Ryan. Before that, he worked under Speakers W. Stuart Helm and Lee Donaldson. It is an incredible ride. But I have always appreciated Frank's kind spirit and his willingness to help and his huge, empathetic heart, and that made him one of the finest Santas that I have ever seen and I think any of us have ever experienced.

And just yesterday I was coming back from Lancaster County and I passed a huge sign on the interstate near Middletown, and it read, the "Frank D. Linn Interchange," and many of us will remember, in the House and Senate, that a few years ago, in 2003, we named the interchange at Route 283 and North Union Street in Frank's honor. We worked for that for many, many, years. And then I thought of his heart of service and his spirit of kindness that have marked Frank's life and interactions with all of us these many years. You have always had an encouraging word, Frank, and you have always had a welcoming spirit.

So on behalf of all of your colleagues, and we consider you a colleague, we want to thank you for honoring us with your many dedicated years of service and ask you to come up and say a few words.

### REMARKS BY MR. PETRONE

The SPEAKER. Representative Petrone.

Mr. PETRONE. Thank you, Mr. Speaker.

I have had the pleasure of serving with Frank here for 28 years. He is an extremely decent, fair, and good friend. And all I want to say is, Candy Man, we will miss you. Good health, good luck, and Godspeed.

### CEREMONIAL GAVEL PRESENTED

The SPEAKER. And with the words, "ho, ho, ho," I would like to present this ceremonial gavel to Frank Linn and ask that he address the House. Ladies and gentlemen, Frank Linn.

(A ceremonial gavel was presented.)

### REMARKS BY MR. LINN

Mr. LINN. The closest that I got to the rostrum was with W. Stuart Helm in 1963 as his mace carrier and page at \$7 a day. Many things have changed here, but I do say, things have changed, but the system stays the same. I have seen many faces change in this House of Representatives.

Blaine C. Hocker was my legislator. I lived in Oberlin and he lived in Oberlin, and he brought me up. And the first day, I can remember the first day sitting back in my office and thinking about it. I came up, and we went in the caucus room, and the caucus room was so smoky with the people smoking cigars or smoking pipes and cigarettes and chewing tobacco and I could hardly see anybody, but as soon as that door opened, everybody stopped talking because no one was allowed in that caucus room but members, only. And Blaine Hocker, as he is, he was a very outspoken guy, and he was the Appropriations chairman and he would tell them, "Go ahead, go ahead, continue talking. This guy's with me." And we went into Stu Helm's office and he said, "Stu, this is your man." And he said to me, "Now, if you goof up, I'm gonna boot you in the butt and tell your dad and your

dad will do the same." But he used different words than I did. And I really had a great honor of serving there.

I had the honor of serving under Governor Scranton, and we went up to, one time, we went up to the airport, to take him over to the airport, the Speaker, and I told the Speaker I never flew in an airplane, and the Speaker said, "Just wait a minute." He said, the Governor, he says, "Bill," he says, "is your plane coming back?" He says, "Yeah." He says, "May my guy ride with you? He never flew in an airplane." That was real exciting. And I thought what was the most amazing thing is the Governor and the Speaker explained to me, they were talking about strip-mining, and we were flying up through and they were explaining to me what strip-mining was and everything, and I was very impressed.

So on the way back the pilot said to me, he said, "Would you like a Coke?" I said, "Yeah, I'll drink a Coke." I said, "Where is it? I'll get it." He said, "No, I'll get it." Well, I did not know anything about automatic pilot. And we hit an air pocket. Boy, was I excited. But that was one experience we had.

And I remember when members did not have a secretary. I remember when members did not have a phone at their desk. If you wanted to write a letter, you signed your name on a tablet and you got in line, and then they would get a stenographer to help you out. And if you wanted to make a phone call, you had another section to go to and you put your name down on the tablet, and when it was your turn, they called you, and if you missed your turn, you went in the back of the tablet to wait again.

We have come a long way, come a long way. And we used to allow smoking in this room. And they cleared that up, and it is much easier to breathe now.

But there are so many things to remember. I remember when the majority whip's father passed away. I went to the funeral, like Bill said, and I am telling you right now, your father is looking down at you and saying he is proud of you; he is proud of you. And Kathy Manderino, I know that your dad is looking down and saying I am proud of my daughter; that is my daughter. I am proud of you, too.

There are many, many things that you members, if you only could look back and see what is happening. We never had the computers back then in those days. I had some other things but I kind of got a little shook up and forgot what I was going to say. I had my speech written here. But Denny O'Brien, I remember when he came. I just wonder how many people here were here back in '63. Nobody? Well, I can really tell stories now.

I love this institution, this is a super institution. And somebody said, "Why are you leaving?" It is time. I said that a couple of years ago, when I am ready, I am ready. It is time for me to move on, and I will not be sitting around in a rocking chair and rocking. I will be here, come visit you, and once in a while I might lie on my lounge chair and watch you on TV, because that way I can fall asleep.

Everybody asked me, "What are you going to do when you retire?" My wife says I will do the wash on Friday. My three children say they have a good babysitter now, in case one of the kids get sick in school. And then I promised my township I would do Meals On Wheels, and so I will have plenty to do. Thank you.

The SPEAKER. Ladies and gentlemen, if you will bear with me for one moment, I would like to have Frank's wife, Paulette, please stand. And State Trooper Frank, Jr., would you please

stand. Frank's two daughters are also here, Stephanie and Tammy. Would you please stand to be recognized. Frank reminds me that they are wonderful teachers, and Frank and Paulette are grandparents to four grandchildren. Are they here?

Mr. LINN. No.

The SPEAKER. They are not here. And I think this is a record for the number of people that have come, to say farewell to Frank. So his guests are in the back and those other guests that are seated to the left of the Speaker, would you please stand and be recognized.

Frank, once again, from the members of this House, thank you for your decades of service to this institution and the constituents of the Commonwealth of Pennsylvania, and we say thank you.

The Chair would also acknowledge the nephews of Frank Linn, Glen Grell and Don Grell.

On the question recurring,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—195

Adolph	Frankel	Major	Roae
Argall	Freeman	Manderino	Rock
Baker	Gabig	Mann	Roebuck
Barrar	Galloway	Mantz	Rohrer
Bastian	Geist	Markosek	Ross
Bear	George	Marshall	Rubley
Belfanti	Gerber	Marsico	Sabatina
Benninghoff	Gergely	McCall	Sainato
Bennington	Gibbons	McGeehan	Samuelson
Beyer	Gillespie	McI. Smith	Santoni
Biancucci	Gingrich	McIlhattan	Saylor
Bishop	Godshall	Melio	Scavello
Blackwell	Goodman	Metcalfe	Schroder
Boback	Grell	Micozzie	Seip
Boyd	Grucela	Millard	Shapiro
Brennan	Haluska	Miller	Siptroth
Brooks	Hanna	Milne	Smith, M.
Buxton	Harhai	Moul	Smith, S.
Caltagirone	Harhart	Moyer	Sonney
Cappelli	Harkins	Mundy	Staback
Carroll	Harper	Murt	Stairs
Casorio	Harris	Myers	Steil
Causar	Helm	Nailor	Stern
Civera	Hennessey	Nickol	Stevenson
Clymer	Hershey	O'Brien, M.	Sturla
Cohen	Hess	O'Neill	Surra
Conklin	Hickernell	Oliver	Swanger
Costa	Hornaman	Pallone	Tangretti
Cox	Hutchinson	Parker	Taylor, J.
Creighton	James	Payne	Taylor, R.
Cruz	Josephs	Payton	Thomas
Curry	Kauffman	Peifer	True
Cutler	Keller, M.	Perry	Turzai
Daley	Keller, W.	Perzel	Vereb
Dally	Kenney	Petrarca	Vitali
DeLuca	Kessler	Petri	Vulakovich
Denlinger	Killion	Petrone	Wagner
DePasquale	King	Phillips	Walko
Dermody	Kirkland	Pickett	Waters
DeWeese	Kortz	Preston	Watson
DiGirolamo	Kotik	Pyle	White
Donatucci	Kula	Quigley	Williams
Eachus	Leach	Quinn	Wojnaroski
Ellis	Lentz	Ramaley	Yewcic
Evans, D.	Levdansky	Rapp	Youngblood
Evans, J.	Longietti	Raymond	Yudichak
Everett	Mackereth	Readshaw	

Fabrizio	Maher	Reed	O'Brien, D.,
Fairchild	Mahoney	Reichley	Speaker
Fleck			

NAYS—0

NOT VOTING—0

EXCUSED—8

Mensch	Pashinski	Smith, K.	Wansacz
Mustio	Shimkus	Solobay	Wheatley

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

**LEAVES OF ABSENCE CANCELED**

The SPEAKER. The Chair recognizes the presence of Representative Wansacz, Representative Ken Smith, Representative Pashinski, and Representative Shimkus. Their names will be added to the master roll.

**GUESTS INTRODUCED**

The SPEAKER. In the balcony, the Chair recognizes the residents of Waverly Heights, who are the guests of Representative Gerber. Would you please stand and be recognized.

**CONSIDERATION OF HB 443 CONTINUED**

The SPEAKER. The Chair returns to HB 443.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. SHAPIRO offered the following amendment No. **A03731**:

Amend Sec. 304, page 44, lines 28 through 30; page 45, lines 1 through 5, by striking out all of said lines on said pages

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Shapiro on the amendment.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, the goal of the underlying legislation, offered by the gentleman from Fayette, is to give the public greater access to the documents that, I believe, belong to them. The gentleman's bill flips the presumption, includes the legislature, which are two very significant steps that he deserves praise for.

Unfortunately, this bill has one exception that I think goes too far and runs counter to those two underlying objectives. My amendment seeks to strike that particular exemption. My amendment, in sum, strikes out the exemption which allows an agency to deny a request from the public if it is deemed to be

overly broad, if it is deemed to be burdensome, or if it is considered harassment. It still requires, under this bill and under the current law, that any written request for documents must have sufficient specificity to make sure that that request is reasonable.

The bottom line is that the exception itself as it is drafted, in my opinion, is overly broad, and I would respectfully ask the members of this chamber to remove this exemption and move us one step closer to giving the public the access to the documents that they deserve.

Thank you, Mr. Speaker.

The SPEAKER. On the amendment, the Chair recognizes Representative DeWeese.

Mr. DeWEESE. For the aforementioned reasons, so eloquently stated by the gentleman from Montgomery County, I would also ask for an affirmative vote. If we are going to have an open records law, if the presumption is going to be switched that Mr. Mahoney has been sharing with us for at least 7 or 8 months, this is a more aggressive way of going about it. We are either going to have an open records law or we are not, and this would allow for more access and fewer burdens for members of the general public, and I would ask for an affirmative vote on the Shapiro amendment.

The SPEAKER. Representative Ross.

Mr. ROSS. May I interrogate the maker of the amendment, please?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may begin.

Mr. ROSS. Thank you, Mr. Speaker.

I am a bit confused by the earlier explanation that was given. If I understood the maker of the amendment correctly, he indicated that he was removing the criteria that indicated that it was overly broad – or the exception that would be overly broad or burdensome or harassment, but keeping the section that referred to an exception being allowed for lack of specificity.

The way that it has come up on the computer that I am looking at, the language of his amendment, it removes lines 28 through 30 on page 44, and that, in fact, is the exception that has to do with specificity. So it would seem to me that the amendment actually also removes the exception for lack of specificity. Am I misunderstanding your amendment somehow?

Mr. SHAPIRO. Mr. Speaker, respectfully, the gentleman is misunderstanding, and I would be happy to clarify the statement earlier. The gentleman is correct that, in fact, my amendment deletes section (A)(3), and then it is I and II, which includes the language on specificity, "...OVERLY BROAD OR BURDENSOME,..." and harassment.

If the gentleman would look at section (2), specifically the language which reads: "A WRITTEN REQUEST MUST IDENTIFY OR DESCRIBE THE RECORDS SOUGHT WITH SUFFICIENT SPECIFICITY TO ENABLE THE AGENCY TO ASCERTAIN WHICH RECORDS ARE BEING REQUESTED AND MUST INCLUDE THE NAME AND ADDRESS TO WHICH THE AGENCY SHOULD ADDRESS ITS RESPONSE," et cetera, et cetera. That means that even with my amendment going in, it would still require the requester to make his or her request with sufficient specificity.

In addition, I would point out that current case law makes it very clear in Pennsylvania that the sufficient specificity language not only is required but has been upheld in the court, most recently in *Berman v. Pennsylvania Convention Center Authority*, where a request was denied for lack of sufficient

specificity. The *Pennsylvania Associated Builders and Contractors, Inc. v. Commonwealth Department of General Services*, DGS, was also denied for sufficient specificity. That is a case from 2000, and there was another case in 1997 going a bit further back. *Hunt v. Department of Corrections* also denied for a lack of specificity. These are just a few examples of the case law, but more in point to your question, the language on sufficient specificity in section (A)(2) remains. My amendment leaves that untouched.

Thank you, Mr. Speaker.

Mr. ROSS. Thank you, Mr. Speaker.

The SPEAKER. Representative Vitali.

Mr. VITALI. Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. VITALI. I am still troubled by what might be problematic with these six or seven lines in the bill. Could you tell me what the problem with – and I see the language you are leaving in there, but you are deleting language that says the "...AGENCY SHALL NOT BE REQUIRED TO COMPLY WITH A REQUEST WHICH...LACKS SIGNIFICANT SPECIFICITY AND IS, THUS, OVERLY BROAD OR BURDENSOME..." – I am not sure what the problem there is – "OR...IS ADJUDGED BY THE COMPLIANCE OFFICER...TO HARASS..." It seems like you need some safeguards, and at the end of the day it is a judge who is going to decide this, but I am trying to really get at what is wrong with leaving language in there that gives an out to the agency when you just have somebody who is just totally over the top, you know, just says I want everything you have— So my question is this: What is the problem with leaving this language in?

Mr. SHAPIRO. The gentleman is certainly entitled to form his or her own opinion about whether or not it is a good idea or a bad idea to have the language in there. This Representative believes that language which allows an agency to deny a request because it is burdensome or considered overly broad or considered harassment creates such a huge loophole and an exception that will allow an agency to deny the public's access to documents that this Representative believes ought to be granted. So it is a matter of opinion, I think, of a differing opinion apparently, between the interrogator and myself. But my view is that this language does not belong in the bill, which is why I have offered this amendment.

Mr. VITALI. Thank you. That concludes my interrogation. I will just speak on the amendment, with the Speaker's permission.

The SPEAKER. The gentleman is in order and may proceed.

Mr. VITALI. I do have some concerns here, because at the end of the day it is going to be a court who decides this, and you need to give the court latitude to review the facts and judge if, in fact, the request is made for the purposes of harassment or if it is overly burdensome, and we can all picture examples. We all know of people in our own districts who, perhaps, might be inclined to do things like this, and I am just wondering if this language in the bill is not better left in. You know, it is a close call.

Thank you, Mr. Speaker.

The SPEAKER. Representative Maher. The gentleman waives off.

Representative Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The lady is in order and may proceed.

Ms. MANDERINO. Thank you. I listened to the last dialogue and I understand the concerns, but what I cannot recall and I cannot seem to find it right now, is there another place in the bill that the agency has the ability or the authority to go back to the requester and say, you need to be more specific. Or if we take this language out, have we taken out any ability of the agency to have a legitimate right to, kind of, go to the requester and say, I need a little bit more specifics of what you are looking for so that I can address it?

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, I would point your attention to line 20 on page 44, which outlines the manner in which a request must be made by the requester to the individual agency, which requires that sufficient specificity be made. In addition to that, as previously stated, there are numerous cases in our jurisprudence that state that requests were denied for lack of specificity, based upon the language contained in lines 20 through, approximately, 23.

Ms. MANDERINO. Thank you. And just one further follow-up because you did mention the two case laws, and I just want to make sure that it is my understanding that the result was that the court upheld the agency's right to ask for more specificity in the document's request, that it would not then – because there is another section in the bill later that deals with kind of whether the request was frivolous or not – it would not then put everything that is denied for lack of specificity into the category of a legal determination of whether or not it was frivolous.

Mr. SHAPIRO. Mr. Speaker, the gentelady is correct. In fact, in those instances where the request was denied, it was denied specifically because of this sufficiently specific issue, and it required the individual to resubmit his or her request to the agency and upheld the agency's decision to deny the request because it lacked specificity.

### **THE SPEAKER PRO TEMPORE (JOSEPH A. PETRARCA) PRESIDING**

The SPEAKER pro tempore. Has the gentelady finished her interrogation?

### **FILMING PERMISSION**

The SPEAKER pro tempore. The Chair wishes to advise members that Carolyn Kaster of the Associated Press has been given permission to take still photographs on the floor for a period of 10 minutes.

### **CONSIDERATION OF HB 443 CONTINUED**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Mahoney.

Mr. MAHONEY. This is an agreed-to amendment because when I drafted this legislation, we did not catch this loophole. This loophole needs to be addressed here on the floor, and that is why it is an agreed-to amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

The recurrence of technical problems on that microphone is really quite something.

Mr. Speaker, I am hoping that the maker of the amendment would respond to a couple of questions.

The SPEAKER pro tempore. The gentleman indicates that he will stand for interrogation. You may proceed.

Mr. MAHER. Thank you, Mr. Speaker.

If I understand your amendment correctly, by striking the language that you seek to strike, the result would be that the standard requiring sufficient specificity and written requests would be the same as the standard is today. Is that correct?

Mr. SHAPIRO. Mr. Speaker, as it pertains to the written request, the gentleman is correct. It would be the same— The language would remain in this bill and consistent with our jurisprudence.

Mr. MAHER. Thank you, Mr. Speaker.

That concludes my interrogation. May I speak on the amendment?

The SPEAKER pro tempore. The gentleman is in order.

Mr. MAHER. I hope people understand what was just said, that if this amendment succeeds, the goal here, by the maker of the amendment, is that the law in the future will read exactly as the law does today. And to the extent that my friend from Fayette County, the maker of the bill, is padding and seeking to claim authorship, I think it is important to understand that this element of reform is no change whatsoever. It is exactly the same as Act 100 of 2002, and I am glad by the recognition, by the gentleman offering this amendment, that that was a very good standard, and I intend to support this amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes Ms. Manderino for the second time. The lady waives off.

Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, will the prime sponsor of this amendment submit to brief interrogation?

The SPEAKER pro tempore. The gentleman indicates that he will.

Mr. COHEN. Thank you.

Mr. Speaker, today we heard Frank Linn's retirement address. Under this amendment, could somebody file a request for information of all records accumulated by Frank Linn during his 40 years in the General Assembly?

Mr. SHAPIRO. Mr. Speaker, the hypothetical the gentleman posed may, in fact, fall under another exception in the bill. I would have to specifically review them, but the gentleman asks as it relates to this particular amendment. I believe that this amendment would not impact that request. Again, it does not mean that another exception may or may not judge that particular issue, but as it relates to this, I do not think this would have an impact on the hypothetical the gentleman posed.

Mr. COHEN. So I am not sure I understand that answer. Does that mean that the request for all of Frank Linn's records accumulated over 40 years in the House of Representatives would be sufficient? That is a specific request. It meets the test of specificity, and the existing language in the bill would likely make that an overly broad request.

Mr. SHAPIRO. Mr. Speaker, thank you to the gentleman for restating the question. I see where he is going with it.

The sufficient specificity language, which remains intact in the bill even should my amendment be successful, would remain intact in the bill. You would have to look at the case law and how requests for documentations that were viewed as overly broad were denied. In this case, I would not want to prejudice the outcome and stand as judge and jury, but one would think that you would have to identify more specifically what one would be looking for as it relates to Mr. Linn.

But there is a second part of that answer as well, and that is I am not sure what documents it is that one would be looking for from Mr. Linn under the hypothetical. Those other documents may be covered under some other exception. Without knowing what documents that one is seeking, I can only state that one would want to tailor their request in a specific way, consistent with the language in the bill and consistent with prior case law.

Mr. COHEN. Thank you, Mr. Speaker.

I think that as this moves through the legislative process, we have to be rather careful about overly broad requests. Many years ago my father, as an attorney, was involved in litigation with IBM (International Business Machines Corp.), and he made a broad request of IBM. And they came in with wheelbarrows and they flooded his office with piles up to the ceiling. You know, there were hundreds and hundreds of boxes in rows. There was virtually no space in his office for anything else other than those boxes. And he had to go back to court and make a much more narrow request because, under the broad request, he could not find anything without going through many years of IBM documents. It was in the interest of true finding out information to require a greater degree of specificity, and it is not in the interest of finding out things about State government to allow broad-brush requests, like I was suggesting could theoretically be made about Mr. Linn.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the majority whip, who asks that Representative GERBER be placed on leave. Without objection, that leave will be granted.

### CONSIDERATION OF HB 443 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Baker.

Mr. BAKER. Thank you, Mr. Speaker.

Mr. Speaker, I have had the opportunity to talk with our legal counsel and another esteemed member of legal counsel, and I am very comfortable with the insertion of this amendment. This just makes consistent current law as well as the subsequent case laws that were based on our current laws. So I am comfortable in voting in the affirmative.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, I would respectfully urge a "no" vote on this amendment.

I am very concerned if we eliminate exceptions for being overly broad, vague, and designed to harass. We have had that standard in civil procedure for civil lawsuits and it has served us well over the years, the ability to object to and not have to disclose records when a request comes in that is nonspecific, that is overly broad, that is burdensome, that is designed to harass.

As a former solicitor for several municipal bodies, I have seen those kinds of requests come in, and there has to be an ability to sift through those and reject those for those reasons. I am concerned here that we are going to invite litigation by removing this exception, and courts are going to look at this and they are going to say that the legislature in their bill, they had an exception in, but they put in an amendment to remove that exception. And the court is going to construe that, in my opinion, and look at it and say, well, they must have wanted to get rid of that exception for a reason, and so therefore that exception is going to fall away notwithstanding the other language that may be in the bill.

And so I would urge a "no" vote on this amendment. We all have local governments. Surely we need to increase public access, but at the same time, we should not be unnecessarily burdening our local governments with requests that are designed to harass, that are nonspecific, that are burdensome.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the minority whip, who asks that Representative TRUE be placed on leave. Without objection, that leave will be granted.

### CONSIDERATION OF HB 443 CONTINUED

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—181

Adolph	Frankel	Mantz	Rohrer
Argall	Freeman	Markosek	Ross
Baker	Gabig	Marshall	Rubley
Barrar	Galloway	Marsico	Sabatina
Bastian	George	McCall	Sainato
Bear	Gergely	McGeehan	Samuelson
Belfanti	Gibbons	McI. Smith	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Metcalfe	Scavello
Beyer	Godshall	Micozzie	Schroder
Biancucci	Goodman	Millard	Seip
Bishop	Grell	Miller	Shapiro
Blackwell	Grucela	Milne	Shimkus
Boyd	Hanna	Moul	Sipthoth
Brennan	Harhai	Moyer	Smith, K.
Brooks	Harhart	Mundy	Smith, M.
Buxton	Harkins	Murt	Smith, S.
Caltagirone	Harper	Myers	Sonney
Carroll	Harris	Nailor	Staback
Casorio	Helm	Nickol	Stairs
Causar	Hennessey	O'Brien, M.	Steil
Civera	Hershey	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla

Conklin	Hornaman	Parker	Surra
Costa	Hutchinson	Pashinski	Swanger
Cox	James	Payne	Tangretti
Creighton	Josephs	Payton	Taylor, J.
Cruz	Kauffman	Peifer	Taylor, R.
Curry	Keller, M.	Perry	Thomas
Cutler	Keller, W.	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vulakovich
DeLuca	King	Petrone	Walko
Denlinger	Kirkland	Phillips	Wansacz
DePasquale	Kortz	Pickett	Waters
Dermody	Kotik	Preston	Watson
DeWeese	Kula	Quigley	White
DiGirolamo	Leach	Quinn	Williams
Donatucci	Lentz	Ramaley	Wojnaroski
Eachus	Levdansky	Rapp	Yewcic
Ellis	Mackereth	Raymond	Youngblood
Evans, D.	Maher	Reed	Yudichak
Evans, J.	Mahoney	Reichley	
Everett	Major	Roae	O'Brien, D.,
Fabrizio	Manderino	Rock	Speaker
Fairchild	Mann	Roebuck	

## NAYS—16

Boback	Geist	Longiotti	Readshaw
Cappelli	Haluska	McIlhattan	Stern
Cohen	Hess	Pallone	Vitali
Fleck	Kenney	Pyle	Wagner

## NOT VOTING—0

## EXCUSED—6

Gerber	Mustio	True	Wheatley
Mensch	Solobay		

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

## GUESTS INTRODUCED

The SPEAKER pro tempore. Located to the left of the Speaker, the Chair welcomes Walter Baran, former Secretary of General Services under the Thornburgh administration and attorney Michael O'Connor, State Deputy of Pennsylvania's Supreme Board of Directors for the Knights of Columbus, who are the guests of Representative Dave Argall and Representative Neal Goodman. Welcome to the hall of the House.

The Chair would also like to welcome homeschooled students from Somerset County, students Lucas Geasy, Joel Romesberg, Shaina Stern, Lacey Baker, Hannah Coughenour, David Marsh, Lydia Valenta, and Jeylan Romesberg, and also their family members who accompanied them to the State Capitol today. These people are the guests of Representative Bob Bastian. Welcome to the hall of the House.

## CONSIDERATION OF HB 443 CONTINUED

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. SHAPIRO offered the following amendment No. **A03728**:

Amend Sec. 501, page 64, line 24, by striking out "THE GOVERNOR" and inserting \_\_\_\_\_, which

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes Representative Shapiro.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, the underlying legislation creates what will become known as the Public Records Office, and it is established within the Ethics Commission. The underlying bill, as it is currently drafted, gives the appointment of the executive director of the Public Records Office to the Governor. I fundamentally believe that that is flawed. I think this office needs to be above and outside of politics, and I am merely seeking to strike the words "THE GOVERNOR" to allow for the executive director of that office to be selected from the Ethics Commission – the Ethics Commission, of course, which has jurisdiction over local and State agencies as well as the legislature. I think this is a commonsense approach to remove politics from the process, and I would ask for an affirmative vote.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker stand for brief interrogation?

The SPEAKER pro tempore. The gentleman indicates that he will.

Mr. VITALI. I want to express a concern here, that perhaps you can address, because I actually have a similar amendment that I have worked on with the State Ethics Commission on this. I certainly agree with your basic premise that it should be the State Ethics Commission where the denials should go for review and not a political appointee of the Governor who should be reviewing these things. But my concern is that – and maybe I am just misreading this – if we simply make the change you are suggesting, are we still investing all powers in one person as opposed to the State Ethics Commission? The amendment that the State Ethics Commission drafted for me was much more elaborate and involved, and simply was not a one-word change.

So my concern, if you can address it, is, does your amendment simply vest all the powers in one person as opposed to the State Ethics Commission?

Mr. SHAPIRO. Mr. Speaker, I believe that the power is vested in the State Ethics Commission. The Ethics Commission, under my language, would have the authority to appoint this executive director, but that executive director's power is certainly derived from this legislation but under the auspices, under the umbrella, if you will, of the State Ethics Commission. I think it is critical that this language go in to remove any specter of politicization of this process. We want to make sure that this individual running the office is someone who is obviously capable, but someone who is completely removed from politics.

Mr. VITALI. Okay. Thank you. That concludes my interrogation.

**PARLIAMENTARY INQUIRY**

Mr. VITALI. A parliamentary inquiry.

The SPEAKER pro tempore. The gentleman is in order.

Mr. VITALI. I have a subsequent amendment to this exact section, which is an amendment, I guess, drafted in conjunction with the State Ethics Commission and attempts to do the same thing. If this amendment were to go in, the Shapiro amendment, would that make that subsequent amendment out of order? Or would it be last in time prevails?

The SPEAKER pro tempore. Could you alert the Chair as to which amendment you are referring to, Mr. Vitali?

Mr. VITALI. If you would give me a second. That would be amendment 3908.

The SPEAKER pro tempore. Representative Vitali, amendment 3908 would be in order. The amendment would be in order.

Has the gentleman finished his interrogation?

Mr. VITALI. I am done with my interrogation.

It will be my intention at a later date to offer the amendment that the State Ethics Commission did on this, but I do not think anything— I am certainly not against the Shapiro amendment. I just think it will be superseded, perhaps, by a draft afterwards.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

**YEAS—197**

Adolph	Frankel	Mann	Roebuck
Argall	Freeman	Mantz	Rohrer
Baker	Gabig	Markosek	Ross
Barrar	Galloway	Marshall	Rubley
Bastian	Geist	Marsico	Sabatina
Bear	George	McCall	Sainato
Belfanti	Gergely	McGeehan	Samuelson
Benninghoff	Gibbons	McI. Smith	Santoni
Bennington	Gillespie	McIlhattan	Saylor
Beyer	Gingrich	Melio	Scavello
Biancucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siptroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Sonney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causser	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	Turzai
Cutler	Keller, W.	Perzel	Vereb

Daley	Kenney	Petrarca	Vitali
Dally	Kessler	Petri	Vulakovich
DeLuca	Killion	Petrone	Wagner
Denlinger	King	Phillips	Walko
DePasquale	Kirkland	Pickett	Wansacz
Dermody	Kortz	Preston	Waters
DeWeese	Kotik	Pyle	Watson
DiGirolamo	Kula	Quigley	White
Donatucci	Leach	Quinn	Williams
Eachus	Lentz	Ramaley	Wojnaroski
Ellis	Levdansky	Rapp	Yewcic
Evans, D.	Longiotti	Raymond	Youngblood
Evans, J.	Mackereth	Readshaw	Yudichak
Everett	Maher	Reed	
Fabrizio	Mahoney	Reichley	O'Brien, D., Speaker
Fairchild	Major	Roae	
Fleck	Manderino	Rock	

NAYS—0

NOT VOTING—0

EXCUSED—6

Gerber	Mustio	True	Wheatley
Mensch	Solobay		

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. GRELL offered the following amendment No. **A03796**:

Amend Sec. 504, page 70, line 16, by striking out "DAMAGES" and inserting

penalties and legal fees

Amend Sec. 504, page 70, lines 29 and 30; page 71, lines 1 and 2, by striking out all of said lines on said pages and inserting

(1) If a court reverses an agency's final determination, the court may award reasonable attorney fees and costs of litigation or an appropriate portion thereof to a requester if the court finds either of the following:

(i) The agency willfully or with wanton disregard deprived the requester of access to a public record subject to access under the provisions of this act.

(ii) The exemptions, exclusions or defenses asserted by the agency in its final determination were not based on a reasonable interpretation of law.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes Representative Grell.

Mr. GRELL. Thank you, Mr. Speaker.

Mr. Speaker, this is an alternative approach to the way counsel fees are awarded in right-to-know requests. As we heard before, Mr. Speaker, the bill, as it is currently written, automatically requires that attorney's fees be awarded to the prevailing party. My approach places discretion with the court in awarding attorney's fees and awarding those fees only in cases where it is appropriate to award attorney's fees.



Specifically, Mr. Speaker, the amendment requires that if the court reverses an agency's final determination, the court may award reasonable attorney's fees and costs, or a portion of fees and costs, only if the court finds one of two things to have existed. First, if the court finds that the agency willfully or with wanton disregard refused the request, or if the defenses asserted by the agency in making its final determination were not based on a reasonable interpretation of law.

Mr. Speaker, we do not want to create a cottage industry for attorneys in open records cases, but we also do not want to chill the public in seeking records by always awarding fees to the prevailing party.

I believe this is a reasonable approach to the awarding of counsel fees to ensure that they will only be awarded in appropriate cases, and I would encourage the members to support this amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Mahoney.

Mr. MAHONEY. I want to thank Representative Grell for straightening up my amendment, my first amendment that got defeated, but that was my intent. What he is trying to do is what I was trying to do as far as putting in the amendment. So it is an agreed-to amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—190

Adolph	Frankel	Mann	Roebuck
Argall	Freeman	Mantz	Rohrer
Baker	Gabig	Markosek	Ross
Barrar	Galloway	Marshall	Rubley
Bastian	Geist	Marsico	Sabatina
Bear	George	McCall	Sainato
Belfanti	Gergely	McGeehan	Samuelson
Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Bianucci	Gingrich	Micozzie	Scavello
Bishop	Godshall	Millard	Schroder
Blackwell	Goodman	Miller	Seip
Boback	Grell	Milne	Shapiro
Boyd	Grucela	Moul	Shimkus
Brennan	Haluska	Moyer	Siptroth
Buxton	Hanna	Mundy	Smith, K.
Caltagirone	Harhai	Murt	Smith, M.
Cappelli	Harkins	Myers	Smith, S.
Carroll	Harper	Nailor	Sonney
Casorio	Harris	Nickol	Staback
Causar	Helm	O'Brien, M.	Stairs
Civera	Hennessey	O'Neill	Steil
Clymer	Hershey	Oliver	Stern
Cohen	Hess	Pallone	Sturla
Conklin	Hickernell	Parker	Surra
Costa	Hornaman	Pashinski	Swanger
Cox	James	Payne	Tangretti
Creighton	Josephs	Payton	Taylor, J.
Cruz	Kauffman	Peifer	Taylor, R.
Curry	Keller, M.	Perry	Thomas
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner

DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longiotti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D., Speaker
Fleck	Manderino	Rock	

NAYS—7

Beyer	Harhart	McI. Smith	Stevenson
Brooks	Hutchinson	Metcalfe	

NOT VOTING—0

EXCUSED—6

Gerber	Mustio	True	Wheatley
Mensch	Solobay		

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

The SPEAKER pro tempore. The Chair recognizes Representative Baker. Representative Baker, it is the understanding of the Chair that you will be withdrawing amendment 3751.

Mr. BAKER. Yes, Mr. Speaker. I am withdrawing amendment A3752, and in place of that, it has the exact same language only with a technical amendment, the amendment would be 3968 in its place.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. BAKER offered the following amendment No. **A03968**:

Amend Sec. 103, page 40, lines 14 through 30, by striking out all of said lines

On the question,  
Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes Mr. Baker.

Mr. BAKER. Thank you, Mr. Speaker.

My amendment would exclude all nonprofit organizations that contract with local government agencies to provide services from the definition of "local agency."

Under the bill as currently drafted, organizations like the Catholic Charities, Real Alternatives, and domestic violence

service providers could be subject to provisions of the proposed Open Records Act to the extent that they have contracts with local agencies to provide services. As a result, the bill would place an unnecessary burden on such organizations. My amendment seeks to relieve them of that burden, and at the same time, the records relating to any contracted service provided by a nonprofit government contractor would, in fact, remain public and would be available through the agency holding the contract.

I thank you, Mr. Speaker, and ask the members for an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Maher.

Mr. MAHER. Mr. Speaker, could we just be at ease for a moment. I just need to make a check on something or, if you prefer, we could— Probably just for a minute.

The SPEAKER pro tempore. The House will be at ease momentarily.

The gentleman, Mr. Maher, waives off.

The Chair recognizes Representative Shapiro.

Mr. SHAPIRO. Thank you, Mr. Speaker.

If the gentleman, the maker of the amendment, would stand for an interrogation.

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. SHAPIRO. Mr. Speaker, as I read this language and some others read the language, it appears from the amendment, although clearly not the maker's intent, to exempt political subdivisions, exempt school boards. I know from the gentleman's statement at the outset that that is not his intention. If the gentleman could please clarify the amendment, in terms of it being technical in nature, and demonstrate in the language that exists where the school boards, where the other political subdivisions, are already included. I would appreciate that very much.

Thank you, Mr. Speaker.

Mr. BAKER. I would be glad to, Mr. Speaker. Mr. Speaker, those entities are contained within the political subdivision section of the bill and is consistent with the Statutory Construction Act. So they are already included in the bill.

Mr. SHAPIRO. And just one additional clarifying question, Mr. Speaker. So if this amendment were to go in, the language that the gentleman speaks of would remain in the bill and those agencies would continue to be covered under the bill. Is that correct, Mr. Speaker?

Mr. BAKER. That is correct, Mr. Speaker.

Mr. SHAPIRO. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

I also would like to interrogate the maker of the amendment.

The SPEAKER pro tempore. The gentleman agrees. You are in order.

Mr. SAMUELSON. The text of this amendment is rather short, just deleting half a page of the bill, but if you turn to that half a page of the bill on page 40, I, too, am concerned about the section that deletes school boards, and I would ask you to point to the specific section within the rest of the legislation, because, clearly, no one in this General Assembly wants to exempt public education and our school boards from the public records, the Open Records Act.

Mr. BAKER. If one goes to the Statutory Construction Act and prints that out, one would see that the school boards, et cetera, are contained therein and are covered by that section.

Mr. SAMUELSON. Well, then my concern would be that if we have school boards specifically delineated in this bill and this amendment passes and deletes the school board, I am concerned about the legislative intent that would show.

Mr. BAKER. This is predominantly a technical amendment, but like I said, if you would go and copy off the Statutory Construction Act, you would see that they are already covered under this bill under political subdivisions. It is a technical amendment.

Mr. SAMUELSON. Well, I would dispute that it is a technical amendment because we are deleting half a page of the bill. Another section I am concerned about is on line 14. Your description at the beginning talked about nonprofits. Well, lines 14 through 20 is not a nonprofit, it is an entity of a political subdivision, a public agency, like a subentity of the political subdivision. I think you were talking about line 21, but even so, it is nonprofits as they perform a governmental function. So I guess my concern here is the breadth of your amendment by deleting half a page from line 14 to line 30. It covers entities within a political subdivision, it covers entities contracted by a political subdivision, it covers school boards, and it covers committees that are created by a public entity. That is a lot of entities that would be deleted from the bill if this amendment were to pass.

If a political subdivision would contract out a service that was formerly performed by the public agency, this would seem to eliminate the private agency from any open records law.

Mr. BAKER. It would exempt out some of those nonprofit organizations, but on the other hand, some of those records would be available through the contracted agencies. So as I said earlier, my amendment would exclude all nonprofit organizations that contract with local government agencies to provide services from the definition of the local agency. However, at the same time, the records relating to any contracted service provided by a nonprofit government contractor would be, in fact, open, remain a public record, and would be available through the agency holding the contract.

Mr. SAMUELSON. Okay.

I am done with my interrogation. I would like to speak on the amendment.

The SPEAKER pro tempore. The gentleman is in order.

Mr. SAMUELSON. Thank you.

The gentleman's concerns about the nonprofits that he just articulated, saying that they would be required to provide information as it relates to the subject of that contract, as I read lines 21, 22, and 23, it looks like that protection is already there. If we leave this language in there, it would say that the "...ENTITY CONTRACTED BY A POLITICAL SUBDIVISION TO PERFORM A GOVERNMENTAL FUNCTION, BUT ONLY INsofar AS THE ENTITY'S RECORDS REGARDING THE CONTRACTED GOVERNMENTAL FUNCTION ARE CONCERNED." So the safeguard is already there. It is not opening up the whole nonprofit. It is specific to the governmental function.

If the gentleman has a concern, I would suggest he offer an amendment to specifically clarify that section, but by taking out line 14 to line 30, taking out public agencies, entities created by political subdivisions, well, over the years many political subdivisions have created authorities. We have authorities all

over Pennsylvania which were created by the city council, the township board of commissioners, the township supervisors. If we would exempt any entity created by a political subdivision, that would seem to provide a loophole where authorities would be exempt. And I am also not comfortable if we have to go to the Statutory Construction Act to find school boards, why not state clearly that school boards are covered in the bill?

So with those concerns, I would say that we should oppose the Baker amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, I would also urge a "no" vote on this amendment.

This amendment would exempt out those bodies that are either created by a political subdivision or contract with a political subdivision that perform a government function. So, for example, just recently we had tax study commissions that were created by each of our school districts, and those records now, under this amendment, would no longer be available to the public. Also, for example, a for-profit business that contracts with government, say, for example, your school district contracts out its cafeteria service, that is public money being spent and yet we would not be able to get those records.

Under current case law, if a contractor in a building project for government constructs or renovates a facility, you could obtain the records from that private contractor to see whether or not they are paying prevailing wage. That is the current case law decision that exists. But under this amendment, if we change our public records law under this amendment, you are not going to be able to obtain those records and see whether or not that contractor paid prevailing wage because they contracted with the political subdivision and performed a government function, and we are going to take that language out.

And so for those reasons I think this would dramatically restrict the availability when you have a contracting-out situation or, as Representative Samuelson said, if you have an authority that is created or some other body that is created by a political subdivision, and therefore I would urge a "no" vote.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Baker.

Mr. BAKER. Thank you, Mr. Speaker.

Just to reiterate, this bill was requested by organizations such as the Catholic Charities, Real Alternatives, domestic relations service providers, and they would very much appreciate an affirmative vote on this amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentlelady, Ms. Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I apologize, Mr. Speaker. We over here have been trying to analyze this, and I think, in the end, our conclusion is that there is a gap that will be created by this amendment. We understand that there are some agencies that would not like, for various reasons, not all of them bad, to be subjected to having records revealed. But there is a gap here if we vote for this amendment, in my opinion and legal counsel I have been talking to.

Those entities that are created for the purpose of performing a governmental function, or those that have a contract with a political subdivision to perform a governmental function,

we think would not be subject to having their records made public if this amendment passes. So with all respect to the maker of the amendment, maybe we can, as it moves on into the Senate, fine-hone this a little bit better. I would recommend that if we really want to reveal a lot of records the way we are telling the public we want to, that we should vote "no" on this amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the lady.

The Chair recognizes the gentleman, Mr. George.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, if, in fact, we are going to have an open records law, if, in fact, there are those in our constituency that feel much more should be open, then I can accept the fact that the sponsor of the amendment might want to help somebody. But at the same time, he is creating a loophole for those who are even more dubious at times in this General Assembly. I am talking about authorities and things of that nature that are appointed by local governments, and I think that we ought to defeat this amendment and go on with our purpose.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the majority whip, Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask the members to also vote against the Baker amendment.

I certainly understand what the gentleman is trying to get at, but I think the provisions of the amendment are way too broad. The fact that any entity created by a political subdivision, any entity contracted by a political subdivision, any school board that contracts out, or subcontracts out, that type of work would not be subject to the right-to-know provisions, I think it is contrary to what we are trying to pass today in the General Assembly, and I would ask the members to vote against the amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE CANCELED

The SPEAKER pro tempore. The Chair recognizes the presence of Representative True on the floor and asks that her name be added to the master roll.

### CONSIDERATION OF HB 443 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the minority leader, Mr. Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

I appreciate the pause in the action there for a minute.

In talking with the sponsor of the amendment, I agree that this is an important amendment and that those institutions and organizations that were seeking to be carved out, if you will, to be protected in the sense of their operations and what they do, that they would not be burdened with the requirements of an open records law, and I would ask the members to support this amendment.

I realize that there are some questions being raised as to the breadth of the amendment, and while those concerns maybe have some validity to them in some manner, Mr. Speaker,

I would urge the members to support this amendment because it is something that we— It gets into the fine lines of where we are going to draw different people or different organizations, what is and what is not going to be subject to the open records law. Clearly these are organizations, whether it is a domestic violence service provider or some charitable organization, if we encumber them with a lot of burdensome information that goes way beyond their real involvement with State government as a government entity, I think that that will be a deterrent to them; it will be a detrimental signal to them that maybe they should not be doing what they are doing or cannot continue doing what they are doing.

So I would just ask the members to support this amendment and relieve this burden on those types of organizations and institutions. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—51

Adolph	Everett	Killion	Quinn
Argall	Fairchild	Maher	Rapp
Baker	Fleck	Major	Raymond
Barrar	Geist	Marsico	Ross
Bastian	Gingrich	Micozzie	Smith, S.
Beyer	Harper	Millard	Stern
Boback	Harris	Milne	Swanger
Cappelli	Hennessey	Murt	Tangretti
Causar	Hershey	O'Neill	Taylor, J.
Civera	Hess	Perzel	Turzai
Clymer	Hutchinson	Phillips	Watson
DiGirolamo	Keller, M.	Pickett	Yewcic
Ellis	Kenney	Quigley	

NAYS—147

Bear	George	McCall	Sainato
Belfanti	Gergely	McGeehan	Samuelson
Benninghoff	Gibbons	McI. Smith	Santoni
Bennington	Gillespie	McIlhattan	Saylor
Bianucci	Godshall	Melio	Scavello
Bishop	Goodman	Metcalfe	Schroder
Blackwell	Grell	Miller	Seip
Boyd	Grucela	Moul	Shapiro
Brennan	Haluska	Moyer	Shimkus
Brooks	Hanna	Mundy	Siproth
Buxton	Harhai	Myers	Smith, K.
Caltagirone	Harhart	Nailor	Smith, M.
Carroll	Harkins	Nickol	Sonney
Casorio	Helm	O'Brien, M.	Staback
Cohen	Hickernell	Oliver	Stairs
Conklin	Hornaman	Pallone	Steil
Costa	James	Parker	Stevenson
Cox	Josephs	Pashinski	Sturla
Creighton	Kauffman	Payne	Surra
Cruz	Keller, W.	Payton	Taylor, R.
Curry	Kessler	Peifer	Thomas
Cutler	King	Perry	True
Daley	Kirkland	Petrarca	Vereb
Dally	Kortz	Petri	Vitali
DeLuca	Kotik	Petrone	Vulakovich
Denlinger	Kula	Preston	Wagner
DePasquale	Leach	Pyle	Walko
Dermody	Lentz	Ramaley	Wansacz
DeWeese	Levdansky	Readshaw	Waters

Donatucci	Longiatti	Reed	White
Eachus	Mackereth	Reichley	Williams
Evans, D.	Mahoney	Roae	Wojnaroski
Evans, J.	Manderino	Rock	Youngblood
Fabrizio	Mann	Roebuck	Yudichak
Frankel	Mantz	Rohrer	
Freeman	Markosek	Rubley	O'Brien, D., Speaker
Gabig	Marshall	Sabatina	
Galloway			

NOT VOTING—0

EXCUSED—5

Gerber	Mustio	Solobay	Wheatley
Mensch			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

GUESTS INTRODUCED

The SPEAKER pro tempore. Located in the balcony, the Chair welcomes students from Immaculate Conception School in Clarion, who are the guests of Representative McIlhattan. Welcome to the hall of the House.

CONSIDERATION OF HB 443 CONTINUED

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. BAKER offered the following amendment No. A03751:

Amend Sec. 705, page 73, lines 18 and 19, by striking out "THEIR SUCCESSORS" and inserting  
the compliance officer designated by the agency to which the official has been elected or appointed or by which the employee is employed

On the question,  
Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes Representative Baker.

Mr. BAKER. Thank you, Mr. Speaker.

This amendment will be a lot easier, I think, to support. The amendment is intended to address a concern raised in the House State Government Committee. As currently drafted, the bill would require a public official or employee to turn over his or her records to his or her successor upon retirement or departure, and unfortunately, in a very politicized environment, whether at the local or State level, this practice could be problematic. So what this amendment attempts to do is allows officials or employees leaving State or local government to submit his or her records to the agency compliance officer rather than his or her successor. And obviously, for instance, hypothetically, if it is a Democrat leaving office, he or she would have to turn his records over to, potentially, hypothetically, a Republican and conversely, vice versa. So it is a very problematic piece in the bill, and it just makes more

sense, if we are going to be turning over records, that we turn them over to the agency compliance officer.

Thank you very much, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Mahoney.

Mr. MAHONEY. Mr. Speaker, this is a most definite agreed-to amendment. I hope that all my colleagues vote "yea." Thank you.

The SPEAKER pro tempore. Will the House agree to the amendment? The Chair recognizes the gentleman, Representative Tangretti.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, I have a general question, and I do not know whether this is appropriately asked of the maker of the amendment or the maker of the bill. Mr. Speaker, the question is this: In terms of the members of this chamber or the Senate, when we say those records that need to be turned over, are we covered in that requirement – and I am assuming we are – and what records are we talking about? Can anybody address the answer to that question?

### THE SPEAKER (DENNIS M. O'BRIEN) PRESIDING

The SPEAKER. Has the gentleman indicated who he wishes to ask to stand for interrogation?

Mr. TANGRETTI. I am sorry, Mr. Speaker. As you were taking the podium, my question was, I did not know to whom it should be addressed. I think it might be the maker of the bill as opposed to the maker of the amendment, but I am not sure.

The SPEAKER. If the gentleman would indicate which he would prefer, the Chair will ask the Representative if he will stand for interrogation.

Mr. TANGRETTI. I will ask the gentleman, the maker of the amendment, the question. I will repeat the question.

The SPEAKER. Representative Baker indicates that he will stand for interrogation. The gentleman is in order and may proceed.

Mr. TANGRETTI. I believe, Mr. Speaker, he has the question and he is endeavoring to find the answer.

Mr. BAKER. In checking the bill itself, I do not think it was the intent by the maker of the legislation, Mr. Mahoney, but it does appear that the bill on – I believe page 73? – page 73, lines 17 through 20, references all records, and I doubt very much if the gentleman, Mr. Mahoney, meant that or whether he meant public records. But in either event, my amendment tries to improve upon the legislation.

Mr. TANGRETTI. Thank you, Mr. Speaker.

I thank the gentleman for his answer. I would like to make just a comment and then—

The SPEAKER. The gentleman is in order and may proceed.

Mr. TANGRETTI. As individuals in this chamber know, I have announced my intention to retire after the end of this term, and after 20 years in this office, there have been a number of files that have accumulated dealing with constituent casework, records with respect to expenses that go back 20 years, various other matters. My question is, if this becomes law, for those of us who fall into that category now, or for that matter, any member who falls into that category in the future, which is everybody at some point, with the possible exclusion of Bud George, it just seems to me that it becomes very

problematical, and I am just wondering what are the practical applications of one who finds himself in that situation presently. I am told by staff that, perhaps, the record retention policy of the caucus would take effect. I have no idea what that is, and I suppose at some point I will be informed. So that is a real concern for me, and I only raise the issue, whether it is dealing with the gentleman's amendment as it relates to whom you should turn them over to, but the question is what you should be turning over.

The SPEAKER. Representative Baker.

Mr. BAKER. I appreciate the gentleman's concerns, and I agree with him wholeheartedly. Perhaps another amendment could be drafted to clarify that by the maker of the bill. But for the most part, the gentleman, the previous speaker, was speaking on the bill, not my amendment, and I do think the amendment does improve the process. And I would support an amendment that clarifies public records and not all records, because some of those records may be very personal and private and contain some very sensitive references to Social Security numbers and maybe some personal testimony from rape victims, who knows what it might be. But I do think we need to improve the bill, and I still ask that the members support the amendment as it does change from turning over one's records, not to one's successor, but to the public records officer.

Thank you, Mr. Speaker.

### LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative Gerber on the floor. His name will be added to the master roll.

### CONSIDERATION OF HB 443 CONTINUED

#### PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

A parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. VITALI. I have an amendment that deals with this same section, amendment 3670, which is upcoming, and I think it may deal with some concerns here partially, maybe not totally. If this amendment goes in, would amendment A3670 be in order?

The SPEAKER. The Chair will look at that.

The gentleman's amendment will be in order.

Mr. VITALI. It will. Thank you, Mr. Speaker.

And the only other thing I would like to say for the information, on this amendment, in considering this amendment, the Baker amendment, please keep in mind that there will be an amendment upcoming which simply deletes the last sentence of sub (A), which puts in that requirement of delivering your papers, outgoing officials' papers to incoming officials.

Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—182

Adolph	Geist	Markosek	Rohrer
Argall	George	Marshall	Ross
Baker	Gerber	Marsico	Rubley
Barrar	Gibbons	McCall	Sabatina
Bastian	Gillespie	McGeehan	Sainato
Bear	Gingrich	McI. Smith	Samuelson
Belfanti	Godshall	McIlhattan	Santoni
Benninghoff	Goodman	Melio	Saylor
Beyer	Grell	Metcalfe	Scavello
Biancucci	Grucela	Micozzie	Schroder
Bishop	Haluska	Millard	Seip
Boback	Hanna	Miller	Shapiro
Boyd	Harhai	Milne	Shimkus
Brennan	Harhart	Moul	Siptroth
Brooks	Harper	Moyer	Smith, K.
Buxton	Harris	Mundy	Smith, M.
Caltagirone	Helm	Murt	Smith, S.
Cappelli	Hennessey	Nailor	Sonney
Carroll	Hershey	Nickol	Staback
Causer	Hess	O'Brien, M.	Stairs
Civera	Hickernell	O'Neill	Steil
Clymer	Hornaman	Oliver	Stern
Cohen	Hutchinson	Pallone	Stevenson
Conklin	Josephs	Parker	Sturla
Cox	Kauffman	Pashinski	Surra
Creighton	Keller, M.	Payne	Swanger
Cruz	Keller, W.	Payton	Tangretti
Cutler	Kenney	Peifer	Taylor, J.
Daley	Kessler	Perry	Taylor, R.
Dally	Killion	Perzel	Thomas
DeLuca	King	Petrarca	True
Denlinger	Kirkland	Petri	Turzai
DePasquale	Kortz	Phillips	Vereb
Dermody	Kotik	Pickett	Vitali
DeWeese	Kula	Preston	Vulakovich
DiGirolamo	Leach	Pyle	Walko
Donatucci	Lentz	Quigley	Wansacz
Ellis	Levdansky	Quinn	Waters
Evans, D.	Longietti	Ramaley	Watson
Evans, J.	Mackereth	Rapp	White
Everett	Maher	Raymond	Yewcic
Fairchild	Mahoney	Reed	Youngblood
Fleck	Major	Reichley	Yudichak
Freeman	Manderino	Roae	
Gabig	Mann	Rock	O'Brien, D.,
Galloway	Mantz	Roebuck	Speaker

## NAYS—17

Bennington	Eachus	Harkins	Readshaw
Blackwell	Fabrizio	James	Wagner
Casorio	Frankel	Myers	Williams
Costa	Gergely	Petrone	Wojnaroski
Curry			

## NOT VOTING—0

## EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **DERMODY** offered the following amendment No. **A03788**:

Amend Sec. 709, page 74, lines 26 through 30; page 75, lines 1 through 8, by striking out all of said lines on said pages and inserting Section 709. Transcripts of hearings and administrative proceedings.

Transcripts of hearings and administrative proceedings shall be deemed public records after such matters have been finally adjudicated. Nothing in this act shall prohibit a litigant or a party to a hearing or administrative proceeding or the legal representative of the litigant or party, from acquiring a full transcript of the hearing or administrative proceeding which shall not be subject to redaction prior to or after final adjudication. An agency may refer a litigant or a party to a hearing or administrative proceeding, or the legal representative of the litigant or party, to the court reporter or other transcriber to obtain a copy of the transcript if all of the following apply:

(1) The court reporter or transcriber prepared the transcript under contract with the agency.

(2) The court reporter or transcriber is able to make the transcripts available within a reasonable time and at a cost which is reasonable and customary within the court reporting industry.

(3) The name, address and telephone number of the court reporting or transcribing entity under contract with the agency is made available by the agency.

On the question,

Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Dermody on the amendment.

Mr. **DERMODY**. Thank you, Mr. Speaker.

Mr. Speaker, this amendment deals with transcripts of administrative proceedings, and the amendment makes it clear that transcripts of administrative hearings are public record after final adjudication, and it also makes it clear that litigants can continue to use transcripts, unredacted transcripts of administrative proceedings, for briefs and pleadings, which is the current process in use today, and I urge the members' support.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—167

Adolph	Freeman	McCall	Samuelson
Argall	Geist	McGeehan	Santoni
Baker	George	McIlhattan	Scavello
Barrar	Gerber	Melio	Schroder
Bear	Gergely	Metcalfe	Seip
Belfanti	Gingrich	Micozzie	Shapiro
Benninghoff	Godshall	Millard	Shimkus
Bennington	Goodman	Milne	Siptroth
Biancucci	Grucela	Moul	Smith, K.
Bishop	Haluska	Moyer	Smith, M.
Blackwell	Hanna	Mundy	Smith, S.
Boyd	Harhai	Murt	Sonney
Brennan	Harhart	Myers	Staback
Brooks	Harkins	Nailor	Stairs
Buxton	Harper	O'Brien, M.	Steil
Caltagirone	Harris	O'Neill	Stern
Cappelli	Hess	Oliver	Stevenson
Carroll	Hickernell	Pallone	Sturla
Causer	Hornaman	Parker	Surra
Civera	James	Pashinski	Swanger
Clymer	Josephs	Payne	Tangretti

Cohen	Keller, M.	Payton	Taylor, J.
Conklin	Keller, W.	Peifer	Taylor, R.
Costa	Kenney	Perzel	Thomas
Cruz	Kessler	Petrarca	True
Curry	Killion	Petri	Vereb
Cutler	Kirkland	Petrone	Vitali
Daley	Kortz	Phillips	Vulakovich
DeLuca	Kula	Pickett	Wagner
Denlinger	Leach	Preston	Walko
Dermody	Lentz	Pyle	Wansacz
DeWeese	Levdansky	Quigley	Waters
DiGirolamo	Longietti	Quinn	Watson
Donatucci	Maher	Ramaley	White
Eachus	Mahoney	Raymond	Williams
Ellis	Major	Roae	Wojnaroski
Evans, D.	Manderino	Roebuck	Yewcic
Evans, J.	Mann	Rohrer	Youngblood
Everett	Mantz	Ross	Yudichak
Fabrizio	Markosek	Rubley	
Fairchild	Marshall	Sabatina	O'Brien, D.,
Fleck	Marsico	Sainato	Speaker
Frankel			

NAYS—32

Bastian	Gabig	Hutchinson	Perry
Beyer	Galloway	Kauffman	Rapp
Boback	Gibbons	King	Readshaw
Casorio	Gillespie	Kotik	Reed
Cox	Grell	Mackereth	Reichley
Creighton	Helm	McI. Smith	Rock
Dally	Hennessey	Miller	Saylor
DePasquale	Hershey	Nickol	Turzai

NOT VOTING—0

EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. FAIRCHILD offered the following amendment No. A03718:

Amend Sec. 307, page 53, by inserting after line 30  
(10) Records or parts of records pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Fairchild on the amendment.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

Amendment 3718 ensures that 911 records, tapes, transcripts, are protected under legislation in both the records-deemed-inaccessible section of the bill as well as the investigation section of the bill. This is an amendment that is supported by the Pennsylvania Chapter of the Association of Public Safety Communications Officials and the Pennsylvania Chapter of the

National Emergency Number Association and the County Commissioners Association.

I ask and encourage members for an affirmative vote on this amendment. Thank you, Mr. Speaker.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Frankel	Manderino	Rock
Argall	Freeman	Mann	Roebuck
Baker	Gabig	Mantz	Rohrer
Barrar	Galloway	Markosek	Ross
Bastian	Geist	Marshall	Rubley
Bear	George	Marsico	Sabatina
Belfanti	Gerber	McCall	Sainato
Benninghoff	Gergely	McGeehan	Samuelson
Bennington	Gibbons	McI. Smith	Santoni
Beyer	Gillespie	McIlhattan	Saylor
Bianucci	Gingrich	Melio	Scavello
Bishop	Godshall	Metcalfe	Schroder
Blackwell	Goodman	Micozzie	Seip
Boback	Grell	Millard	Shapiro
Boyd	Grucela	Miller	Siproth
Brennan	Haluska	Milne	Smith, K.
Brooks	Hanna	Moul	Smith, M.
Buxton	Harhai	Moyer	Smith, S.
Caltagirone	Harhart	Mundy	Sonney
Cappelli	Harkins	Murt	Staback
Carroll	Harper	Myers	Stairs
Casorio	Harris	Nailor	Steil
Causar	Helm	Nickol	Stern
Civera	Hennessey	O'Brien, M.	Stevenson
Clymer	Hershey	O'Neill	Sturla
Cohen	Hess	Oliver	Surra
Conklin	Hickernell	Pallone	Swanger
Costa	Hornaman	Parker	Tangretti
Cox	Hutchinson	Pashinski	Taylor, J.
Creighton	James	Payne	Taylor, R.
Cruz	Josephs	Payton	Thomas
Curry	Kauffman	Peifer	True
Cutler	Keller, M.	Perry	Turzai
Daley	Keller, W.	Perzel	Vereb
Dally	Kenney	Petrarca	Vitali
DeLuca	Kessler	Petri	Vulakovich
Denlinger	Killion	Petrone	Wagner
DePasquale	King	Phillips	Walko
Dermody	Kirkland	Pickett	Wansacz
DeWeese	Kortz	Preston	Waters
DiGirolamo	Kotik	Pyle	Watson
Donatucci	Kula	Quigley	White
Eachus	Leach	Quinn	Williams
Ellis	Lentz	Ramaley	Wojnaroski
Evans, D.	Levdansky	Rapp	Yewcic
Evans, J.	Longietti	Raymond	Youngblood
Everett	Mackereth	Readshaw	Yudichak
Fabrizio	Maher	Reed	
Fairchild	Mahoney	Reichley	O'Brien, D.,
Fleck	Major	Roae	Speaker

NAYS—1

Shimkus
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NOT VOTING—0

EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. **KORTZ** offered the following amendment No. **A03758**:

Amend Sec. 307, page 55, by inserting between lines 8 and 9  
(I) Video records produced by or used in an investigation prior to the conclusion of a criminal trial.

On the question,  
Will the House agree to the amendment?

The **SPEAKER**. On the amendment, the Chair recognizes Representative Kortz.

Mr. **KORTZ**. Thank you, Mr. Speaker.

Amendment 3758 would prohibit open records accessibility to any video records produced by or used in an investigation prior to the conclusion of a criminal trial, and the reason for this, Mr. Speaker, is that I do not want to taint the jury pool until the matter has been adjudicated to its final conclusion, and I would ask members for an affirmative vote.

The **SPEAKER**. Representative Maher.

Mr. **MAHER**. Thank you, Mr. Speaker.

If the maker of the amendment, perhaps, could answer a couple of questions.

The **SPEAKER**. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. **MAHER**. Thank you, Mr. Speaker.

I appreciate the objective of your amendment, and I have a couple of practical questions.

From time to time we will see investigatory agencies releasing videotapes or photographs in order to aid the apprehension of a suspect. Would that activity be permitted with the language that is in your amendment? As I read your amendment, it would seem to, perhaps, preclude that. I know that may not be your intent, and I am almost wondering, perhaps, because we have 65 or so more amendments to go, maybe it would be worth holding over your amendment temporarily and taking a look at the drafting to ensure that use of that material to advance an investigation is not accidentally precluded, or make it crystal clear that it is not precluded, would be my suggestion. I think your object is noble, and I would like to make that suggestion.

Mr. **KORTZ**. Thank you, Mr. Speaker.

Under this proposal, I believe it will be at the discretion of the policing agency. If they have to release a photograph or a video so that it would help in the apprehension of the bad guy, then absolutely they could waive this and put that out there so that the public can assist in that apprehension.

Mr. **MAHER**. And I guess, could you point to me where that waiver is provided for them here, because I do not see that.

Mr. **KORTZ**. It is true that any waiver can be done by the holder of that information. So if the police department has a photograph of a gentleman robbing a convenience store, they can waive that and put that out there for the apprehension.

Mr. **MAHER**. Well, I would certainly hope that they could, but I think about there are other records that we are defining as not being public records, that it is quite clear that the government agency possessing the information is not at liberty to simply waive it. For instance, Social Security numbers, medical records, family histories dealing with needs for handicapped placards and so forth, that that information, the agency responsible for processing that information I do not believe is at liberty to simply waive a definition of a public record and allow that material to be public, and I would hate to create a presumption that would head in that direction because of your good objective with your amendment.

But I think the type of waiver you are speaking of could easily be provided for by simply redrafting this language, and it would not risk setting a precedent that agencies can waive a definition of a public record and put personal, private information about individuals out there at their whim, because I do not think either one of us would support that. I really am making this suggestion on a collegial level in the hopes of accomplishing your mission without undermining other dimensions of our law.

Mr. **KORTZ**. Mr. Speaker, with all due respect, I would like to push forward with this, because I truly believe it is up to the discretion of, again, the policing agency. If they feel the need to put a photograph or certain clips of a video out there so that we may apprehend someone that has perpetrated a crime, that is at their discretion to elicit the help of the citizenry to come to that. But I really would like to push ahead with this, if we may. Thank you.

Mr. **MAHER**. Thank you, Mr. Speaker.

The **SPEAKER**. Has the gentleman concluded his interrogation?

Mr. **MAHER**. I have concluded my interrogation.

The **SPEAKER**. The gentleman is in order and may proceed.

Mr. **MAHER**. I am disappointed that the opportunity to provide the clarity in this amendment is not going to be embraced, and I think it is a very difficult issue. We certainly want for investigatory agencies to be able to pursue investigations as appropriate, but to establish by precedent here the notion that agencies can waive the definitions of what is a public record as it suits them puts all the personal and private information about Pennsylvanians at the whim of bureaucrats that we cannot even begin to completely list.

And so while I think the object of the amendment is good, I am not prepared to risk the corollary imposition on the privacy of Pennsylvanians. And I will take one more read through this language, but I just do not understand why, when we have the opportunity to write a bill so that it is crystal clear what it means, that that opportunity is discarded in favor of creating question marks for those who would have to live under this law, if it became law.

Thank you, Mr. Speaker.

The **SPEAKER**. Will the House agree to the amendment?  
The Chair recognizes Representative Kortz.

Mr. **KORTZ**. Thank you, Mr. Speaker.

If I can conclude this, I would ask everybody for an affirmative vote, because the intention behind this is, if there is a video, for example, the dashboard of a police car or any other public building where there is video and there is a crime that has taken place, I do not necessarily want to see that video on the 6 o'clock news. I do not want to see the sensationalism that is going to come about from that. After the case is adjudicated and



things have settled down, then it can become a public record. I am just asking that we hold off giving that information out to the public so that we do not taint the jury pools, we do not inflame the public, that we capture the bad guy, that justice is done, and then we can make it an open record.

I would ask for an affirmative vote. Thank you.

The SPEAKER. Will the House agree to the amendment? On the question, Representative Mahoney.

Mr. MAHONEY. This also is an agreed-to amendment.

Thank you. I would appreciate an affirmative vote.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—190

Adolph	Freeman	Markosek	Roebuck
Argall	Gabig	Marshall	Rohrer
Baker	Galloway	Marsico	Ross
Barrar	Geist	McCall	Rublely
Bastian	George	McGeehan	Sabatina
Bear	Gerber	McI. Smith	Sainato
Belfanti	Gergely	McIlhattan	Samuelson
Benninghoff	Gibbons	Melio	Santoni
Beyer	Gillespie	Metcalfe	Saylor
Biancucci	Gingrich	Micozzie	Scavello
Bishop	Goodman	Millard	Seip
Blackwell	Grell	Miller	Shapiro
Boback	Grucela	Milne	Siptroth
Boyd	Haluska	Moul	Smith, K.
Brennan	Hanna	Moyer	Smith, M.
Brooks	Harhai	Mundy	Smith, S.
Buxton	Harhart	Murt	Sonney
Caltagirone	Harkins	Myers	Staback
Cappelli	Harper	Nailor	Stairs
Casorio	Harris	Nickol	Steil
Causer	Helm	O'Brien, M.	Stern
Civera	Hennessey	O'Neill	Stevenson
Clymer	Hershey	Oliver	Sturla
Cohen	Hess	Pallone	Surra
Conklin	Hickernell	Parker	Swanger
Costa	Hornaman	Pashinski	Tangretti
Cox	Hutchinson	Payne	Taylor, J.
Creighton	James	Payton	Taylor, R.
Cruz	Josephs	Peifer	Thomas
Curry	Kauffman	Perry	True
Cutler	Keller, M.	Perzel	Turzai
Daley	Keller, W.	Petrarca	Vereb
Dally	Kenney	Petri	Vitali
DeLuca	Kessler	Petrone	Vulakovich
Denlinger	Killion	Phillips	Wagner
Dermody	King	Pickett	Walko
DeWeese	Kirkland	Preston	Wansacz
DiGirolamo	Kortz	Pyle	Waters
Donatucci	Kotik	Quigley	Watson
Eachus	Kula	Quinn	White
Ellis	Leach	Ramaley	Williams
Evans, D.	Levdansky	Rapp	Wojnaroski
Evans, J.	Longiotti	Raymond	Yewcic
Everett	Mackereth	Readshaw	Youngblood
Fabrizio	Mahoney	Reed	Yudichak
Fairchild	Major	Reichley	
Fleck	Manderino	Roae	O'Brien, D., Speaker
Frankel	Mann	Rock	

NAYS—9

Bennington	Godshall	Maher	Schroder
Carroll	Lentz	Mantz	Shimkus
DePasquale			

NOT VOTING—0

EXCUSED—4

Mensch                      Mustio                      Solobay                      Wheatley

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. KORTZ offered the following amendment No. A03759:

Amend Sec. 309, page 64, line 19, by inserting after "\$100."  
The agency may require a certified check, money order or other form of verified payment of funds when requiring open records request fees to be prepaid.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Kortz on the amendment.

Mr. KORTZ. Thank you, Mr. Speaker.

Amendment 3759 adds that agencies may require a verified form of payment when requiring prepayment of record access. The bill allows for prepayment of fees when an agency's cost is expected to exceed \$100. This amendment allows for an agency to require a certified check, money order, or other form of verified payment by the requester. The adoption of this amendment has no adverse impact on Commonwealth funds. It will ensure recovery of costs to an agency in making records available where they exceed the \$100 mark.

Thank you, Mr. Speaker.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—129

Argall	Galloway	Manderino	Roebuck
Baker	Geist	Mann	Ross
Barrar	George	Mantz	Sabatina
Belfanti	Gerber	Markosek	Sainato
Bennington	Gergely	Marshall	Santoni
Biancucci	Gibbons	McCall	Seip
Bishop	Goodman	McGeehan	Shimkus
Blackwell	Grucela	McIlhattan	Siptroth
Boback	Haluska	Melio	Smith, K.
Brennan	Harhai	Miller	Smith, S.
Caltagirone	Harkins	Milne	Staback
Cappelli	Harper	Moul	Stairs
Casorio	Harris	Moyer	Steil
Civera	Hennessey	Mundy	Stern
Clymer	Hershey	Murt	Sturla
Cohen	Hess	Myers	Surra
Creighton	Hornaman	O'Brien, M.	Swanger
Cruz	James	O'Neill	Tangretti
Curry	Josephs	Oliver	Taylor, J.

Daley	Keller, M.	Pallone	Thomas
DeLuca	Keller, W.	Parker	Vitali
Dermody	Kenney	Pashinski	Wagner
DeWeese	Kessler	Perzel	Walko
DiGirolamo	Kirkland	Petrarca	Wansacz
Donatucci	Kortz	Petrone	Waters
Eachus	Kotik	Phillips	Watson
Evans, D.	Kula	Pickett	White
Everett	Leach	Preston	Williams
Fabrizio	Levdansky	Quinn	Wojnaroski
Fairchild	Longietti	Ramaley	Yewcic
Fleck	Mahoney	Raymond	Youngblood
Frankel	Major	Readshaw	Yudichak
Freeman			

## NAYS—70

Adolph	Evans, J.	McI. Smith	Rohrer
Bastian	Gabig	Metcalfe	Rubley
Bear	Gillespie	Micozzie	Samuelson
Benninghoff	Gingrich	Millard	Saylor
Beyer	Godshall	Nailor	Scavello
Boyd	Grell	Nickol	Schroder
Brooks	Hanna	Payne	Shapiro
Buxton	Harhart	Payton	Smith, M.
Carroll	Helm	Peifer	Sonney
Causar	Hickernell	Perry	Stevenson
Conklin	Hutchinson	Petri	Taylor, R.
Costa	Kauffman	Pyle	True
Cox	Killion	Quigley	Turzai
Cutler	King	Rapp	Vereb
Dally	Lentz	Reed	Vulakovich
Denlinger	Mackereth	Reichley	
DePasquale	Maher	Roae	O'Brien, D.,
Ellis	Marsico	Rock	Speaker

## NOT VOTING—0

## EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **KORTZ** offered the following amendment No. **A03760**:

Amend Sec. 305, page 48, by inserting between lines 21 and 22

(g) Time limitation.—When an agency responds to an open records request and the person making the request does not return to the agency within 60 days, the agency shall send a written notice to the person specifying that the requested copies will be held for an additional 30 days, within which time the person may return to the agency to pick up the record. Thereafter, the agency may dispose of any copies which have not been picked up, and retain any fees paid to date.

On the question,

Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes the gentleman, Representative Kortz, on the amendment.

Mr. **KORTZ**. Thank you, Mr. Speaker.

Amendment 3760 sets up a time limit for when the requester picks up his documents. What we wanted to do here was not become a repository for people who fail to come back. So basically what this does, it sets up a 60-day time limit. At that point, if the requester has not picked up his documents, we will send out a postcard reminding same of the documents at hand and also a notice that 30 days later, if they have still not been picked up, they will be discarded.

So we are trying to eliminate a warehousing effect, if you will, and incurring additional costs on the Commonwealth. So at the 90-day mark, basically, if he has not picked up his documents, they are getting thrown away, and I would ask everybody for an affirmative vote on this. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—164

Adolph	Freeman	Major	Readshaw
Argall	Geist	Manderino	Roae
Baker	George	Mann	Rock
Barrar	Gerber	Mantz	Roebuck
Bear	Gergely	Markosek	Rohrer
Belfanti	Gibbons	Marshall	Ross
Benninghoff	Gillespie	Marsico	Rubley
Bennington	Gingrich	McCall	Sabatina
Biancucci	Godshall	McGeehan	Sainato
Bishop	Goodman	McIlhattan	Samuelson
Blackwell	Grell	Metcalfe	Santoni
Boback	Grucela	Micozzie	Saylor
Boyd	Haluska	Millard	Seip
Brennan	Hanna	Miller	Shimkus
Buxton	Harhai	Milne	Siptroth
Caltagirone	Harkins	Moul	Smith, K.
Cappelli	Harper	Moyer	Smith, S.
Casorio	Harris	Mundy	Sonney
Causar	Helm	Murt	Staback
Civera	Hennessey	Myers	Stairs
Clymer	Hershey	Nailor	Stern
Cohen	Hess	Nickol	Sturla
Cox	Hickernell	O'Brien, M.	Surra
Creighton	Hornaman	O'Neill	Swanger
Cruz	Hutchinson	Oliver	Tangretti
Curry	James	Pallone	Taylor, J.
Cutler	Josephs	Parker	Taylor, R.
Daley	Kauffman	Pashinski	Thomas
DeLuca	Keller, W.	Payne	True
Denlinger	Kenney	Perry	Vitali
Dermody	Kessler	Perzel	Vulakovich
DeWeese	Killion	Petrarca	Wagner
Donatucci	Kirkland	Petri	Walko
Eachus	Kortz	Petrone	Wansacz
Evans, D.	Kotik	Phillips	Waters
Evans, J.	Kula	Pickett	Watson
Everett	Leach	Preston	White
Fabrizio	Levdansky	Pyle	Williams
Fairchild	Longietti	Quinn	Wojnaroski
Fleck	Mackereth	Rapp	Yewcic
Frankel	Mahoney	Raymond	Youngblood

## NAYS—35

Bastian	Gabig	Payton	Smith, M.
Beyer	Galloway	Peifer	Steil
Brooks	Harhart	Quigley	Stevenson
Carroll	Keller, M.	Ramaley	Turzai
Conklin	King	Reed	Vereb

Costa	Lentz	Reichley	Yudichak
Dally	Maher	Scavello	
DePasquale	McI. Smith	Schroder	O'Brien, D.,
DiGirolamo	Melio	Shapiro	Speaker
Ellis			

NOT VOTING—0

EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

The SPEAKER. The gentleman has no further amendments? The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **BENNINGHOFF** offered the following amendment No. **A03746**:

Amend Sec. 307, page 55, line 24, by inserting after "OF" an autopsy report,

Amend Sec. 307, page 55, line 26, by inserting after "FOR" the coroner or

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Benninghoff on the amendment.

Mr. **BENNINGHOFF**. Thank you, Mr. Speaker.

For the members' information, this is the one that many of your coroners across the Commonwealth have contacted you about. It is basically some clarification language into the overall bill. It speaks somewhat interchangeably and recognizes medical examiners and coroners. In the one particular section on page 55, line 26, we add the word "coroner" because they are not interchangeable there, or should be, but are not listed. We also add the words "of an autopsy report" to make sure that duplications of an autopsy report would also be protected.

Representative DeWeese has a similar amendment, and I would ask that you support mine as well as Representative DeWeese's when it comes up. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—199

Adolph	Freeman	Mann	Roebuck
Argall	Gabig	Mantz	Rohrer

Baker	Galloway	Markosek	Ross
Barrar	Geist	Marshall	Rubley
Bastian	George	Marsico	Sabatina
Bear	Gerber	McCall	Sainato
Belfanti	Gergely	McGeehan	Samuelson
Benninghoff	Gibbons	McI. Smith	Santoni
Bennington	Gillespie	McIlhattan	Saylor
Beyer	Gingrich	Melio	Scavello
Bianucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Gruclera	Miller	Shimkus
Boyd	Haluska	Milne	Siproth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Sonney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causer	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longiotti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D.,
Fleck	Manderino	Rock	Speaker
Frankel			

NAYS—0

NOT VOTING—0

EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **BENNINGHOFF** offered the following amendment No. **A03945**:

Amend Sec. 709, page 74, lines 28 through 30; page 75, lines 1 through 8, by striking out all of said lines on said pages and inserting

If prepared by a court reporter or other transcriber under contract with an agency, and the agency possesses a copy of the transcript, the agency shall provide copies of the transcript at a cost that does not exceed the actual cost for the agency to reproduce it. If the agency does not possess a copy of the transcript and does not intend to obtain a copy of the transcript, the agency shall refer the requester to the court reporter or transcriber to obtain the requested copy.

On the question,  
Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The gentleman withdraws that amendment?  
The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. **BENNINGHOFF** offered the following amendment No. **A03947**:

Amend Sec. 304, page 44, line 27, by inserting after "REQUESTED."  
A request for records shall not be denied due to being addressed to an incorrect official or employee. An incorrectly addressed request shall be forwarded immediately to the proper official or employee.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Benninghoff on the amendment.

Mr. **BENNINGHOFF**. Thank you, Mr. Speaker.

Again for the members' sake, this is a point of clarification. Should you request a report from a particular office and the individual who may have been involved with that has retired or is no longer there, you are not going to be denied access to that report because, one, it was addressed improperly, or the person you addressed it to, for some reason, is no longer there.

I would ask the members' support. Thank you, Mr. Speaker.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Frankel	Manderino	Roebuck
Argall	Freeman	Mann	Rohrer
Baker	Gabig	Mantz	Ross
Barrar	Galloway	Markosek	Rubley
Bastian	Geist	Marshall	Sabatina
Bear	George	Marsico	Sainato
Belfanti	Gerber	McCall	Samuelson
Benninghoff	Gergely	McGeehan	Santoni
Bennington	Gibbons	McI. Smith	Saylor
Beyer	Gillespie	McIlhattan	Scavello
Biancucci	Gingrich	Melio	Schroder
Bishop	Godshall	Metcalfe	Seip
Blackwell	Goodman	Micozzie	Shapiro
Boback	Grell	Millard	Shimkus
Boyd	Grucela	Miller	Siptroth
Brennan	Haluska	Milne	Smith, K.

Brooks	Hanna	Moul	Smith, M.
Buxton	Harhai	Moyer	Smith, S.
Caltagirone	Harhart	Mundy	Sonney
Cappelli	Harkins	Murt	Staback
Carroll	Harper	Myers	Stairs
Casorio	Harris	Nailor	Steil
Causer	Helm	Nickol	Stern
Civera	Hennessey	O'Brien, M.	Stevenson
Clymer	Hershey	O'Neill	Sturla
Cohen	Hess	Oliver	Surra
Conklin	Hickernell	Pallone	Swanger
Costa	Hornaman	Parker	Tangretti
Cox	Hutchinson	Pashinski	Taylor, J.
Creighton	James	Payne	Taylor, R.
Cruz	Josephs	Payton	Thomas
Curry	Kauffman	Peifer	True
Cutler	Keller, M.	Perry	Turzai
Daley	Keller, W.	Perzel	Vereb
Dally	Kenney	Petrarca	Vitali
DeLuca	Kessler	Petrone	Vulakovich
Denlinger	Killion	Phillips	Wagner
DePasquale	King	Pickett	Walko
Dermody	Kirkland	Preston	Wansacz
DeWeese	Kortz	Pyle	Waters
DiGirolamo	Kotik	Quigley	Watson
Donatucci	Kula	Quinn	White
Eachus	Leach	Ramaley	Williams
Ellis	Lentz	Rapp	Wojnarowski
Evans, D.	Levdansky	Raymond	Yewcic
Evans, J.	Longiotti	Readshaw	Youngblood
Everett	Mackereth	Reed	Yudichak
Fabrizio	Maher	Reichley	
Fairchild	Mahoney	Roae	O'Brien, D., Speaker
Fleck	Major	Rock	

NAYS—1

Petri

NOT VOTING—0

EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. **MARSHALL** offered the following amendment No. **A03781**:

Amend Sec. 307, page 57, line 22, by inserting after "ENTITY"  
, excluding parts of the contract that contain or describe confidential proprietary information or information that constitutes intellectual property,

On the question,  
Will the House agree to the amendment?

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. This amendment will go over temporarily.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. **FREEMAN** offered the following amendment No. **A03766**:

Amend Sec. 709, page 75, line 6, by striking out "SHALL" and inserting

may

Amend Sec. 709, page 75, line 8, by removing the period after "TRANSCRIPT" and inserting

, prior to the conclusion of the administrative proceeding only.

(3) At the conclusion of the administrative proceeding, a transcript shall be considered a public record, whether it was prepared by an agency employee or a transcriber under contract with the agency, and shall be subject to open records requests pursuant to sections 301 and 307.

On the question,  
Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Freeman on the amendment.

Mr. **FREEMAN**. Thank you, Mr. Speaker.

Mr. Speaker, regarding this amendment, may I ask for a parliamentary inquiry, or do you need me to describe the amendment first?

The **SPEAKER**. The gentleman will approach the rostrum.

(Conference held at Speaker's podium.)

**AMENDMENT PASSED OVER TEMPORARILY**

The **SPEAKER**. This amendment will be over temporarily.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. **FREEMAN** offered the following amendment No. **A03726**:

Amend Sec. 103, page 39, line 16, by striking out "REPUBLICAN AND DEMOCRATIC" and inserting political party

Amend Sec. 103, page 39, line 19, by striking out "REPUBLICAN AND DEMOCRATIC" and inserting political party

On the question,  
Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Freeman on the amendment.

Mr. **FREEMAN**. Thank you, Mr. Speaker.

Mr. Speaker, this is really a very technical amendment. In the text of the bill, the various caucuses are required to designate a compliance officer. The way the bill reads now, it refers to those caucuses as the Democratic and Republican House and Senate Caucuses. What my language would do is take out the words "Democratic and Republican" and refer to them as "political party" caucuses.

The reason this is needed is because of the fact that the Democratic and Republican Parties might not be around 10, 20, 30 years from now, so we want to make sure that the party that replaces those parties is still in compliance with the provisions of this act. In addition, there could be a third party which obtains a number of seats in this chamber, and unless we put this language in, there is no language governing how they get a compliance officer to deal with their requirements.

So basically this is a technical amendment. I would urge a "yes" vote.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

**YEAS—199**

Adolph	Freeman	Mann	Roebuck
Argall	Gabig	Mantz	Rohrer
Baker	Galloway	Markosek	Ross
Barrar	Geist	Marshall	Rubley
Bastian	George	Marsico	Sabatina
Bear	Gerber	McCall	Sainato
Belfanti	Gergely	McGeehan	Samuelson
Benninghoff	Gibbons	McI. Smith	Santoni
Bennington	Gillespie	McIlhattan	Saylor
Beyer	Gingrich	Melio	Scavello
Bianucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siproth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Sonney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causar	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longietti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D., Speaker
Fleck	Manderino	Rock	
Frankel			

**NAYS—0**

NOT VOTING—0

EXCUSED—4

Mensch Mustio Solobay Wheatley

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

The clerk read the following amendment No. A03781:

Amend Sec. 307, page 57, line 22, by inserting after "ENTITY" , excluding parts of the contract that contain or describe confidential proprietary information or information that constitutes intellectual property.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Marshall on the amendment.

Mr. MARSHALL. Thank you, Mr. Speaker.

Mr. Speaker, I offer amendment A3781. As the bill is currently written, records relating to research activities undertaken by government agencies that involve private entities would be protected as a general rule. Only the contract between the agency and private entity would be accessible. Many of these contracts may involve intellectual property, and this amendment would continue to allow the financial aspects of the contract to be accessible, but it would protect the portions of the contract which contain confidential proprietary information or information that constitutes intellectual property.

I believe that my amendment will allow the public to have access to the information they need to know, including the spending of the contract. At the same time, the amendment will shield private, proprietary information from the public view.

I ask for the members' support.

The SPEAKER. Will the House agree to the amendment? Representative Mahoney.

Mr. MAHONEY. This is an agreed-to amendment.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—199

Adolph Freeman Mann Roebuck
Argall Gabig Mantz Rohrer
Baker Galloway Markosek Ross
Barrar Geist Marshall Rubley
Bastian George Marsico Sabatina
Bear Gerber McCall Sainato
Belfanti Gergely McGeehan Samuelson
Benninghoff Gibbons McL. Smith Santoni
Bennington Gillespie McIlhattan Saylor

Beyer Gingrich Melio Scavello
Bianucci Godshall Metcalfe Schroder
Bishop Goodman Micozzie Seip
Blackwell Grell Millard Shapiro
Boback Grucela Miller Shimkus
Boyd Haluska Milne Siptroth
Brennan Hanna Moul Smith, K.
Brooks Harhai Moyer Smith, M.
Buxton Harhart Mundy Smith, S.
Caltagirone Harkins Murt Sonney
Cappelli Harper Myers Staback
Carroll Harris Nailor Stairs
Casorio Helm Nickol Steil
Causer Hennessey O'Brien, M. Stern
Civera Hershey O'Neill Stevenson
Clymer Hess Oliver Surla
Cohen Hickernell Pallone Surra
Conklin Hornaman Parker Swanger
Costa Hutchinson Pashinski Tangretti
Cox James Payne Taylor, J.
Creighton Josephs Payton Taylor, R.
Cruz Kauffman Peifer Thomas
Curry Keller, M. Perry True
Cutler Keller, W. Perzel Turzai
Daley Kenney Petrarca Vereb
Dally Kessler Petri Vitali
DeLuca Killion Petrone Vulakovich
Denlinger King Phillips Wagner
DePasquale Kirkland Pickett Walko
Dermody Kortz Preston Wansacz
DeWeese Kotik Pyle Waters
DiGirolo Kula Quigley Watson
Donatucci Leach Quinn White
Eachus Lentz Ramaley Williams
Ellis Levdansky Rapp Wojnaroski
Evans, D. Longietti Raymond Yewcic
Evans, J. Mackereth Readshaw Youngblood
Everett Maher Reed Yudichak
Fabrizio Mahoney Reichley
Fairchild Major Roae O'Brien, D.,
Fleck Manderino Rock Speaker
Frankel

NAYS—0

NOT VOTING—0

EXCUSED—4

Mensch Mustio Solobay Wheatley

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. MARSHALL offered the following amendment No. A03782:

Amend Sec. 708, page 74, lines 21 through 25, by striking out all of said lines and inserting

(a) Availability.—Except as provided in subsection (b), each agency shall make all of the agency's budgets, expense accounts and grants and all other agency records related to the expenditure of public funds except for checks, as the term is defined under 13 Pa.C.S. § 3104 (relating to negotiable instrument), available on the Internet without fee or charge.

(b) Internet site.—An agency that does not have a World Wide Web site or other Internet site on the effective date of this section shall not be required to comply with subsection (a) until the agency has created a World Wide Web site or other Internet site.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Marshall on the amendment.

Mr. MARSHALL. Thank you, Mr. Speaker.

Mr. Speaker, this amendment will relieve our local governments from a new unfunded mandate. As the bill is currently written, an agency must place budgetary and other financial information on the Internet. I have no doubt there are many townships and authorities and other local government entities that do not presently have a Web site. My amendment would apply the requirement for the posting of this information only on those government agencies that currently have a Web site or Internet capacity. All other government agencies would be required to post the information if and when they create Web sites in the future.

I ask for the members' support. Thank you.  
The SPEAKER. Representative Mahoney.  
Mr. MAHONEY. This is an agreed-to amendment.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—194

Adolph	Freeman	Mantz	Rohrer
Argall	Gabig	Markosek	Ross
Baker	Geist	Marshall	Rubley
Barrar	George	Marsico	Sabatina
Bastian	Gerber	McCall	Sainato
Bear	Gergely	McGeehan	Samuelson
Belfanti	Gibbons	McI. Smith	Santoni
Benninghoff	Gillespie	McIlhattan	Saylor
Bennington	Gingrich	Melio	Scavello
Beyer	Godshall	Metcalfe	Schroder
Bianucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shimkus
Boback	Haluska	Milne	Siptroth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Sonney
Caltagirone	Harper	Myers	Staback
Cappelli	Harris	Nailor	Stairs
Carroll	Helm	Nickol	Steil
Causser	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenny	Petrarca	Vereb
Dally	Kessler	Petrone	Vitali
DeLuca	Killion	Phillips	Vulakovich
Denlinger	Kirkland	Pickett	Wagner

Dermody	Kortz	Preston	Walko
DeWeese	Kotik	Pyle	Wansacz
DiGirolamo	Kula	Quigley	Waters
Donatucci	Leach	Quinn	Watson
Eachus	Lentz	Ramaley	White
Ellis	Levdansky	Rapp	Williams
Evans, D.	Longiatti	Raymond	Wojnaroski
Evans, J.	Mackereth	Readshaw	Yewcic
Everett	Maher	Reed	Youngblood
Fabrizio	Mahoney	Reichley	Yudichak
Fairchild	Major	Roae	
Fleck	Manderino	Rock	O'Brien, D.,
Frankel	Mann	Roebuck	Speaker

NAYS—5

Casorio	Galloway	King	Petri
DePasquale			

NOT VOTING—0

EXCUSED—4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. SAINATO offered the following amendment No. **A03676**:

Amend Sec. 302, page 43, line 17, by inserting before "SUBJECT"

(a) General rule.—

Amend Sec. 302, page 43, by inserting between lines 23 and 24

(b) Internet access.—The Department of Community and Economic Development shall post on its website a list of community revitalization grants by legislative and senatorial districts.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Sainato on the amendment.

Mr. SAINATO. Thank you, Mr. Speaker.

Mine is a very simple amendment. It just requires the Department of Community and Economic Development to post by legislative and senatorial districts the community and revitalization grants. Right now they post by county. This is just a step in favor of transparency in the Commonwealth.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—199

Adolph	Freeman	Mann	Roebuck
Argall	Gabig	Mantz	Rohrer
Baker	Galloway	Markosek	Ross

Barrar	Geist	Marshall	Rubley
Bastian	George	Marsico	Sabatina
Bear	Gerber	McCall	Sainato
Belfanti	Gergely	McGeehan	Samuelson
Benninghoff	Gibbons	McI. Smith	Santoni
Bennington	Gillespie	McIlhattan	Saylor
Beyer	Gingrich	Melio	Scavello
Bianucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siptroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Smoney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causer	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longietti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D., Speaker
Fleck	Manderino	Rock	
Frankel			

NAYS-0

NOT VOTING-0

EXCUSED-4

Mensch	Mustio	Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Ms. JOSEPHS offered the following amendment No. **A03730**:

Amend Sec. 301, page 43, line 9, by inserting after "PRIVILEGE;"

or

Amend Sec. 301, page 43, lines 11 and 12, by striking out "; OR" in line 11 and all of line 12 and inserting a period

Amend Sec. 307, page 56, lines 20 through 22, by striking out all of said lines and inserting

(4) (Reserved).

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Josephs on the amendment.

Ms. JOSEPHS. Thank you, Mr. Speaker.

As has been said before, what we are doing here – and it is more than attempting, we are doing this here – is we have made records, many of them, thousands of them, that were considered private are now to be considered public, and we did something very unusual as well in bringing the legislature under the public records law, something that is generally not done by our sister States and is absolutely not done by our government in Washington.

Now, the bill before us, when it was first put together by Mr. Mahoney, the gentleman who is the prime sponsor, and when the omnibus amendment was introduced under my name but with the participation of Mr. Mahoney and other stakeholders on the other side of the aisle and in the other chamber, the bill exempted some e-mails that we may be sending, but based on content. For instance, e-mails that come from our constituents which may or may not have private information – people's income, their medical problems, their familial challenges, things that may have happened to them as crime victims – all of that is protected because we do not want to discourage our constituents from communicating with us. That, after all, is the core of our job.

In the committee we had an amendment which exempted our e-mails, not based on their content but on their form. They were e-mails, and so this amendment protected them from public scrutiny. I did not approve, personally, of that amendment. A number of people on the committee joined me, but not the majority. So I am back, again, to try to make my case – pardon me, I have a little bit of a cold – to make my case before the whole House.

I do not believe that we should exempt e-mails simply because they are e-mails. As advocates for open records have pointed out and as the press has said, this opens e-mail to abuse. And without getting into any kind of hypothetical, I think everyone can understand that sensitive information that might be out in the public could be concealed from the public under the bill as it now stands if it were in one of our or a series of our e-mails, whatever we send out and whatever we receive.

I think that that is not proper, so for that reason and one other, which I shall mention now, which is e-mails are not private. If you have an expectation that your e-mail is not public, I urge you to think again. All someone has to do is forward what you have sent out to someone who has a listserv, your e-mail is all over the world. Your e-mail is marching across every screen of every person who is on that listserv. And every person on that listserv who has a listserv and knows how to click a mouse, click, and your e-mail is all over the country. Click-click, and your e-mail is all over the world. I do not believe any of us should have an expectation that what we write in electronic mail is going to be private.



For those two reasons, I believe this is an overbroad exception to what we call public records, A, or one. And two, it creates a false sense of expectation of privacy, which cannot be maintained. I ask you to vote for my amendment, No. 3730. Please give me a "yes."

Thank you, Mr. Speaker.

**THE SPEAKER PRO TEMPORE  
(JOSEPH A. PETRARCA) PRESIDING**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Petri.

Mr. PETRI. Mr. Speaker, will the maker of the amendment stand for brief interrogation?

The SPEAKER pro tempore. She indicates that she will. The gentleman is in order.

Mr. PETRI. Mr. Speaker, I question, under this amendment, if a constituent accidentally wrote to you thinking they were writing to me, would that e-mail be subject to disclosure?

Ms. JOSEPHS. Mr. Speaker, this bill specifically excludes constituent e-mail. It does not matter whom it goes to, it does not matter if this person sent you an e-mail on purpose, because this person, my constituent, knows you are going to give this person a better answer than I will. Yes, that e-mail is excluded under another part of the bill.

Mr. PETRI. Mr. Speaker, is that true even if the initial correspondence goes to a Representative who is mistakenly believed to be their constituent?

Ms. JOSEPHS. Yes, it is.

Mr. PETRI. Where in the bill, Mr. Speaker, does it say that one provision or exemption takes priority over this general prohibition?

Ms. JOSEPHS. It does not. There is no phrase provision in the bill that talks about priority, but if a class of documents, electronic or hard, is excluded under the provisions of the bill, it is excluded, period.

Mr. PETRI. Mr. Speaker, following up, what if I receive unwanted e-mail? Is that subject to disclosure under this provision?

Ms. JOSEPHS. At your discretion, certainly.

Mr. PETRI. Well, Mr. Speaker, is it not true that if I failed to disclose it and it is requested, that there are both civil and potential criminal penalties in this bill?

Ms. JOSEPHS. E-mail from constituents to State Representatives, State Senators, is excluded under this bill. It says so for very good reason. You would not be exposed to civil or criminal penalties.

Mr. PETRI. But, Mr. Speaker, under your amendment, would unwanted correspondence, e-mail, from individuals who are not constituents be subject to disclosure?

Ms. JOSEPHS. The question is, I believe, if somebody is e-mailing you and you do not really want to hear from that person or that organization, does this exclusion protect you from disclosure? I believe it does.

Mr. PETRI. And where in the bill, Mr. Speaker, is there that protection against civil and potential criminal penalties for agencies and the like that are requested to retain this information forever?

Ms. JOSEPHS. If you would not mind asking again, I think I have a partial answer, but I do not think I heard the end of your question, sir.

Mr. PETRI. Certainly. Mr. Speaker, my question is, take the hypothetical situation where someone who is not a constituent sends you unwanted e-mail, whether generally you just did not request the information or that type of communication, or, in fact, may be even spam, things that your computer system is already designed to block. Where in the bill does it say that you may delete this information? In fact, does it not say in the bill that if you do so, you are subjected to potential civil and criminal penalties?

Ms. JOSEPHS. Well, in general, the prohibition, if you will turn to page 56 and look under section 307(C)(2), you will see "CORRESPONDENCE AND RELATED RECORDS BETWEEN A PUBLIC OFFICIAL, A PUBLIC OFFICIAL'S STAFF OR AN AGENCY AND A PRIVATE INDIVIDUAL WHICH CONTAINS INFORMATION THAT THE PRIVATE INDIVIDUAL IS NOT REQUIRED BY LAW TO TRANSMIT AND WHICH WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY IF DISCLOSED." I think that covers the question you have asked.

I understand what you are getting at, and maybe as this bill moves into the Senate we should make special provisions for spam and those kinds of unwanted e-mails, but it has also been suggested to me that whether you retain these e-mails or destroy them is really under different legislation having to do with record retention. But I do believe that we are all protected when an individual writes us in a constituent manner for constituent services.

Mr. PETRI. Mr. Speaker, on the bill?

The SPEAKER pro tempore. The gentleman is in order.

Mr. PETRI. Or on the amendment.

Mr. Speaker, on the amendment, this amendment is just an example of the trouble we are having today with this legislation. The amendment, while I understand what the lady is trying to do, I think, presents form over substance. What open records is about is the substance that people ought to have a right, the general public ought to have a right, to information about what is going on within the government and its general agencies.

Mr. Speaker, can I have some order?

The SPEAKER pro tempore. The gentleman is entitled to be heard. Will members please take their seats. The noise level in the chamber is too loud.

Mr. PETRI. Mr. Speaker, I understand the gentlelady's intent here, and I applaud what she is trying to do, she is trying to open up e-mails. But here is the essential problem: There are, contained in this bill, record retention requirements. Generally, it could be argued that any record that is subject to being an open record must be preserved forever. Let me say that again, that any record you have that is deemed an open record would have to be preserved.

Now, imagine you are opening your mail or your e-mail in your legislative office. You better have next to you your legal counsel to sit there and go through each and every exemption and figure out which pile it goes into, piles that are open and piles that are not open. And if you happen to make an error, be prepared to pay civil damages or maybe even suffer criminal implications if you destroy that document.

Now, let us take it one step further and deal with spam. All computers today are designed with blockers to prohibit receipt of e-mail spam. So what do we have to do, take the spam blockers off? Because unbeknownst to you, your blocker is already destroying records by not accepting them, which you are supposed to disclose under this. So any spam you would be

getting on your e-mail right now, that your system is blocking, is being destroyed and is violative of the provision.

The whole problem today, Mr. Speaker, with this amendment and with the underlying bill is, we have not taken the time to understand and digest what we are doing. We are just proceeding for reform's sake and not for the real substance of reform. I am for people being able to see useful, meaningful information. I am not for creating a beartrap for the honest, decent person who wants to comply with the law but cannot because they cannot understand what the law says without legal advice at their behest.

I would urge our members to not support this amendment. I understand the gentelady's intentions, but if you support it, you better be prepared to open up the spam and receive every e-mail that you do not want to receive and make it a public record. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Mr. Vitali on the amendment.

Mr. VITALI. Thank you, Mr. Speaker.

I rise in opposition to the Josephs amendment. Actually, what she is attempting to delete is the amendment that I introduced in the State Government Committee and was passed.

Mr. Speaker, e-mail is a quick, efficient way to communicate, which today has essentially replaced the telephone as just a timesaver and a better way to communicate. The problem with considering e-mail a public record is that you are going to dampen a very efficient way to communicate. Whether you should have an expectation of privacy in your e-mail is open to discussion. The fact of the matter is, in day-to-day life, in the world that we really live, we do not expect our e-mails to be exposed. We have almost as much expectation as we do when we make a phone call.

Mr. Speaker, one of the problems here is this: If a request is made for an e-mail on, let us say, a financial matter, someone in government is going to have to go through every single one of your e-mails, and in my view, that is akin to going through tape recordings of your phone calls. We need a spot where we can have an area of privacy.

Mr. Speaker, I feel that if we have e-mails become public records, we are going to discourage constituents from communicating with us. Those constituents who may have embarrassing personal problems, those constituents who may be whistleblowers, those constituents who may want to report information happening in State and local government that they do not want their supervisors to know about but things that can help us, we are going to discourage that. I also think we are going to discourage ourselves from sort of having the freedom to call unpopular groups, unpopular causes, to get more background information. We are going to be discouraged from making those calls because we may get a political hit because that information can be misused against us.

Mr. Speaker, I think what people really want to know, and I know that the maker of this amendment has stated this on numerous occasions with regard to the intent of doing this, people really want to know whether their money is being spent well. I think e-mail is really not that source. I think it might prove to be a source of gossip, a source of embarrassment, a source of political intrigue, but I do not really think it is going to forward the causes of this bill.

So I think that e-mail should be taken off the table, and that is why I oppose and ask for a "no" vote on the Josephs amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Scavello.

Mr. SCAVELLO. Thank you, Mr. Speaker.

May I question the maker of the amendment?

The SPEAKER pro tempore. The lady agrees. You are in order. You may proceed.

Mr. SCAVELLO. Mr. Speaker, we heard earlier from Representative Vitali in regard to who is going to make the decisions on what e-mails are accessible and what are not, and I would like to hear from the maker of the amendment. Who would make those decisions? Who would go through those e-mails and make those decisions?

Ms. JOSEPHS. As I understand the bill, we have set up a system of compliance officers, one for this chamber, one for each caucus, and we have the same kind of system set up in the Senate.

Mr. SCAVELLO. You did mention, however, that the personal e-mails would be personal. An e-mail from a constituent in regard to, let us say, a medical issue or whatever, but they would be exposed to whoever was going through your e-mails to find what is obviously a record and what is not. Am I not—

Ms. JOSEPHS. I think that has to be, yes. We would, I would hope, have a compliance officer of the highest integrity and that information would not go further. But as I said before, if somebody puts his or her medical condition in an e-mail, that person is already subjected to a violation of his or her privacy, just by the very nature of e-mail.

Mr. SCAVELLO. If your constituent sends you an e-mail and it is a personal e-mail, you are saying that she expects that e-mail to be out there on the Web? I am confused here. You would think that she has some credit, that she would have a little confidence in the legislator that that e-mail will not be shared with anyone else.

Ms. JOSEPHS. Well, I certainly would not share that e-mail with someone else, and I do not think anybody on this floor would share it, but there are blind copies that go traveling around. People hack into servers. None of this stuff really is private.

Mr. SCAVELLO. You mentioned earlier that when this bill moves to the Senate, that we would hope to address the spam and the unwanted e-mails. Why was not, if this was your intent as the committee chairwoman, why was that not addressed at the committee process? Why bring it to the floor if you were not satisfied with this piece of legislation the way it left your committee?

Ms. JOSEPHS. Sir, we have done our best in the committee. We wanted to have as full a discussion as possible. I did try to facilitate that to the point, as much as I could, as a human being. That is why we have a floor debate as well. That is why we have two chambers. That is why we have a chance for this bill to come back or to come to us from the Senate. We have many, many opportunities to make fine tuning, and I look forward to all of them. This is an ongoing debate. This is a work in progress, always, until it is signed.

Mr. SCAVELLO. With all due respect, with all due respect, Mr. Speaker, did you hold a committee hearing on the issue? On this legislation, was there a hearing? Did you bring forth

pros and cons about everything that we are amending here today?

Ms. JOSEPHS. We had a hearing, and to the extent that the witnesses could think of hypotheticals, they presented them to us and we dealt with them. I do not remember if anybody hit exactly on this point, but my general memory is that they did not.

Mr. SCAVELLO. Thank you, Mr. Speaker.

Just some comments, and I do not know how many other legislators— I get approximately 200 e-mails a day, and to make decisions on what e-mails we should be saving and what should we not and put asunder the, like Representative Petri said earlier, and possibly in violation of any e-mail that we might accidentally erase, I think this is a very, very bad amendment. And also, personally, when a constituent sends me information, personal information, I do not want that information, no matter who it is, having to read that information from my constituents.

So I ask for a tremendous "no" against this amendment and hope that the members follow in that course because this is really a right, this is a privacy between a constituent and yourself.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

If the maker of the amendment would respond to inquiries?

The SPEAKER pro tempore. She indicates that she will. The gentleman is in order.

Mr. MAHER. Thank you, Mr. Speaker.

I thought I had understood you to express that you had opposed the amendment that Mr. Vitali offered in committee. Did I misunderstand you? Did you vote for prohibiting e-mails and now you are offering an amendment to countermand your own vote? Do I understand that?

Ms. JOSEPHS. Mr. Speaker, thank you for the opportunity to clarify.

I realized that this was, in committee, a controversial amendment. I did ask for a roll-call vote. I voted "no" against the gentleman from Delaware's amendment. I lost about 2 to 1 with more members, as I remember generally, on your side of the aisle voting against me than my members. It was a thorough discussion. It was vetted and it was voted, and there is on your system, now that we have such good public records and access to them, what the vote was.

Mr. MAHER. So that was a no. All right. Let me ask you this: What testimony did your committee hear on the question of e-mail? Did you have public hearings on this question?

Ms. JOSEPHS. Mr. Speaker, we had public hearings. We invited a lot of different people to speak. We had a lot of written testimony submitted. We had a lot of letters. We took them all into consideration. I do not know what the relevance is. I am not sure that I remember anybody bringing up this specific point, but perhaps they did.

Mr. MAHER. So to the best of your recollection, there was no public hearing, no conversation about this very controversial point of e-mail and electronic messaging during your hearing, so far as you can remember? No testimony at all?

Ms. JOSEPHS. Mr. Speaker, I am wondering if this interrogation is not a little beside the point, and I would respectfully ask for a ruling.

Mr. MAHER. I will remind the gentlelady, you do not need to answer questions if you do not want the public to know.

The SPEAKER pro tempore. Will the gentleman suspend.

We are debating the amendment before the House. We generally do not go into much detail about what happened at the committee level. However, the Chair will monitor the debate as we move forward.

Mr. MAHER. Thank you, Mr. Speaker.

And I would remind the lady, of course she always has the option of simply declining to share with the public whatever information she chooses to decline to share.

Ms. JOSEPHS. I would never take that option, Mr. Speaker.

Mr. MAHER. Thank you, Mr. Speaker.

Can you tell me what testimony may have been relevant to this amendment insofar as text messaging is concerned?

Ms. JOSEPHS. I can only tell you that I made this process as open as I possibly could, took everybody's opinion into consideration, who cared to contact the committee, and I believe that is adequate answer to that question, Mr. Speaker.

Mr. MAHER. Thank you.

Do you believe that text messaging is affected by this amendment?

Ms. JOSEPHS. The amendment does not cover text messaging, and probably we should look at that.

Mr. MAHER. So if this amendment were to pass, are text messages subject to or exempt from being considered a public record?

Ms. JOSEPHS. The amendment does not deal with text messaging. Whatever state they are in now is the state that they would be left in.

Mr. MAHER. If this amendment were to pass, what effect would it have on IM (instant messaging)?

Ms. JOSEPHS. IM is not comprehended under this amendment. It would remain as it is.

Mr. MAHER. If this amendment were to pass, as is, when a member or an employee in the bureaucracies of the State and local governments were to receive an e-mail from a purported high official in some foreign land who is offering an opportunity, to cash in on this wonderful opportunity, from that foreign land's treasury, would that e-mail now be part of the public record?

Ms. JOSEPHS. Yes.

Mr. MAHER. Yes.

And can you remind me, what is the penalty for destroying a public record? I believe it is \$1,000 an instance?

Well, that is actually not germane specifically to the amendment, Mr. Speaker. I will withdraw that question. But I will observe— And that concludes my interrogation, Mr. Speaker. If I may speak on the bill?

The SPEAKER pro tempore. The gentleman is in order.

Mr. MAHER. The question we have before us is a very unfortunate example of what happens when surgery is attempted with a meat cleaver. It makes no sense to say all e-mail is a public record. It makes no sense to say all e-mail is not a public record. The revelation from the person offering this amendment that scam e-mails are public records, and I will remind you that there is a \$1,000 fine for the destruction of a public record, so every time an employee of this State were to purge a spam, with this amendment, as just described by the maker of the amendment, that is a \$1,000 fine. How does that make any sense? That makes no sense.

More troubling, perhaps, is the person who offered this amendment held forth that in her view, her amendment serves to put Pennsylvanians on notice that they should have no expectation to privacy with e-mail. No expectation to privacy with e-mails, generally? Well, that is a whole new subject. I thought it was illegal in Pennsylvania to intercept electronic communications that were not intended for you. I thought that was a crime. I thought it was called wiretapping, and I thought it applied whether it was telephonic or electronic in other forms. This broad brush of strokes that all e-mails are in or all e-mails are out is foolhardy.

I completely disagree with the gentleman who, in the gut-and-replace feeding frenzy of the committee, ruled that all e-mails would be out of bounds as public records, because certainly then we would see a great migration of things that had been on paper now being done electronically. But it is as absurd to go the other direction.

Anyone who has ever dealt with e-mail understands that not all e-mail is created equal. Conceivably, based upon the answers received by the maker of this amendment, if you use a spam blocker, you would be using a \$1,000 fine every time that you intercepted and protected your computer from spam. That is nuts.

This subject, though, is a very important subject. The fact that something is done electronically should not become a cloak that hides the public's eyes from what the public should know. At the same time, this alternative approach is so dismissive of reality that I cannot, in good conscience, support it. And I would hope that recognizing how much happens electronically and how we encourage local governments and State government to gain the efficiency and the customer service of dealing electronically, that more and more public records are electronic records, and this part of the bill is not ready for prime time, and this amendment is giving you a false choice.

Both answers are bad answers, which I think goes to prove that this is a subject that should have been discussed in public hearings, that should have been considered, and with input from folks who actually understand something about e-mail and record retention, folks who actually use e-mail and IM and text messaging.

### MOTION TO RECOMMIT

Mr. MAHER. And in the hopes that we would not proceed with a hamstrung piece of legislation which is out of touch with the 21st century, I am going to make a motion, Mr. Speaker, that this bill and the remaining amendments be referred back to committee with the request that public hearings, that the public not just has the right to know but has a right to be heard, and that they hold public hearings, sort out these complex topics. Do not come back and present us with these false choices. Hold the public hearings, do the hard work, report the bill back, and then let us get about a real, proper progress on the public's right to know.

The SPEAKER pro tempore. Is the gentleman asking that the bill be recommitted to the State Government Committee?

Mr. MAHER. Well, Mr. Speaker, given where the hang-up is, is dealing with all this electronic activity, perhaps, perhaps there is a better committee, Mr. Speaker.

The SPEAKER pro tempore. Will the gentleman state what his motion is.

Mr. MAHER. Recognizing the importance of this motion, Mr. Speaker, if you will grant me just 15 seconds to properly phrase it.

Mr. Speaker, I will offer clarification and reiterate that my motion would be to refer the bill as amended to this point, with all its pending amendments, back to the State Government Committee with the request that they undertake hearings across this Commonwealth, with the appropriate expertise, to recognize the complications involved with ensuring the public's right to know for electronic records, without creating an impossibly cumbersome reality for those who work in State and local governments.

The SPEAKER pro tempore. The gentleman has made a motion to recommit the bill to the State Government Committee.

On the question,

Will the House agree to the motion?

The SPEAKER pro tempore. On the motion, the Chair recognizes the majority leader, Mr. DeWeese.

Mr. DeWEESE. Thank you very much, Mr. Speaker.

I would enthusiastically attempt to contravene my honorable colleague from Allegheny County. I think that a vote with my honorable friend would be a vote countervailing our reform efforts today.

We have strived and we have been successful heretofore with working our way through approximately half of the amendments. We had, at one time, somewhere approaching 80. We have been making progress. The issue that Mr. Mahoney has brought to the attention of the House and our honorable colleague, Senator Pileggi, in the other chamber of the Assembly, has been percolating since the commencement of the session. In January, in February, in March this was an issue. In April and May and June, we were discussing these things. In July, in August, and September and now in October, our committees, our individual caucuses, and today with spirited and substantive floor debate, we have had these decisions.

I think that the honorable gentleman from Allegheny could have his wish if he were to vote in the negative on Ms. Josephs' amendment. I do not think at this stage of the game, after months and months and months of rumination and contemplation and excited debate today, that we need to refer this to a committee. We should vote it up or down. There are legitimate perspectives on both sides of the e-mail debate, but rather than to refer it to committee again, this deliberative body, today, can make that decision.

A "yes" vote for Ms. Josephs' amendment or a "no" vote for Ms. Josephs' amendment is an alternative to what the honorable gentleman from Allegheny County is proposing, and I would ask that we vote it up or down and not, not refer it to another committee setting.

Thank you very much, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the majority leader and recognizes Representative Killion, on the motion to recommit.

Mr. KILLION. Thank you, Mr. Speaker.

A 77-page bill, 80 amendments, 80 amendments where we, as legislators, are trying to make this bill better; 80 amendments. This bill is not ready. We need public input. I think we had one public hearing. Less than 10 people testified. It was 27 days after we were released from here, when we were

locked out all summer. Most of us were on vacation when those hearings took place. We did not get to hear them. Why are we afraid to let the public have public input on public documents and how they should have access to them?

We need to vote "yes" on John Maher's motion, refer this back to committee so that we can address it further. I actually think we had more hearings on the legislation to require dogs to wear seat belts.

Refer this back to committee. Let us do what is right. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Clymer.

Will the House come to order. The gentleman, Representative Clymer, is entitled to be heard.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, I support the motion to recommit this bill, with amendments, to the State Government Committee. Mr. Speaker, it is so important that the input of the State associations of boroughs and townships, that police departments, that school boards, county commissioners, League of Women Voters, Common Cause, ad infinitum, these groups are very important because they bring to the table their concerns. Legislators themselves, they are important on both sides of the aisle, can express opinions that we may not get, and we have not gotten, in the bill that is before us.

Informational hearings are so important, public hearings. Mr. Speaker, if this is done, we will not have to worry about 80 amendments crowding the agenda, as we have seen today. So this is a very important issue, and we all support open records. The Newspaper Association – I missed one of the key groups that should be in attendance – they need to be at the table. Mr. Speaker, so it is important that this bill that we agree in principle on, open records, gets the hearing that it so desperately needs in order that we can come together and say, here are the compromises that have been worked out, these are the groups that have signed off, and then we can move forward in a more duly fashion.

And so, Mr. Speaker, as I said, I support the motion to recommit. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes, on the motion to recommit, Representative Mahoney.

Mr. MAHONEY. Thank you, Mr. Speaker.

Did the doors just open? Has open records just come here today? Open records has been here for 10, 12 years. We have not done anything to benefit open records. We are working every day, we are working all day today to try to get an open records bill that will pass this House that will be a good bill.

We cannot hide from issues. This is an issue we cannot hide from. We need to vote this issue. We need to vote the right way, and we need to put trust back into this House that we desperately need.

So I encourage every one of my colleagues to vote the Maher motion down. Thank you.

The SPEAKER pro tempore. The Chair recognizes the majority whip, Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would oppose the motion to recommit and will inform the members of what has transpired on HB 443 since its introduction. It was introduced on March 13, 2007, by Representative Mahoney. On April 19, the Speaker's Reform Commission on Legislative Reform took public comment about

open records in Pittsburgh. On April 26, the Speaker's Reform Commission on Legislative Reform took public comment on open records in Philadelphia. On April 27, the Speaker's Reform Commission on Legislative Reform took public comment on open records in Harrisburg. The Speaker's Commission on Legislative Reform hears presentations about open records on May 24. On May 30, the Reform Commission holds further public discussion among the commission members about open records. On June 12, 2007, the commission votes on a number of proposals at the commission's final meeting on June 12. On August 7, under the chairmanship of Representative Babbette Josephs, the House State Government Committee conducts public hearings on HB 443. And the list of testifiers, I will submit for the record. They are innumerable.

On August 7, on October 15, the dialogue continues among major stakeholders – the Pennsylvania Newspaper Publishers' Association, Common Cause, the county commissioners, House Republicans and Democrats. September 5, the Delaware County Times says need exists for better open records law. September 20, 2007, the New Castle News columnist underscores the need for public pressure to effect change on open records. On September 26, 2007, the Harrisburg Patriot-News editorial says Pennsylvania needs to address the issue now. October 1, the Pottsville Republican says it is high time for action on open records now. October 15, at a Capitol news conference, advocates for open records say action is long overdue. Again on October 15, the Philadelphia Inquirer urges lawmakers to approve an open records law. Again on October 15, the State Government Committee members receive omnibus amendment to HB 443. The Herald-Standard on October 16 renews a call for action on open records. On October 17, the House State Government Committee sends HB 443 with amendments to the full House for consideration.

Mr. Speaker, I would simply ask one question that Governor Casey often used: What did you do when you had the power for the last 12 years? And I would ask that, and I would ask one member on the other side of the aisle who introduced an open records law to please stand. Not one of you.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

I rise in opposition to the motion to recommit. It is tough to improve upon what the majority leader has stated, but let me just add one final thought, which is, we have to realistically understand what the process is and why sending it back to committee would just be slowing it down. I sort of analogize to the way we pass a budget. We have this, sort of, prebudget where we hash out amendment after amendment, and then the Senate has their own, and then at some point there is a meeting of the minds, and there is a compromise and it is presented to us. And the same thing is going to happen here. We have to go through this process. We have to hash out amendment after amendment and get it out, and the Senate is doing the same thing. And then there is going to be a meeting of the House and the Senate and the Governor, and we are going to come to an agreement based on this debate. But to simply send it back to State Government is ignoring the reality of how this place works. So if you are really interested in moving this issue forward, we have to complete the debate today and get this bill out.

Thank you, Mr. Speaker. I urge a "no" vote on the motion to recommit.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I also rise to ask for a "no" vote and make a few more points.

Our majority whip went through the timeline, all of the different hearings. I want to make the point that the committee took into account all of the witnesses' testimony before the Speaker's Reform Commission, and all of the correspondence that they received. In addition, we received at the end of May a letter urging us to move along quickly from organizations like Democracy Rising, Rock the Capital, the Commonwealth Foundation, Common Cause, Young Conservatives of PA, Pennsylvania Clean Sweep, Pennsylvania Council of Churches, Pennsylvania Accountability Project, Taxpayers and Ratepayers United, and Citizens for Legislator Accountability, all saying move reform forward.

I would also like to point out that the very gentleman from Allegheny who has made this motion to recommit the bill was one of the prime proponents for quickly moving lobbyist disclosure forward, and I agreed with him at that point. And I truly do not understand why he has changed his commitment to moving reform forward swiftly simply because he has not as much understanding of how e-mail works as perhaps he ought to, and many other people also share.

I do not want this bill back in my committee. We have done our job. We have done our job well. I concur with the speakers who have said, do not recommit. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

Well, it is great sitting here, almost a week later, listening to the statements that we have been hearing on this motion. I am rising to support the motion, just as when I made the motion in a committee meeting last Wednesday when we were led out of here, State Government Committee members, at the call of the Chair, which we knew about, but being led into a room like a herd of cattle to sit there and deal with new amendment, after new amendment, after new amendment. And half of the amendments were still hot from the laser printer. That, Mr. Speaker, is a travesty of public trust and a miscarriage of government, in my reformed eyes.

And I asked this back then and I made the motion, and in fact, the vote was 14 to 14 to table the bill. So it failed. And the same reason then, back 1 week ago, is the same reason today that I stand to ask you to support this motion. We are not looking to delay this. Just ask the groups that were mentioned by the fine chairperson of our committee, who were there asking us to delay this process, to give them more opportunity to participate in some of the new amendments that have arisen. Now, I myself have been contacted by some of these groups since the amendments were put out on the floor, but this is a critical piece of legislation that we are going to face for the future of the Commonwealth. And I commend Representative Mahoney, and I have done that from day one on this bill. And I plan on supporting a lot of these amendments, the amendments that we have had a chance to have exposed to the public, to secure public feedback, and to know when the amendments are going to stop, and know when they are not going to conflict with each other, and to know when we are not going to spend days debating issues that can really be straightened out in a committee.

Now, for those members that were actually there, doing business and not on proxy, when the Capitol was pretty much closed, the members that were there, there were a number of members from the other side of the aisle that agreed with me, but did not necessarily want to vote with me on this motion to table. I also received an apology from the chairwoman because I motioned to adjourn the meeting, and that motion was ruled out of order.

Just a week, the gentleman from Greene County, a week. We asked for a week for our good State Government Committee to review these amendments and come back to you with a cleaner bill so we are not wasting a lot of time. I mean, we need to get into that Al Gore Day that is coming up, that resolution that we are soon going to see.

Again, Mr. Speaker, I rise in support of this motion for no other reason than to give the good State Government Committee the opportunity to do what the good Reform Commission wanted it to do when we started talking about open records back in January. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the motion to recommit, the Chair recognizes Representative Dally.

Mr. DALLY. Thank you, Mr. Speaker.

A point of parliamentary inquiry.

Earlier this afternoon we passed amendment 3854, offered by Representative Evans from Philadelphia, and I would like to question someone, either the prime sponsor of the bill or someone on the Democratic side, in regard to that amendment.

The SPEAKER pro tempore. That is not a parliamentary inquiry, Mr. Dally.

Mr. DALLY. Okay. May I interrogate the maker of the bill?

The SPEAKER pro tempore. About the motion to recommit? A motion to recommit is before the House.

Mr. DALLY. That is correct. And it is in regard to this amendment that was passed.

The SPEAKER pro tempore. The motion to recommit is what is before the House at this time.

Mr. DALLY. Okay. All right, Mr. Speaker. I will just assume what the amendment does. In fact, I know what the amendment does. I think the amendment that was passed nearly unanimously on the Democratic side, offered by Representative Evans—

The SPEAKER pro tempore. Will the gentleman suspend.

The question before the House is on the motion to recommit, and the gentleman should be speaking to the motion to recommit.

Mr. DALLY. That is what I am speaking about, Mr. Speaker. If I am allowed to get there, I am getting to that point. I am not dilly-dallying.

The SPEAKER pro tempore. The gentleman is in order.

Mr. DALLY. In any event, Mr. Speaker, earlier this afternoon this House voted to have an effective date for this bill, once it passes, as July 1, 2008; July 1, 2008. That is 8 months from now. Right? Is my math right? Nine months – 8 months – whatever. Anyway, there is a big rush to judgment here as far as this bill is concerned. We heard this same argument in Appropriations yesterday. And what is interesting is, I heard the colloquy from the majority whip in terms of the newspaper articles that he referred to, but one newspaper report which he did not refer to was in my local newspaper.

Now, I am not on the State Government Committee so I have to depend upon my local press to provide me with information as to what happens in those things, and I looked at the Morning Call of October 21. And what that Morning Call editorial said was, "Both the committee's process and the content of the bill are outrageous." The chairlady, the gentledady from Philadelphia, "...pushed through amendment after amendment, most of which the members were seeing for the first time," as was verified earlier by the Representative from Montgomery County. "Their cumulative effect was to exempt broad categories of state records from being open. When members of the committee pleaded with..." the chairman "to slow down by either holding more hearings or not reporting the bill to the floor for a quick vote, she refused. Alarmingly, at one point she...said she could not do so because the Democratic leadership...didn't want to. So much for caucus leaders sharing power." Allentown Morning Call, October 21, 2007.

Now, if that is not an indictment of this process, I do not know what is. And this bill should go back to the State Government Committee and a product that is generated from that State Government Committee come out to the floor for consideration.

I urge the members to vote on this motion to recommit, in favor of that motion. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Watson.

Mrs. WATSON. Thank you, Mr. Speaker. I will try to bring it down and speak somewhat softly.

I appreciate the emotion. I appreciate the concern. Certainly we would all commend the Representative, Representative Mahoney, for what he did and for his attempt to really provide open records and start with the premise that everything is open. I think most of us agree with that. I certainly do.

I am a member of the State Government Committee. I have been very interested, particularly in this bill. It is a subject that interests me personally and has since I arrived here in 2001.

I will tell you that the meeting, certainly that some of my colleagues who attended the State Government Committee meeting, the last one that we had, particularly Representative Vereb, said it the best: We were not allowed to get to what we wanted to get to. I do not know, standing here before you today, that some of the amendments are not really good, but at the same time, I had questions. I, particularly, and I understand it was quoted on radio, it was not my intent, but indeed have concern about constituent e-mails.

I am extremely troubled in an answer that I heard today that said, no one should have the expectation of privacy in an e-mail. That, quite frankly, Mr. Speaker, in modern-day America, would turn that whole concept upside down. Folks who write to us because they do not – and I am a former English teacher – it pains me to say to you that folks do not choose to write by hand and write letters the way they used to, but as a point of fact, they sit in front of computers all the time, and so many of the e-mails that I get, and I can look at the time and know they come late at night, are on personal matters. Do I think they tell me more than I should know? Yes. But, see, I do not get to have that conversation first. I get all of their information.

It is my job to look after them, to refer them to the proper authority to get the help they need, or if indeed it is State Government, to help as I best can. I want to continue doing that. I never got a clear answer. All you heard—

The SPEAKER pro tempore. The lady will suspend.

For what purpose does the gentledady, Representative Josephs, rise?

Ms. JOSEPHS. I do not believe this argument is on the motion to recommit, Mr. Speaker. Please give us a ruling.

The SPEAKER pro tempore. Would the lady, Representative Watson, bring her argument around and get back to the motion at hand.

Mrs. WATSON. Mr. Speaker, it is my great pleasure.

The SPEAKER pro tempore. The lady is in order.

Mrs. WATSON. Therefore, I have an amendment here that I think addresses the issue, my point being, I am willing to wait on that amendment. I am willing to take more time. I am willing to continue what was a meeting from 5 till I guess about 9:30, and take this bill back into the State Government Committee to refine it, so that when we bring it out to all of you, there is not all of this consternation on the floor, but indeed it gets a lot of applause, "yes" votes, the kind of thing that Representative Mahoney deserves, and not all of this.

Therefore, I respectfully suggest that we support Representative Maher's vote to recommit. Thank you.

The SPEAKER pro tempore. The Chair recognizes the majority leader, Mr. DeWeese.

Mr. DeWEESE. Two other quick points, Mr. Speaker, relative to our effort to stymie the gentleman from Allegheny County as he wants to send this bill back to committee.

One, this was posted 11 days ago on second consideration, so there have been 11 days for our honorable Republican colleagues to consider the way they wanted to amend this open records proposal. Notwithstanding some of the cozy and smug perspectives I have monitored on the other side, some of them from first-termers, so I will allow that, but the Republican juggernaut in this setting over the past 12 years with gut-and-replace efforts in the Rules Committee did not even allow this kind of dialogue, did not allow public hearings, did not allow this kind of debate. This is immeasurably more open than the last 12 years, and the last 12 days have been such that you could have drafted your amendments. We are not rushing to judgment. This is a second-consideration proposal.

The Mahoney legislation has been around almost a year. To send this back to committee one more time is just not necessary. We have until 11 o'clock tonight, we have until 11 o'clock tomorrow tonight, we have until 11 o'clock Thursday night. This is what we are paid for. This is what we are about. We are a deliberative body, and I think the full House deserves to continue to have this dialogue, and I would ask that my honorable friend, Mr. Maher from Allegheny County, have his motion to recommit defeated.

The SPEAKER pro tempore. The minority leader, Mr. Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Mr. Speaker, I would like to respond to a couple of comments that were made by the majority leader and the majority whip, in particular the leader's recent suggestion that the process that this House used to pass legislation over the prior 12 years was somehow devoid of public debate and openness, and that suddenly this House is now much more open and progressive in terms of how we go about doing our business. And while we may have made some changes, I question the sincerity of the majority leader's position in terms of how we got to that change.

It is interesting, Mr. Speaker, what people say. Sometimes what they kind of reflect on another person is oftentimes really a reflection of their own insecurities – well, at least he was listening – because when the majority whip suggests that, indirectly suggests, that this House did not do anything in the last 12 years, when we had authority over the process, is just factually wrong, and for the— I am just assuming, Mr. Speaker, that maybe it is a statement to try to cover up the fact that over the last 10 months, this House has not done hardly anything of substance yet.

So when we look at the process and we want to compare what did you do versus what did I do, Mr. Speaker, I see us rushing this bill through, because we have got all these promises out here – I am speaking for the majority at this moment – we have all these promises out here to get things done and we are not getting them done, so we have got to get this bill out of here. Let us just get it out of here, we have got to get it out of here. That way we can say we did it. It does not matter if it is good or bad, hurry up and get it out of here. Just load it up with any amendment. I do not care what is in it, what is not in it, just put the amendments in it and we will get it done.

The fact is, when others have quoted some of the organizations who say we need to do this or we need to do that and we need to do it now, we have a greater obligation to do it right. And I think, Mr. Speaker, when you look at this bill – and it is a complicated subject, there is no doubt about it – I think the amendment that was before us prior to the motion to recommit is emblematic, and the gentlelady from Bucks was speaking to this a few minutes ago. The legislature is still writing laws, substantially, to the tune of paper mail. Records are still thought of so much in that format, and we really need to take a closer look at that single issue, just the electronic mail. The gentleman from Allegheny raised the questions about it, and I think they were right on target. But there is so much more that is in this bill that is complex, and once we sit here and go through a few of these amendments, once you sit in caucus and discuss these amendments, no one here can say to me with a straight face, I know exactly what is right and exactly what is wrong with all these amendments, this one is "yes" and this one is "no," because none of us have digested all of this at this moment.

The fact is, Mr. Speaker, I do not envy, I do not envy the work before the State Committee in trying to come up with a good bill. It is a tough task. But now that it has been out here on the floor, that it was subject to another level of scrutiny, that the members have individually started to digest it and applied or proposed some 70 or 80 amendments to this bill, I think it is a little more clear just how cloudy this issue is.

Mr. Speaker, the motion to recommit is the right thing to do because so many of these issues that are embodied in these amendments are conflicting, not necessarily wrong, but they are just in conflict. And we are going to end up with a bill that, when it is finally assembled after all of these amendments were to be voted upon, some in, some out, you are going to end up with a bill that is not going to make sense in some respects. It is going to be out of sync.

Mr. Speaker, now that we have the amendments on the floor and the members of the committee can digest, take a better look at just what is before us, where the interests are, what the reasons are behind them, it has flushed out a whole new realm of debate, another whole layer of discussion on what is good and bad about these various proposals. This motion to

recommit, Mr. Speaker, will allow us to generate a much better piece of legislation that is understood and that will serve the purpose of an open records law, and I think that is what we are really obligated to do, Mr. Speaker, is to try to put forth the best legislation we can, as opposed to just putting it together as fast as we can.

Thank you, Mr. Speaker, and I would urge the members to vote to recommit.

### THE SPEAKER (DENNIS M. O'BRIEN) PRESIDING

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

My Republican colleagues cannot have it both ways. They cannot have it both ways. They admonish us, ostensibly, for not having anything accomplished, and yet at the same time, again and again and again, they attempt to refer things back to committee. They are not helpful with us as we try to generate momentum.

Now, the second point, the last time that any putative reform measures were embraced prior to this session was a lobbyist reform bill. The then Speaker of the House made certain that a gut-and-replace amendment was inserted into the proposal and we voted it up and down. We did not have a chance to debate again and again, we did not have a chance to do amendments after amendments, and there was no dilly-dallying, dilly-dallying, dilly-dallying that day because it was a freight train coming at us. We tried to slow down the train, Mr. Speaker. We have tried to allow for a great deal of give-and-take and debate.

So as I said, my honorable colleague admonishes us for not having enough accomplishments, according to his scorecard, and yet time after time after time, bill after bill, they want to refer them back to committees of origin or put them on the table, et cetera.

And I might say to some of the young hard-chargers who occasionally might have a yeah-hoo point of view, whatever that is, but when they want to send this back to committee for cogitation and deliberation, they should remember a couple days ago when we were talking about supposedly shrinking the size of the legislature, they wanted to get up and do it in a heartbeat. They did not want it to go to committee. They wanted to have the vote right here, right now. So if you stood up that day and you wanted to call the previous question, if you did not want to have a debate on reducing the size of the legislature because you wanted to have it here, then vote with us. Vote against Maher and be consistent.

The SPEAKER. The Chair recognizes the minority leader, Representative Smith.

Mr. S. SMITH. It is interesting, Mr. Speaker. It is interesting that the majority leader uses the then-and-now type of analogy. The simple fact is, Mr. Speaker— And by the way, the line that you coined for those great days of the Republican majority in the House was the metroliner. Somehow you have now dropped us back to a freight train. I do not know. The metroliner was your line you used to use, that it was the metroliner coming through.

Mr. Speaker, the simple fact is, if we are going to go tit for tat about the past practices and mannerisms and procedures that



this legislature used, we will spend a little time reviewing the record from what amounts to the late eighties and early nineties, and I think we can point to some similar strong-arm maneuvers of the majority leaders of those eras to accomplish the legislative goals. The fact is, Mr. Speaker, over the past several months, we have not accomplished a lot in this House, and I will give you that some of that is because of the changes in the procedures that this House uses to deal with legislation.

All of that said, Mr. Speaker, it does not change the simple fact that whatever we are looking at at this moment is a bill that is getting torn and tattered around the edges, little holes poked here and there, that need to be improved upon. The committee process is one where that can best be deliberated, where people can really sit down and look at these nuts and bolts.

Mr. Speaker, the motion to recommit is not one to suggest that it is a failure on anybody's part, Mr. Speaker. It is one to suggest that we need to get this done right. This issue is not going away. It is not like we are saying, let us recommit it and let it die in committee, and some days that is what the motion is about. Far from it, Mr. Speaker. This motion is about getting it right, and I think that is what you are voting for. Let us recommit the bill and get it right. Then we can consider it further on the full floor before sending it to the Senate.

Thank you, Mr. Speaker.

The SPEAKER. The Chair will remind the members that the Chair has extended considerable latitude to the leaders to debate this issue. It will remind the members that the issue before the House is the motion to recommit and ask the members to keep their remarks to that issue.

### PARLIAMENTARY INQUIRY

The SPEAKER. Representative Pyle.

Mr. PYLE. Thank you, Mr. Speaker.

I have a question on the motion to recommit. By recommitting this will we have a chance to overhaul the original bill to include all 89 amendments that we are being offered today? I am asking a question of the Speaker, Mr. Speaker. You are the second Speaker.

The SPEAKER. If the gentleman will rephrase his question. The Chair did not hear it.

Mr. PYLE. Mr. Speaker, my question is, if we vote affirmatively to recommit this motion back to committee, is there a potential that the 89 amendments, changes to the original bill, may be redrafted into a better bill?

The SPEAKER. The committee cannot touch amendments that were adopted by the House.

Mr. PYLE. On the motion, Mr. Speaker.

The SPEAKER. The gentleman is in order and may proceed.

Mr. PYLE. Mr. Speaker, if Boeing built an airliner that needed 89 corrections, they would not let it go to market. If Ford built a vehicle that needed 89 revisions – and I understand there are 40 more that were not filed in a timely fashion – they would not allow that design to continue. They would take that design back to the drawing board and make a better product.

I would urge you to seriously consider this recommittal. I do not want to politicize this issue. I know who is on what side of what. We can do better, and what I encourage by voting "yes" for the Maher amendment is that we do.

Thank you, Mr. Speaker.

### QUESTION OF PERSONAL PRIVILEGE

The SPEAKER. For what purpose does the gentlelady, Representative Josephs, rise?

Ms. JOSEPHS. Mr. Speaker, I have a point of personal privilege. I would like to correct the record.

The SPEAKER. Is that on a vote?

Ms. JOSEPHS. No. A gentleman from the other side read an editorial which I was quoted. I never said that. The editorial writer thought so, but I did not say it.

The SPEAKER. The lady is in order as a point of personal privilege to correct the record.

Ms. JOSEPHS. I think I have actually said it. One of my good friends from the other side read an editorial from the Morning Call in which I was quoted saying something which I did not say.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady. Her remarks will be spread upon the record.

### CONSIDERATION OF HB 443 CONTINUED

The SPEAKER. The Chair recognizes Representative Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I am not here to criticize the leaders on either side on this recommittal motion, but do we not get the picture? Do we not understand now what is going on? Do they not read the editorials? We have to hear about whose muscles are bigger and I did this before and I did this now. Guess what? The public says we have got to reform now. We have got to get this bill passed. Now, if it has to be recommitted back to the committee to fix it, all well and good, but without a date certain on when this bill is coming back out, the clock is running and we are talking about this bill has to be on our plate and decided by the end of session. Guess what? For the 50 people that were elected here as reformers, your record right now is zero. And for the rest of us sitting here as legislators who were here prior to the great election a year and a half ago, guess what? Our record on reform is zero.

Now, the public, on the primary, when we are going to have this primary in April, if we do not have this done before that, all our records are zero. Think about this. I am tired of sitting and hearing whose muscle is bigger. I am tired of hearing about what I did or you did or they did. To the leadership, guess what? It is time we buckle the belt. If we are going to send this back to the State Government Committee, let us have a date certain to get this bill back so we can debate it on the floor. I do not want to see, in a month, us sending this back or debating this for 3 weeks. What we have to do, Mr. Speaker, is we are going to have to focus and get this done on all of us, as members. I do not want to hear this whole battle all the time by our leaders about we did this and you did that. I will tell you what. The voters are going to tell us in April, if you did not do it and if I did not do it and if we do not reform this place and do something now, we are all in trouble. We are all in trouble.

I ask that if we decide to recommit, you have a date certain, Mr. Speaker, because this bill comes back. If we do not recommit, then let us roll up our sleeves and let us get this done now.

Thank you.

### GUESTS INTRODUCED

The SPEAKER. The Chair would like to recognize in the gallery the members of the board of directors of the Pennsylvania Jewish Coalition. They are the guests of Representatives Frankel, Shapiro, Josephs, Leach, Cohen, Gerber, and Freeman. Would you please stand and be recognized.

The Chair would like to recognize the fifth grade class of the St. Christopher School, who are the guests of George Kenney.

### CONSIDERATION OF HB 443 CONTINUED

The SPEAKER. The Chair recognizes Representative Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

First of all, I just want to state for the record, since I have the podium, that the term "Philadelphia lawyer" is a term of compliment. It goes back to the colonial days when Philadelphia had these great attorneys. It means you are a very sharp and shrewd attorney, and so some of, I think, my colleagues on the other side missed the point about my earlier argument.

But, Mr. Speaker, I have a question, I guess in the form of a parliamentary inquiry. I listened to Mr. Daley's comments, but I would like to know, as the bill is currently amended, what is the effective date? What would be the effective date if, in fact, it was passed? In other words, what did Mr. Evans, the very first amendment that we did, what did Mr. Evans from Philadelphia's amendment do to the bill? Because I think there was some confusion on that issue on the floor earlier, or maybe I am confused. But I just want to know, the first amendment that we did, Mr. Evans from Philadelphia had something to do with the effective date, as I recall, and so what do we do with the bill and how does it stand currently?

The SPEAKER. The gentleman did not phrase an appropriate parliamentary inquiry, but for the gentleman's information, the effective date is July 1, 2008.

Mr. GABIG. Is it 2008 as amended by the Evans amendment? That amendment passed, the first amendment we did, and I thought that had something to do with the effective date.

The SPEAKER. If the gentleman will refer to amendment 3854, the effective date is July 1, 2008. But that is not a point of parliamentary inquiry. The Chair cannot stand for interrogation.

Mr. GABIG. I wonder then if I could interrogate the maker of the bill, if he would stand for interrogation?

The SPEAKER. The Chair will remind the gentleman the issue before the House is the motion to recommit.

Mr. GABIG. Then it is right. I just want to make sure that, as amended – because we have gone through some amendments. There was one that passed, and I thought that we changed the effective date from one date to another. If it passed, what did the original bill do, and now that that amendment passed, how does the bill stand?

The SPEAKER. Is the gentleman speaking on the motion to recommit? The gentleman seems to be asking someone without specificity to stand for interrogation.

Mr. GABIG. All right, Mr. Speaker. I think it is a parliamentary inquiry. We started at 10 o'clock today.

The SPEAKER. If the gentleman will state his point of parliamentary inquiry. That is a question.

Mr. GABIG. Yes. As amended, what is the effective date of the bill as amended?

The SPEAKER. The Chair has identified what the effective date is. Will the gentleman please speak on the motion of recommitment.

Mr. GABIG. I would ask the maker, again, I would ask the maker of the bill if he could rise on interrogation, and it is on its recommitment because I think it is a different date. I thought it was July '09, but maybe that was the underlying bill—

The SPEAKER. The Chair has asked the Parliamentarian that specific question. That is the information. That is the answer. The Chair will encourage the gentleman to please speak on the motion to recommit.

Mr. GABIG. Okay.

Will the gentleman stand for interrogation, is what I have asked? You just say yes or no.

The SPEAKER. The Chair is having difficulty understanding what the gentleman is asking.

Mr. GABIG. All right.

The SPEAKER. The maker of the amendment—

Mr. GABIG. Never mind. I will withdraw that, Mr. Speaker. Thank you very much.

First of all, I would just like to say that I thought we passed an amendment, A03854, which amended the bill on page 77, which would say, "THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1, 2009....," before we struck out "...IN ONE YEAR OR UPON PROMULGATION OF...RECORDS...." So under line 9, "THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1, 2009...." So I do not know how much of this bill is governed by that, but a part of this bill as amended does not take effect until July '09, according to the first amendment that we did. I do not know when that first amendment was filed, to be honest with you. It was not in our caucus chairman's report from yesterday. There have been a lot of amendments filed. I filed an amendment, and I have not yet had a chance to talk with Common Cause, who has been very active on this issue. I think they are described as stakeholders, by some, on this issue.

It is a very good amendment, but I have not had a chance to talk to them. It would help me to be able to get my amendment through if I could talk to them. They have a whole list of which ones they support and which ones they are against and which ones they have not yet taken a position on. One of mine, 03804, is one of those.

I also heard a comment that we have not done anything here on open records. I recall my first term in '02 that we did something, and I just would like to interrogate Mr. Maher, if I could, the maker of the motion, on that specific question. Mr. Maher, the maker of the motion.

The SPEAKER. The Chair will remind Representative Gabig, you are only allowed to interrogate Representative Maher on the motion to recommit and not the substance of the amendment or the bill.

The gentleman indicates he will stand for interrogation.

Mr. GABIG. Thank you, Mr. Speaker.

Mr. MAHER. And please be gentle.

Mr. GABIG. I will. I just heard something on the floor earlier that said we have not done anything on open records and so that is why we need to hurry up and do this to meet somebody's artificial deadline of when we should be doing good legislation. I have a recollection, in my very first term, that we

had a bill that you were very actively involved with that passed by, I do not know if it was a unanimous or it might have been—

The SPEAKER. The Chair will gently remind the speaker to speak on the motion to recommit.

Mr. GABIG. Do you recall that that open records, which was passed— Was it passed how? Unanimously?

Mr. MAHER. Mr. Speaker, the open records bill passed. There was one dissenting vote after an extended bipartisan, transparent, open process led by committee chairman, Mr. Clymer, who held a series of seven public hearings and open workshops so that all of the complicated topics and considerations and technological advances of the day, up until then, could be considered and factored in. So if you are asking, was there a motion to recommit—

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. The gentleman will suspend.

The Chair will remind the gentleman, Representative Gabig—

Mr. GABIG. All right. If I can conclude.

The SPEAKER. —that you can only interrogate on the motion.

The gentleman will suspend.

Mr. GABIG. If I can conclude.

The SPEAKER. The gentleman will suspend.

The gentleman can only interrogate on the recommittal motion. You cannot ask questions about the substance.

Mr. GABIG. Thank you, Mr. Speaker.

The SPEAKER. I know that is a difficult issue, but that is what you are limited to.

Mr. GABIG. Got you, Mr. Speaker. Thank you for that kind correction on where I was going.

But I want to point out we heard that we have to hurry up and get these things through because of the stakeholders, and Common Cause's name was used, I think by the chair lady from the committee, the majority chairwoman. But I have in my hands right here, Mr. Speaker, I have in my very hands a communication, a record, if you will, of a public nature, that is to the members of the Pennsylvania House of Representatives, which would include the majority leader and the majority whip—

The SPEAKER. If the gentleman will suspend.

Mr. GABIG. And the chair lady—

The SPEAKER. If the gentleman will suspend.

Members are indicating they cannot hear this debate. The Sergeants at Arms will clear the aisles, and members will take their seats. Members will take their seats. Conferences in the front of the House will break up. Members will take their seats. Conferences in the rear of the House will break up. Members in the rear of the House will take their seats.

The gentleman is in order and may proceed.

Mr. GABIG. Thank you, Mr. Speaker.

My point is that we heard someone cite as authority for not supporting the motion that Common Cause and other good-government groups want us to move forward and we have got to do it today, we have got to do it now. No matter how bad this piece of legislation is at this point, no matter how defective, we have to do it now.

And I had not heard anybody mention that Common Cause has a memo, I guess you would call it, to the members of the Pennsylvania House of Representatives from the director of that organization regarding floor amendments to HB 443, which is what we are discussing. It is dated October 29 of 2007;

October 29 of 2007. Today is October 30. It is dated yesterday. I got this today. I received this today. So it is not going back a year ago or February or March or April. This is yesterday. It is not old news. This is current information regarding the position of Common Cause on this issue, or at least it is the most current information that I have. And what they say, for those of you who have not had a chance to read it because you have been here on the floor listening and debating and doing your legislative work, what it says is that, based on their experience, this issue leads us to recognize this bill needs much more work, much more work before it can be considered genuine, genuine, genuine reform. It may need to be recommitted to the State Government Committee for further consideration, and that is what I was getting to, Mr. Speaker. Common Cause said this needs to be recommitted to the State Government Committee if we want to have genuine reform.

Now, if we want to have some— The opposite of genuine, in my mind – I have not had a chance to look it up in the dictionary – would be in the layman's terms fake reform, artificial reform, pretend reform, fraudulent reform, something that is not real, not real reform. If you want to have genuine reform, good government, a good piece of legislation that we all can come around and support, just like we did in '02 on that important piece of legislation, then we should recommit this to do better work. This is not a partisan issue. I agree with the gentleman from Washington County on the other side. I do not see this as a partisan issue. It needs more work. I have an amendment that is coming up that I want to get passed that is going to open up records, bring more sunshine in, but I would like to take it to the committee and get it passed in the committee before we come up here and continue to do all this committee-type work here.

So I think it is a very sound motion made by the gentleman, who has been a leader on sunshine lobby reform and open records, Mr. Maher, on our side, he has been a leader in this area, and I commend him. And to try to portray this as you are against open records or reform if you are for this motion is just wrong, and that is the point I wanted to make, Mr. Speaker, and so I am supporting the gentleman in this motion.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

The majority whip observed a timetable and then recited a variety of headlines and editorials, and so forth. That timetable, though, seemed to end on October 17. And October 17 is when this bill was amended, in a gut-and-replace fashion, in committee, in the middle of the night. Yes, it is true, since then there have been days to file amendments. But when we got to the amendment that triggered this motion to recommit, we are faced with a choice – a choice that either all e-mail is public record or none of it is. We know both answers are wrong answers. Both choices are wrong choices. The correct avenue is to do the homework that is necessary to get to the right answer, and I recognize there are a range of answers that we might be able to agree are right, or more right or less right, but we know this much: Both of the choices before us today are wrong answers.

What Pennsylvania progressed in open records, for the only time in my lifetime, we concluded that in 2002. The Pennsylvania Newspaper Publishers' Association very graciously honored me and Chuck McIlhinney, who had driven that effort, with a good-government award that they have not issued since and they had not issued for years before that.

They recognized that good government requires deliberation, openness, transparency, and since October 17 the PNPA (Pennsylvania Newspaper Publishers' Association) has minced few words on their view of where this bill stands. They see this as a great step backward.

As it is, and with the amendments before us, if you proceed today, you will have a piece of legislation that is labeled "reform," but is actually going to have fewer records available to the public, a higher risk to the public to simply ask you for a record, slower access to government records than ever before, and perhaps worst of all, no reform for now; none, none. Moving this bill today is a vote to not reform, because none of the contents in here would be effective until July 1 of '08, much of it not until July 1 of '09.

Now, those of you who came in with a genuine interest in advancing reform, how will you explain to your friends and supporters that you guaranteed, by your vote today, that there would not be reform during this entire session, that you opposed reform for this entire session?

The SPEAKER. If the gentleman will suspend.

### PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the lady, Representative Josephs, rise?

Ms. JOSEPHS. Mr. Speaker, a point of parliamentary procedure.

You asked the ordinary members to keep to the motion. I do not think this speaker is.

Thank you, Mr. Speaker.

The SPEAKER. The Chair is monitoring the debate. The Chair thanks the lady.

The Chair will remind all members to keep their remarks to the motion to recommit, and if there is a tangential issue, the Chair will ask the members to quickly get off the tangent and back to the motion to recommit and relate that as quickly as possible.

Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

And to the gentlelady who just expressed her exasperation, I would say nothing could be more central to the question to recommit – a bill that is labeled as reform, that in its current standard is a guarantee that there will not be progress, and, in fact, that darkness will be spread upon records that are already open to the public.

Since we have an opportunity, we have an opportunity to do this the right way, and I assure you, if you think a caption of saying something is open records when you are actually walking in the wrong direction, those who care most about this issue will not be confused; they will not be confused.

We have an opportunity to make real progress, important progress that promotes systemic change in Pennsylvania that is in the interest of all our constituents, to proceed with this bill with this key fork in the road that is presented, where we know both answers are wrong answers, that do abandon, abandon true efforts at reform. The Township Association knows it, the County Commissioners Association knows it, Common Cause knows it, the Pennsylvania League of Cities and Municipalities knows it, the Newspaper Association knows it.

Is there anyone, other than the people in this room, who does not understand that this bill, as it stands, does not advance the cause of the public's right to know? Because it would be a shame if the only people who believe that this bill advances the public's right to know are a few dozen folks sitting over here. It really is in your best interest, if you believe in reform, to send this back to committee. And since the gentlelady has indicated that she thinks she has done the best she can and that she has expressed she is uninterested in seeing this bill back in her committee or having public hearings in her committee, I am going to amend my motion to refer this bill— I am getting an audible here.

You know, I guess this just shows what a complicated question it is, and that the answers are difficult and will require people to roll up their sleeves. And at the risk of reigniting an entire other round of debate, I will leave the motion as it is, and I will hope that the gentlelady will find the inspiration she needs to commit to doing legislation that the public can applaud, that the Newspaper Association can applaud, that the county commissioners, the townships, the boroughs, the school districts, and most importantly, the people of Pennsylvania, can applaud. Let us do the right thing. Let us do real reform. Let us not go forward with a bill that we know in its current state makes fewer records available, makes it more difficult to get records, makes it slower to get records, puts risk on people for asking for records, and guarantees that nothing good will happen in this session.

Please join me in the motion to recommit if you really care about the public's right to know.

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

Four quick reasons why we do not want to do what Mr. Maher wants to do, but before I jump into that, I know the gentleman, Mr. Maher, very well, and when he said that the committee work was done in the middle of the night, I know that John Maher knows what the middle of the night is, and 7, 8, 9 o'clock is not the middle of the night. Now, I know what the middle of the night is, too, but it was not done in the middle of the night. He was being figurative, and I wanted to make sure that the record reflected that.

Four quick reasons why we do not want to do what John wants to do right now. Number one, this open records proposal, after amendment and after the Senate is considered and after the conferees meet and after the process is concluded, will include the legislature; it will include the legislature. Many States have open record laws that do not include their legislature. In fact, the United States Congress exempts itself from the open records, or Freedom of Information Act.

Number two, number two, we are going to take the burden off of the little guy, as John Wozniak, who served with us and now serves in the Senate, and Joe Steighner used to say. Mr. and Mrs. Bafoofna, Mr. and Mrs. Bafoofna, out there in our 12 million population, used to have the burden on them. Now it is going to be on the government. It is going to be on us. So we are going to include the legislature. We are going to shift the burden.

Number three, it is going to be about money. Show me the money. We have been very, very slothful as we have historically shown our records. That is not going to be the case anymore. Money, State dollars, State taxpayer dollars, will be available.

And number four and finally, legislature is going to be involved. The burden of proof is going to be on the government. The money is going to be out there, and finally, finally, coming into the modern world, the Public Records Office is going to be a uniform office statewide. So we are not going to have hundreds and hundreds of magistrates or hundreds and hundreds of common pleas judges giving us different perspectives.

So this is a collection, a quadripartite series of reasons, if you will, four great reasons to not do what my honorable friend, Mr. Maher, wants to do. Let us vote these amendments up and down. We are a deliberative body. We have got a couple days. We have got Tuesday, Wednesday, Thursday. We have already gotten through half the amendments. We are making progress. Let us go. Let us keep debating.

The SPEAKER. Representative Argall.

Mr. ARGALL. Thank you, Mr. Speaker.

Mr. Speaker, much of this debate on recommitment comes back to your fundamental understanding of what should be done in committee. Now, a long time ago I served a brief period as a committee chairman, and I have seen it work both ways. You can jam a bill through committee at 7, 8, 9, 10 o'clock with very little preparation, or you can take your time. And I believe that we have heard some earlier quotes, but I have some quotes here that would suggest to us that we should take our time and we should recommit.

From yesterday's Philadelphia Inquirer, "Earlier this month, the bill was suddenly amended by the State Government Committee to include a variety of new exemptions. Open-records advocates said the amendments were rushed through with no opportunity for public comment...."

"Rep. Josh Shapiro..., cochair of a recently created commission examining legislative reforms, said he believed the bill 'needs a lot of work and needs to be strengthened.'"

An editorial that morning from the same newspaper said, essentially, this is not what we had in mind. "In Harrisburg today, House legislators are set to go...to work on a putrid open-records bill that has become a tribute to loopholes. Unless legislators make significant improvements to this turkey, they ought to kill it and focus on a better Senate version." Go down two paragraphs, "Weakening the open-records law hardly seemed possible when the process began. But House Democratic leaders are trying to snatch retreat from the jaws of victory. They took a good proposal by Rep. Tim Mahoney...and watered it down with a fire hose last week in committee."

Out west the Uniontown Herald Standard said that "Republican committee members objected to a flurry of last-minute amendments and unsuccessfully attempted to force a public hearing on a bill that has been completely re-written since it was first introduced in March."

Barry Kauffman from Common Cause was quoted in the article saying, "This is a highly inappropriate way to move any legislation, let alone an open records bill.... There's no need to rush this." Those are his quotes.

We also had received a memo on October 19 from Common Cause that said the following: "It has been brought to our attention that on, or about, Tuesday, October 23, HB-443 will be brought to the House floor for debate, amendment, and perhaps votes on final passage. This is important and long-overdue reform legislation. It deserves your careful scrutiny.

"Unfortunately, this bill recently became a classic example of how bad process creates bad law. On Wednesday evening

this bill came before the House State Government Committee for review and amendment. The bill was subjected to fast-track gut-and-run maneuvers that required suspension of the House Rules to run amendments never seen by legislators (much less the public) prior to the meeting.

"The House of Representatives rightfully spent a lot of time this Spring attempting to reform itself so that it could be a more open and deliberative body. Disappointingly, the improved process was abandoned in the case of HB-443. Considering any legislation in this fashion is a disservice to all Pennsylvanians. It is no small irony that a bill designed to promote government integrity by opening up government to public oversight would be handled in such a manner.

"Common Cause/PA has reviewed the amended version of HB-443 and found it sorely deficient. The attached pages identify the minimum modifications that are necessary to make this legislation worthy of passage. It is our understanding that amendments to remedy many of the following concerns will be introduced on the floor of the House. Common Cause/PA urges your support of such amendments. If these recommendations are not adopted, HB-443 *MUST* be recommitted to the State Government Committee for the thorough evaluation it was previously denied, as well as for further amendment."

Mr. Speaker, I highly suggest recommitment of this important legislation.

The SPEAKER. Representative McIlvaine Smith. The Chair thanks the lady. She waives off. Representative Benninghoff.

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

I rise in support of this motion for many of the same reasons that were stated before, but I did want to make a quick comment. I do not believe there is probably a piece of legislation that we have a greater responsibility to be looking at concisely and very precisely. It is very important. A lot of our constituents and many of the people in the public would like to have a little more sunshine on what goes on here, as well as in governments across the Commonwealth. I think they expect us to do the right thing. That is why we were elected to be here today.

I also think that the e-mail issue is a very, very difficult one. Those of us who have discussed this in committee, as well as on the Reform Commission, realize that that was one of our areas as a stumbling block, and though the chairman and I may disagree, I think Representative Josephs did try to be accommodating the night that we had discussed this. Unfortunately, it was a long night, a late night, and a lot to discuss. It is probably an issue that we could spend days on. Now, we have debated the smoking ban at least 4 days straight. I do not think there is probably a bigger piece of public policy that we have the responsibility to do a good job on, and not just a quasi-good job, but an excellent job, the right job, and do it the right way.

Before I conclude, I just want to bring to our attention it was said that we must do it and we must do it now. It is before us. We have got to get it done. Well, I have heard those pleas over and over about a lot of issues. A few to mention: Act 50, property tax reform. We have got to do it, man. We have got to get it done and we have got to get it done tonight. My people are still waiting on property tax reform. Act 72, the same thing, property tax reform. We have got to get it done tonight. We have got to get it done. People are losing their homes, \$4,000, \$5,000, \$6,000. Act 1, same thing.

Do not let ourselves get confused and clouded by our own political rhetoric. The public is expecting us to do a good job. Open records laws will define us as a legislature, of this year and this session and, many of you, as individual members. I commend a lot of the younger members who just came in, and I think that they feel strong in their hearts, they want to be remembered in their freshman year as addressing one of the most important issues.

I would support the motion to recommit this. Thank you, Mr. Speaker, for the time.

### LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority leader, who requests that Representative MICOZZIE from Delaware County be placed on leave for the remainder of the day. The Chair sees no objection. The leave will be granted.

### CONSIDERATION OF HB 443 CONTINUED

The SPEAKER. The Chair recognizes Representative Steil. Mr. STEIL. Thank you, Mr. Speaker.

With all due respect to the majority leader, I am going to give you four quick reasons why we should support the motion to recommit.

The Reform Commission spent much time on this issue, brought in outside experts. We listened, we learned, and we put forth a proposal. What we have before us is not that proposal. There have been many changes to this which do not comply with, or are similar to, what the Reform Commission proposed. That is number one.

But the major thing the Reform Commission did do was the reversal of presumption. That is that every record is a public record unless otherwise identified. That is huge. That is where most States are, but in doing that, we have created openness on hundreds, if not thousands, of records that we may not even be able to identify here in this chamber. We need to be deliberative about which of those records may possibly be excluded from the public record process.

Thirdly, the gentlelady from Philadelphia, the chair of the State Government Committee, said, this is a work in progress. If it is a work in progress, it is not something that we want to put our name behind. We should not be putting out, from this chamber to the Senate, a work in progress.

Lastly, I think we need to ask ourselves, if all of the organizations who promoted openness in government and open records and have asked us over the years to please do legislation which will promote that openness are now saying this is not it, we are not there. We do not have to take our direction from them, but we ought to ask ourselves the question, are we right and they are all wrong? I think we need to recommit this bill and answer those questions.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Shapiro.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, I am the first to acknowledge, as the minority whip stated a quote from me in one of the newspapers, I am the first to acknowledge that the bill that came to the floor today is not a perfect bill.

The minority leader stated that the rules that we have put in place – that I would remind the minority leader each and every member of this House voted for, including himself – he stated that those rules are the reason why we have not been able to make progress on this bill. In fact, it is just the opposite. An imperfect bill that came to the floor this morning has been made better as a result of the openness, as a result of the new rules that we have, as a result of the fact that each and every member is being given the opportunity to have his or her voice heard.

We have taken one of the most gaping loopholes in this bill, the burdensome issue, and together, Democrats and Republicans, have taken it out of the bill. We have been making good progress on many other amendments. Unfortunately, the gentleman from Upper St. Clair has thought that it is better to spend 2 hours debating a motion to recommit as opposed to continuing to make good progress, as I think we have.

I would urge my colleagues to defeat the Maher motion to recommit, to send this bill back to the House floor, as we have been debating it, to continue to improve it, and to have a work product that we can all be proud of at the end of the day. Please vote "no" on the motion to recommit.

Thank you, Mr. Speaker.

The SPEAKER. Representative Baker.

Mr. BAKER. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the motion to recommit.

Many of the previous members spoke very eloquently about the reasons to recommit this to committee. We did work well together when we had amendments and we were having the committee meeting, but it did go on for almost 4 hours after session that day, and the amendments kept flowing. Leadership provided a very able-bodied legal counsel to explain each and every amendment, but because the amendments are involved, complicated, have a lot of varying ramifications and implications, it was very helpful to have legal counsel there explaining each of the amendments and how that affects the bill.

Mr. Speaker, there are many, many reasons to commit this, but probably the biggest reason is that this body should be deliberate, they should spend as much time as needed, not only on the bill itself but on all of the amendments. Some of these amendments have much to do about employment laws, they may impact Federal HIPAA (Health Insurance Portability and Accountability Act of 1996) laws, any number of laws, contract laws. It is a very complex and, in some ways, esoteric issue that needs to be addressed with the help of legal counsel. And to just address all of these issues on the floor of the House just does not do it justice.

And so, Mr. Speaker, I do support a more deliberative approach. As was enunciated earlier, there were five informational meetings, a couple of public hearings, and we are far from that. There were very few amendments on final passage last time we visited this issue because the stakeholders were called in. There were many, many meetings, and in good faith, a lot of the concerns were addressed, and I think we are ill-prepared to deal with that here on the floor of the House at this juncture. We may end up with many amendments again, but at least we have taken a more deliberative, careful, conscientious approach to openly debating the concerns that many of us have here on the floor.

So, Mr. Speaker, I support the motion to recommit and thank the members for their time and consideration.

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. The speech I just heard, oh, my God, Mr. Speaker. I wish I would have heard that speech on 10 or 15 or 20 or 30 occasions over the last 12 years that the honorable gentleman marched to a different drum back then. It is amazing, it is amazing the transformation I have just witnessed in my honorable colleague.

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

The SPEAKER. The Chair recognizes the minority leader, Representative Smith.

Mr. S. SMITH. Mr. Speaker, the transformation the majority leader just referenced, is it similar to the transformation that he has taken over the past 10 months?

The SPEAKER. The Chair will ask the—

Mr. S. SMITH. I mean, Mr. Speaker—

Mr. DeWEESE. No, no, no.

Mr. S. SMITH. —in all fairness, let us be honest.

The SPEAKER. The gentleman will suspend. The gentleman will suspend.

The Chair will remind both leaders that the issue before the House is the motion to recommit.

Do we want to go on?

Mr. DeWEESE. Mr. Speaker, my honorable colleague raises a very good point. And again, I have said this so many times, this is not the British Parliament. In many ways I wish it were relative to their rules. I wish we could go at it even more aggressively, but he raises a good question, and he is right; he is right. We have both had a transformation. Mine for the better and his for the worse.

The SPEAKER. Representative Smith.

Mr. S. SMITH. Mr. Speaker, I will let it go for the moment. My point is that the majority leader has a tendency to imply that his change, as he just said, his change is good and others are bad. The fact is the whole legislative body has changed. What we did 10, 12 years ago and what they did 15, 16, 18 years ago was in a different world. It is like applying this e-mail issue to 20 years ago. It did not exist. Now the opposite is true.

Mr. Speaker, the fact is we are all operating in a new atmosphere. We are all operating in a changed world. The whole world of communications has changed, and that is part of the problem that we are looking at, Mr. Speaker. I was not implying that the rules changes that we live under are the cause. I am saying that it is because of them that we have a more deliberative process. Why are we going to abandon it by trying to ram this bill through with a mishmash of amendments?

Mr. Speaker, that is the basic point we are saying. It is not a matter of anything other than trying to get the best product. We think there is a better way.

The SPEAKER. Representative George.

Mr. GEORGE. I have an idea, Mr. Speaker. Why do we not send Sam Smith and Bill DeWeese out in the alley there for about 15 minutes, and when they come back, maybe we will have this bill passed.

The SPEAKER. Is that a motion, Representative George?

Mr. GEORGE. I wish I could make that motion. But let me say this, that I am not as eloquent as the gentleman, Mr. Maher. I have heard so many fine things about him, not that I would want him to do my tax sheet, but nevertheless— Yeah; ha, ha, ha.

But let me say this, in my 34 years I have learned all things are remedial. In other words, there are times when some leave, but the truth of the matter is I am not going to get after the other side. I have got some friends over there, and I would not want

them to think that I was holding them responsible for a couple of those who have expressed their opinions time and time again.

I am only saying, look, it is evident that there are many on the other side that do not want reform, that they just do not want to put this out because then too many will know what they are getting, whom they got it from, and what they are doing with it, and if that is the way they want it, let them vote "no." But we are now in the leadership, and I think that we ought to explain to the people in Pennsylvania that we do not care whether you are Democrat or Republican. We think you are all the same and you all are entitled to the truth.

So let us just defeat this measure, Mr. Maher. I hope I pronounced that right. Did I, Mr. Maher? God bless you. And we will just get on with it, and we will vote this down, and we will take up the rest of the amendments, Mr. Speaker.

The SPEAKER. Representative Scavello.

Mr. SCAVELLO. That is a tough act to follow, Mr. Speaker.

I would like to bring up the fact, first of all, the first amendment that we passed here today pushes this bill, whatever we passed here today, out to June 30, July 1 of next year, and if that is the case, why are we fighting this? Why are we not sending this back to committee to make it right, to get it right so that we have plenty of time in front of us? It is not going to take effect until July 1 of next year. What seems to be the problem here?

You know, we spoke earlier in this year and the majority leader, Mr. DeWeese, spoke and said that the committee process is going to be a lot different. We are not going to ramrod bills through the committee process. We are going to change. And this is an opportunity to change, Mr. Speaker. This bill should not have come out of committee the way it did. It should not have come out of committee the way it did. Every article that I have read in any newspaper, it consistently says that it was ramrodded through, that the amendments were one after the other. Even the chairman of that committee was not satisfied with the bill's content the way it came out.

Why are we going through this discussion? Let us support the motion to recommit and let us move on.

The SPEAKER. The Chair recognizes Representative Josephs for the second time.

Ms. JOSEPHS. Thank you, Mr. Speaker.

First, I need to correct the record. The gentleman from Upper St. Clair, who was not at our meetings, is not a member of our committee, made some statements about the committee process and about me, which I think are not accurate, which I know are not accurate. It was an open process. I did my best. Everybody did his or her best.

Secondly, I am very interested in this argument that the Pennsylvania Newspaper Association and the various groups who think of themselves as reform groups want this bill slowed down and therefore we should recommit it. This is just fascinating to me because the reason they dislike this bill, the reason why they want it slowed down, is because they feel it has too many, what they call, loopholes, which I would call an exception.

What the underlying bill here, that seeks to be moved back into my committee and which I oppose, is yet another one of those exemptions that these groups would call a loophole. It allows us, and nobody else in State government, to keep close to our chests electronic mail. It is a huge, what they would call, loophole. They do not want this bill committed back to my committee to make more, what they call, loopholes. They want

it back in my committee to make fewer of what they call loopholes.

Now, I am astonished, secondly, about this whole debate because without any thought, well, let me say, without much thought, without agonizing, deep, keep-you-awake-at-night thought, we just made everybody else's records public with a few exceptions. Oh, but when it comes to ours, oh, my goodness.

Mr. Speaker, reform is like charity. It begins at home. Vote "no." Let us get on with the business of this bill.

Thank you, Mr. Speaker.

The SPEAKER. Representative True.

Mrs. TRUE. Mr. Speaker, I rise in support of recommitment.

I would like to add, particularly as we are talking so much about reform here and what the previous speaker said, I can vote with a very clear conscience on recommitting this bill. Some of us have been here since 1993 and before that. I have all my records on my Web site – I do not know if everybody can say that – all my expenses, everything, and I very much believe in transparency. So without going into detail and getting told by the Speaker I am getting off the subject, I just want to say I have been for reform for many, many years. I have no problem recommitting this bill, because it has a lot of work and it has nothing to do with commitment to the reform issue and to being transparent.

Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition before— Representative Metcalfe.

Mr. METCALFE. Mr. Speaker, I just want to know if all the leaves were put in and ready for a quorum call?

The SPEAKER. There is more than a sufficient number of members here to constitute a quorum, if that is the question of the gentleman.

Mr. METCALFE. Well, I would like to make the motion that is required to have the doors of the chamber shut and to see who actually is here. I mean, we could put out a bathroom call first, too.

The SPEAKER. If the gentleman would come to the rostrum.

(Conference held at Speaker's podium.)

The SPEAKER. The Chair establishes that there is a duly constituted quorum.

Is there any member seeking recognition before the Chair recognizes the maker of the motion to recommit? The Chair recognizes Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I first wanted to thank the gentleman, Mr. George. You know, we get to the point sometimes we think we have heard everything, and then Mr. George rises and we learn that we have not.

And I also want to assure my good friend, the chairman of the State Government Committee, that I certainly did not mean to disparage her talent or interests at all, but rather express my confidence that the committee can do better, that the committee can take on public hearings and can bring forth a bill that actually does what the original sponsor intended to do. Instead, despite the chairman of the Reform Commission's observations that this bill has been improved today, consider this: Today, the 25 of you on that side of the aisle who came in on reform, today you decided that there will not be any expansion of open records until next July 1, and much of it will not happen until

July 1 of '09, 2 years after your successors will have been sworn into office. If you do not think you can do better than what is before us now, if you do not think you can do better than to understand that we live in an electronic age and this law needs to comprehend that, well, then I guess you will vote to just continue down this briar path. But I cannot encourage my friends and colleagues to support an open records bill that actually makes fewer records available, makes them harder and slower to get, puts risks on the backs of those who request them, denies those folks the opportunity to go get justice locally. This is reform? This is not reform, and the public will not be fooled.

Let us do this right. Let us send it back to committee. Chairman Josephs, I have complete faith that your committee, with the appropriate amount of attention to the public and listening to the public, will come forth with a bill that actually is progress and not a great step backward. Thank you.

On the question recurring,  
Will the House agree to the motion?

The following roll call was recorded:

#### YEAS—94

Adolph	Fairchild	Marsico	Reed
Argall	Fleck	McIlhattan	Reichley
Baker	Gabig	Metcalfe	Roae
Barrar	Geist	Millard	Rock
Bastian	Gillespie	Miller	Rohrer
Bear	Gingrich	Milne	Ross
Benninghoff	Godshall	Moul	Rubley
Beyer	Grell	Moyer	Saylor
Boback	Harhart	Nailor	Scavello
Boyd	Harris	Nickol	Schroder
Brooks	Helm	O'Neill	Smith, S.
Cappelli	Hennessey	Payne	Sonney
Causar	Hershey	Peifer	Stairs
Civera	Hess	Perry	Steil
Clymer	Hickernell	Perzel	Stern
Cox	Kauffman	Petri	Stevenson
Creighton	Keller, M.	Phillips	Swanger
Cutler	Kenney	Pickett	Taylor, J.
Dally	Killion	Pyle	True
Denlinger	Mackereth	Quigley	Turzai
DiGirolamo	Maher	Quinn	Vereb
Ellis	Major	Rapp	Vulakovich
Evans, J.	Mantz	Raymond	Watson
Everett	Marshall		

#### NAYS—104

Belfanti	George	Manderino	Seip
Bennington	Gerber	Mann	Shapiro
Biancucci	Gergely	Markosek	Shimkus
Bishop	Gibbons	McCall	Sipthroth
Blackwell	Goodman	McGeehan	Smith, K.
Brennan	Grucela	McI. Smith	Smith, M.
Buxton	Haluska	Melio	Staback
Caltagirone	Hanna	Mundy	Sturla
Carroll	Harhai	Murt	Surra
Casorio	Harkins	Myers	Tangretti
Cohen	Harper	O'Brien, M.	Taylor, R.
Conklin	Hornaman	Oliver	Thomas
Costa	Hutchinson	Pallone	Vitali
Cruz	James	Parker	Wagner
Curry	Josephs	Pashinski	Walko
Daley	Keller, W.	Payton	Wansacz
DeLuca	Kessler	Petrarca	Waters
DePasquale	King	Petrone	White
Dermody	Kirkland	Preston	Williams
DeWeese	Kortz	Ramaley	Wojnaroski



Donatucci	Kotik	Readshaw	Yewcic
Eachus	Kula	Roebuck	Youngblood
Evans, D.	Leach	Sabatina	Yudichak
Fabrizio	Lentz	Sainato	
Frankel	Levdansky	Samuelson	O'Brien, D.,
Freeman	Longietti	Santoni	Speaker
Galloway	Mahoney		

NOT VOTING—0

EXCUSED—5

Mensch	Mustio	Solobay	Wheatley
Micozzie			

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,  
Will the House agree to the amendment?

The SPEAKER. The Chair returns to the Josephs amendment A3730.

The Chair recognizes Representative Harper.

For what purpose does the gentleman, Representative Schroder, rise? Just to be added? The Chair thanks the gentleman.

Representative Harper.

Ms. HARPER. Mr. Speaker, I almost forget where I was, but I had a question for the gentelady from Philadelphia on the bill and how her amendment would affect it.

The SPEAKER. The lady indicates she will stand for interrogation. The gentelady is in order and may proceed.

Ms. HARPER. Thank you, Mr. Speaker.

As I understand the gentelady's amendment, it would actually delete the exemption for e-mail but leave in its place some of the other exemptions, and I have a situation I wanted her to answer for me, which is this: It often happens that somebody calls my office and says, "Does the State Rep read her own e-mail?" and the answer is yes. Then the caller proceeds to send me an e-mail, and this stuff is not privileged as a matter of law, it is usually something that the constituent is embarrassed about – a child who ran afoul of the law, a drunk driver, anything like that. What I wanted to know, Mr. Speaker, was, if we approve the Josephs amendment, would that constituent's e-mail to me involving a personal, embarrassing situation, be entitled to remain confidential? Because I am so sure that some constituents would not write to me if they were aware that any person or newspaper reporter could request the e-mail. So I would like to ask the gentelady if her amendment would allow such an e-mail correspondence from a constituent to remain confidential.

Ms. JOSEPHS. The short answer is yes. There are other parts of the bill which protect constituent e-mail. We had a very thorough colloquy on this a little bit earlier, which I do not blame the gentelady for, perhaps, not hearing. This is a chaotic process sometimes, a noisy one anyway. All of the e-mails that come to you from constituents, even if the person has made a mistake, e-mailed the wrong person, are protected under this bill, because as we were putting it together, all of us realized that we do not want to discourage any constituent e-mail or phone calls or personal appeals for help. That is our job, to help

people. That is why we are here. That kind of e-mail or content, when it comes from a constituent, when you are responding, that is protected.

Ms. HARPER. Thank you, Mr. Speaker.

May I follow up with a more specific question to the gentelady from Philadelphia?

The SPEAKER. The gentelady indicates she will remain standing for interrogation.

Ms. HARPER. Thank you, Mr. Speaker.

I am looking at the work product exemption, which appears on page 56 of the printed bill, and it states that correspondence and related records between a public official, staff, and a private individual "...WHICH CONTAINS INFORMATION THAT THE PRIVATE INDIVIDUAL IS NOT REQUIRED BY LAW TO TRANSMIT AND WHICH WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY IF DISCLOSED" are exempt from disclosure. Is that the section that the lady relies upon?

Ms. JOSEPHS. Yes, it is.

Ms. HARPER. Thank you very much, Mr. Speaker.

The SPEAKER. Representative Leach.

Mr. LEACH. Thank you, Mr. Speaker.

Mr. Speaker, I rise to urge a "no" vote on the Josephs amendment.

Mr. Speaker, if our e-mails are subject to public disclosure, it will have a dramatic chilling effect on all that we do in this body. The fact is that there are many circumstances beyond simply the one I agree with, which is a constituent e-mailing us with a personal problem that they do not want to be made public. I am going to give you a few examples of the sort of thing, and the public a few examples, of the sort of thing that needs to be private around here.

We work on a lot of legislation with advocates, and the discussion on what the strategy should be, what the tactics should be, whom we should get to help us, who may come in and try to oppose us, whom we can appeal to, what arguments are most likely to work, what arguments are not most likely to work, those sorts of things are inherently necessary if we are going to be effective legislators. And if we know that those discussions are going to be in the newspaper or might be in the newspaper, then we are not going to be able to have those discussions.

We e-mail each other all the time about legislation. Should we have this person or that person speak for the bill? This person is a very effective arguer. That person never knows when to shut up. I may even be the subject of some of those e-mails, okay? But those sorts of things cannot be in public.

We e-mail each other, and I certainly, we e-mail our staffs on personality issues that may be going on in the district office or in the Harrisburg office. Is this employee up to speed? Is this employee dressing appropriately? This person has had an alcohol problem, are they relapsing? There are all kinds of discussions that we have that, again, should be private discussions. There is nothing inherently wrong with legislators having private discussions.

All negotiations are done – whether it is in the context of legislation, in the context of collective bargaining, in the context of international diplomacy – all negotiations are done behind closed doors, because you have to be free to offer something, that you are going to get your head chewed off for if your own people know you are offering, unless you have something to bring back to them, and if you are not going to get that, you

have to withdraw the offer. That is what negotiations are. And historically, from the Roman Senate to the British Parliament to the United States Congress to the Pennsylvania legislature, we have private discussions.

Now, I guess we can have them without e-mail, but that would make us extremely inefficient. We would have to go into a room and lower the Maxwell Smart tone of silence in order to have discussions on legislative or personnel issues, and I do not think that is appropriate. The fact is that we do have an expectation of privacy with our e-mails. We are a deliberative body, Mr. Speaker. We debate, we discuss, we argue, we disagree, we talk about strategy, we talk about people, we talk about tactics, and we have to have the right to do that without the feeling that everything we say is going to become public.

I would also note, Mr. Speaker, that a member of our staff who would be in a position to know says that it is the recommendation of our information people that if this were to pass, we would just shut down our e-mail system, because the cost of compliance would be astronomical and the risk of damage to our members would be incalculable.

For the sake of the institution, Mr. Speaker, I urge a vote against this effort to destroy any opportunity for us to have private conversations. Thank you.

The SPEAKER. Representative Steil.

Mr. STEIL. Thank you, Mr. Speaker.

I would like to interrogate the sponsor of the amendment, please.

The SPEAKER. Does Representative Josephs wish to stand for interrogation? The gentlelady indicates she will. The gentleman is in order and may proceed.

Mr. STEIL. Thank you, Mr. Speaker.

In prior discussion and debate on this particular amendment, I believe I heard the statement that constituent correspondence was specifically excluded from being a public record. Is that correct?

Ms. JOSEPHS. Yes, sir.

Mr. STEIL. I am looking on page 38 of the bill, and I do not notice any definition for the word "constituent." Could you please tell me what the definition of a constituent is?

Ms. JOSEPHS. To my way of thinking, somebody who is your constituent or someone who is someone else's constituent.

Mr. STEIL. Well, I guess that would be everybody in the State of Pennsylvania then.

Ms. JOSEPHS. Oh, and to further answer, Mr. Speaker, the protection that you cited does not refer to constituents; it refers to individuals. So individuals' e-mails are protected.

Mr. STEIL. So if an individual in my district is also a lobbyist who communicates with me on a piece of legislation, is that a protected or not protected communication?

Ms. JOSEPHS. It could be protected in as much as the individual is acting as a lobbyist, and I think the way we would decide is whether this is part of strategy, tactics, work product, dealing with a lobbyist who might be called an advocate. If we were talking about strategy, tactics, arguments with, agreements for, or arguments against, with a person who is a lobbyist while that person is acting as a lobbyist, it is protected.

Mr. STEIL. Thank you, Mr. Speaker.

That ends my interrogation. May I speak on the amendment, please?

The SPEAKER. The gentleman is in order and may proceed.

Mr. STEIL. Thank you, Mr. Speaker.

I think this points up the short interrogatory, points up why we should oppose this amendment. Literally every single e-mail communication is going to have to be examined to determine whether they are in fact a public record, and that means that there is no closed communication, because every communication is open for review by the compliance officers.

The fine line of determining what is and is not a public record will be key to whether or not this amendment could work. As a result, I have fallen on the side of this form-versus-content idea or concept. I have opposed e-mail as a public document and as a form of communication, and it is because e-mail is enormously complicated in terms of its subject, in terms of its senders, and in terms of its intent. I do not know that any compliance officer, with the best defined set of standards we might develop, is capable of making those decisions fairly and consistently.

As a result, I will oppose this amendment and would ask for the rejection of amendment A03730. Thank you.

### PARLIAMENTARY INQUIRIES

The SPEAKER. Representative Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

First, a couple points of parliamentary inquiry.

The SPEAKER. The lady will state her point of parliamentary inquiry.

Ms. MANDERINO. Thank you.

Is amendment 3730 divisible between lines 5 and 6?

The SPEAKER. Yes.

Ms. MANDERINO. Thank you, Mr. Speaker.

Further parliamentary inquiry.

The SPEAKER. The lady is in order.

Ms. MANDERINO. If it is my intent to ask for lines 1 through 5 to be considered as one vote, for the purpose that I would be advocating that we do what the amendment, the Josephs amendment, is proposing and delete the total exemption to e-mail, and then part B, which is lines 6 to 8, my intent would be to not do what the Josephs amendment wanted to do and to delete the language that was in the Mahoney bill, am I asking for two votes or am I asking for just one vote, on part A?

The SPEAKER. It would be two votes.

Ms. MANDERINO. Thank you, Mr. Speaker.

### AMENDMENT DIVIDED

Ms. MANDERINO. Then I would like to ask that amendment 3730 be divided between lines 5 and 6, with lines 1 through 5 being part A and lines 6 through 8 being part B. And I would like to speak— I think I need to speak, at least briefly at first, to explain what both of those things together would accomplish before we vote on either part A or B, if that is permissible.

The SPEAKER. I think the lady could— We could post amendment A03730-A, and then the lady could explain why she separated them and why the House should follow her position.

So the House has before it amendment A03730-A.

On the question,

Will the House agree to part A of the amendment?

The SPEAKER. The Chair recognizes the lady on that amendment.

Ms. MANDERINO. Thank you, Mr. Speaker.

Mr. Speaker, I ask that this amendment be divided so that we can consider individually the two things that this amendment was accomplishing, and I will describe how they work in conjunction and then, knowing that we are only on A, describe what A itself does.

The first part of the amendment, lines 1 through 5, deletes language that was put in the bill when it was amended in committee that gave the blanket exemption to e-mail. And what I am asking that we do is the same thing that Representative Josephs was asking that we do, which is take out the total blanket exemption for all e-mail. However, what I am asking that we not do, that the Josephs amendment does, is to take out the language as it regarded e-mail that was in the original Mahoney bill, and what that, the original bill, did was it said that e-mail came under one of the exemptions, except if the electronic mail contains detailed discussions about public spending, the public spending of money. It was my understanding, from Representative Mahoney's original proposal, that he understood this difficult area of e-mail, and he thought, and I agree with him, that what the public really wants to be able to do is follow the money – follow the money about legislative and executive spending; follow the money about dialogue among the legislative branch, executive branch, and others, about how public money is spent.

So I would, in essence, be asking that we put the language back exactly the way it was in HB 443 as it deals with the issue of e-mail. So in order to do that, I am asking that we vote "yes" on this first part of the Josephs amendment, thus eliminating the language that gave a total exemption to e-mail, and then vote "no" on the second part of the Josephs amendment and put back in the language or leave in the language of the Mahoney bill that says e-mail is an exemption, except for the e-mail that follows the spending of public money.

I think that is a very good balance, what Representative Mahoney had in his original bill, and by dividing this amendment and voting that way on this amendment, we can get back to what, I think, was a very well-crafted balance in the public interest.

### LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes the majority whip, who requests that Representative ROEBUCK and Representative JAMES from Philadelphia be placed on leave for the remainder of the day. The Chair sees no objection. The leaves will be granted.

### CONSIDERATION OF HB 443 CONTINUED

#### PARLIAMENTARY INQUIRIES

The SPEAKER. Representative Dally.

Mr. DALLY. Thank you, Mr. Speaker.

A point of parliamentary inquiry, please.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. DALLY. Was there a fiscal note issued for amendment 3730?

The SPEAKER. The Chair will check.

The system indicates there is a fiscal note.

Mr. DALLY. I am sorry, Mr. Speaker?

The SPEAKER. The system indicates that there is a fiscal note and it has been posted.

Mr. DALLY. Okay. And, Mr. Speaker, what does that fiscal note indicate as far as the cost of this amendment?

The SPEAKER. The gentleman would have to direct that to the maker of the amendment or read the fiscal note.

Mr. DALLY. Further inquiry, Mr. Speaker.

The division of this amendment as proposed by the gentelady from Philadelphia, how does that impact the fiscal note that was issued?

The SPEAKER. If the amendment is divided, as it has been, the fiscal note was appropriately drawn, so the amendment will remain in order.

Mr. DALLY. So in other words, Mr. Speaker, what you are saying is that the portion that is divisible is the full fiscal impact of the amendment, and that that is left behind, there is no fiscal impact, or—

The SPEAKER. If the gentleman were to direct this inquiry to the lady, the maker of the amendment, he would find there is no fiscal impact on the amendment in its entirety.

Mr. DALLY. Okay. Thank you. That answers my question.

A final point, Mr. Speaker.

I am not quite sure I could follow the gentelady's description of what she wants to do with dividing this amendment. Is there any way that that can be provided to us in writing or on our terminals so we can understand what we are voting on? That is one of the problems with the process, doing this in the full House.

The SPEAKER. Does the gentleman wish to interrogate Representative Manderino?

#### REQUEST TO DIVIDE AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

Mr. Speaker, I recognize the gentleman's concern and also some concerns that were expressed to me on my side as to what if we get halfway through the process with what you wanted to do and then the other half does not quite make it. So probably the better way to have done this would have been to have separate amendments. That is not possible at this stage, but I do not want to add to any confusion, so I will withdraw my request that we divide and just let the amendment stand or fall on its own.

The SPEAKER. The Chair thanks the lady.

We will return to amendment A03730.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Schroder on the amendment.

Mr. SCHRODER. Will the maker of the amendment submit to brief interrogation?

The SPEAKER. Will Representative Josephs stand for interrogation? The lady indicates that she will. The gentleman is in order and may proceed.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, we have heard a couple reasons offered as to why we should vote against this amendment, one being the scenario that spam and other junk e-mails could never be deleted or else we would suffer possible criminal penalties, another being the need for a lawyer to review every single e-mail that comes in.

To address that first issue, at the very beginning of this bill, in section 104 under "CONSTRUCTION," the bill indicates that nothing in this act modifies, rescinds, or supersedes any public record retention and disposition schedule established pursuant to law. So I wanted to explore with you that issue right now regarding record retention.

I will frame a specific question here for you: With regards to record retention, it is my understanding that the Bipartisan Management Committee does have a record retention policy. Am I correct in that?

Ms. JOSEPHS. That is my understanding as well.

Mr. SCHRODER. Could the Bipartisan Management Committee either update, upgrade, or amend its existing record retention policy to reflect the reality of this new legislation, should it pass, with regards to e-mails being public and provide for a specific retention schedule for e-mails that would perhaps allow spam, and whatnot, to be deleted instantly or automatically?

Ms. JOSEPHS. Absolutely, and in that, to elaborate a little bit, what you do on your own personal computer does not affect what happens on the server, and that is where the Bipartisan Management Committee and some other body that is comparable in the Senate would be directing its record retention policy, changed or not.

Mr. SCHRODER. I appreciate that answer. I guess to hone in a little more directly, would the General Assembly have to pass a separate record retention policy or law, or is that something that could be taken care of administratively, either by each caucus or the Bipartisan Management Committee?

Ms. JOSEPHS. I believe it can be done administratively. That is how it is done now.

Mr. SCHRODER. Okay. Thank you for that answer.

And one more question. Sorry, I was not quite done. One more question: If we pass this amendment, we are eliminating the category of blanket exemption for "e-mail," but that does not mean, does it not, that e-mails will automatically then become public records.

Ms. JOSEPHS. No, it does not. What we are trying to do is make a distinction, what we can do and will do if this amendment passes is make a distinction among e-mails based on content. If it is an e-mail from an individual, it is protected, even though it is an e-mail, for example.

Mr. SCHRODER. And those are provisions in section 307 of the bill that would apply to e-mails as well as any hard document, correct?

Ms. JOSEPHS. That is so, and there are also some other, I think in law already, content-based protected communications.

Mr. SCHRODER. Okay. That ends my interrogation. I would like to thank the gentelady and speak on the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, this afternoon we have heard a number of concerns voiced on the floor of the House about the issue of e-mails, and I do not want to diminish any of those concerns or

make light of them in any fashion, because certainly we are attempting to move light years ahead of where we are now with regards to our open records policy in the Commonwealth, in general, and here in the legislature. But, Mr. Speaker, I do believe that the scenario, some of the scenarios that have been raised about members facing criminal penalties for deleting spam and whatnot are a bit far-fetched. Certainly we will need to have a good record retention policy, a sensible record retention policy, just as corporate America does, just as any business does with regards to their records. We will need to do the same here in the General Assembly, and yes, that will probably require that the Bipartisan Management Committee and/or the caucuses do some work to make sure that that is tightened up and that we have something that will comply with this law and which will be easy to operate under. But, Mr. Speaker, I would submit that any scenarios out there about deleting spam and other junk mail causing undue hardship to members of the legislature are, perhaps, just not realistic.

The other thing I would argue, Mr. Speaker, is this: To the concerns that we will need legal counsel watching over our shoulder as we read every e-mail to make a determination as to whether or not, whether they are public record, whether we can dispose of them, we are kind of forgetting the fact when we make that argument that these same standards will apply to all records that are not e-mail, in other words, all hard-copy documents. Although we do get much more e-mail these days than probably other types of correspondence, we still get letters. We still get letters written in pen or pencil from constituents. We still get letters from government agencies. We get, you know, all kinds of documents like that. So we will have to go through an analysis of those documents anyway, is the point that I am trying to make.

So, Mr. Speaker, I think what some of us really need to decide is whether we support the flip of the presumption or not, because that is what that argument, in my mind, really goes to. I believe if you support flipping the presumption so that records are open, then this e-mail concern really should not be one, because it will be governed by the other provisions of this bill, section 307, and will be content-based as opposed to form-based, which it is right now.

So, Mr. Speaker, for those and other reasons I support the Josephs amendment. I believe to do otherwise and leave the bill as it currently stands is really making a false distinction between records that are electronic and records that are more traditional hard copy and paper. Thank you.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

The Chair recognizes Representative Josephs for the second time.

Ms. JOSEPHS. The gentleman from Chester makes excellent points. I will not try to reiterate them. I will only say that this is a loophole in the eyes of some, that this amendment will close.

For the sake of reform, for the public and the press, we have had poetry before, so here is a couplet: For the public and the press, please light up that green and give me a "yes." Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—69

Adolph	Gabig	Manderino	Shapiro
Bear	Galloway	Marshall	Shimkus
Benninghoff	Geist	McI. Smith	Smith, K.
Bennington	Gibbons	Moyer	Smith, M.
Bishop	Grell	Murt	Stairs
Boyd	Hanna	Nailor	Stevenson
Brooks	Harhart	Nickol	Tangretti
Carroll	Harper	Pashinski	Taylor, R.
Conklin	Hennessey	Payton	True
Cox	Hutchinson	Peifer	Turzai
Creighton	Josephs	Ramaley	Vereb
Curry	Kauffman	Reed	Vulakovich
Cutler	Killion	Reichley	Williams
Daley	King	Rock	Yudichak
Dally	Kula	Rohrer	
DePasquale	Lentz	Ross	O'Brien, D.,
Evans, J.	Maher	Samuelson	Speaker
Freeman	Mahoney	Schroder	

## NAYS—127

Argall	Fleck	Mantz	Raymond
Baker	Frankel	Markosek	Readshaw
Barrar	George	Marsico	Roae
Bastian	Gerber	McCall	Rubley
Belfanti	Gergely	McGeehan	Sabatina
Beyer	Gillespie	McIlhattan	Sainato
Bianucci	Gingrich	Melio	Santoni
Blackwell	Godshall	Metcalfe	Saylor
Boback	Goodman	Millard	Scavello
Brennan	Grucela	Miller	Seip
Buxton	Haluska	Milne	Siptroth
Caltagirone	Harhai	Moul	Smith, S.
Cappelli	Harkins	Mundy	Sonney
Casorio	Harris	Myers	Staback
Causar	Helm	O'Brien, M.	Steil
Civera	Hershey	O'Neill	Stern
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Costa	Hornaman	Parker	Swanger
Cruz	Keller, M.	Payne	Taylor, J.
DeLuca	Keller, W.	Perry	Thomas
Denlinger	Kenney	Perzel	Vitali
Dermody	Kessler	Petrarca	Wagner
DeWeese	Kirkland	Petri	Walko
DiGirolamo	Kortz	Petrone	Wansacz
Donatucci	Kotik	Phillips	Waters
Eachus	Leach	Pickett	Watson
Ellis	Levdansky	Preston	White
Evans, D.	Longiotti	Pyle	Wojnaroski
Everett	Mackereth	Quigley	Yewcic
Fabrizio	Major	Quinn	Youngblood
Fairchild	Mann	Rapp	

## NOT VOTING—0

## EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Ms. PICKETT offered the following amendment No. **A03790**:

Amend Sec. 501, page 66, lines 17 and 18, by striking out all of said lines

Amend Sec. 701, page 71, lines 22 through 30; page 72, lines 1 through 3, by striking out all of said lines on said pages and inserting Section 701. Policies.

(a) Agency policies.—

(1) An agency may adopt policies to handle open records requests that are not inconsistent with this act.

Amend Sec. 701, page 72, line 14, by striking out "(C) PROHIBITION.—A POLICY OR REGULATION" and inserting

(b) Prohibition.—A policy

Amend Sec. 701, page 72, line 21, by striking out "(D)" and inserting

(c)

Amend Sec. 705, page 73, line 16, by inserting a period after "SCHEDULE"

Amend Sec. 705, page 73, lines 16 and 17, by striking out "OR UNDER THE RULES ADOPTED BY THE PUBLIC RECORDS OFFICE."

Amend Sec. 2103, page 77, line 6, by striking out ", (9) AND (11)" and inserting

and (9)

Amend Sec. 2103, page 77, lines 10 through 12, by striking out all of said lines and inserting

year.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Pickett on the amendment.

Ms. PICKETT. Thank you, Mr. Speaker.

As this bill is currently written, the centralized Public Records Office would promulgate regulations applicable to all State and local agencies. It is my view that the broad scope of records kept by all manner of State and local agencies and the broad diversity of those technologies, record management capabilities, staffing capacity, office procedures, and office hours make any centralized regulatory mechanism virtually unattainable.

I am offering this amendment which would eliminate the Public Records Office's authority to promulgate regulations for any purpose. Under current law, each State and local agency must develop open records policies consistent with statute. If you look at their State home page, you will see Right-to-Know Law policies posted on various agency sites. Many local government sites also post their policies. This amendment would allow State and local agencies to continue this practice. The current practice allows very different agencies to adopt policies that fit their own respective missions and the communities that they serve.

Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment? On the question, Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

I was hoping someone who was a little more familiar with this would get up and speak to it, because I am not totally clear of the global effect of this. I am just wondering, perhaps the prime sponsor may want to talk about this a bit? So would the prime sponsor stand for brief interrogation?

The SPEAKER. Are you asking the prime sponsor of the amendment or the bill?

Mr. VITALI. I would like the prime sponsor of the bill to stand for brief interrogation.

The SPEAKER. The gentleman, Representative Mahoney, indicates that he will stand for interrogation. The gentleman is in order and may proceed.

Mr. VITALI. Thank you.

I am wondering if the prime sponsor has a position on this amendment and maybe could give his take on how this might impact the integrity of the bill.

Mr. MAHONEY. Well, if this amendment would go in, it would remove all the power out of this new office that we are trying to set up to unify all the records across the State. That is basically what it would do.

I urge you to oppose it.

Mr. VITALI. So this would affect the Public Records Office and its powers, and you oppose it. Got it.

Okay. Thank you. That concludes my question.

### PARLIAMENTARY INQUIRY

Mr. VITALI. I also have another parliamentary inquiry, because— Would the Speaker entertain my parliamentary inquiry?

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. VITALI. I have an amendment coming up with regard to transferring powers to the State Ethics Commission. That would be amendment 3908. I am wondering whether this amendment, if it passed, would affect and, in effect, render that amendment out of order, amendment 3908?

The SPEAKER. The Chair will read the amendment.

If this amendment is adopted, the gentleman's amendment would be out of order.

Mr. VITALI. Thank you, Mr. Speaker.

I would like to speak on the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. VITALI. Thank you, Mr. Speaker.

I would encourage a "no" vote on this amendment. I think it is key to have a central agency reviewing denials so that the standards applied are consistent. I think that there is widespread support for having the State Ethics Commission review denials from agencies. There is already language in there that would do that, the previous Shapiro amendment. There is an amendment coming up, drafted by the State Ethics Commission, that would enhance that.

So I would, in order to retain this consistency and the power of the State Ethics Commission to handle these reviews of denials, I would ask for a "no" vote on the Pickett amendment.

The SPEAKER. Representative Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

If I could interrogate the maker of the amendment.

The SPEAKER. The lady indicates she will stand for interrogation. The gentleman is in order and may proceed with his interrogation.

Mr. GABIG. Thank you, Mr. Speaker.

Based on the last interrogation, I get confused about what your amendment did. I heard an argument against it and I thought I understood what your amendment did, but based on

the question and answer and the comments that were just made, I am confused about what your amendment does with the bill. Could you please explain to me what your amendment does?

Ms. PICKETT. Mr. Speaker, the amendment does not remove the Public Records Office. It merely takes away the fact that it would be making regulations for all of the different agencies and organizations. In fact, we believe that this regulatory process through this agency, or through this office, would actually bog down the ability to move requests quickly. Everything would have to come into that one site. This particular request is very important to our boroughs, our townships, our local governments, our counties. They have all requested that this is really not a good way to go.

Mr. GABIG. So could the gentelady share with us, is it, in fact, supported by any of the groups that she just cited to us? Are they supportive of your amendment? The boroughs and townships, et cetera?

Ms. PICKETT. Oh, all of those associations are very supportive. Thank you, Mr. Speaker.

Mr. GABIG. Thank you, Mr. Speaker, and that concludes my interrogation.

The SPEAKER. Before the Chair recognizes the prime sponsor of the amendment for the second time, is there any other member seeking recognition on the amendment?

Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

If we eliminate the Office of Public Records, what we are going to end up— The reason why we have it and one of its most important functions is to review reasons for denial and to pass on them. That means we can have a consistent law, consistent cases, before us for any requester who is denied and then goes and looks for reasons why he or she should not be denied. Otherwise, we are going to have no consistency across the State.

And of course the boroughs— I am sorry; I did not hear the answer, but the gentelady indicated that some of the more local governments, perhaps boroughs, municipalities, are against this Office of Public Records and would like to see it eliminated. Well, of course, because they do not really want to give up their records any more than we wanted to give up our e-mails.

So I think that this, unfortunately – I understand what the lady is trying to do; I have sympathy with her and with some of these smaller municipalities and jurisdictions – I think it is a very bad idea to eliminate the Office of Public Records. Thank you, Mr. Speaker.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Pickett, for the second time.

Ms. PICKETT. Mr. Speaker, I want to say one more time, we are not amending in such a way that we would eliminate the Public Records Office. We are eliminating the fact that they would be writing regulations for every different office and agency throughout this State. What we are doing is asking to eliminate a huge bureaucracy that would only make the problem worse, rather than better.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—65

Adolph	Gabig	Metcalf	Reed
Baker	Geist	Millard	Reichley
Barrar	Gingrich	Milne	Roae
Bastian	Grell	Moyer	Ross
Bennington	Harper	Murt	Saylor
Boback	Harris	O'Neill	Smith, S.
Boyd	Hennessey	Peifer	Sonney
Brooks	Hershey	Perry	Stairs
Cappelli	Hess	Perzel	Stern
Civera	Keller, M.	Petri	Stevenson
Clymer	Kenney	Phillips	Swanger
Creighton	Killion	Pickett	Taylor, J.
Ellis	Maher	Pyle	True
Evans, J.	Major	Quigley	Turzai
Everett	Marsico	Quinn	Vulakovich
Fairchild	McIlhattan	Raymond	Watson
Fleck			

NAYS—131

Argall	Freeman	Mahoney	Sainato
Bear	Galloway	Manderino	Samuelson
Belfanti	George	Mann	Santoni
Benninghoff	Gerber	Mantz	Scavello
Beyer	Gergely	Markosek	Schroder
Biancucci	Gibbons	Marshall	Seip
Bishop	Gillespie	McCall	Shapiro
Blackwell	Godshall	McGeehan	Shimkus
Brennan	Goodman	McI. Smith	Siptroth
Buxton	Grucela	Melio	Smith, K.
Caltagirone	Haluska	Miller	Smith, M.
Carroll	Hanna	Moul	Staback
Casorio	Harhai	Mundy	Steil
Causer	Harhart	Myers	Sturla
Cohen	Harkins	Nailor	Surra
Conklin	Helm	Nickol	Tangretti
Costa	Hickernell	O'Brien, M.	Taylor, R.
Cox	Hornaman	Oliver	Thomas
Cruz	Hutchinson	Pallone	Vereb
Curry	Josephs	Parker	Vitali
Cutler	Kauffman	Pashinski	Wagner
Daley	Keller, W.	Payne	Walko
Dally	Kessler	Payton	Wansacz
DeLuca	King	Petrarca	Waters
Denlinger	Kirkland	Petrone	White
DePasquale	Kortz	Preston	Williams
Dermody	Kotik	Ramaley	Wojnaroski
DeWeese	Kula	Rapp	Yewcic
DiGirolamo	Leach	Readshaw	Youngblood
Donatucci	Lentz	Rock	Yudichak
Eachus	Levdansky	Rohrer	
Evans, D.	Longietti	Rubley	O'Brien, D.,
Fabrizio	Mackereth	Sabatina	Speaker
Frankel			

NOT VOTING—0

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

AMENDMENT A03788 RECONSIDERED

The SPEAKER. The Chair is in receipt of a reconsideration motion filed by Representative Dally and Representative Reichley. They move that the vote by which amendment No. 3788 was passed to HB 443, PN 2688, on the 30th day of October be reconsidered.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—146

Adolph	Fairchild	Marsico	Rock
Argall	Fleck	McCall	Rohrer
Baker	Frankel	McGeehan	Ross
Barrar	Freeman	McI. Smith	Rubley
Bastian	Gabig	McIlhattan	Sabatina
Bear	Geist	Metcalf	Samuelson
Benninghoff	Gerber	Millard	Santoni
Beyer	Gillespie	Miller	Saylor
Bishop	Gingrich	Milne	Scavello
Blackwell	Godshall	Moul	Schroder
Boback	Goodman	Moyer	Shimkus
Boyd	Grell	Mundy	Siptroth
Brennan	Harhart	Murt	Smith, K.
Brooks	Harper	Nailor	Smith, S.
Buxton	Harris	Nickol	Sonney
Cappelli	Helm	O'Brien, M.	Staback
Carroll	Hennessey	O'Neill	Stairs
Causer	Hershey	Oliver	Steil
Civera	Hess	Parker	Stern
Clymer	Hickernell	Pashinski	Stevenson
Cohen	Hutchinson	Payne	Surra
Cox	Kauffman	Peifer	Swanger
Creighton	Keller, M.	Perry	Taylor, J.
Cruz	Keller, W.	Perzel	Thomas
Cutler	Kenney	Petri	True
Daley	Killion	Petrone	Turzai
Dally	Kirkland	Phillips	Vereb
Denlinger	Kotik	Pickett	Vulakovich
DePasquale	Leach	Pyle	Wansacz
DeWeese	Levdansky	Quigley	Waters
DiGirolamo	Mackereth	Quinn	Watson
Donatucci	Maher	Rapp	White
Eachus	Major	Raymond	Williams
Ellis	Manderino	Readshaw	Yudichak
Evans, D.	Mann	Reed	
Evans, J.	Mantz	Reichley	O'Brien, D.,
Everett	Marshall	Roae	Speaker

NAYS—50

Belfanti	Gergely	Lentz	Seip
Bennington	Gibbons	Longietti	Shapiro
Biancucci	Grucela	Mahoney	Smith, M.
Caltagirone	Haluska	Markosek	Sturla
Casorio	Hanna	Melio	Tangretti
Conklin	Harhai	Myers	Taylor, R.
Costa	Harkins	Pallone	Vitali
Curry	Hornaman	Payton	Wagner
DeLuca	Josephs	Petrarca	Walko
Dermody	Kessler	Preston	Wojnaroski
Fabrizio	King	Ramaley	Yewcic
Galloway	Kortz	Sainato	Youngblood
George	Kula		

NOT VOTING—0

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,  
Will the House agree to the amendment?

The clerk read the following amendment No. **A03788**:

Amend Sec. 709, page 74, lines 26 through 30; page 75, lines 1 through 8, by striking out all of said lines on said pages and inserting Section 709. Transcripts of hearings and administrative proceedings.

Transcripts of hearings and administrative proceedings shall be deemed public records after such matters have been finally adjudicated. Nothing in this act shall prohibit a litigant or a party to a hearing or administrative proceeding or the legal representative of the litigant or party, from acquiring a full transcript of the hearing or administrative proceeding which shall not be subject to redaction prior to or after final adjudication. An agency may refer a litigant or a party to a hearing or administrative proceeding, or the legal representative of the litigant or party, to the court reporter or other transcriber to obtain a copy of the transcript if all of the following apply:

- (1) The court reporter or transcriber prepared the transcript under contract with the agency.
- (2) The court reporter or transcriber is able to make the transcripts available within a reasonable time and at a cost which is reasonable and customary within the court reporting industry.
- (3) The name, address and telephone number of the court reporting or transcribing entity under contract with the agency is made available by the agency.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—176

Argall	Frankel	Marsico	Sainato
Baker	Freeman	McCall	Samuelson
Barrar	Geist	McGeehan	Santoni
Bastian	George	McIlhattan	Scavello
Bear	Gerber	Melio	Schroder
Benninghoff	Gergely	Metcalfe	Seip
Bennington	Gingrich	Millard	Shapiro
Beyer	Godshall	Milne	Shimkus
Biancucci	Goodman	Moul	Siptroth
Bishop	Grucela	Moyer	Smith, K.
Blackwell	Haluska	Mundy	Smith, M.
Boyd	Hanna	Murt	Smith, S.
Brennan	Harhai	Myers	Sonney
Brooks	Harhart	Nailor	Staback
Buxton	Harkins	O'Brien, M.	Stairs
Caltagirone	Harper	O'Neill	Steil
Cappelli	Harris	Oliver	Stern
Carroll	Helm	Pallone	Stevenson
Casorio	Hennessey	Parker	Sturla
Causar	Hershey	Pashinski	Surra
Civera	Hess	Payton	Swanger
Clymer	Hickernell	Peifer	Tangretti
Cohen	Hornaman	Perzel	Taylor, J.
Conklin	Josephs	Petrarca	Taylor, R.
Costa	Kauffman	Petri	Thomas
Cox	Keller, M.	Petrone	True

Cruz	Keller, W.	Phillips	Turzai
Curry	Kenney	Pickett	Vereb
Cutler	Kessler	Preston	Vitali
Daley	Kirkland	Pyle	Vulakovich
Dally	Kortz	Quigley	Wagner
DeLuca	Kotik	Quinn	Walko
Denlinger	Kula	Ramaley	Wansacz
Dermody	Leach	Rapp	Waters
DeWeese	Lentz	Raymond	Watson
DiGirolamo	Levdansky	Readshaw	White
Donatucci	Longiatti	Reed	Williams
Eachus	Maher	Reichley	Wojnarowski
Ellis	Mahoney	Roae	Yewcic
Evans, D.	Major	Rock	Youngblood
Evans, J.	Manderino	Rohrer	Yudichak
Everett	Mann	Ross	
Fabrizio	Mantz	Rubley	O'Brien, D., Speaker
Fairchild	Markosek	Sabatina	
Fleck	Marshall		

NAYS—20

Adolph	Gabig	Hutchinson	Miller
Belfanti	Galloway	Killion	Nickol
Boback	Gibbons	King	Payne
Creighton	Gillespie	Mackereth	Perry
DePasquale	Grell	McI. Smith	Saylor

NOT VOTING—0

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Ms. **PICKETT** offered the following amendment No. **A03791**:

Amend Sec. 309, page 62, lines 13 and 14, by striking out "OR A REGULATION OF THE PUBLIC RECORDS OFFICE"

Amend Sec. 701, page 72, by inserting between lines 23 and 24  
(e) Limitation.—The public records office shall not have authority to regulate or make determinations on matters relative to local agency fees.

On the question,  
Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Pickett on the amendment.

Ms. **PICKETT**. Thank you, Mr. Speaker.

This amendment would eliminate the Public Records Office's authority to establish local agency open record fees. The economies and costs of living vary widely across our State, and under this bill as it is currently written, agencies could charge fees to cover a variety of costs incurred in retrieving and duplicating a public record. The bill requires these fees to be based on actual costs.



The bill also requires these fees to be established by a Harrisburg-based State agency. It would be reasonable that the actual cost of copying a document in Mansfield may be quite different than the actual cost of copying a document in Doylestown. I think our local agencies have the knowledge and the ability to set fees that are appropriate for their respective communities. My amendment would allow them to do so.

### PARLIAMENARY INQUIRY

The SPEAKER. Will the House agree to the amendment? Representative Vitali.

Mr. VITALI. Again, the same parliamentary inquiry. Would this render amendment A3908 out of order?

The SPEAKER. The amendment would be ruled out of order. The amendment would be out of order if this amendment is adopted.

Mr. VITALI. Thank you, Mr. Speaker.

I would like to speak to the amendment then.

The SPEAKER. The gentleman is in order and may proceed.

Mr. VITALI. Thank you, Mr. Speaker.

I am very, very concerned about establishing the integrity of the State Ethics Commission as a uniform body here that would review denials from agencies. I think that many of the people who weighed in on this issue think that the State Ethics Commission, because of its track record of independence, because of the way over time it has developed a reputation for being divorced, to a large degree, from politics, because of the way it has run itself efficiently, free of scandal, I think that many people have confidence in the Pennsylvania State Ethics Commission as a source where constituents who have been denied will get a fair shake, as far as appeals from an agency go.

Mr. Speaker, I have worked with the State Ethics Commission. I have an amendment drafted. I have an amendment drafted by the attorneys for the State Ethics Commission that would put into place this review process, this single-source review process. And I understand the concerns of the lady, but given the fact that this will rule that amendment out of order, I think that I reluctantly ask for a "no" vote here. Thank you.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor of the amendment? Representative Mahoney.

Mr. MAHONEY. I rise to oppose this amendment. It does the same thing that the last amendment does. It takes the power out of the new access office, so I rise to oppose.

The SPEAKER. Representative Pickett.

Ms. PICKETT. Thank you, Mr. Speaker.

Once again, I believe it is very important to our local governments, our boroughs, our townships, our municipalities, and our counties to be able to set fees that match their costs. They are the best ones to know what their actual costs are, not a Harrisburg-based agency, and I believe that they best can do what is right for our communities.

I ask you to vote "yes" on this amendment, please.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

### YEAS—78

Adolph	Geist	Metcalfe	Roae
Baker	Gingrich	Millard	Ross
Barrar	Godshall	Milne	Rubley
Bastian	Grell	Moyer	Saylor
Beyer	Harhart	Murt	Scavello
Boback	Harper	Nailor	Smith, S.
Brooks	Harris	O'Neill	Sonney
Cappelli	Helm	Peifer	Staback
Causar	Hennessey	Perzel	Stairs
Civera	Hershey	Petri	Steil
Clymer	Hess	Phillips	Stern
Creighton	Hornaman	Pickett	Stevenson
Dally	Keller, M.	Pyle	Swanger
DiGirolamo	Kenney	Quigley	Taylor, J.
Ellis	Longiotti	Quinn	Turzai
Evans, J.	Maher	Rapp	Vereb
Everett	Major	Raymond	Vulakovich
Fairchild	Marshall	Reed	Wansacz
Fleck	Marsico	Reichley	Watson
Gabig	McIlhattan		

### NAYS—118

Argall	Fabrizio	Mackereth	Sabatina
Bear	Frankel	Mahoney	Sainato
Belfanti	Freeman	Samuelrino	Samuelson
Benninghoff	Galloway	Mann	Santoni
Bennington	George	Mantz	Schroder
Biancucci	Gerber	Markosek	Seip
Bishop	Gergely	McCall	Shapiro
Blackwell	Gibbons	McGeehan	Shimkus
Boyd	Gillespie	McI. Smith	Siptroth
Brennan	Goodman	Melio	Smith, K.
Buxton	Grucela	Miller	Smith, M.
Caltagirone	Haluska	Moul	Sturla
Carroll	Hanna	Mundy	Surra
Casorio	Harhai	Myers	Tangretti
Cohen	Harkins	Nickol	Taylor, R.
Conklin	Hickernell	O'Brien, M.	Thomas
Costa	Hutchinson	Oliver	True
Cox	Josephs	Pallone	Vitali
Cruz	Kauffman	Parker	Wagner
Curry	Keller, W.	Pashinski	Walko
Cutler	Kessler	Payne	Waters
Daley	Killion	Payton	White
DeLuca	King	Perry	Williams
Denlinger	Kirkland	Petrarca	Wojnaroski
DePasquale	Kortz	Petrone	Yewcic
Dermody	Kotik	Preston	Youngblood
DeWeese	Kula	Ramaley	Yudichak
Donatucci	Leach	Readshaw	
Eachus	Lentz	Rock	O'Brien, D., Speaker
Evans, D.	Levdansky	Rohrer	

### NOT VOTING—0

### EXCUSED—7

James Mensch	Micozzie Mustio	Roebuck Solobay	Wheatley
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **VITALI** offered the following amendment No. **A03667**:

Amend Sec. 307, page 56, lines 2 through 4, by striking out all of lines 2 and 3 and "INDIVIDUAL HAS A REASONABLE EXPECTATION OF PRIVACY" in line 4

Amend Sec. 307, page 56, line 11, by inserting a period after "INDIVIDUAL"

Amend Sec. 307, page 56, lines 11 through 14, by striking out "WHICH CONTAINS INFORMATION THAT THE" in line 11 and all of lines 12 through 14

Amend Sec. 307, page 56, line 18, by inserting a period after "USE"

Amend Sec. 307, page 56, lines 19 through 22, by striking out all of said lines and inserting

(4) (Reserved)

Amend Sec. 307, page 59, by inserting between lines 16 and 17

(22) Telephone records that identify the caller or the person called.

On the question,

Will the House agree to the amendment?

#### AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Vitali on the amendment.

Mr. **VITALI**. Mr. Speaker, I am going to be withdrawing all of my amendments, with the exception of these 12. No, with the exception of these two – 3670 and 3908. The other eight or so are withdrawn. And if the Speaker does not mind, I will run 3908 first, because that is what we have, kind of, been discussing.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **VITALI** offered the following amendment No. **A03908**:

Amend Title, page 1, lines 6 and 7, by striking out "establishing the"

Amend Title, page 1, lines 7 and 8, by striking out "PENNSYLVANIA PUBLIC RECORDS OFFICE and"

Amend Title, page 1, line 8, by striking out "its powers and duties" and inserting

additional powers and duties of the State Ethics Commission

Amend Table of Contents, page 3, line 17, by striking out "PUBLIC RECORDS OFFICE" and inserting  
State Ethics Commission

Amend Table of Contents, page 3, line 18, by striking out "PENNSYLVANIA PUBLIC RECORDS OFFICE" and inserting  
State Ethics Commission

Amend Sec. 103, page 37, by inserting after line 30

"Commission." The State Ethics Commission of the Commonwealth.

Amend Sec. 103, page 41, lines 13 and 14, by striking out all of said lines

Amend Sec. 305, page 48, line 21, by striking out "PUBLIC RECORDS OFFICE" and inserting  
commission

Amend Sec. 309, page 62, line 14, by striking out "PUBLIC RECORDS OFFICE" and inserting  
commission

Amend Chapter Heading, page 64, line 21, by striking out all of said line and inserting

#### STATE ETHICS COMMISSION

Amend Sec. 501, page 64, lines 22 through 28, by striking out "PENNSYLVANIA PUBLIC RECORDS OFFICE" in line 22, all of lines 23 through 27, "OFFICE" in line 28 and inserting  
State Ethics Commission.

(a) Powers and duties.—In addition to other powers and duties prescribed by law, the commission

Amend Sec. 501, page 65, lines 10 and 11, by striking out "FROM COMMONWEALTH AGENCIES AND LOCAL AGENCIES IN ORDER" and inserting

, issue subpoenas, hold hearings, take testimony, compel the attendance of witnesses and the production of documents and things and

Amend Sec. 501, page 65, line 12, by striking out "UNDER THIS ACT" and inserting

as to appeals filed with the commission under section 502

Amend Sec. 501, page 65, line 13, by inserting after "REQUEST"

or subpoena of the commission

Amend Sec. 501, page 65, lines 26 through 28, by striking out "ISSUE A REPORT SEMI-ANNUALLY TO THE GENERAL" in line 26, all of line 27 and "NOT BE" in line 28 and inserting

include in its annual report information pertaining to its activities under this act including, but not

Amend Sec. 501, page 66, line 2, by striking out "ACCESS OFFICE" and inserting

commission

Amend Sec. 501, page 66, lines 6 and 7, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 501, page 66, line 10, by striking out "ACCESS OFFICE" and inserting

commission

Amend Sec. 501, page 66, line 19, by striking out "(C)" and inserting

(b)

Amend Sec. 501, page 66, lines 19 and 20, by striking out "BY THE PUBLIC RECORDS OFFICE" and inserting

or subpoenaed by the commission

Amend Sec. 501, page 66, line 22, by striking out "REMAIN CONFIDENTIAL" and inserting

become confidential commission records

Amend Sec. 501, page 66, line 23, by removing the period after "ACCESS" and inserting

through the commission. The records requested may be accessed through an agency other than the commission to the extent they are public records.

Amend Sec. 501, page 66, line 24, by striking out "(D)" and inserting

(c)

Amend Sec. 501, page 66, line 25, by striking out "PUBLIC RECORDS OFFICE" and inserting  
commission

Amend Sec. 501, page 66, line 29, by striking out "PUBLIC RECORDS OFFICE" and inserting  
commission

Amend Sec. 501, page 67, line 1, by striking out "PUBLIC RECORDS OFFICE" and inserting  
commission

Amend Sec. 501, page 67, line 2, by striking out "PUBLIC RECORDS OFFICE" and inserting  
commission

Amend Sec. 501, page 67, line 5, by striking out "ACCESS OFFICE" and inserting

commission

Amend Sec. 502, page 67, line 12, by striking out "PUBLIC RECORDS OFFICE BY FORWARDING TO THE OFFICE" and inserting

commission by filing with the commission a request for review of the denial along with

Amend Sec. 502, page 67, line 13, by inserting after "REQUEST"

for access to records

Amend Sec. 502, page 67, by inserting between lines 16 and 17

(1) Upon receipt of an appeal, the commission shall provide notice of the appeal to the Commonwealth agency or local agency that denied the request for access. The commission may hold a nonpublic hearing on the matter and may review the record and receive evidence.

Amend Sec. 502, page 67, lines 17 and 18, by striking out all of line 17, "THE PUBLIC RECORDS OFFICE" in line 18 and inserting

(2) Within 90 days after the filing of an appeal, at least four members of the commission present at a meeting

Amend Sec. 502, page 67, lines 22 through 25, by striking out "THE" where it appears the second time in line 22, all of lines 23 and 24, "(2) THE 30-BUSINESS-DAY" in line 25 and inserting

(3) The 90-day

Amend Sec. 502, page 67, line 27, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 502, page 67, line 28, by striking out "30 BUSINESS DAYS AFTER THE DATE" and inserting

90 days after the filing

Amend Sec. 502, page 68, line 1, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 502, page 68, line 3, by striking out "OFFICE" and inserting

commission

Amend Sec. 502, page 68, line 5, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 502, page 68, line 13, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 503, page 68, line 16, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 503, page 68, lines 18 and 19, by striking out "RECEIPT OF ACTUAL KNOWLEDGE OF THE ISSUANCE OF THE OFFICE'S" and inserting

issuance of the commission's

Amend Sec. 503, page 69, lines 2 and 3, by striking out "THE ESTABLISHED RULES OF THE OFFICE AND"

Amend Sec. 503, page 69, line 7, by striking out "OFFICE" and inserting

commission

Amend Sec. 503, page 69, line 8, by striking out "OFFICE'S" and inserting

commission's

Amend Sec. 503, page 69, line 11, by striking out "OFFICE" and inserting

commission

Amend Sec. 503, page 69, line 12, by striking out "OFFICE" and inserting

commission

Amend Sec. 503, page 69, line 13, by striking out "OFFICE" and inserting

commission

Amend Sec. 503, page 69, line 16, by striking out "OFFICE" and inserting

commission

Amend Sec. 503, page 70, line 1, by striking out "OFFICE" and inserting

commission

Amend Sec. 503, page 70, line 11, by striking out "OFFICE" and inserting

commission

Amend Sec. 503, page 70, line 12, by striking out "OFFICE" and inserting

commission

Amend Sec. 504, page 70, line 24, by striking out "OFFICE" and inserting

commission

Amend Sec. 504, page 71, line 9, by striking out "OFFICE UNDER SECTION 503" and inserting

commission under section 502

Amend Sec. 701, page 71, line 23, by striking out "PUBLIC RECORDS OFFICE.—THE PUBLIC RECORDS OFFICE" and inserting

State Ethics Commission.—The commission

Amend Sec. 701, page 71, line 29, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 701, page 72, lines 1 and 2, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 705, page 73, line 17, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 706, page 74, line 11, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

Amend Sec. 2103, page 77, lines 10 and 11, by striking out "PUBLIC RECORDS OFFICE" and inserting

commission

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Vitali on the amendment.

Mr. VITALI. Thank you, Mr. Speaker.

What this amendment would do, and I have alluded to it before, is this was an amendment, or more accurately, the attorneys for the State Ethics Commission drafted in consultation with me. It basically moves, changes, the bill so that denials from agencies go to the State Ethics Commission. It deletes all references in the bill to a public records officer or a Public Records Office, but simply gives the authority to review records to the State Ethics Commission, who will act on them in their normal course of business.

The concern the State Ethics Commission expressed with regard to giving authority to a public records officer is that the way they function, they function as a commission, they function as a body, and they want their decisions, as far as denials, to be made as a body, as a group. They feel this is more in conformance with the way they currently operate. They also feel that this setup, as opposed to a separate Public Records Office, would be more cost effective. They think it would save tax dollars; it would be a less expensive way to operate. The amendment also deals with the time period to review denials. It expands that to 90 days. They wanted that in because it is a more reasonable time for them to do their business.

And I understand I may have the support, I believe I have the support, of the prime sponsor of the bill on this, so I would ask for an affirmative vote.

**PARLIAMENTARY INQUIRY**

The SPEAKER. Representative Harper.

Ms. HARPER. Mr. Speaker, I have a parliamentary inquiry, I think.

The SPEAKER. The lady will state her point of parliamentary inquiry.

Ms. HARPER. Thank you, Mr. Speaker.

The gentleman's amendment applies, I believe, to all appeals, whether from State agencies or local agencies, and I have an amendment that was actually filed 100 amendments earlier, 3797, that would allow local agency appeals to go to the county court in the county where the appeal occurs. I am wondering, if the gentleman from Delaware County's amendment goes through, would that make mine out of order?

The SPEAKER. The Chair will look at it.

To respond to the lady's inquiry, if this amendment is adopted, her amendment would be out of order.

Ms. HARPER. Thank you, Mr. Speaker.

Under our new rules, as I understand them, if the adoption of the Vitali amendment makes the Harper amendment out of order, am I not to be given time to redraft my amendment? And how would I ensure that I had the ability to do that?

The SPEAKER. The lady is correct. She would be in order in filing a replacement amendment. If she approaches the desk, we will show her where the inconsistency is.

Ms. HARPER. Thank you.

May I speak on this amendment, Mr. Speaker?

The SPEAKER. The lady is in order and may proceed.

Ms. HARPER. Thank you, Mr. Speaker.

I have an amendment coming up, which will be made out of order by this amendment, that would allow a person who sought a local record in, say, Conshohocken, Montgomery County, to go to Norristown on the appeal. If Representative Vitali's amendment is adopted, that person from Conshohocken, Montgomery County, would have to come to Harrisburg for an appeal. I do not think that is fair. I think if somebody asks a local agency for a record and is turned down, they should be able to have their case heard in their local county.

Therefore, I am going to ask my colleagues to vote "no" on the Vitali amendment because I think I have a better amendment, which has not yet been called, which is coming up as 3797.

Thank you very much, Mr. Speaker.

**PARLIAMENTARY INQUIRY**

The SPEAKER. Representative Maher.

Mr. MAHER. I have an inquiry similar to Representative Harper's. My amendment 3753, if the Vitali amendment is adopted, would amendment 3753 still be in order or would we need to—

The SPEAKER. The Chair will read the amendment and advise the gentleman.

Mr. MAHER. Thank you.

The SPEAKER. The Chair advises the gentleman that his amendment will remain in order.

Mr. MAHER. Thank you, Mr. Speaker.

May I speak on the Vitali amendment?

The SPEAKER. The gentleman is in order and may proceed.

Mr. MAHER. Once again, we have got one of these forks in the road. If the Vitali amendment is embraced, you will be voting to delay the opportunity for your constituents to access public records. Instead of having the ability to have an appeal heard within 30 days, this would make it 90 days. And often when public records are sought, they are ripe for a moment in time, and if you are in favor of allowing officials to bury records and play the delay game, Representative Vitali will give them an extra 90 days of delay.

So I would urge a "no" vote on this amendment. Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

The Chair recognizes Representative Vitali for the second time.

Mr. VITALI. Thank you, Mr. Speaker.

I think the public has a strong interest in a body with independence, a body who can render consistent opinions as to what the law allows and what it does not, not 67 different municipalities with 67 different political structures and 67 different, perhaps, opportunities for political game playing.

I think what you have with the State Ethics Commission is independence and consistency. With regard to the time period – this was not my figure – there is zero intent for political game playing. There is no desire for that. The State Ethics Commission is not about political game playing. It is simply a realistic assessment of what they feel is the outer limit of what they can provide. Obviously, that does not apply to the initial agency's time period for responding, but appeals to that agency.

So I would ask for an affirmative vote here. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

**YEAS—38**

Bennington	Fabrizio	Marshall	Stairs
Caltagirone	Fairchild	Melio	Surra
Casorio	Gabig	Mundy	Tangretti
Cohen	Gergely	Petrone	Vitali
Curry	Hanna	Ramaley	Wagner
Daley	Harkins	Readshaw	Walko
DeLuca	Kirkland	Santoni	Wansacz
DePasquale	Kula	Schroder	Wojnaroski
Dermody	Levdansky	Staback	Yudichak
Eachus	Mahoney		

**NAYS—158**

Adolph	Galloway	Mann	Reichley
Argall	Geist	Mantz	Roae
Baker	George	Markosek	Rock
Barrar	Gerber	Marsico	Rohrer
Bastian	Gibbons	McCall	Ross
Bear	Gillespie	McGeehan	Rubley

Belfanti	Gingrich	McI. Smith	Sabatina
Benninghoff	Godshall	McIlhatten	Sainato
Beyer	Goodman	Metcalfe	Samuelson
Biancucci	Grell	Millard	Saylor
Bishop	Grucela	Miller	Scavello
Blackwell	Haluska	Milne	Seip
Boback	Harhai	Moul	Shapiro
Boyd	Harhart	Moyer	Shimkus
Brennan	Harper	Murt	Siptroth
Brooks	Harris	Myers	Smith, K.
Buxton	Helm	Nailor	Smith, M.
Capelli	Hennessey	Nickol	Smith, S.
Carroll	Hershey	O'Brien, M.	Sonney
Causser	Hess	O'Neill	Steil
Civera	Hickernell	Oliver	Stern
Clymer	Hornaman	Pallone	Stevenson
Conklin	Hutchinson	Parker	Sturla
Costa	Josephs	Pashinski	Swanger
Cox	Kauffman	Payne	Taylor, J.
Creighton	Keller, M.	Payton	Taylor, R.
Cruz	Keller, W.	Peifer	Thomas
Cutler	Kenney	Perry	True
Dally	Kessler	Perzel	Turzai
Denlinger	Killion	Petrarca	Vereb
DeWeese	King	Petri	Vulakovich
DiGirolamo	Kortz	Phillips	Waters
Donatucci	Kotik	Pickett	Watson
Ellis	Leach	Preston	White
Evans, D.	Lentz	Pyle	Williams
Evans, J.	Longietti	Quigley	Yewcic
Everett	Mackereth	Quinn	Youngblood
Fleck	Maher	Rapp	
Frankel	Major	Raymond	O'Brien, D.,
Freeman	Manderino	Reed	Speaker

NOT VOTING—0

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **VITALI** offered the following amendment No. **A03670**:

Amend Sec. 705, page 73, lines 17 through 20, by striking out "RECORDS SHALL BE" in line 17 and all of lines 18 through 20

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Vitali on the amendment.

Mr. VITALI. Thank you, Mr. Speaker.

This amendment revisits the issue of records of a public official leaving office, and whereas the original bill, or rather the Mahoney bill, as drafted, provided that it would be delivered by outgoing officials to their successors, this amendment simply deletes that language, simply, in a sense, reverts it to existing law, not imposing the requirement that an elected official give their records to a succeeding elected official. And the purpose

is— I think we can all put ourselves in the position of the day we leave office, records we have gotten in the course of our service, whether we feel, in our gut, this should go to our successor.

I think there are privacy issues here. The act itself, to be clear, keeps the prohibition in place that records shall not be removed, destroyed, mutilated, transferred, damaged, in whole or in part. It keeps that in place. It simply just deletes, I think, language that, I think, was to some degree ambiguous, to some degree not in keeping with the intent of the act. It just deletes the language saying we need to transfer records to our successor.

I mean, the problem is, many people who have contacted us, on the basis of personal relationships, perhaps would not share the same information with a political rival, a political opponent. I think in this system, for us to transfer records to maybe even a person who would succeed us, maybe of the opposite party, I do not think is really something that we would intend here, so I would ask for a "yes" vote.

### PARLIAMENTARY INQUIRY

The SPEAKER. Representative Ross.

Mr. ROSS. Mr. Speaker, I have a question for the Chair.

My memory is that we adopted Representative Baker's amendment A03751, which I think dealt with this same section. Would this amendment still be in order?

The SPEAKER. The amendment is in order.

Mr. ROSS. Thank you.

The SPEAKER. Representative Mahoney.

Mr. MAHONEY. This is an agreed-to amendment. I urge everyone to vote in the "yea." Thank you.

The SPEAKER. Will the House agree to the amendment? Representative Shapiro.

Mr. SHAPIRO. Mr. Speaker, if I may interrogate the maker of the amendment, please?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed with his interrogation.

Mr. SHAPIRO. Mr. Speaker, following up on the question from the gentleman from Chester, the Baker amendment which went in earlier and modified the language so that the materials would not need to be handed off to one's successor, is it, in fact, the case that the gentleman's amendment, the gentleman from Delaware's amendment, would now delete the amended language from the gentleman from Tioga, Mr. Baker?

Mr. VITALI. What my amendment simply does is delete the following words: "RECORDS SHALL BE DELIVERED BY OUTGOING OFFICIALS AND EMPLOYEES TO THEIR SUCCESSORS AND SHALL NOT BE OTHERWISE REMOVED, TRANSFERRED OR DESTROYED UNLAWFULLY." My amendment was drafted before the Baker amendment and, by its language, did not speak to that at all. I think for a more full explanation, you may want to ask the Parliamentarian, but my amendment simply does that and was drafted pre-Baker.

Mr. SHAPIRO. Thank you, Mr. Speaker. On the amendment.

It is in fact—

The SPEAKER. The gentleman is in order and may proceed.

Mr. SHAPIRO. It is my view that the Baker amendment which went in earlier modifies the successor language that the gentleman from Delaware just referenced and, in fact, would delete the modified language that this House agreed to a few hours ago.

Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment? Representative Fairchild.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

Would the maker of the amendment please stand for brief interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed with his interrogation.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

At this time I think I fully support the amendment, but I would like to ask a couple of questions.

If I have 100 boxes of files, as the bill now reads, I would be responsible for getting those files in the hands of my successor. Is that correct?

Mr. VITALI. Well, as the bill is originally drafted—

Mr. FAIRCHILD. Yes.

Mr. VITALI. —the language says the "RECORDS SHALL BE DELIVERED BY OUTGOING OFFICIALS AND EMPLOYEES TO THEIR SUCCESSORS AND SHALL NOT BE OTHERWISE REMOVED, TRANSFERRED OR DESTROYED UNLAWFULLY." Now, that is how the original Mahoney bill reads. Now the question becomes the Baker amendment, how did that change it. Whether you have to give that to a compliance officer now is—

Mr. FAIRCHILD. Well, eitherwise, what are we supposed to do with all these boxes of records that future legislators and future public officials are going to be left with? I mean, we could either store it here in Harrisburg, I guess, or store it in the district offices, but who is going to pay for the rental expense to store all these records?

Mr. VITALI. I do not have an answer to that question. My amendment simply deletes the requirement that you transfer these records to your successor.

Mr. FAIRCHILD. Is this for every elected official, local and State?

Mr. VITALI. Officials covered by this act, yes.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

On the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

I think this is an excellent amendment. I really think, when we take a look at reality, that it does not make that much sense. I do not know of anybody that has come in here that has been severely aggrieved in any way because their prior successor did not pass on their records.

I have a grave concern for the amount of time it would take to redact a lot of the information. I do not think my constituents want to have their Social Security numbers identified to their successor and for future successors and future successors. They came to us with a certain degree of expectancy of privacy. I do not know how you treat your employees, but when someone comes to me, I ask them, I say, give me the bad, give me the good, and give me the ugly, tell me the whole story, and that allows us to help you probably in a much better way than if we only get the good side of the story. So for 19 years I have been asking people to, basically, give me the bad, the good, the ugly.

And why should that information be passed on? There is an awful lot of confidentiality in those records, and I, for one, do not have the staff. I do not have the time, especially after you are not elected to office, to go through all these files and redact that data.

Maybe you have all kinds of expense accounts and maybe you have all kinds of space in your office to store these records, but a lot of us do not. Who is going to secure them? Who is going to make sure that somebody does not steal these records, a break-in – things happen. What is the common good that is really going to come out of this? If we are only talking financial records or bills or legislative, I really do not have a problem with that, but we all know, we all know that these things get intermingled in our day-to-day activities.

I just do not see, I do not think that the benefits outweigh the potential negatives on this, and I ask for your support of the Vitali amendment. Thank you, Mr. Speaker.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. I rise to interrogate Representative Vitali.

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed with his interrogation.

Mr. SAMUELSON. A lot of the questions have been about one elected official turning over records to the succeeding elected official, but my concern is, if you delete the entire section, you are deleting any elected or appointed official from turning over records to their successor – township government, city government, State government, agency. If we delete that entire section, what is to say that an outgoing official will not remove or destroy some of the necessary permanent records of that office or of that township or of that community?

Mr. VITALI. Well, it is important to keep in mind what we did not delete in that sentence, and what we did not delete is the beginning where it says, "...AGENCY RECORDS SHALL NOT BE REMOVED, DESTROYED, MUTILATED, TRANSFERRED OR OTHERWISE DAMAGED OR DISPOSED OF, IN WHOLE OR IN PART, EXCEPT AS PROVIDED BY LAW UNDER ANY APPLICABLE RECORDS RETENTION SCHEDULE OR UNDER THE RULES ADOPTED BY THE PUBLIC RECORDS OFFICE." So I think that that first sentence is enough to deal with preventing officials from destroying records.

I was trying to get at that next sentence which sort of blended two concepts, one of which I found problematic, where you had public officials having to transfer to their successor. But I think that first sentence there, lines 13 through 17, gives the public the protection they need against records being destroyed.

Mr. SAMUELSON. Thank you. That concludes my interrogation.

The SPEAKER. Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Vitali amendment. I have accumulated huge amounts of records, and I have asked to take them out of storage here because they are taking up too much space. They are now in my district office. As a practical matter, we get tons of paperwork every week. Just keeping up with our own paperwork is an enormously difficult thing. The idea that somebody who succeeds us is going to be able to keep up with his or her own paperwork and have loads of free time to go back through old records of ours or old records of whoever their

predecessor was is really not very realistic. I think it just places undue burden on us if the Vitali amendment is not passed.

So I would strongly urge that the Vitali amendment be passed so we have a much more workable, a much more feasible, program than we have now.

The SPEAKER. Representative Phillips.

Mr. PHILLIPS. Thank you, Mr. Speaker.

Would the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. PHILLIPS. Mr. Speaker, the way the bill is written, and it says "all public records," does that mean everything that I have in my—

Mr. VITALI. I am sorry. I cannot hear.

The SPEAKER. Members will please take their seats. Conferences will break up. The noise level is entirely too high.

The gentleman is in order and may proceed.

Mr. PHILLIPS. Thank you, Mr. Speaker.

When it says "all public records," does that mean everything that I have in my files would have to be turned over to the individual who follows me in office? In other words, if I got personal letters where people have problems—

Mr. VITALI. I am not getting all of this. I am sorry, I am just not getting all of what you are saying.

Mr. PHILLIPS. When it mentions public records, does that mean that everything that I have in my file, regardless of what it is, has to be turned over – I am talking as the bill is now – has to be turned over to the individual who follows me in office, such as personal letters, maybe some letters that have to do with ideas on, maybe, legislation that has been introduced, and everything that I have in file, as it is now, does that have to be turned over?

Mr. VITALI. Well, the reason I drafted the amendment and the intent of the amendment was to eliminate the requirement that someone like ourselves would need to hand over our office files to the person who succeeded us. That was the general idea.

There is still, to be clear, an obligation that records not be removed or destroyed except as provided by law. So what I am trying to do here is not impose an additional requirement that people like us and other elected officials have to transfer our records to our successors.

Mr. PHILLIPS. And this amendment would take care of that? My concern is that in my files, I would keep personal letters that maybe would have to do with private individuals who are having different problems, maybe financially or that type of problem, looking for help. I would not want to see them being turned over to the individual who is following me. Now, this amendment would take care of that?

Mr. VITALI. That is what it is getting at. That is what it is trying to do, yes.

Mr. PHILLIPS. Thank you, Mr. Speaker.

Mr. Speaker, I would rise to—

The SPEAKER. The gentleman is in order and may proceed.

Mr. PHILLIPS. I would rise to support this amendment. I think it is a good amendment. It would take care of these things that are really personal and things that you have in your files that you should keep to yourself, and I would support the amendment.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor for

the second time? The Chair recognizes— The gentleman waives off.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—118

Adolph	Geist	Major	Rapp
Argall	George	Manderino	Raymond
Belfanti	Gerber	Mann	Readshaw
Biancucci	Gergely	Mantz	Rubley
Bishop	Gingrich	Markosek	Sabatina
Blackwell	Godshall	Marshall	Sainato
Brennan	Goodman	Marsico	Santoni
Buxton	Grucela	McCall	Seip
Caltagirone	Haluska	McGeehan	Sipthroth
Cappelli	Hanna	Melio	Smith, K.
Casorio	Harhai	Metcalfe	Smith, S.
Civera	Harkins	Millard	Sonney
Cohen	Harper	Moyer	Staback
Costa	Harris	Mundy	Stairs
Cruz	Helm	Murt	Stern
Curry	Hennessey	Myers	Sturla
Daley	Hess	Nailor	Surra
DeLuca	Hornaman	O'Brien, M.	Swanger
DePasquale	Josephs	Oliver	Tangretti
Dermody	Keller, W.	Pallone	Thomas
DeWeese	Kessler	Parker	Vitali
Donatucci	Killion	Pashinski	Walko
Eachus	Kirkland	Perzel	Wansacz
Evans, D.	Kortz	Petrarca	Waters
Evans, J.	Kotik	Petrone	White
Everett	Kula	Phillips	Williams
Fabrizio	Levdansky	Preston	Wojnaroski
Fairchild	Longiatti	Pyle	Yewcic
Fleck	Maher	Quigley	Youngblood
Frankel	Mahoney		

NAYS—78

Baker	Ellis	Miller	Saylor
Barrar	Freeman	Milne	Scavello
Bastian	Gabig	Moul	Schroder
Bear	Galloway	Nickol	Shapiro
Benninghoff	Gibbons	O'Neill	Shimkus
Bennington	Gillespie	Payne	Smith, M.
Beyer	Grell	Payton	Steil
Boback	Harhart	Peifer	Stevenson
Boyd	Hershey	Perry	Taylor, J.
Brooks	Hickernell	Petri	Taylor, R.
Carroll	Hutchinson	Pickett	True
Causer	Kauffman	Quinn	Turzai
Clymer	Keller, M.	Ramaley	Vereb
Conklin	Kenney	Reed	Vulakovich
Cox	King	Reichley	Wagner
Creighton	Leach	Roae	Watson
Cutler	Lentz	Rock	Yudichak
Dally	Mackereth	Rohrer	
Denlinger	McI. Smith	Ross	O'Brien, D., Speaker
DiGirolo	McIlhattan	Samuelson	

NOT VOTING—0

EXCUSED—7

James Mensch	Micozzie Mustio	Roebuck Solobay	Wheatley
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. MAHER offered the following amendment No. **A03948**:

Amend Sec. 301, page 42, line 20, by striking out "A" and inserting  
an agency

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Maher on the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

This is purely a technical amendment to clarify that the records we are speaking about are agency records and not other records.

Thank you, Mr. Speaker.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—195

Adolph	Frankel	Manderino	Rock
Argall	Freeman	Mann	Rohrer
Baker	Gabig	Mantz	Ross
Barrar	Galloway	Markosek	Rublely
Bastian	Geist	Marshall	Sainato
Bear	George	Marsico	Samuelson
Belfanti	Gerber	McCall	Santoni
Benninghoff	Gergely	McGeehan	Saylor
Bennington	Gibbons	McI. Smith	Scavello
Beyer	Gillespie	McIlhattan	Schroder
Bianucci	Gingrich	Melio	Seip
Bishop	Godshall	Metcalfe	Shapiro
Blackwell	Goodman	Millard	Shimkus
Boback	Grell	Miller	Siptroth
Boyd	Grucela	Milne	Smith, K.
Brennan	Haluska	Moul	Smith, M.
Brooks	Hanna	Moyer	Smith, S.
Buxton	Harhai	Mundy	Sonney
Caltagirone	Harhart	Murt	Staback
Cappelli	Harkins	Myers	Stairs
Carroll	Harper	Nailor	Steil
Casorio	Harris	Nickol	Stern
Causar	Helm	O'Brien, M.	Stevenson
Civera	Hennessey	O'Neill	Sturla
Clymer	Hershey	Oliver	Surra
Cohen	Hess	Pallone	Swanger
Conklin	Hickernell	Parker	Tangretti
Costa	Hornaman	Pashinski	Taylor, J.
Cox	Hutchinson	Payne	Taylor, R.
Creighton	Josephs	Payton	Thomas
Cruz	Kauffman	Peifer	True
Curry	Keller, M.	Perry	Turzai
Cutler	Keller, W.	Perzel	Vereb
Daley	Kenney	Petrarca	Vitali
Dally	Kessler	Petri	Vulakovich
DeLuca	Killion	Petrone	Wagner

Denlinger	King	Phillips	Walko
DePasquale	Kirkland	Pickett	Wansacz
Dermody	Kortz	Preston	Waters
DeWeese	Kotik	Pyle	Watson
DiGirolamo	Kula	Quigley	White
Donatucci	Leach	Quinn	Williams
Eachus	Lentz	Ramaley	Wojnaroski
Ellis	Levdansky	Rapp	Yewcic
Evans, D.	Longiatti	Raymond	Youngblood
Evans, J.	Mackereth	Readshaw	Yudichak
Everett	Maher	Reed	
Fabrizio	Mahoney	Reichley	O'Brien, D.,
Fairchild	Major	Roae	Speaker
Fleck			

NAYS—0

NOT VOTING—1

Sabatina

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. GABIG offered the following amendment No. **A03804**:

Amend Sec. 307, page 58, line 19, by inserting after "ACCESSIBLE."

Any written, recorded or other memorialized offers or proposed terms of contract settlements during the period of formal negotiation prior to the expiration of an existing contract to which a public school district is a party and which are in the possession of the public school district for more than 14 calendar days shall be a public record and shall be publicly accessible.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Gabig on the amendment.

Mr. GABIG. Thank you, Mr. Speaker.

This amendment helps to make this bill stronger by including public documents that are currently not open to the public so that they can review them to help move our educational process along. So it is in the vein of open records and opens records for the public to see.

The SPEAKER. Representative Vitali.

Mr. VITALI. I am sorry, I just want to make sure I understand this. What you are getting at is making public—

The SPEAKER. Will the gentleman—

Mr. VITALI. Oh, I am sorry, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.



Mr. VITALI. So this deals with making contract negotiations between teachers unions and school boards, near the end of the negotiations, public?

Mr. GABIG. I am sorry; I could not hear the gentleman. Could he please speak up?

Mr. VITALI. I apologize. Does this make contract negotiations between teachers unions and school boards public and subject to public review prior to the contract agreement?

Mr. GABIG. That is somewhat broader than what it does. I would encourage the gentleman to take a look at the amendment. It should be on his system. What it does is, and this would be in the nature of a broader explanation, if a public school board is in possession of documents, records, memorialized writings, during the formal negotiation process, not the fact-finding process and not the informal negotiations, but only during the formal negotiations, any of those documents that this government entity, the school boards are in possession of for a period of 14 days, the public, after that 14-day period, would have a right to see those, to review those, to digest them, to deliberate upon them. It would open these records up, these public records that are in possession by public agencies, these school boards, to public review. It would shine the light of public transparency upon these records.

Mr. VITALI. Could you help me understand the distinction between the formal negotiating process and the informal negotiating process? Is that statutory or is—

Mr. GABIG. Yes, it is.

Mr. VITALI. And just for someone who is not intimately familiar with the details, tell me where the formal part comes in. When does it become formal as opposed to informal?

Mr. GABIG. You know, a rule of thumb, generally, is 6 months prior to the expiration of a contract, typically, they start formal negotiations, and both sides would submit documents regarding the resolution of that matter.

Mr. VITALI. So within 6 months of the termination of the contract, the offers back and forth would become public records under what circumstances?

Mr. GABIG. These would be the documents that are in possession of the government agency, the public school boards.

Mr. VITALI. School boards.

Mr. GABIG. They would have these documents, and right now they are concealed from the public, they are secret, and I want to open up that process and make them open to the public so that newspapers can come in there, so Common Cause can come in, so the public can see these documents.

Mr. VITALI. You want to shine the light, in other words?

Mr. GABIG. I want to shine that light of transparency.

Mr. VITALI. I understand that. May I ask you a question? Has the Pennsylvania School Boards Association or PSEA (Pennsylvania State Education Association) or any of the other groups who you would think might have an opinion on this expressed an opinion on this?

Mr. GABIG. Well, I will say this about that: I have not worked with any special interest groups on this legislation. I do not believe that lobbyists and special interest groups should be driving this issue. This should be about open records and the public and the people. So I have talked, however, I have talked to members of my school board in Carlisle. I have Big Springs school board, part of Cumberland Valley school board, part of Shippensburg, but the main school board in my district, or where I live, is the Carlisle Area School District, and I have talked to members from there about this. In fact, without

revealing any confidences or work products or strategies or e-mails, I will say that this idea actually came from people involved with the education – the educators in my district.

Mr. VITALI. So from your answer, can I conclude that you are not aware of any formal opinion by PSEA or the Pennsylvania School Boards Association? Would that be a safe assumption?

Mr. GABIG. I have heard no opposition to this very good government piece of legislation. Not one single person has stood up and said, I oppose opening up public records to public view regarding this issue. So I would have to conclude, based on that, since we have had plenty of time to review all these things – we heard that before, that we had a lot of time to look at it and this legislation is ready for prime time – since we have heard no opposition, they must agree that it is a good-government piece of legislation.

Mr. VITALI. So from your answer can I conclude that you have heard no support at all, at all, from PSEA or the School Boards Association? Would that be safe to say?

Mr. GABIG. I would think their silence, their resounding silence in the face of this overwhelming issue to get this out, is really embracing it. It is an embracer by their silence.

Mr. VITALI. That concludes my inter— I am almost moved to tears, but that concludes my interrogation.

The SPEAKER. Does the gentleman seek recognition on the amendment?

Mr. PASHINSKI. Would the maker of that amendment please rise?

The SPEAKER. The gentleman is out of order. The gentleman is out of order. Representative Vitali is still speaking.

Mr. VITALI. I just want to express, in all seriousness, I just want to express some concerns because of, I mean, I negotiated professionally as a lawyer and just the delicate nature of negotiations and getting a deal closer and closer and what it takes and the dynamics of exposing that information to the public, sometimes because of posturing and certain things that must be said, and we have all been through this negotiating process. I am just concerned that exposing this process to public scrutiny might have a detrimental effect on reaching a conclusion which could get kids back into schools. So I am just a little bit concerned there.

And I am also concerned if this is the right place to deal with this issue, as opposed to when we are dealing more specifically with school boards and teachers and the resolution of contracts. So I just have some concerns about this. Thank you.

The SPEAKER. Representative Pashinski.

Mr. PASHINSKI. Thank you, Mr. Speaker.

Would the maker of the amendment please rise for questioning?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. PASHINSKI. The gentleman very passionately expressed a sincere desire of shining the light and openness. In that light, would you then share with us, turn the light on, of who those people were who told you that they were for this particular amendment, to open up negotiations in that manner?

Mr. GABIG. Are you asking me to reveal the names of my constituents that have talked to me about this?

Mr. PASHINSKI. You had indicated that you had individuals who came to you, of the education profession. I would like you to shine the light on who they are and what their comments were.

Mr. GABIG. Well, I know that there was an exception to this bill for e-mails that I voted against, but it passed overwhelmingly with the support of the Democratic leadership to keep e-mails off. And I think, in the light, I think a lot of my communication was by telephone and by e-mail with these members of my school board. And I also would want to say one other thing: They are in the process of what is called an early-bird negotiation, and they have requested their names not be publicly put out at this time. So that is why I did not want to mention their names directly, but if you want me to, we can talk off-camera if you want to know their names.

Mr. PASHINSKI. At the present time it is not law, and since you indicated it was members of the education profession and you want to shine the light on it, I would ask that you reveal those names.

Mr. GABIG. The names of the school board members that support this?

Mr. PASHINSKI. No. You indicated they were members of the education profession.

Mr. GABIG. Educators, I think was the term I used.

Mr. PASHINSKI. Educators.

Mr. GABIG. So the members on my school board, I consider them to be educators. They are involved with the education process.

Mr. PASHINSKI. I would say they are administrators.

Mr. GABIG. Administrators, well, also administrators are involved with education. Whether teachers are, is that your question? Whether specific teachers—

Mr. PASHINSKI. I may have misunderstood. You implied that it was teachers.

Mr. GABIG. No. I did not say teachers as you recall, but I have talked to teachers who are supportive of this. They are — as you might know, there is this thing called the PSEA and this union, and they are reluctant to be browbeaten by some of their colleagues on the issue. So I am not going to reveal the teachers who are supportive of this. I just do not think that would be right to do. If they want to come forward and mention their names, they could do that.

Mr. PASHINSKI. I am just wondering if you are willing to allow for the full negotiation process to become totally public, why you would have to protect the names of those who would—

### PARLIAMENTARY INQUIRY

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

The SPEAKER. For what purpose does the minority leader rise?

Mr. S. SMITH. A point of parliamentary inquiry.

Is it a proper line of questioning to ask a member where the idea came from for something? I mean, it seems to me that in the order of debate that there is something judgmental or like you are challenging someone's motives, and it just seems like an odd line of questioning and something does not seem right to press for who asked you to do this.

Mr. GABIG. All right. Mr. Speaker, I can answer. I can answer.

The SPEAKER. The gentleman has not refused to answer the question. That is why the Chair has not ruled the line of questioning out of order.

Mr. GABIG. All right. I will answer the gentleman's question. I can see he is very sincere and wants to know this.

I introduced a bill last session which was called the Strike-Free Education bill, and as part of that, I had a transparency section. There were other parts. Representative Rock has taken that idea and worked on it, has a better piece of legislation out there, I guess, at this time. But that transparency part was supported by everybody. A lot of people opposed other parts of it. My opponent, my Democratic opponent by the name of Bill Cobb, embraced transparency. He was against my bill, but he embraced the transparency sections. So Bill Cobb, retired teacher, principal, I think he had 30 years in education, supported by the Democratic Campaign Committee, he is one of those individuals that I refer to who embraced transparency in this process.

Mr. PASHINSKI. Thank you, sir. You answered my questions, and I am sorry if those questions may have been out of line, sir.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Representative Mahoney.

Mr. MAHONEY. Mr. Speaker, I rise to oppose this amendment.

The SPEAKER. Representative Cohen.

Mr. COHEN. Mr. Speaker, the problem with this amendment is that it makes negotiations much harder. People raise all sorts of things in labor negotiations which have to be seen in the context of everything else, and anything is theoretically possible, but there is no expectation that many of the things that are raised actually will come into existence. What is relevant in negotiations is what is finally agreed to. It is not particularly relevant as to what theoretical possibilities were proposed before.

People in a labor negotiation, for instance, might propose a zero-percent salary increase coupled with employer payments of all pension contributions, but the zero-percent salary increase may, standing by itself, be seen as risky or inflammatory if the union leader advocates that temporarily.

It is very, very uncertain what is going to happen, and merely by taking something and saying that any idea put forth, any proposal made, has to be enshrined in the public record for years to come inhibits conversation. It is very much like the e-mails that we discussed earlier. If you require everything disclosed, everything that is on an e-mail to be disclosed, then nothing is going to get in an e-mail. If you require that everything is put forward in a discussion in a negotiating session, then there is not going to be very much discussed. I think we have to be able to function in a competent fashion. We have to be able to raise alternatives and raise items for consideration without holding those items of consideration up to public scrutiny for years to come.

This is an amendment that hinders collective bargaining, that the PSEA, for one, is strongly against, and I would strongly urge that it be defeated. There is nobody involved in collective bargaining who supports this language, and I would strongly urge that we allow collective bargaining to continue without setting up all sorts of unnecessary, artificial barriers to collective bargaining taking place.

I urge a "no" vote on this amendment.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor?

The Chair recognizes Representative Gabig for the second time.

Mr. GABIG. Thank you, Mr. Speaker.

Just to make sure, I know we have been here for a while and I know I am getting tired and the noise in here sometimes makes our heads spin, but I want to make sure everyone understands, this only applies to public school district documents in the possession of school boards, public records in their possession. And they actually have 14 days before it needs to be revealed under this, and it only has to do with offers or proposals for resolving negotiations.

I think we need to consider that about \$15 billion, at least \$15 billion of public taxpayer money, is spent through our public school districts in the Commonwealth of Pennsylvania, and 70 or more percent of that is directly related to the settlement of these school districts' contracts. That is a lot of money. That is a lot of the people's money, and to say they have no right to know what offers are being made either by the school board or by the teacher union, they have no right to know that? That has to be hidden and concealed and made secret during the formal negotiation process, that is just plain wrong.

This is not some State secret, some matter of police investigations, grand juries, CIA (Central Intelligence Agency) documents. This is the people's money being spent. And who is making what offers to resolve a contract before there are strikes in a local school district, the people should know about that. They have a right to know about that. That will do this, here is the public policy good that it will do. Both sides, because this impacts both sides, this is not picking on one side or the other, both sides will be very much encouraged to submit reasonable offers of settlement. The school board and the teacher unions cannot come with these very far apart things where the people in the school district are then driven to a near-strike.

We lead the country in school strikes. We are the strike capital of the world. We have more strikes in this Commonwealth, schoolteacher strikes, than any other State in the Union, in fact, than all other States put together. That is wrong, and one of the ways to deal with that is to have this transparency in the formal negotiation process. It does not touch the informal negotiation process. That would encourage early-bird negotiation. It does not touch fact-finding, which occurs later on in the process. It is just during this formal negotiation process that people have a right to know what both sides are submitting.

So I would encourage those who are interested in good government, and having the public access to public documents, in reducing strikes without affecting anybody's right to strike, by the way, to support this amendment. Thank you, Mr. Speaker.

The SPEAKER. Representative Metcalfe.

Mr. METCALFE. Thank you, Mr. Speaker.

Mr. Speaker, I rise to commend the sponsor of this amendment for proposing much-needed transparency in the process of negotiations between the teachers union and our school districts. Mr. Speaker, currently in one of my school districts, in the school district that my daughter graduated from a few years back, we are currently engaged in a strike in our school district. The teachers union is now going into their third week of strike, over 7,000 students put out of their schools, Mr. Speaker, taxpayers being held hostage to the

unreasonable demands of the teachers union in the Seneca Valley School District.

Mr. Speaker, they have been without a contract for a year now, a little over a year, going into the second year. This legislation would have put much-needed pressure in place to move negotiations in the direction that the school board has been pushing for, in the direction that the taxpayers are supporting them to move, and that is to come up with a reasonable contract and to still have their students in school.

Mr. Speaker, the untold problems that are created for families by these types of strikes really get overlooked in this whole debate. There are many problems created for thousands of families in my district currently. This legislation, Mr. Speaker, would have helped to put much-needed light on the issue and helped to bring a resolution to bear much sooner. And we probably would not be in the situation that we are in right now if we had more transparency in the process of considering what a school district is offering to a teachers union and what the teachers union is demanding, Mr. Speaker.

Mr. Speaker, it is about time that we brought much-needed change to policy here in Pennsylvania. As the former speaker mentioned, we are the teacher strike capital of the country, Mr. Speaker. It is time to bring that to an end. It should be an embarrassment for this legislature that our law has allowed this situation to occur. This is the type of change that we need and we need it now, and I am going to be casting an affirmative vote, and I commend the sponsor of the amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, I rise to strongly oppose the Gabig amendment.

The maker of the amendment gave a two-cents explanation of what his amendment did when he first rose, but he is very articulate and he certainly knows how to cherry-pick any other individual member's arguments or amendments on a myriad of issues. And in this instance, we find an amendment that would greatly inhibit collective bargaining in the arena of our 501 school districts.

We all know, we all know that there is the ability for the press to interview us for a half-hour, and they will put a snippet, a sentence or two or three or four, of what we said to them in the article because maybe they are interviewing three or four or five other individuals on the same subject matter. That is the negative about this type of amendment. That is exactly why we have collective bargaining done in private, not just for schoolteachers, for police officers, for building tradesmen; you go across the gamut.

Collective bargaining is designed and always has been for 250 years in this Commonwealth to be private so that someone cannot take out of context, as the gentleman, Mr. Cohen, said, a snippet, a cherry-picked item, whereby something is put on the table as an offer but only if the counteroffer includes this. But we risk, we risk having that snippet or that cherry-picked item put out there for the public to behold without the rest of the story. And Paul Harvey will tell you part two of the rest of the story in every occasion, but that is not to say that that is going to happen with the media, whether it be electronic or whether it be print, and there is a reason for secret negotiations.

Now, that being said, I was a co-prime sponsor with Representative Joseph Gladeck, many sessions ago, to, in lieu of teacher strikes, to go to last-best-offer binding arbitrations. It passed the House overwhelmingly. The GOP-controlled

Senate refused to take the bill up, and at one point back then we had an agreement from the teachers unions to go along with that legislation. They have since back-stepped because of Act 88 and a few other things that have happened in the interim. But, Mr. Speaker, this is a ridiculous amendment. The maker of the amendment knows that this is not good government. It is not going to put an end to teacher strikes. It is only going to allow sensationalism of negotiations to occur. This is not right. This is not good government. This is not transparency.

I do not want to belabor the point because I know that FEMA (Federal Emergency Management Agency) is having a press conference a few minutes from now, and I do not want to miss any of that. I guess that went over everybody's head. But I just ask the members to think before they vote on the Gabig amendment, and let us make sure that collective bargaining remains as it was always intended, and that is to be done in private, with the final version being out there, being transparent, and let the citizens and the voters, at the next election, decide whether or not the school board or the schoolteachers did the right thing, not only on behalf of their own interests but the interests of the children, the interests of the students, our pupils, pre-K through K-12.

Thank you very much, Mr. Speaker.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—47

Baker	Ellis	Kauffman	Pickett
Barrar	Everett	Mackereth	Rapp
Bastian	Fairchild	Maher	Reichley
Bear	Gabig	Major	Roe
Benninghoff	Gillespie	Mantz	Rock
Boyd	Harhart	Marsico	Rohrer
Causer	Harris	Metcalfe	Schroder
Cox	Helm	Millard	Smith, S.
Creighton	Hennessey	Moul	Stevenson
Cutler	Hershey	Nailor	Swanger
Dally	Hickernell	Payne	True
Denlinger	Hutchinson	Perry	

NAYS—149

Adolph	Geist	McGeehan	Saylor
Argall	George	McI. Smith	Scavello
Belfanti	Gerber	McIlhattan	Seip
Bennington	Gergely	Melio	Shapiro
Beyer	Gibbons	Miller	Shimkus
Biancucci	Gingrich	Milne	Siptroth
Bishop	Godshall	Moyer	Smith, K.
Blackwell	Goodman	Mundy	Smith, M.
Boback	Grell	Murt	Sonney
Brennan	Grucela	Myers	Staback
Brooks	Haluska	Nickol	Stairs
Buxton	Hanna	O'Brien, M.	Steil
Caltagirone	Harhai	O'Neill	Stern
Cappelli	Harkins	Oliver	Sturla
Carroll	Harper	Pallone	Surra
Casorio	Hess	Parker	Tangretti
Civera	Hornaman	Pashinski	Taylor, J.
Clymer	Josephs	Payton	Taylor, R.
Cohen	Keller, M.	Peifer	Thomas
Conklyn	Keller, W.	Perzel	Turzai
Costa	Kenney	Petrarca	Vereb
Cruz	Kessler	Petri	Vitali
Curry	Killion	Petrone	Vulakovich

Daley	King	Phillips	Wagner
DeLuca	Kirkland	Preston	Walko
DePasquale	Kortz	Pyle	Wansacz
Dermody	Kotik	Quigley	Waters
DeWeese	Kula	Quinn	Watson
DiGirolamo	Leach	Ramaley	White
Donatucci	Lentz	Raymond	Williams
Eachus	Levdansky	Readshaw	Wojnaroski
Evans, D.	Longiotti	Reed	Yewcic
Evans, J.	Mahoney	Ross	Youngblood
Fabrizio	Manderino	Rublely	Yudichak
Fleck	Mann	Sabatina	
Frankel	Markosek	Sainato	O'Brien, D., Speaker
Freeman	Marshall	Samuelson	
Galloway	McCall	Santoni	

NOT VOTING—0

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

The SPEAKER. The gentleman, Representative Gabig, has no other amendments?

Mr. GABIG. Thank you, Mr. Speaker.

I intend, after that thrashing, to withdraw all my other good-government amendments.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Northampton County, Representative Freeman. Would the gentleman advise the Chair of the number of his amendment, his replacement amendment?

Mr. FREEMAN. Thank you, Mr. Speaker.

That is, in fact, correct. The amendment being offered is A04001. It is, in effect, a replacement amendment under rule 21(d).

The SPEAKER. The gentleman is correct.

Mr. FREEMAN. Earlier today—

The SPEAKER. If the gentleman will suspend.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. FREEMAN offered the following amendment No. **A04001:**

Amend Sec. 709, page 74, lines 26 through 30; page 75, lines 1 through 8, by striking out all of said lines on said pages and inserting Section 709. Transcripts of hearings and administrative proceedings.

Transcripts of hearings and administrative proceedings shall be deemed public records at the conclusion of the hearings and administrative proceedings. Nothing in this act shall prohibit a litigant or a party to a hearing or administrative proceeding or the legal representative of the litigant or party, from acquiring a full transcript of

the hearing or administrative proceeding which shall not be subject to redaction prior to or after final adjudication. An agency may refer a litigant or a party to a hearing or administrative proceeding, or the legal representative of the litigant or party, to the court reporter or other transcriber to obtain a copy of the transcript if all of the following apply:

- (1) The court reporter or transcriber prepared the transcript under contract with the agency.
- (2) The court reporter or transcriber is able to make the transcripts available within a reasonable time and at a cost which is reasonable and customary within the court reporting industry.
- (3) The name, address and telephone number of the court reporting or transcribing entity under contract with the agency is made available by the agency.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Freeman on the amendment.

Mr. FREEMAN. Thank you, Mr. Speaker.

Earlier today we adopted the Dermody amendment dealing with stenographic records, and that, in effect, knocked out an amendment of mine, amendment A03766, which was similar.

What this amendment does is retain the Dermody language that we voted on earlier, this replacement amendment, but it makes a subtle but important distinction. Under Representative Dermody's amendment, "Transcripts of hearings and administrative proceedings shall be deemed public records after such matters have been finally adjudicated." The difference with my language is that "Transcripts of hearings and administrative proceedings shall be deemed public records at the conclusion of the hearings and administrative proceedings." What my language does is it places that information in the hands of the public at an earlier date. The adjudicating of a hearing can take a longer period of time and is not necessary in order to get this information into the public record. Once those hearings or proceedings have been concluded, it should be sufficient to make that a matter of it being part of the public record.

So I would urge the members to support making this information more of the public record at a quicker and earlier date.

Thank you.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—196

Adolph	Frankel	Mann	Rohrer
Argall	Freeman	Mantz	Ross
Baker	Gabig	Markosek	Rubley
Barrar	Galloway	Marshall	Sabatina
Bastian	Geist	Marsico	Sainato
Bear	George	McCall	Samuelson
Belfanti	Gerber	McGeehan	Santoni
Benninghoff	Gergely	McI. Smith	Saylor
Bennington	Gibbons	McIlhattan	Scavello
Beyer	Gillespie	Melio	Schroder
Bianucci	Gingrich	Metcalfe	Seip
Bishop	Godshall	Millard	Shapiro
Blackwell	Goodman	Miller	Shimkus
Boback	Grell	Milne	Siptroth
Boyd	Grucela	Moul	Smith, K.

Brennan	Haluska	Moyer	Smith, M.
Brooks	Hanna	Mundy	Smith, S.
Buxton	Harhai	Murt	Sonney
Caltagirone	Harhart	Myers	Staback
Cappelli	Harkins	Nailor	Stairs
Carroll	Harper	Nickol	Steil
Casorio	Harris	O'Brien, M.	Stern
Causer	Helm	O'Neill	Stevenson
Civera	Hennessey	Oliver	Sturla
Clymer	Hershey	Pallone	Surra
Cohen	Hess	Parker	Swanger
Conklin	Hickernell	Pashinski	Tangretti
Costa	Hornaman	Payne	Taylor, J.
Cox	Hutchinson	Payton	Taylor, R.
Creighton	Josephs	Peifer	Thomas
Cruz	Kauffman	Perry	True
Curry	Keller, M.	Perzel	Turzai
Cutler	Keller, W.	Petrarca	Vereb
Daley	Kenney	Petri	Vitali
Dally	Kessler	Petrone	Vulakovich
DeLuca	Killion	Phillips	Wagner
Denlinger	King	Pickett	Walko
DePasquale	Kirkland	Preston	Wansacz
Dermody	Kortz	Pyle	Waters
DeWeese	Kotik	Quigley	Watson
DiGirolamo	Kula	Quinn	White
Donatucci	Leach	Ramaley	Williams
Eachus	Lentz	Rapp	Wojnaroski
Ellis	Levdansky	Raymond	Yewcic
Evans, D.	Longietti	Readshaw	Youngblood
Evans, J.	Mackereth	Reed	Yudichak
Everett	Maher	Reichley	
Fabrizio	Mahoney	Roae	O'Brien, D.,
Fairchild	Major	Rock	Speaker
Fleck	Manderino		

NAYS—0

NOT VOTING—0

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Ms. PICKETT offered the following amendment No. **A03792:**

Amend Sec. 708, page 74, lines 20 through 25, by striking out all of said lines

Amend Sec. 709, page 74, line 26, by striking out "709" and inserting

708

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Pickett on the amendment.

Ms. PICKETT. Thank you, Mr. Speaker. This bill as it is written would create a new unfunded mandate for our local governments. My amendment 3792 is designed to relieve them of that unfunded mandate.

As the bill is currently written, any agency must place their budgetary and other financial information on the Internet. Many of our townships and our local authorities and our local government entities in Pennsylvania presently do not have their own Web site. This amendment would eliminate this requirement in its entirety. Their budgetary and their financial information, of course, would remain public records under this amendment and they would continue to be available to the citizens of Pennsylvania.

Thank you, Mr. Speaker.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

Earlier today we adopted the Marshall amendment which left this language intact but said that if a community does not have Internet, they would not be required to do that until the time at which they got Internet. Now, if we delete these five lines, having already passed the Marshall amendment, we might inadvertently be making this apply only to future communities that get the Internet. I think we have addressed the issue earlier by adopting the Marshall amendment, so I do not think this amendment is necessary.

The SPEAKER. Representative Mahoney.

Mr. MAHONEY. I rise to oppose this because of the same reasons. I think that the Marshall amendment addresses that problem.

Thank you.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

The Chair recognizes Representative Pickett.

Ms. PICKETT. Thank you, Mr. Speaker.

The bill does talk about financial information. That could require a lot of different items that our small townships, authorities, and local governments would have to keep up with, even if they were able to put a Web site up. I think it is an unfunded mandate that is asking way too much of these entities. The material is available. The information is there under other methods for the public to have readily.

I am asking for a "yes" vote on this to remove the unfunded mandate from our local governments. Thank you.

On the question recurring, Will the House agree to the amendment?

The following roll call was recorded:

YEAS-89

Table with 4 columns of names: Adolph, Argall, Baker, Barrar, Bastian, Bear, Benninghoff, Beyer, Boback, Boyd, Brooks, Everett, Fairchild, Fleck, Geist, Gillespie, Gingrich, Godshall, Harhart, Harper, Harris, Helm, Maher, Major, Mantz, Marsico, McIlhattan, Metcalfe, Millard, Miller, Milne, Moyer, Murt, Quinn, Rapp, Raymond, Reed, Reichley, Roae, Rock, Rohrer, Ross, Rubley, Saylor

Table with 4 columns of names: Cappelli, Causer, Civera, Clymer, Cox, Creighton, Cutler, Dally, Denlinger, DiGirolamo, Ellis, Evans, J., Hennessey, Hershey, Hess, Hickernell, Hornaman, Hutchinson, Kauffman, Keller, M., Kenney, Killion, Mackereth, Nickol, O'Neill, Payne, Peifer, Perry, Perzel, Petri, Phillips, Pickett, Pyle, Quigley, Smith, S., Sonney, Stairs, Steil, Stern, Stevenson, True, Turzai, Vereb, Vulakovich, Watson

NAYS-107

Table with 4 columns of names: Belfanti, Bennington, Biancucci, Bishop, Blackwell, Brennan, Buxton, Caltagirone, Carroll, Casorio, Cohen, Conklin, Costa, Cruz, Curry, Daley, DeLuca, DePasquale, Dermody, DeWeese, Donatucci, Eachus, Evans, D., Fabrizio, Frankel, Freeman, Gabig, Galloway, George, Gerber, Gergely, Gibbons, Goodman, Grell, Grucela, Haluska, Hanna, Harhai, Harkins, Josephs, Keller, W., Kessler, King, Kirkland, Kortz, Kotik, Kula, Leach, Lentz, Levdansky, Longietti, Mahoney, Manderino, Mann, Markosek, Marshall, McCall, McGeehan, McI. Smith, Melio, Moul, Mundy, Myers, Nailor, O'Brien, M., Oliver, Pallone, Parker, Pashinski, Payton, Petrarca, Petrone, Preston, Ramaley, Readshaw, Sabatina, Sainato, Samuelson, Santoni, Scavello, Schroder, Seip, Shapiro, Shimkus, Siptroth, Smith, K., Smith, M., Staback, Surla, Surra, Swanger, Tangretti, Taylor, J., Taylor, R., Thomas, Vitali, Wagner, Walko, Wansacz, Waters, White, Williams, Wojnaroski, Yewcic, Youngblood, Yudichak, O'Brien, D., Speaker

NOT VOTING-0

EXCUSED-7

Table with 4 columns of names: James, Mensch, Micozzie, Mustio, Roebuck, Solobay, Wheatley

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring, Will the House agree to the bill on second consideration as amended?

Mr. MANTZ offered the following amendment No. A03785:

- Amend Sec. 305, page 48, by inserting between lines 9 and 10 (3) An agency may deny access to a public record due to the failure of the person making the request for the public record to pay any fees associated with the request, which are assessed by the agency under section 309. (4) An agency may deny access to a public record due to the failure of the person making the request for the public record to pay any fees assessed under section 309, which are associated

with previous requests for public records made to the same agency.

On the question,  
Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes Representative Mantz.

Mr. MANTZ. Thank you, Mr. Speaker.

This particular amendment is designed to deny access to a record if the requester has failed to pay a fee to the agency for a prior record request, and it is also designed to deny access if the requester has failed to pay a prior fee for a current request. The question of fees is already addressed I think in section 309. They must be reasonable. I think it is really a matter of paying for what you are asking for, pure and simple.

As a matter of fact, Mr. Speaker, if I could add to that, the agency under the current draft bill does have an opportunity to waive a fee if it feels it is proper to do so.

The SPEAKER. The Chair thanks the gentleman.

Mr. MANTZ. Thank you.

The SPEAKER. Representative Mahoney.

Mr. MAHONEY. This is an agreed-to amendment.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—181

Adolph	Fairchild	Major	Roae
Argall	Fleck	Mann	Rock
Baker	Frankel	Mantz	Rohrer
Barrar	Freeman	Markosek	Ross
Bastian	Gabig	Marsico	Rubley
Bear	Geist	McCall	Sabatina
Belfanti	George	McGeehan	Sainato
Benninghoff	Gerber	McIlhattan	Samuelson
Bennington	Gergely	Melio	Santoni
Beyer	Gillespie	Metcalfe	Saylor
Biancucci	Gingrich	Millard	Scavello
Bishop	Godshall	Miller	Schroder
Blackwell	Goodman	Milne	Seip
Boback	Grell	Moul	Shimkus
Boyd	Grucela	Moyer	Siptroth
Brennan	Haluska	Mundy	Smith, K.
Brooks	Hanna	Murt	Smith, S.
Buxton	Harhai	Myers	Sonney
Caltagirone	Harhart	Nailor	Staback
Cappelli	Harper	Nickol	Stairs
Carroll	Harris	O'Brien, M.	Steil
Casorio	Helm	O'Neill	Stern
Causser	Hennessey	Oliver	Stevenson
Civera	Hershey	Parker	Sturla
Clymer	Hess	Pashinski	Surra
Cohen	Hickernell	Payne	Swanger
Costa	Hornaman	Payton	Tangretti
Cox	Hutchinson	Peifer	Taylor, J.
Creighton	Josephs	Perry	Taylor, R.
Cruz	Kauffman	Perzel	True
Curry	Keller, M.	Petrarca	Turzai
Cutler	Keller, W.	Petri	Vereb
Daley	Kenney	Petrone	Vitali
Dally	Kessler	Phillips	Vulakovich
DeLuca	Killion	Pickett	Wagner
Denlinger	Kirkland	Preston	Walko
Dermody	Kortz	Pyle	Wansacz
DeWeese	Kotik	Quigley	Waters
DiGirolamo	Kula	Quinn	Watson

Donatucci	Leach	Ramaley	White
Eachus	Levdansky	Rapp	Williams
Ellis	Longiotti	Raymond	Wojnaroski
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio			

NAYS—15

Conklin	King	McI. Smith	Thomas
DePasquale	Lentz	Pallone	
Galloway	Manderino	Shapiro	O'Brien, D.,
Gibbons	Marshall	Smith, M.	Speaker
Harkins			

NOT VOTING—0

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. **BENNINGHOFF** offered the following amendment No. **A03837**:

Amend Sec. 307, page 50, line 1, by removing the period after "OFFICIAL" and inserting  
or to any former address of a deceased person. The exemption under this paragraph relating to the disclosure of an individual's birth date shall not apply to the birth date of a deceased person.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Benninghoff on the amendment.

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

Very briefly, this was asked by several people who do genealogy work in my area to add a sentence of allowing for a former address of a deceased person as one that would not be an exemption under this particular bill.

Thank you, Mr. Speaker.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—196

Adolph	Frankel	Mann	Rohrer
Argall	Freeman	Mantz	Ross
Baker	Gabig	Markosek	Rubley
Barrar	Galloway	Marshall	Sabatina
Bastian	Geist	Marsico	Sainato
Bear	George	McCall	Samuelson
Belfanti	Gerber	McGeehan	Santoni

Benninghoff	Gergely	McI. Smith	Saylor
Bennington	Gibbons	McIlhattan	Scavello
Beyer	Gillespie	Melio	Schroder
Bianucci	Gingrich	Metcalf	Seip
Bishop	Godshall	Millard	Shapiro
Blackwell	Goodman	Miller	Shimkus
Boback	Grell	Milne	Siptroth
Boyd	Grucela	Moul	Smith, K.
Brennan	Haluska	Moyer	Smith, M.
Brooks	Hanna	Mundy	Smith, S.
Buxton	Harhai	Murt	Sonney
Caltagirone	Harhart	Myers	Staback
Cappelli	Harkins	Nailor	Stairs
Carroll	Harper	Nickol	Steil
Casorio	Harris	O'Brien, M.	Stern
Causer	Helm	O'Neill	Stevenson
Civera	Hennessey	Oliver	Sturla
Clymer	Hershey	Pallone	Surra
Cohen	Hess	Parker	Swanger
Conklin	Hickernell	Pashinski	Tangretti
Costa	Hornaman	Payne	Taylor, J.
Cox	Hutchinson	Payton	Taylor, R.
Creighton	Josephs	Peifer	Thomas
Cruz	Kauffman	Perry	True
Curry	Keller, M.	Perzel	Turzai
Cutler	Keller, W.	Petrarca	Vereb
Daley	Kenney	Petri	Vitali
Dally	Kessler	Petrone	Vulakovich
DeLuca	Killion	Phillips	Wagner
Denlinger	King	Pickett	Walko
DePasquale	Kirkland	Preston	Wansacz
Dermody	Kortz	Pyle	Waters
DeWeese	Kotik	Quigley	Watson
DiGirolamo	Kula	Quinn	White
Donatucci	Leach	Ramaley	Williams
Eachus	Lentz	Rapp	Wojnaroski
Ellis	Levdansky	Raymond	Yewcic
Evans, D.	Longietti	Readshaw	Youngblood
Evans, J.	Mackereth	Reed	Yudichak
Everett	Maher	Reichley	
Fabrizio	Mahoney	Roae	O'Brien, D., Speaker
Fairchild	Major	Rock	
Fleck	Manderino		

NAYS—0

NOT VOTING—0

EXCUSED—7

James	Micozzie	Roebuck	Wheatley
Mensch	Mustio	Solobay	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

**HOUSE SCHEDULE**

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Thank you very much, Mr. Speaker.

Just a moment on schedule. We will break at 1800 hours – that is for Representative Gabig and the military types – and we will break at 6 and come back at 7:30 sharp and launch, and it is mathematically conceivable that we could finish tonight by 11

and get on to other business tomorrow. I do not want to rush this for a variety of reasons. We want to take our time, but we have made substantial progress. We have had 58 amendments, either addressed today or withdrawn, out of 97. So we are over halfway. We would like to come back at 7:30 and launch again, but to give our stenographers and our staff a momentary break, I would like to ask for an hour and a half recess, back tonight, and obviously back tomorrow. We are making good progress though.

Thank you, Mr. Speaker.

The SPEAKER. Are there any other announcements?

**RECESS**

The SPEAKER. This House will stand in recess until 7:30 p.m.

**AFTER RECESS**

The time of recess having expired, the House was called to order.

**BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED**

**HB 1690, PN 2776** (Amended) By Rep. MARKOSEK

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for automated red light enforcement systems in first class cities.

TRANSPORTATION.

**HB 1723, PN 2282** By Rep. MARKOSEK

An Act designating the bridge on State Route 322 joining Clearfield and Centre Counties as the Veterans' Memorial Bridge.

TRANSPORTATION.

**HB 1863, PN 2549** By Rep. MARKOSEK

An Act designating a bridge on PA Route 120 crossing the railroad tracks at the east end of Renovo Borough in Clinton County, Pennsylvania, as the Western Clinton County Veterans Bridge.

TRANSPORTATION.

**SB 999, PN 1216** By Rep. MARKOSEK

An Act designating a portion of State Route 26 in Centre County as the Marine Sergeant David "DJ" Emery, Jr. Highway.

TRANSPORTATION.

**SB 1065, PN 1465** By Rep. MARKOSEK

An Act designating State Bridge No. 36-4009-0030-0000, the newly replaced bridge on Dillerville Road in the City of Lancaster, Lancaster County, as the Edward Anthony Davis Memorial Bridge.

TRANSPORTATION.



### HOUSE RESOLUTION INTRODUCED AND REFERRED

**No. 494** By Representatives SAYLOR, McGEEHAN, REICHLEY, LONGIETTI, BARRAR, CAPPELLI, CREIGHTON, DeLUCA, DENLINGER, GOODMAN, GRUCELA, HORNAMAN, R. MILLER, MOYER, PAYNE, PETRONE, SEIP and SWANGER

A Resolution urging the Congress of the United States to enact legislation to ensure that the H-1B and L-1 visa programs are utilized for the purpose for which they were intended.

Referred to Committee on INTERGOVERNMENTAL AFFAIRS, October 30, 2007.

### HOUSE BILLS INTRODUCED AND REFERRED

**No. 1987** By Representatives BARRAR, ADOLPH, BAKER, BEAR, BENNINGHOFF, BOYD, BRENNAN, CALTAGIRONE, CAPPELLI, DALLY, EVERETT, FLECK, GEIST, GEORGE, GIBBONS, GILLESPIE, GINGRICH, GOODMAN, HARHART, HARRIS, HELM, HENNESSEY, HERSHEY, HORNAMAN, KOTIK, MELIO, MENSCH, MOYER, MURT, MUSTIO, D. O'BRIEN, PETRARCA, PETRONE, PYLE, RAYMOND, RUBLEY, SCAVELLO, SCHRODER, SIPTROTH, SWANGER, J. TAYLOR, THOMAS, TRUE, VULAKOVICH, WATSON, WOJNAROSKI and YOUNGBLOOD

An Act providing for a freeze on real estate taxes for senior citizens.

Referred to Committee on FINANCE, October 30, 2007.

**No. 1988** By Representatives GERGELY, McCALL, ARGALL, BIANCUCCI, BRENNAN, CALTAGIRONE, CARROLL, CASORIO, CURRY, DALEY, DeLUCA, DePASQUALE, FABRIZIO, GABIG, GEIST, GEORGE, GOODMAN, GRUCELA, HARHAI, HARKINS, HARRIS, HORNAMAN, HUTCHINSON, KIRKLAND, KORTZ, MAHONEY, MUSTIO, PALLONE, PASHINSKI, PETRONE, PRESTON, RAMALEY, READSHAW, REED, ROAE, SANTONI, SCAVELLO, K. SMITH, SOLOBAY, STAIRS, SURRA, THOMAS, J. WHITE, WOJNAROSKI and YUDICHAK

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for exemptions and special provisions relating to taxation.

Referred to Committee on FINANCE, October 30, 2007.

**No. 1989** By Representatives WANSACZ, SHIMKUS, PASHINSKI, K. SMITH, ARGALL, BELFANTI, BENNINGHOFF, BIANCUCCI, BOBACK, BRENNAN, BUXTON, CARROLL, COHEN, CONKLIN, CURRY, DALLY, DeLUCA, DePASQUALE, DeWEESE, EACHUS, FREEMAN, GEORGE, GERGELY, GIBBONS, GOODMAN, GRUCELA, HALUSKA, HARHAI, HENNESSEY, JAMES, KORTZ, KOTIK, KULA, LEACH, LEVDANSKY, MAHONEY, MAJOR, MANN, McCALL, McILHATTAN,

McILVAINE SMITH, MELIO, MILLARD, MUNDY, MYERS, PEIFER, PETRONE, PICKETT, PYLE, RAMALEY, READSHAW, SCAVELLO, SCHRODER, SEIP, SHAPIRO, SIPTROTH, STABACK, SURRA, TANGRETTI, R. TAYLOR, WAGNER, J. WHITE, YOUNGBLOOD, YUDICHAK, FABRIZIO and THOMAS

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, in Commonwealth services, providing for the Pennsylvania Flood Grant and Assistance Program.

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, October 30, 2007.

**No. 1990** By Representatives READSHAW, BRENNAN, BUXTON, CLYMER, COHEN, COSTA, CREIGHTON, FABRIZIO, GERGELY, HALUSKA, HANNA, HENNESSEY, HESS, KOTIK, MAHONEY, MARSHALL, MOYER, MUNDY, PASHINSKI, PHILLIPS, SIPTROTH, SOLOBAY, STABACK, SURRA, THOMAS, WALKO, J. WHITE, WOJNAROSKI, YOUNGBLOOD, CONKLIN, PETRONE, SWANGER and GEIST

An Act regulating crematories; providing for licenses, for licensure requirements, for inspections and enforcement; and prescribing penalties.

Referred to Committee on PROFESSIONAL LICENSURE, October 30, 2007.

**No. 1991** By Representatives READSHAW, BELFANTI, BRENNAN, COSTA, DALLY, FABRIZIO, GEORGE, GOODMAN, GRUCELA, HANNA, HARHAI, HARKINS, KOTIK, KULA, LEACH, LENTZ, LONGIETTI, MARKOSEK, MARSICO, McCALL, M. O'BRIEN, PETRARCA, PETRONE, RAMALEY, SAINATO, K. SMITH, SOLOBAY, THOMAS and YOUNGBLOOD

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, providing for permanent biannual cost-of-living increases for retirees.

Referred to Committee on FINANCE, October 30, 2007.

**No. 1992** By Representatives MILLARD, GIBBONS, BAKER, BELFANTI, BEYER, BIANCUCCI, BOYD, CARROLL, CAUSER, EVERETT, FABRIZIO, FAIRCHILD, FLECK, GEORGE, GERGELY, GINGRICH, HARHART, HENNESSEY, HERSHEY, HESS, HICKERNELL, HORNAMAN, HUTCHINSON, M. KELLER, KOTIK, KULA, LONGIETTI, MACKERETH, MAHONEY, MAJOR, McILHATTAN, R. MILLER, MURT, PETRONE, PHILLIPS, PICKETT, PYLE, RAPP, READSHAW, ROAE, SCAVELLO, SIPTROTH, SONNEY, R. STEVENSON, WANSACZ and YOUNGBLOOD

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for exclusions from tax.

Referred to Committee on FINANCE, October 30, 2007.

**No. 1993** By Representatives KING, SCAVELLO, BRENNAN, CARROLL, DALEY, DeLUCA, GALLOWAY, GRUCELA, HARHAI, HESS, MAHONEY, MANDERINO,

PETRONE, SAINATO, SIPTROTH, J. WHITE, YOUNGBLOOD, WAGNER and CONKLIN

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, further providing for polling place regulations.

Referred to Committee on STATE GOVERNMENT, October 30, 2007.

**No. 1994** By Representatives GODSHALL, MICOZZIE, BENNINGHOFF, BOYD, CAPPELLI, CLYMER, EVERETT, FAIRCHILD, GEIST, GINGRICH, HERSHEY, HESS, KILLION, MILNE, MOUL, MOYER, PETRI, PHILLIPS, REED, REICHLEY, RUBLEY, SONNEY, STERN, SWANGER and TRUE

An Act amending the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, further providing for medical professional liability insurance, for basic coverage limits, for Medical Care Availability and Reduction of Error Fund liability limits and for extended claims.

Referred to Committee on INSURANCE, October 30, 2007.

**No. 1995** By Representatives MOUL, NICKOL, BEYER, CAPPELLI, CURRY, HARHAI, HELM, HENNESSEY, HESS, KOTIK, MOYER, MURT, D. O'BRIEN, READSHAW, REICHLEY, SCAVELLO, SIPTROTH, STERN, VEREB and VULAKOVICH

An Act amending the act of February 1, 1974 (P.L.34, No.15), known as the Pennsylvania Municipal Retirement Law, further providing for disability retirement of police officers.

Referred to Committee on FINANCE, October 30, 2007.

**No. 1996** By Representative PETRI

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in community colleges, repealing provisions relating to the Community College Capital Fund; establishing the Community Colleges Capital Projects Pooled Financing Program and the Community Colleges Capital Projects Pooled Financing Program Fund; and providing for the powers and duties of the Pennsylvania State Public School Building Authority.

Referred to Committee on APPROPRIATIONS, October 30, 2007.

**No. 1997** By Representatives CLYMER, BAKER, BENNINGHOFF, BEYER, BRENNAN, CALTAGIRONE, CREIGHTON, EVERETT, HENNESSEY, HERSHEY, JAMES, KAUFFMAN, KILLION, MELIO, METCALFE, R. MILLER, MURT, MYERS, READSHAW, ROHRER, SAYLOR, STERN, SWANGER, TRUE, WANSACZ, WATERS, YOUNGBLOOD, BROOKS, DeLUCA, PHILLIPS, RAPP and THOMAS

An Act amending the act of June 14, 1961 (P.L.324, No.188), known as The Library Code, further providing for library circulation records.

Referred to Committee on STATE GOVERNMENT, October 30, 2007.

**No. 1998** By Representatives WANSACZ, KOTIK, BENNINGTON, PASHINSKI, GERGELY, EACHUS, STABACK, SHIMKUS, SIPTROTH, SHAPIRO, PETRARCA, READSHAW, MYERS, MURT, MUNDY, WAGNER, WATSON, YOUNGBLOOD and CURRY

An Act licensing and regulating the practice of naturopathic medicine; imposing penalties; and making an appropriation.

Referred to Committee on PROFESSIONAL LICENSURE, October 30, 2007.

## SENATE MESSAGE

### RECESS RESOLUTION FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate,  
October 29, 2007

RESOLVED, (the House of Representatives concurring), Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the Regular Session of the Senate recesses this week, it reconvene on Tuesday, November 13, 2007, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the Regular Session of the House of Representatives recesses this week, it reconvene on Tuesday, November 13, 2007, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,  
Will the House concur in the resolution of the Senate?  
Resolution was concurred in.  
Ordered, That the clerk inform the Senate accordingly.

## LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative ADOLPH be placed on leave for the remainder of the day. The Chair sees no objection. The gentleman's leave will be granted.

For what purpose does Representative Brooks rise? She waives off. The Chair thanks the lady.

Members will report to the floor. The Chair is about to take up the active calendar. Members will report to the floor.

## CALENDAR CONTINUED

### CONSIDERATION OF HB 443 CONTINUED

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. **CREIGHTON** offered the following amendment No. **A03747**:

Amend Sec. 304, page 45, line 16, by striking out "DENIED" and inserting

accepted

On the question,  
Will the House agree to the amendment?

The **SPEAKER**. On the amendment, the Chair recognizes Representative Creighton.

Mr. **CREIGHTON**. Thank you, Mr. Speaker.

This amendment, 3747, I believe will ensure open records requests are processed in a timely fashion. Upon reading the bill, HB 443, "SECTION 305. AGENCY RESPONSE," subsection "ACTION," when an agency receives a request, "...THE AGENCY SHALL MAKE A GOOD FAITH EFFORT TO DETERMINE IF THE RECORD REQUESTED IS ONE TO WHICH PUBLIC...IS PERMITTED" – and I would like to refer to the words "SHALL MAKE" – "AND THE COMPLIANCE OFFICER SHALL RESPOND WITHIN TEN...DAYS FROM THE DATE THE REQUEST." There is a contradiction here in the next phrase, because it says, "IF THE AGENCY FAILS TO RESPOND...WITHIN TEN BUSINESS DAYS..., THE REQUEST...SHALL BE DEEMED DENIED." This amendment changes the word "DENIED" and says "accepted."

So to make the bill more user-friendly, I believe it should be accepted if the agency fails to respond in the 10 days.

The **SPEAKER**. Representative Longiotti.

Mr. **LONGIETTI**. Thank you, Mr. Speaker.

Mr. Speaker, I would urge a "no" vote on this amendment.

Oftentimes when these requests come in, especially to small communities, they do not get them to their solicitor in time for a review and then 10 days can pass very quickly, and under the amendment, if there is no response within 10 days, then it is deemed to be accepted or deemed to be considered available as a public record. I think it is a bad practice. It should be deemed to be denied as written in the legislation itself, and I would urge a "no" vote.

The **SPEAKER**. Representative Vitali.

Mr. **VITALI**. Will the maker stand for brief interrogation?

The **SPEAKER**. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. **VITALI**. And I apologize, in all candor. I just walked onto the floor.

Have any associations weighed in on this amendment, any groups? I am assuming there are relevant associations here like the board of supervisors, township commissioners, county commissioners. Have any groups weighed in on your amendment?

Mr. **CREIGHTON**. No, they have not.

Mr. **VITALI**. Okay. Thank you.

The **SPEAKER**. Representative Manderino.

Ms. **MANDERINO**. Thank you.

Would the maker of the amendment stand for brief interrogation?

The **SPEAKER**. The gentleman indicates that he will. The lady is in order and may proceed.

Ms. **MANDERINO**. I, too, was trying to— I see what the word change that you are trying to do is and in the particular

section where you are trying to do it. What I do not understand is, if we change something from "deemed denied" to "deemed accepted" in the section where you have written it, what effect does that have on the other exceptions from something being a public record that are in the bill?

Mr. **CREIGHTON**. It is my determination that it has no effect. It has no effect.

Ms. **MANDERINO**. Okay. Let me rephrase it just to make sure I understand. There are places in the bill where it says certain information is deemed not to be a public record, in the exception part – private information, things that might have security problems, things that might reveal information about individuals, et cetera. So there is this broad list of things, because we are flipping the presumption, that we are going to say, but these things are not open. Now, your amendment comes along and says, if you do not hear from an agency one way or another about whether or not you have access to this as a public record, we are going to deem that they accept that what you are asking for is indeed an open public record. What effect does your making that change, in the place you are making it in the bill, have on that whole list of exceptions that we, as a matter of public policy, have decided is not to be considered public?

Mr. **CREIGHTON**. The exception would be allowed to be asserted at a later time in the process.

Ms. **MANDERINO**. I am sorry. Say that one more time.

Mr. **CREIGHTON**. The exception could be stated later in the process.

Ms. **MANDERINO**. How does that happen? I am not trying to be difficult. I am really having a hard time. How does that happen? Would you have to go to court and litigate it?

Mr. **CREIGHTON**. Yes.

Ms. **MANDERINO**. Thank you.

I have finished my interrogation. Just briefly on the amendment.

The **SPEAKER**. The lady is in order and may proceed.

Ms. **MANDERINO**. Thank you, Mr. Speaker.

I think the intent, I understand, is to try to not just let delay become an automatic denial, but I think it gets very complicated when you look at all of the nuances of the public record, and I think it is even more dangerous to let a time limit be deemed an acceptance where so much sensitive information could potentially be at stake.

So I would have been more comfortable if this would have been approached by way of a penalty if the intent was to delay giving public information that should be public to the person. I would be more comfortable with that approach, that kind of carrot-and-stick approach, to make sure a governmental agency is not unnecessarily delaying, and therefore just not having to answer, a response. But I think to totally flip and say that instead of it being deemed denied, it is deemed accepted is just too dangerous in this day and age with public information, with people's personal information, with maybe the need to redact personal information, or for different eyes to look at something to make sure that there is not a security risk being made.

So with that in mind, I would reluctantly suggest that we need to vote "no" on this amendment. Thank you.

The **SPEAKER**. Representative Hennessey.

Mr. **HENNESSEY**. Thank you, Mr. Speaker.

I also rise to ask for a "no" vote on this amendment.

Across the Commonwealth we have a lot of public agencies, particularly townships come to mind, who often only meet one time per month. Oftentimes they are staffed only on a

part-time basis. Their offices are open only on a very sporadic basis, and frankly, the time period here is so short, 10 days, that it could run before anybody even set their eyes on the request for these records to be disclosed.

It might be a reasonable concept if we gave it a more reasonable period of time, but given the realities of the situation across the Commonwealth, especially with our township governments or some of them, I think this is totally impractical and unreasonable.

Also, it does not grant disclosure of records that are requested based on merit but simply on default, just a passage of a rather short period of time. If we live with the current system where the failure to respond would be deemed to be a denial, it automatically authorizes the person reseeking the records to move to the next level and, perhaps, have the appeal officer grant the disclosure of records, but if in that case it happens, it happens on merit, not simply by default. And I would suggest that it is simply a better – the current procedure in which we use I think in the Municipalities Planning Code is a much better procedure than asking for a complete acceptance of any what might well be unreasonable request for disclosure to happen automatically and lock a township or a State agency in by inadvertence.

So I ask for a defeat of the amendment. Thank you.

The SPEAKER. Representative Vitali, for the second time.

Mr. VITALI. I have a second concern here. I think the maker might want to consider this because he may not be doing what he wants to do here, because I think if in fact you just changed that one word so that within 10 days of inaction it is deemed accepted, the person making the request still does not have his records, but I am wondering if the rest of the bill hinges on the word "denied" to go to the appeal process to the State Ethics Commission. So I am just wondering if it is almost hurting – I think the maker of amendment might want to pay attention to this. My point is, he may be hurting his cause rather than helping his cause because you may need, if you do not have the records in hand, you may need the deemed denied to go, for example, to the State Ethics Commission, and if 10 days automatically triggers the deemed accepted, you do not have what you need to go to the next step, but you also do not have your records.

So you may want to think about this. I do not think this is something that is a good amendment at the moment. So if it is not withdrawn, I think I am going to vote against it.

The SPEAKER. Representative Mahoney.

Mr. MAHONEY. I also rise to oppose this amendment. Thank you.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Creighton.

Mr. CREIGHTON. In the spirit of the law the way it is written, agencies shall make a good-faith effort and the compliance officers shall respond. The burden should be on the agency to perform as a function of the law.

On the question recurring,

Will the House agree to the amendment?

(Members proceeded to vote.)

## LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative DALLY be placed on leave for the remainder of the day. The Chair sees no objection. The leave will be granted.

## CONSIDERATION OF HB 443 CONTINUED

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

### YEAS—38

Bastian	Gabig	Lentz	Rock
Benninghoff	Galloway	Mackereth	Rubley
Brooks	Gillespie	McI. Smith	Sabatina
Carroll	Hanna	Miller	Samuelson
Costa	Harhart	Moul	Schroder
Cox	Hershey	Nickol	Steil
Creighton	Hutchinson	Perry	Stevenson
Daley	Kauffman	Rapp	Wansacz
DePasquale	Keller, M.	Roae	Yudichak
DiGirolamo	Keller, W.		

### NAYS—156

Argall	Geist	Marsico	Sainato
Baker	George	McCall	Santoni
Barrar	Gerber	McGeehan	Saylor
Bear	Gergely	McIlhattan	Scavello
Belfanti	Gibbons	Melio	Seip
Bennington	Gingrich	Metcalfe	Shapiro
Beyer	Godshall	Millard	Shimkus
Biancucci	Goodman	Milne	Siptroth
Bishop	Grell	Moyer	Smith, K.
Blackwell	Grucela	Mundy	Smith, M.
Boback	Haluska	Murt	Smith, S.
Boyd	Harhai	Myers	Sonney
Brennan	Harkins	Nailor	Staback
Buxton	Harper	O'Brien, M.	Stairs
Caltagirone	Harris	O'Neill	Stern
Cappelli	Helm	Oliver	Sturla
Casorio	Hennessey	Pallone	Surra
Causer	Hess	Parker	Swanger
Civera	Hickernell	Pashinski	Tangretti
Clymer	Hornaman	Payne	Taylor, J.
Cohen	Josephs	Payton	Taylor, R.
Conklin	Kenney	Peifer	Thomas
Cruz	Kessler	Perzel	True
Curry	Killion	Petrarca	Turzai
Cutler	King	Petri	Vereb
DeLuca	Kirkland	Petrone	Vitali
Denlinger	Kortz	Phillips	Vulakovich
Dermody	Kotik	Pickett	Wagner
DeWeese	Kula	Preston	Walko
Donatucci	Leach	Pyle	Waters
Eachus	Levdansky	Quigley	Watson
Ellis	Longiatti	Quinn	White
Evans, D.	Maher	Ramaley	Williams
Evans, J.	Mahoney	Raymond	Wojnaroski
Everett	Major	Readshaw	Yewcic
Fabrizio	Manderino	Reed	Youngblood
Fairchild	Mann	Reichley	
Fleck	Mantz	Rohrer	O'Brien, D.,
Frankel	Markosek	Ross	Speaker
Freeman	Marshall		

NOT VOTING—0

## EXCUSED—9

Adolph Dally James	Mensch Micozzie	Mustio Roebuck	Solobay Wheatley
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. MAHER offered the following amendment No. **A03753**:

Amend Sec. 503, page 68, line 29, by removing the period after "LOCATED" and inserting  
or bring an action in the local magisterial district.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Maher on the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

This amendment simply restores, from our existing open records law, the opportunity for individuals who are denied access to record to pursue justice quickly and inexpensively through their local magistrate or their local court of common pleas. It does not deprive them of the option to go to whatever board might be operating in conjunction with the Ethics Commission, but allows another avenue in the neighborhood, the people's court, for quick justice.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Would the mellifluous gentleman from Upper St. Clair submit to a one-question interrogation?

The SPEAKER. The gentleman indicates that he will.

Mr. MAHER. It would be a privilege.

The SPEAKER. The gentleman is in order and may proceed.

Mr. DeWEESE. Would my honorable friend and colleague tell me – and I do not know the answer to this question and maybe you do not, either but somebody may – how many magisterial districts are there in the Commonwealth?

Mr. MAHER. I do not know the answer to that question, Mr. Speaker.

Mr. DeWEESE. Does anyone on the floor?

Mr. MAHER. I also do not know how many common pleas court judges there are.

Mr. DeWEESE. I have just been informed by one of our members who is a former magistrate, approximately 650. And again the honorable gentleman— Thank you. That concludes my interrogation. I did it because I thought the gentleman may know, I did not, but 650 magisterial districts—

The SPEAKER. The gentleman is in order and may proceed.

Mr. DeWEESE. Thank you, Mr. Speaker.

—and hundreds and hundreds and hundreds of common pleas judges.

The reason I am, reluctantly, because I – for some crazy reason the gentleman from Upper St. Clair and I are good friends and colleagues, and I want to be able to help him in one of his amendments and I want him to help me in some of mine someday, but I cannot agree with this, because fundamentally we could come up with 650 magistrates looking at an open records dialogue in 650 different ways, and you interlard the hundreds and hundreds of common pleas judges into the mix and it becomes absolutely impossible.

So I would reluctantly disagree with my honorable colleague and ask for a negative vote on the Maher amendment, just because to give it to that many magistrates, rather than have a more uniform way of approaching the subject, just does not make sense. So reluctantly I ask for a negative vote on the Maher amendment.

Thank you.

The SPEAKER. Representative Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

I, too, rise to ask for a negative vote on the Maher amendment, and I just want to make a point that I think seems to not be being emphasized in terms of the way I understand this bill to be set up. First of all, the whole notion about having one central place that would make the decision is so that we have consistency in decisions and that some folks, depending on what township or municipality or political subdivision you live in, might be being denied records that the person in the very next subdivision would be being allowed access to. But there seems to be this what I believe is a misperception that if something gets denied and it goes to the central office, that somehow you have to leave wherever you live and appear in person in Harrisburg in order to have your matter considered, and that is just not the case. That is not what is contemplated in the bill. For the most part, I believe that the vast majority of requests will be able to be reviewed on the matters as written and presented to the office, without there needing to be anybody coming anywhere in person.

Further, if after that point you are still not satisfied with the result, I believe the appeal is to Commonwealth Court. I am looking to the prime sponsor. Does it go to Commonwealth Court or to the common pleas level? I believe it goes to Commonwealth Court, and they sit in districts across the State. They do not just sit in Harrisburg.

So again, there are avenues for not having to present your— I mean, the bill is designed expecting that you will not have to present yourself in person in Harrisburg if you live in Erie. So I think that is kind of a false misconception that somehow constituents are going to be denied access to records because they just physically cannot make a trip to Harrisburg. I do not believe that is going to happen, but I believe what is going to happen is more and more citizens are going to have the right to access, to open records of their government because there will be consistent decisions and consistent rulings.

So I ask for a "no" vote on this amendment. Thank you.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

On this amendment I just wanted to respond to the comments of the previous speaker because I am not sure I agree with the assessment of how the bill is currently proposed versus the effect of this amendment. I have an amendment that deals with this subject as well, and that is why I was paying a little closer attention perhaps than normal.

It is my understanding, Mr. Speaker, that under the way the bill is drafted, that if someone at a local municipal level of government chooses to challenge the determinations to whether a record should have been made public or whether it is or is not public, that they would first come to this new board that is created under the Office of Public Records, or whatever it is called. If they do not like the ruling there, then they would go back to their common pleas court at the county level, and if one of the two parties did not like that settlement, they would then come back to Commonwealth Court in Harrisburg.

I believe the maker of the amendment is trying to make this a little more convenient, and although my amendment is a little different than his and we will assumedly consider it later this evening, I support the direction that this amendment is going. And it does it in a way that you are trying to make it a little more accessible for these people, whether they are school boards, township supervisors, boroughs, that they do not have to come to Harrisburg to some new Office of Open Records. And I guess I disagree with the notion that if they wanted to appeal the local decision, the initial request decision, if they wanted to appeal it, that they did not have to come to Harrisburg to be present before this board. I think that is a real stretch. I think if anybody in due diligence is going to protect their rights, whether it would be the local municipality or the individual seeking the record, whoever is the first one in, you are going to have to come in, most likely, with a lawyer in order to preserve your future legal rights to appeal.

So it is my interpretation, at least, that this is taking a step out of that for those people at the local government level, as well as the individuals who may be looking for information at the local government level, so that they do not have to come to Harrisburg, maybe as many as two times through the course of their appeals, if they stretch it far enough, and I think that is a good thing.

Now, keep in mind that I believe and I cannot— I may be out where I am going to make a mistake. I believe if someone were seeking records from a State agency, that they are still going to be dealing with a court here in Harrisburg. However, this primarily focuses on the local government agency, whoever that may be – township, borough, school board.

So I think this amendment goes in the right direction, certainly, in trying to make access to the court more convenient for the individual or for the local government entity, as opposed to making it more cumbersome and going back and forth to an agency in Harrisburg, back to common pleas at the county level, and then, perhaps, back to Commonwealth Court in Harrisburg.

So I would support the amendment, although I will probably be asking you to support my amendment later, which is slightly different but certainly is on the same road as this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Shapiro.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Would the maker of the amendment please stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. SHAPIRO. I understand the gentleman's intent of his amendment. I would ask how the gentleman's amendment can be squared with the jurisprudence that is on the books in Pennsylvania right now. Specifically, there are two orders – one from 2002, one from 2006 – which I would be more than happy to submit to the record and share with the gentleman, that

make it clear that under the old law, which, in fact, did reference some authority or did vest some authority with the magisterial district justices and then magisterial district judges, that, in fact, that authority is not appropriate, and the court, the Supreme Court of Pennsylvania, on two separate occasions, assigns that the authority would go to the court of common pleas and makes that permanent.

So I would just simply ask the gentleman how his amendment can be squared with these two orders and whether or not it is consistent with our State's jurisprudence?

Mr. MAHER. Thank you, Mr. Speaker.

I would encourage my friend to read those findings from our Supreme Court again, and you will find that the Supreme Court did not disrespect the magisterial courts in the way you suggest, but rather observed that there are no rules of procedure for the magisterial courts insofar as issuing a reasoned opinion.

This amendment cures that concern by providing that the magistrates would operate just as they do on every other matter. With the prior, the existing law, it provided that instead of simply issuing a ruling, as magistrates do in so many thousands of matters every day in this Commonwealth, that it provided for an opinion, and on the notion that if either party were dissatisfied with the conclusions of the court, that instead of needing to start de novo, it could start with an opinion. The court reasoned, and I think they have a point, that since there is no procedural guidance for magisterial courts to issue opinions, that the opinion part was problematic, and they suspended implementation accordingly.

Mr. SHAPIRO. Mr. Speaker, I appreciate the gentleman's response, and the gentleman is correct insofar as it relates to the order of 2002—

The SPEAKER. Has the gentleman concluded his interrogation?

Mr. SHAPIRO. I have not concluded my interrogation. Thank you, Mr. Speaker.

The gentleman is correct as it relates to the order of 2002. Perhaps he needs a refresher, and I would be happy to share with him the order of 2006, which references the order of 2002 and notes the absence of the regulations that the gentleman suggests and then states that, in fact, actions pursuant to the Right-to-Know Law are quote, "...assigned to and shall be commenced in the courts of common pleas, is hereby made permanent."

So I would ask the gentleman if he could respond to that second order, clearly I think showing that the magisterial district judges simply do not have the authority, and I would ask how his amendment can be squared with that fact?

Mr. MAHER. Thank you, Mr. Speaker.

The second order you are referring to – and you read that sentence very well – serves to make permanent the earlier temporary order. The earlier temporary order dealt with the absence of the procedural guidelines and the court's reservation of the right to establish procedural guidelines. That is to say as a legislature we cannot command the courts to issue opinions, and under our Constitution, I think that is probably correct.

We do have the authority to establish de novo jurisdiction as we do on so many other matters, that if you are familiar at all with our magisterial courts, you will certainly appreciate that most magisterial judges are very busy considering thousands and thousands and thousands of cases that come before them, and the notion that somehow or another your side of the aisle believes these courts are—

Mr. SHAPIRO. Mr. Speaker?

Mr. MAHER. —unable to handle this is a bit troubling.

Mr. SHAPIRO. Mr. Speaker, if I can reclaim my time, I think the question has been asked. I would be more than happy to speak on the amendment now.

The SPEAKER. The gentleman is in order and may proceed.

Mr. SHAPIRO. I would ask the members to oppose this amendment.

I think our jurisprudence is quite clear. I think the gentleman from Upper St. Clair's reading is in fact incorrect. The 2002 order assigns, in the absence of regulations, these matters to the court of common pleas. The 2006 order makes them permanent in the court of common pleas, and I think the gentleman's amendment is off mark.

I would ask the members to oppose the Maher amendment. Thank you very much, Mr. Speaker.

The SPEAKER. Representative Manderino, for the second time.

Ms. MANDERINO. Thank you, Mr. Speaker.

I just want to correct the record. I did not mean to mislead members, but I did misspeak when I talked for the first time. The denial from the political entity, as written in the bill, goes to the central Office of Access to Public Records. The reason it does that is for consistency of decisionmaking across the State, across all levels of government. So I was accurate on that regard.

However, if there is an appeal from that decision, then what Representative Smith said was correct. If it was a local government that denied, the appeal is heard in that county court of common pleas. If it was a State agency that denied, the appeal is held in Commonwealth Court. So I did not mean to mislead anybody. I still think the central point of the Office of Access to Public Records, whose whole purpose is to follow the law and make sure that the presumption of all records being open to the public unless excepted is fulfilled, is still the key notion, and we ought not to be bypassing the office of open public records, because what we want is consistency in decisions with an eye towards open and accessible access to government information, and I think that is exactly how the authority of that office is written, and that will best serve the citizens of Pennsylvania.

So I still believe that we should vote "no" on this amendment and leave the procedure as it was designed in the bill intact. Thank you.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

The Chair recognizes Representative Maher for the second time.

Mr. MAHER. Thank you, Mr. Speaker.

Once again we are at that fork in the road: Will this legislation improve access to public records for the public, or will it impair the public's access?

I believe that you are telling your constituents that it is your goal to improve public access. Yet, as written, the bill eliminates the sort of inexpensive, easily available justice, inexpensive justice. It does not require an attorney, it does not require the trip to Harrisburg, it does not require a funnel that every case in this entire Commonwealth is going to have to fit through one straw, and what sort of a queue will that be? How long will it take to administer all of these things from 2500 municipalities, 500 school districts, 2,000 authorities?

It is going to take quite a while if we are trying to jam them all in one straw.

Justice delayed when it comes to public records is often justice denied. The current law allows individuals to go to the common pleas court. The current law was initially established to allow for the people's courts, the magistrates, and as we discussed, because of the requirement that those justices, judges, issue opinions, the Supreme Court set that aside. We have the opportunity to restore that without that trouble. Just as you respect your district judges to handle so many thousands of cases for quick, inexpensive access to justice, you have that opportunity today, or you can deny your constituents the opportunity to go down the street, have their case heard, have the case settled. It is such common sense that even Common Cause supports this amendment.

It is common sense, Common Cause understands it is common sense, and if you want to remove justice from your districts, from your neighborhoods, from your communities, and force everybody to get in a line in Harrisburg, well, then vote "no." But if you want to improve access to public records, then you have got to vote "yes." If you are interested in declining the access to public records, then you vote "no." It is a simple fork in the road. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—107

Argall	Fleck	Major	Rapp
Baker	Gabig	Mantz	Raymond
Barrar	Galloway	Marshall	Reed
Bastian	Geist	Marsico	Reichley
Bear	Gerber	McI. Smith	Roae
Benninghoff	Gibbons	McIlhattan	Rock
Beyer	Gillespie	Metcalfe	Rohrer
Boback	Gingrich	Millard	Ross
Boyd	Godshall	Miller	Rubley
Brooks	Grell	Milne	Saylor
Caltagirone	Harhart	Moul	Scavello
Cappelli	Harper	Moyer	Schroder
Carroll	Harris	Murt	Smith, S.
Causser	Helm	Nailor	Sonney
Civera	Hennessey	Nickol	Stairs
Clymer	Hershey	O'Neill	Steil
Cox	Hess	Pallone	Stern
Creighton	Hickernell	Payne	Stevenson
Cutler	Hornaman	Peifer	Swanger
Denlinger	Hutchinson	Perry	Taylor, J.
DePasquale	Kauffman	Perzel	Taylor, R.
DiGirolamo	Keller, M.	Petri	True
Donatucci	Kenney	Phillips	Turzai
Ellis	Killion	Pickett	Vereb
Evans, J.	Kotik	Pyle	Vulakovich
Everett	Mackereth	Quigley	Watson
Fairchild	Maher	Quinn	

#### NAYS—87

Belfanti	Gergely	McCall	Siproth
Bennington	Goodman	McGeehan	Smith, K.
Biancucci	Grucela	Melio	Smith, M.
Bishop	Haluska	Mundy	Staback
Blackwell	Hanna	Myers	Sturla
Brennan	Harhai	O'Brien, M.	Surra
Buxton	Harkins	Oliver	Tangretti
Casorio	Josephs	Parker	Thomas

Cohen	Keller, W.	Pashinski	Vitali
Conklin	Kessler	Payton	Wagner
Costa	King	Petrarca	Walko
Cruz	Kirkland	Petrone	Wansacz
Curry	Kortz	Preston	Waters
Daley	Kula	Ramaley	White
DeLuca	Leach	Readshaw	Williams
Dermody	Lentz	Sabatina	Wojnaroski
DeWeese	Levdansky	Sainato	Yewcic
Eachus	Longietti	Samuelson	Youngblood
Evans, D.	Mahoney	Santoni	Yudichak
Fabrizio	Manderino	Seip	
Frankel	Mann	Shapiro	O'Brien, D.,
Freeman	Markosek	Shimkus	Speaker
George			

NOT VOTING—0

EXCUSED—9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Ms. **HARPER** offered the following amendment No. **A03797**:

Amend Sec. 502, page 67, line 6, by inserting a period after "AGENCIES"

Amend Sec. 502, page 67, line 7, by striking out all of said line

Amend Sec. 502, page 67, line 10, by striking out "OR A LOCAL AGENCY"

Amend Sec. 502, page 67, lines 14 and 15, by striking out "OR LOCAL AGENCY"

Amend Sec. 502, page 67, line 20, by striking out "OR LOCAL AGENCY"

Amend Sec. 502, page 67, line 22, by striking out "OR LOCAL AGENCY"

Amend Sec. 502, page 67, line 29, by striking out "OR LOCAL AGENCY"

Amend Sec. 502, page 68, line 2, by striking out "OR LOCAL AGENCY"

Amend Sec. 502, page 68, line 6, by striking out "OR LOCAL AGENCY"

Amend Sec. 502, page 68, lines 7 and 8, by striking out "OR LOCAL AGENCY"

Amend Bill, page 68, by inserting between lines 13 and 14 Section 503. Appeals from local agencies.

(a) Filing of exceptions.—If a written request for access is denied or deemed denied, the requester may file exceptions with the head of the agency denying the request for access within 15 business days of the mailing date of the agency's response or within 15 days of a deemed denial. The exceptions shall state grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request.

(b) Determination.—Unless the requester agrees otherwise, the agency head or a designee of the agency head shall make a final determination regarding the exceptions within 30 days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the agency head or a designee of the agency

head may conduct a hearing. The determination shall be the final order of the agency. If the agency head or a designee of the agency head determines that the agency correctly denied the request for access, the agency head or a designee of the agency head shall provide a written explanation to the requester of the reason for the denial.

Amend Sec. 503, page 68, line 14, by striking out "503" and inserting

504

Amend Sec. 503, page 68, line 16, by inserting after "OFFICE", local agency

Amend Sec. 504, page 70, line 15, by striking out "504" and inserting

505

Amend Sec. 504, page 71, line 9, by striking out "503" and inserting

504

Amend Sec. 505, page 71, line 10, by striking out "505" and inserting

506

Amend Sec. 505, page 71, line 12, by striking out "504(A)(1)" and inserting

505(a)(1)

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Harper on the amendment.

Ms. HARPER. Mr. Speaker, could we be at ease for a minute to check how that last amendment affected this one?

The SPEAKER. The House will be at ease.

AMENDMENT WITHDRAWN

Ms. HARPER. Mr. Speaker, after consultation with the prime sponsor of the last amendment, which passed, and our attorneys, I think we have accomplished what I was trying to do, which was to allow appeals from local agencies' records denials to be determined right in the county where they arise. Since my amendment essentially duplicates the efforts of Representative Maher, I am going to withdraw my amendment, which is 3797.

The SPEAKER. The Chair thanks the lady.

Ms. HARPER. Thank you very much.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. M. KELLER offered the following amendment No. **A03793**:

Amend Bill, page 73, lines 11 through 30; page 74, lines 1 through 14, by striking out all of said lines on said pages and inserting Section 705. (Reserved).

Section 706. (Reserved).

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Keller on the amendment.

Mr. M. KELLER. Thank you, Mr. Speaker. As I indicated, I am from Perry.



Amendment A3793, sections 705 and 706 of the proposed bill relate to the retention, destruction, and removal of records. Additionally, the bill would give the Public Records Office some authority to promulgate regulations regarding record retention. These provisions conflict with various provisions of the current law that govern record retention and custody and transmittal of records.

The Pennsylvania Museum Commission, Historical and Museum Commission, has jurisdiction over the records retention under current statute. My amendment strikes these provisions of the bill so that the State and local agencies may continue to follow existing practices and procedures regarding retention of records. Current law has served well in preserving a wide variety of public records.

Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment? Representative Mahoney.

Mr. MAHONEY. I rise to agree to this amendment, because it is going to clear up some conflicting amendments that are going to be arising later tonight. So I agree to this amendment.

The SPEAKER. Will the House agree to the amendment? Representative Samuelson.

Mr. SAMUELSON. Thank you.

I rise to interrogate the maker of the amendment.

The SPEAKER. Representative Keller from Perry County stands for interrogation.

Mr. SAMUELSON. Earlier I spoke and I had a concern about one of Representative Vitali's amendments, which ended up passing, but one thing that was stated was that this bill includes a sentence that says "...AGENCY RECORDS SHALL NOT BE REMOVED, DESTROYED, MUTILATED, TRANSFERRED OR OTHERWISE DAMAGED OR DISPOSED OF, IN WHOLE OR IN PART...." So it has a prohibition against destroying, mutilating, and transferring.

Now, as I read your amendment, you are wiping out a whole page of this bill. You are wiping out the prohibition on destroying records and the subsequent language, two whole sections of the bill. So if we would pass your amendment, what is to prevent people, elected officials, appointed officials, from destroying records in their jurisdiction?

Mr. M. KELLER. Thank you, Mr. Speaker.

Basically what it says is that you cannot delete any e-mails regardless of what they are. You cannot take any records home from your office whatsoever or you would be faced under the penalties of law, because it is dealing with records, not public records. Thank you.

Mr. SAMUELSON. Thank you.

That concludes my interrogation. I just want to speak on the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. SAMUELSON. As I understand the gentleman, he is saying this is covered elsewhere in State law, but I think the best thing for us to do in this public records law is to state clearly that you are not allowed to destroy records, you are not allowed to mutilate, transfer records, dispose of records. So I would suggest that we keep section 705. And also, if you read section 706 about the recovery of records, the bill as it reads right now gives the Attorney General the power to recover records that have been improperly disposed of. If we delete section 706, we are taking that power away from the Attorney General.

So I think we need to keep the prohibition on the destroying of records, and I think we need to keep the section about recovery of records. So I would urge a "no" vote on the Keller amendment.

The SPEAKER. Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

I think that one of the things that I have been particularly worried about in this debate is the unintended consequences, and I think many members are not necessarily clear on all of the implications of what we might be doing here tonight. The definition of a "record," for everybody's information, is "INFORMATION REGARDLESS OF THE PHYSICAL FORM, CHARACTERISTICS OR MEANS OF STORAGE TRANSMISSION, WHICH IS MADE, RECEIVED OR RETAINED BY AN AGENCY. THE TERM INCLUDES DOCUMENTS, PAPERS AND LETTERS, MAPS, BOOKS, TAPES, PHOTOGRAPHS, FILMS AND SOUND RECORDINGS AND DATA PROCESSED OR IMAGE-PROCESSED DOCUMENTS." Every physical item that comes into your office, you may not destroy, you may not throw away, you have to file, you have to keep. If somebody sends you an annual report, you have got to keep that. Is that what we really want here?

I think it is a very good idea to take this section out and to refer it back to the Pennsylvania Historical and Museum Commission for appropriate records retention and perhaps later for us to seriously consider what we want to be doing with records retention, not keeping every piece of paper that comes near us or any other State agency.

I urge a positive vote on the Keller amendment.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor? Representative Keller.

Mr. M. KELLER. Thank you, Mr. Speaker.

I want to reiterate the fact that the Pennsylvania Historical and Museum Commission has jurisdiction over the records retention under current status. As was stated earlier, we are talking, in the bill it is talking about records, not public records, and that is what we have to keep in mind.

I think the last speaker eloquently covered what I am trying to get across to the members, and I would appreciate your positive support on this particular amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—168

Argall	Gabig	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gillespie	McIlhattan	Santoni
Belfanti	Gingrich	Melio	Saylor
Beyer	Godshall	Metcalfe	Scavello
Biancucci	Goodman	Millard	Schroder
Bishop	Grell	Miller	Seip
Blackwell	Grucela	Milne	Siproth
Boback	Haluska	Moul	Smith, K.
Boyd	Hanna	Moyer	Smith, S.
Brooks	Harhai	Mundy	Sonney
Buxton	Harhart	Murt	Staback
Caltagirone	Harkins	Myers	Stairs

Cappelli	Harper	Nailor	Steil
Carroll	Harris	Nickol	Stern
Causer	Helm	O'Brien, M.	Stevenson
Civera	Hennessey	O'Neill	Sturla
Clymer	Hershey	Oliver	Surra
Cohen	Hess	Pallone	Swanger
Costa	Hickernell	Parker	Tangretti
Cox	Hornaman	Payne	Taylor, J.
Creighton	Kauffman	Peifer	True
Cruz	Keller, M.	Perry	Turzai
Curry	Keller, W.	Perzel	Vereb
Cutler	Kenney	Petrarca	Vitali
Daley	Kessler	Petri	Vulakovich
DeLuca	Killion	Petrone	Wagner
Denlinger	Kirkland	Phillips	Walko
DePasquale	Kortz	Pickett	Wansacz
Dermody	Kotik	Preston	Waters
DiGirolamo	Kula	Pyle	Watson
Donatucci	Leach	Quigley	White
Eachus	Longietti	Quinn	Williams
Ellis	Mackereth	Rapp	Wojnaroski
Evans, D.	Maher	Raymond	Yewcic
Evans, J.	Mahoney	Readshaw	Youngblood
Everett	Major	Reed	Yudichak
Fabrizio	Manderino	Reichley	
Fairchild	Mann	Rock	O'Brien, D.,
Fleck	Mantz	Rohrer	Speaker
Frankel	Markosek		

NAYS-26

Benninghoff	Galloway	Levdansky	Samuelson
Bennington	Gergely	McI. Smith	Shapiro
Brennan	Gibbons	Pashinski	Shimkus
Casorio	Hutchinson	Payton	Smith, M.
Conklin	Josephs	Ramaley	Taylor, R.
DeWeese	King	Roae	Thomas
Freeman	Lentz		

NOT VOTING-0

EXCUSED-9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. M. KELLER offered the following amendment No. **A03794**:

Amend Sec. 305, page 48, lines 10 through 18, by striking out all of lines 10 through 17 and "(F)" in line 18 and inserting  
(e)

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Mark Keller on the amendment.

Mr. M. KELLER. Thank you, Mr. Speaker.

Under this amendment and under the bill as written, an agency must develop an expedited process to accommodate requests of public records that relate to, or are needed for, an upcoming public meeting of an agency. The amendment strikes this expedited provision completely. The expedited request provision raises questions regarding the practical ability of an agency to fulfill a record request in a very short time prior to a meeting.

Is an agency obligated to produce a public record which requires reaction and which is requested 2 hours before a meeting? I ask you that question. Will the agency be penalized if it fails to do so? These are the types of questions raised by the expedited process requirements currently in the bill.

I ask for your support.

The SPEAKER. Will the House agree to the amendment? Representative Mahoney.

Mr. MAHONEY. I want to rise to oppose this amendment for the simple reason, we need to try to create unity on how we are handling these requests for information.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-68

Argall	Geist	Markosek	Reed
Baker	Gergely	McIlhatten	Reichley
Barrar	Gingrich	Metcalfe	Roae
Bastian	Godshall	Millard	Rohrer
Boback	Haluska	Milne	Ross
Brooks	Harhart	Moyer	Sainato
Cappelli	Harper	Murt	Saylor
Casorio	Harris	Peifer	Smith, S.
Causer	Hennessey	Perzel	Sonney
Civera	Hershey	Petrarca	Stairs
Clymer	Hess	Phillips	Stern
Creighton	Keller, M.	Pickett	Stevenson
Ellis	Kenney	Pyle	Taylor, J.
Evans, J.	Killion	Quigley	Turzai
Everett	Maher	Rapp	Vulakovich
Fairchild	Major	Raymond	Wojnaroski
Fleck	Mantz	Readshaw	Yewcic

NAYS-126

Bear	Freeman	Manderino	Santoni
Belfanti	Gabig	Mann	Scavello
Benninghoff	Galloway	Marshall	Schroder
Bennington	George	Marsico	Seip
Beyer	Gerber	McCall	Shapiro
Biancucci	Gibbons	McGeehan	Shimkus
Bishop	Gillespie	McI. Smith	Sipthroth
Blackwell	Goodman	Melio	Smith, K.
Boyd	Grell	Miller	Smith, M.
Brennan	Grucela	Moul	Staback
Buxton	Hanna	Mundy	Steil
Caltagirone	Harhai	Myers	Sturla
Carroll	Harkins	Nailor	Surra
Cohen	Helm	Nickol	Swanger
Conklin	Hickernell	O'Brien, M.	Tangretti
Costa	Hornaman	O'Neill	Taylor, R.
Cox	Hutchinson	Oliver	Thomas
Cruz	Josephs	Pallone	True
Curry	Kauffman	Parker	Vereb
Cutler	Keller, W.	Pashinski	Vitali
Daley	Kessler	Payne	Wagner
DeLuca	King	Payton	Walko

Denlinger	Kirkland	Perry	Wansacz
DePasquale	Kortz	Petri	Waters
Dermody	Kotik	Petrone	Watson
DeWeese	Kula	Preston	White
DiGirolamo	Leach	Quinn	Williams
Donatucci	Lentz	Ramaley	Youngblood
Eachus	Levdansky	Rock	Yudichak
Evans, D.	Longietti	Rubley	
Fabrizio	Mackereth	Sabatina	O'Brien, D.,
Frankel	Mahoney	Samuelson	Speaker

NOT VOTING—0

EXCUSED—9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. M. KELLER offered the following amendment No. **A03838**:

Amend Sec. 305, page 48, line 16, by removing the period after "MEETING" and inserting  
, except that the expedited process shall not require an agency to provide access to a record prior to an open meeting if it is not practicable for the agency to do so.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Mark Keller on the amendment.

Mr. M. KELLER. Thank you, Mr. Speaker.

What this amendment does is makes an exception to the requirement for situations in which producing the public record prior to a meeting is not practicable, meaning that if somebody comes into the office and requests that right then and there, that you cannot get it produced that quickly, that you are not in violation of the bill.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—138

Argall	Frankel	Markosek	Reed
Baker	Geist	Marshall	Reichley
Barrar	George	Marsico	Roe
Bastian	Gerber	McCall	Rohrer
Belfanti	Gergely	McGeehan	Ross
Beyer	Gingrich	McIlhattan	Sabatina
Bianucci	Godshall	Melio	Sainato
Bishop	Haluska	Metcalfe	Santoni
Blackwell	Hanna	Millard	Saylor
Boback	Harhai	Milne	Scavello

Brooks	Harhart	Moyer	Seip
Buxton	Harkins	Murt	Sipiroth
Caltagirone	Harper	Myers	Smith, S.
Cappelli	Harris	Nailor	Sonney
Carroll	Helm	O'Brien, M.	Staback
Casorio	Hennessey	O'Neill	Stairs
Causer	Hershey	Oliver	Stern
Civera	Hess	Pallone	Stevenson
Clymer	Josephs	Parker	Sturla
Cohen	Keller, M.	Payne	Surra
Creighton	Keller, W.	Payton	Swanger
Cruz	Kenney	Peifer	Tangretti
Curry	Kessler	Perzel	Taylor, J.
DeLuca	Killion	Petrarca	Thomas
Dermody	Kirkland	Petri	Turzai
DiGirolamo	Kortz	Petrone	Vitali
Donatucci	Kotik	Phillips	Vulakovich
Eachus	Kula	Pickett	Walko
Ellis	Longietti	Preston	Wansacz
Evans, D.	Maher	Pyle	Waters
Evans, J.	Mahoney	Quigley	Williams
Everett	Major	Rapp	Wojnaroski
Fabrizio	Manderino	Raymond	Yewcic
Fairchild	Mann	Readshaw	Youngblood
Fleck	Mantz		

NAYS—56

Bear	Galloway	McI. Smith	Shimkus
Benninghoff	Gibbons	Miller	Smith, K.
Bennington	Gillespie	Moul	Smith, M.
Boyd	Goodman	Mundy	Steil
Brennan	Grell	Nickol	Taylor, R.
Conklin	Grucela	Pashinski	True
Costa	Hickernell	Perry	Vereb
Cox	Hornaman	Quinn	Wagner
Cutler	Hutchinson	Ramaley	Watson
Daley	Kauffman	Rock	White
Denlinger	King	Rubley	Yudichak
DePasquale	Leach	Samuelson	
DeWeese	Lentz	Schroder	O'Brien, D.,
Freeman	Levdansky	Shapiro	Speaker
Gabig	Mackereth		

NOT VOTING—0

EXCUSED—9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. SAYLOR offered the following amendment No. **A03795**:

Amend Sec. 501, page 66, line 18, by inserting after "ACT."  
This subsection shall not apply to section 308, nor to Chapter 7.

Amend Sec. 701, page 71, lines 23 through 30; page 72, lines 1 through 3, by striking out all of said lines on said pages and inserting  
(a) Agency policies.—

(1) An agency may adopt policies to handle open records requests that are not inconsistent with this act.

Amend Sec. 701, page 72, line 14, by striking out "(C)" and inserting

(b)

Amend Sec. 701, page 72, line 21, by striking out "(D)" and inserting

(c)

Amend Sec. 705, page 73, lines 16 and 17, by striking out "OR UNDER THE RULES ADOPTED BY THE PUBLIC RECORDS OFFICE"

On the question,  
Will the House agree to the amendment?

#### AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Saylor on the amendment.

Mr. SAYLOR. Mr. Speaker, I would like to substitute amendment A04007. It is a corrective amendment by Legislative Reference Bureau. They had a drafting error.

The SPEAKER. The Chair agrees. The Chair recognizes the gentleman from York County, Representative Saylor, who offers amendment A04007. Is that correct?

Mr. SAYLOR. That is correct.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. **SAYLOR** offered the following amendment No. **A04007**:

Amend Sec. 501, page 66, line 18, by inserting after "ACT."

This subsection shall not apply to section 309, nor to Chapter 7.

Amend Sec. 701, page 71, lines 23 through 30; page 72, lines 1 through 3, by striking out all of said lines on said pages and inserting

(a) Agency policies.—

(1) An agency may adopt policies to handle open records requests that are not inconsistent with this act.

Amend Sec. 701, page 72, line 14, by striking out "(C)" and inserting

(b)

Amend Sec. 701, page 72, line 21, by striking out "(D)" and inserting

(c)

Amend Sec. 705, page 73, lines 16 and 17, by striking out "OR UNDER THE RULES ADOPTED BY THE PUBLIC RECORDS OFFICE"

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Saylor on the amendment.

Mr. SAYLOR. Thank you, Mr. Speaker.

This amendment simply eliminates the Public Records' authority to promulgate regulations as to the fees charged by State and local agencies as well as it removes their ability to have regulations concerning the retention of records. Since that is already a part of law here in Pennsylvania — we have already talked about that numerous times before tonight — this amendment simply states that as well.

The SPEAKER. Will the House agree to the amendment? Representative Samuelson.

Mr. SAMUELSON. I just would like to interrogate or ask the gentleman to repeat part of his explanation.

The SPEAKER. The gentleman will stand for interrogation. The gentleman is in order and may proceed.

Mr. SAMUELSON. In the first part of your explanation, did you say that this will eliminate the power to set a statewide series of fees?

Mr. SAYLOR. Yes. This would let the fees up to each State agency and local governments as to what the fees may be, due to the fact that one area of the State— Of course, as we all know, salaries are different from one end of the area, one end of the State to another, depending on what kinds of records we are talking about, whether they are on microfilm, whether they are on the computer or whatever. Costs are different, and this would allow the State agencies as well as local governments to set that fee based upon their costs, not based upon their trying to make a profit, but rather letting them set what covers the costs in each local jurisdiction.

Mr. SAMUELSON. I thank you for the explanation. I think that is similar to an amendment that this House voted down earlier, an amendment earlier that would have done the same thing, and this House earlier this evening decided not to do it that way and keep the statewide application of fees. So thank you, Mr. Speaker.

The SPEAKER. Representative Mahoney.

Mr. MAHONEY. Again, I rise to oppose this amendment, just due to the fact that we need to try to keep this new office as a unified office across the State.

The SPEAKER. Will the House agree to the amendment? The Chair recognizes Representative Saylor for the second time.

Mr. SAYLOR. Again, Mr. Speaker, this amendment, again, not only does it allow the different makeup of fees, if the Public Records Office is going to set a fee for statewide, for recovery of records that we are going to produce, some municipalities could end up making a profit on the records that they end up selling to our constituents, and I do not think that is the intention when our constituents are going in for records. It should be the exact cost. In some parts of the State, the costs of those records are going to be lower than in other parts of the State. I am sure that records in Pittsburgh and Philadelphia are far more costly, because salaries in those areas are far more higher of the employees in those local governments. And again, depending on the agency, as we all know about PHEAA's (Pennsylvania Higher Education Assistance Agency) salaries, recovery of records from PHEAA might be a lot different than they are from PENNDOT, considering the salaries that those different agencies have in recovery of records and what their employees are paid.

So I think that it is important, this does not relieve the responsibility of those local agencies to keep the costs at the level of cost, but I do not believe that one agency is going to be able to monitor the costs, to keep the costs of records to individuals across the State in a way that local municipalities will not make a profit out of this. Not only that, we already have standards set up in our regulations already as to what the townships and State agencies have to retain as part of their records. I do not believe we need the department, as we have talked about earlier and we have agreed, that we need an agency

to tell us what records we need to keep since that is already a part of our regulations and laws here in the Commonwealth.

Thank you.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

I found the reference I was looking for. Earlier this afternoon, the House considered amendment 3791, which would have taken away the ability to set statewide fees, and that amendment was defeated 78 to 118.

Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—71

Baker	Galloway	Marsico	Raymond
Barrar	Geist	McIlhattan	Reed
Bastian	Gillespie	Metcalfe	Reichley
Beyer	Gingrich	Millard	Roae
Boback	Harhart	Milne	Ross
Brooks	Harper	Moyer	Rubley
Cappelli	Harris	Murt	Saylor
Causer	Hennessey	Nailor	Smith, S.
Civera	Hershey	O'Neill	Sonney
Clymer	Hess	Peifer	Stairs
Creighton	Hornaman	Perry	Stern
Denlinger	Keller, M.	Perzel	Stevenson
DePasquale	Kenney	Petri	Swanger
Ellis	Killion	Phillips	Taylor, J.
Evans, J.	Mackereth	Pickett	Turzai
Everett	Maher	Pyle	Vulakovich
Fairchild	Major	Quinn	Watson
Fleck	Mantz	Rapp	

NAYS—123

Argall	Gabig	Mann	Scavello
Bear	George	Markosek	Schroder
Belfanti	Gerber	Marshall	Seip
Benninghoff	Gergely	McCall	Shapiro
Bennington	Gibbons	McGeehan	Shimkus
Bianucci	Godshall	McI. Smith	Siptroth
Bishop	Goodman	Melio	Smith, K.
Blackwell	Grell	Miller	Smith, M.
Boyd	Grucela	Moul	Staback
Brennan	Haluska	Mundy	Steil
Buxton	Hanna	Myers	Sturla
Caltagirone	Harhai	Nickol	Surra
Carroll	Harkins	O'Brien, M.	Tangretti
Casorio	Helm	Oliver	Taylor, R.
Cohen	Hickernell	Pallone	Thomas
Conklin	Hutchinson	Parker	True
Costa	Josephs	Pashinski	Vereb
Cox	Kauffman	Payne	Vitali
Cruz	Keller, W.	Payton	Wagner
Curry	Kessler	Petrarca	Walko
Cutler	King	Petrone	Wansacz
Daley	Kirkland	Preston	Waters
DeLuca	Kortz	Quigley	White
Dermody	Kotik	Ramaley	Williams
DeWeese	Kula	Readshaw	Wojnaroski
DiGirolamo	Leach	Rock	Yewcic
Donatucci	Lentz	Rohrer	Youngblood
Eachus	Levdansky	Sabatina	Yudichak
Evans, D.	Longietti	Sainato	
Fabrizio	Mahoney	Samuelson	O'Brien, D.,
Frankel	Manderino	Santoni	Speaker
Freeman			

NOT VOTING—0

EXCUSED—9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. COHEN offered the following amendment No. A03975:

Amend Sec. 501, page 66, by inserting between lines 16 and 17

(11) To make available in electronic form to persons making requests for public records, examples of previous requests for public records by other persons and the documents to which the other persons were given access. In performing this duty, the office may not reveal any information relating to the identity of the persons who made the previous requests.

Amend Sec. 501, page 66, line 17, by striking out "(11)" and inserting

(12)

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Philadelphia County, Representative Cohen, on the amendment.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, sometimes the person may want to find out a piece of information that may have been requested previously. In fact, it may have been requested time and again.

Mr. Speaker, in this age of the Internet, the people who have Web sites and provide content on the Internet wrestled with this problem and came up with a new term of art, F-A-Q, frequently asked questions. Mr. Speaker, my amendment authorizes the Pennsylvania Public Records Office to post some examples of previously asked questions for documents and the documents that go along with them. If there is already a State government Web site that has answers to many of the requests for information, this will tend to reduce the amount of requests for information burdening our agencies.

I think this is an agreed-to amendment. It is designed to save at least a little bit of work and to get information into the hands of the public faster. I urge your support of it.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—194

Argall	Freeman	Mann	Rohrer
Baker	Gabig	Mantz	Ross
Barrar	Galloway	Markosek	Rubley
Bastian	Geist	Marshall	Sabatina

Bear	George	Marsico	Sainato
Belfanti	Gerber	McCall	Samuelson
Benninghoff	Gergely	McGeehan	Santoni
Bennington	Gibbons	McI. Smith	Saylor
Beyer	Gillespie	McIlhattan	Scavello
Biancucci	Gingrich	Melio	Schroder
Bishop	Godshall	Metcalfe	Seip
Blackwell	Goodman	Millard	Shapiro
Boback	Grell	Miller	Shimkus
Boyd	Grucela	Milne	Siptroth
Brennan	Haluska	Moul	Smith, K.
Brooks	Hanna	Moyer	Smith, M.
Buxton	Harhai	Mundy	Smith, S.
Caltagirone	Harhart	Murt	Sonney
Cappelli	Harkins	Myers	Staback
Carroll	Harper	Nailor	Stairs
Casorio	Harris	Nickol	Steil
Causer	Helm	O'Brien, M.	Stern
Civera	Hennessey	O'Neill	Stevenson
Clymer	Hershey	Oliver	Sturla
Cohen	Hess	Pallone	Surra
Conklin	Hickernell	Parker	Swanger
Costa	Hornaman	Pashinski	Tangretti
Cox	Hutchinson	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
DeLuca	Kessler	Petri	Vitali
Denlinger	Killion	Petrone	Vulakovich
DePasquale	King	Phillips	Wagner
Dermody	Kirkland	Pickett	Walko
DeWeese	Kortz	Preston	Wansacz
DiGirolamo	Kotik	Pyle	Waters
Donatucci	Kula	Quigley	Watson
Eachus	Leach	Quinn	White
Ellis	Lentz	Ramaley	Williams
Evans, D.	Levdansky	Rapp	Wojnarowski
Evans, J.	Longjetti	Raymond	Yewcic
Everett	Mackereth	Readshaw	Youngblood
Fabrizio	Maher	Reed	Yudichak
Fairchild	Mahoney	Reichley	
Fleck	Major	Roae	O'Brien, D., Speaker
Frankel	Manderino	Rock	

NAYS—0

NOT VOTING—0

EXCUSED—9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **CUTLER** offered the following amendment No. **A03861**:

Amend Sec. 301, page 42, by inserting between lines 26 and 27

(a.1) Expenditures.—All expenditures made by the General Assembly for the use of the General Assembly shall be considered a public record.

On the question,  
Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes the gentleman, Representative Cutler, on the amendment.

Mr. **CUTLER**. Thank you, Mr. Speaker.

This amendment simply specifies that any expenditures made by the General Assembly, for the use of the General Assembly, shall be made and considered a public record.

The **SPEAKER**. Will the House agree to the amendment?

The House will be at ease.

The Chair recognizes Representative Mahoney.

The Chair recognizes Representative Cutler on the amendment.

Mr. **CUTLER**. Thank you, Mr. Speaker.

I certainly would just urge an affirmative vote on this amendment, as I feel that it is important to open records with regards to access to any and all moneys that we expend. Thank you.

The **SPEAKER**. Representative Mahoney.

Mr. **MAHONEY**. This is an agreed-to amendment. This is about money, and this is an agreed-to amendment.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—194

Argall	Freeman	Mann	Rohrer
Baker	Gabig	Mantz	Ross
Barrar	Galloway	Markosek	Rubley
Bastian	Geist	Marshall	Sabatina
Bear	George	Marsico	Sainato
Belfanti	Gerber	McCall	Samuelson
Benninghoff	Gergely	McGeehan	Santoni
Bennington	Gibbons	McI. Smith	Saylor
Beyer	Gillespie	McIlhattan	Scavello
Biancucci	Gingrich	Melio	Schroder
Bishop	Godshall	Metcalfe	Seip
Blackwell	Goodman	Millard	Shapiro
Boback	Grell	Miller	Shimkus
Boyd	Grucela	Milne	Siptroth
Brennan	Haluska	Moul	Smith, K.
Brooks	Hanna	Moyer	Smith, M.
Buxton	Harhai	Mundy	Smith, S.
Caltagirone	Harhart	Murt	Sonney
Cappelli	Harkins	Myers	Staback
Carroll	Harper	Nailor	Stairs
Casorio	Harris	Nickol	Steil
Causer	Helm	O'Brien, M.	Stern
Civera	Hennessey	O'Neill	Stevenson
Clymer	Hershey	Oliver	Sturla
Cohen	Hess	Pallone	Surra
Conklin	Hickernell	Parker	Swanger
Costa	Hornaman	Pashinski	Tangretti
Cox	Hutchinson	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
DeLuca	Kessler	Petri	Vitali
Denlinger	Killion	Petrone	Vulakovich
DePasquale	King	Phillips	Wagner
Dermody	Kirkland	Pickett	Walko
DeWeese	Kortz	Preston	Wansacz

DiGirolamo	Kotik	Pyle	Waters
Donatucci	Kula	Quigley	Watson
Eachus	Leach	Quinn	White
Ellis	Lentz	Ramaley	Williams
Evans, D.	Levdansky	Rapp	Wojnaroski
Evans, J.	Longietti	Raymond	Yewcic
Everett	Mackereth	Readshaw	Youngblood
Fabrizio	Maher	Reed	Yudichak
Fairchild	Mahoney	Reichley	
Fleck	Major	Roae	O'Brien, D.,
Frankel	Manderino	Rock	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **CUTLER** offered the following amendment No. **A03862**:

Amend Sec. 301, page 42, by inserting between lines 26 and 27

(a.1) Contracts.—Any contract entered into by the General Assembly shall be considered a public record and shall include a listing of those individuals, their names and addresses, who are expressly executing the contract.

On the question,

Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Cutler on the amendment.

Mr. **CUTLER**. Thank you, Mr. Speaker.

This amendment deals with some of the contracts that we as a Commonwealth enter into. One of my concerns is that while the contract itself is a public record, that the members who will be carrying out the contract and executing it are not, and I would like to simply have the names and the addresses of the individuals who will be the agents executing the contract to also be a public record. Thank you.

The **SPEAKER**. Representative Mahoney.

Mr. **MAHONEY**. This is real bipartisan— This is agreed to, too.

Mr. **CUTLER**. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-194

Argall	Freeman	Mann	Rohrer
Baker	Gabig	Mantz	Ross
Barrar	Galloway	Markosek	Rubley
Bastian	Geist	Marshall	Sabatina
Bear	George	Marsico	Sainato
Belfanti	Gerber	McCall	Samuelson
Benninghoff	Gergely	McGeehan	Santoni
Bennington	Gibbons	McI. Smith	Saylor
Beyer	Gillespie	McIlhattan	Scavello
Biancucci	Gingrich	Melio	Schroder
Bishop	Godshall	Metcalfe	Seip
Blackwell	Goodman	Millard	Shapiro
Boback	Grell	Miller	Shimkus
Boyd	Grucela	Milne	Siptroth
Brennan	Haluska	Moul	Smith, K.
Brooks	Hanna	Moyer	Smith, M.
Buxton	Harhai	Mundy	Smith, S.
Caltagirone	Harhart	Murt	Sonney
Cappelli	Harkins	Myers	Staback
Carroll	Harper	Nailor	Stairs
Casorio	Harris	Nickol	Steil
Causar	Helm	O'Brien, M.	Stern
Civera	Hennessey	O'Neill	Stevenson
Clymer	Hershey	Oliver	Sturla
Cohen	Hess	Pallone	Surra
Conklin	Hickernell	Parker	Swanger
Costa	Hornaman	Pashinski	Tangretti
Cox	Hutchinson	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
DeLuca	Kessler	Petri	Vitali
Denlinger	Killion	Petrone	Vulakovich
DePasquale	King	Phillips	Wagner
Dermod	Kirkland	Pickett	Walko
DeWeese	Kortz	Preston	Wansacz
DiGirolamo	Kotik	Pyle	Waters
Donatucci	Kula	Quigley	Watson
Eachus	Leach	Quinn	White
Ellis	Lentz	Ramaley	Williams
Evans, D.	Levdansky	Rapp	Wojnaroski
Evans, J.	Longietti	Raymond	Yewcic
Everett	Mackereth	Readshaw	Youngblood
Fabrizio	Maher	Reed	Yudichak
Fairchild	Mahoney	Reichley	
Fleck	Major	Roae	O'Brien, D.,
Frankel	Manderino	Rock	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. FLECK offered the following amendment No. A03879:

Amend Sec. 307, page 50, lines 25 and 26, by striking out "EMPLOYMENT RELATED CONTRACT OR AGREEMENT"

Amend Sec. 307, page 51, lines 3 through 5, by striking out all of said lines and inserting

(viii) Information regarding the details of an investigation of or reasons for discipline, demotion or discharge, except that where action must be taken by the agency at an open meeting to effectuate discipline, demotion or discharge, the name of the employee and the final action taken shall be a public record.

On the question, Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Fleck on the amendment.

Mr. FLECK. Thank you, Mr. Speaker.

This amendment strikes "EMPLOYMENT RELATED CONTRACT OR AGREEMENT" from the list of employee files exempted. The amendment further alters, by adding a subclause, to deny public access to details of employee disciplinary investigations and proceedings unless the agency was required to conduct the proceedings at a public meeting. In this case, only the employee's name and the final decision would be publicly accessible.

The reasoning for the first part of the amendment, the language I wish to strike is unclear, and I think it is going to eventually pose a problem for compliance officers.

In regard to the second part, this states more clearly the results of the disciplinary matters requiring action, the public bodies should be a matter of public record. Internal discipline that does not reach this point, more of a performance evaluation, should be exempted from the public record. I am talking more in lines from my experience on the school board. Whether you have a teacher or an administrator that you are doing a corrective plan of action for tardiness or anything of that nature, it really does not need to be part of the public record. Obviously if the person is fired, they are breaking the law, that is a whole other thing and that does not apply to this.

I would appreciate an affirmative vote.

The SPEAKER. Will the House agree to the amendment? The Chair recognizes Representative Mahoney.

Mr. MAHONEY. This is an agreed-to amendment – for the third time.

On the question recurring, Will the House agree to the amendment?

The following roll call was recorded:

YEAS—194

Table with 4 columns of names: Argall, Baker, Barrar, Bastian, Bear, Belfanti, Benninghoff, Bennington, Beyer, Bianucci, Bishop, Freeman, Gabig, Galloway, Geist, George, Gerber, Gergely, Gibbons, Gillespie, Gingrich, Godshall, Mann, Mantz, Markosek, Marshall, Marsico, McCall, McGeehan, McI. Smith, McIlhattan, Melio, Metcalfe, Rohrer, Ross, Rubley, Sabatina, Sainato, Samuelson, Santoni, Saylor, Scavello, Schroder, Seip

Table with 4 columns of names: Blackwell, Boback, Boyd, Brennan, Brooks, Buxton, Caltagirone, Cappelli, Carroll, Casorio, Causer, Civera, Clymer, Cohen, Conklin, Costa, Cox, Creighton, Cruz, Curry, Cutler, Daley, DeLuca, Denlinger, DePasquale, Dermody, DeWeese, DiGirolamo, Donatucci, Eachus, Ellis, Evans, D., Evans, J., Everett, Fabrizio, Fairchild, Fleck, Frankel, Goodman, Grell, Grucela, Haluska, Hanna, Harhai, Harhart, Harkins, Harper, Harris, Helm, Hennessey, Hershey, Hess, Hickernell, Hornaman, Hutchinson, Josephs, Kauffman, Keller, M., Keller, W., Kenney, Kessler, Killion, King, Kirkland, Kortz, Kotik, Kula, Leach, Lentz, Levdansky, Longiotti, Mackereth, Maher, Mahoney, Major, Manderino, Millard, Miller, Milne, Moul, Moyer, Mundy, Murt, Myers, Nailor, Nickol, O'Brien, M., O'Neill, Oliver, Pallone, Parker, Pashinski, Payne, Payton, Peifer, Perry, Perzel, Petrarca, Petri, Petrone, Phillips, Pickett, Preston, Pyle, Quigley, Quinn, Ramaley, Rapp, Raymond, Readshaw, Reed, Reichley, Roae, Rock, Shapiro, Shimkus, Siproth, Smith, K., Smith, M., Smith, S., Sonney, Staback, Stairs, Steil, Stern, Stevenson, Sturla, Surra, Swanger, Tangretti, Taylor, J., Taylor, R., Thomas, True, Turzai, Vereb, Vitali, Vulakovich, Wagner, Walko, Wansacz, Waters, Watson, White, Williams, Wojnaroski, Yewcic, Youngblood, Yudichak, O'Brien, D., Speaker

NAYS—0

NOT VOTING—0

EXCUSED—9

Table with 4 columns of names: Adolph, Dally, James, Mensch, Micozzie, Mustio, Roebuck, Solobay, Wheatley

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring, Will the House agree to the bill on second consideration as amended?

Mr. FLECK offered the following amendment No. A03881:

Amend Sec. 307, page 57, line 30, by inserting after "PREPARED"

at an open meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings)

Amend Sec. 307, page 58, line 7, by inserting after "QUORUM" at an open meeting held pursuant to 65 Pa.C.S. Ch. 7

On the question, Will the House agree to the amendment?



## AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Fleck on the amendment.

Mr. FLECK. This one had been withdrawn or I thought it had been withdrawn, and in its place I wish to offer amendment 03965.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. FLECK offered the following amendment No. **A03965**:

Amend Sec. 307, page 58, line 7, by inserting after "QUORUM"  
at an open meeting held pursuant to 65 Pa.C.S.  
Ch. 7

Amend Sec. 307, page 58, line 25, by removing the period after  
"PROPOSED" and inserting  
at an open meeting held pursuant to 65 Pa.C.S.  
Ch. 7 (relating to open meetings).

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Fleck on the amendment.

Mr. FLECK. Basically, Mr. Speaker, this just tries to clarify what a quorum is, and so it is going to insert, after these two columns, a public meeting. My concern, again as a former school board member, a school board packet or even a supervisor who receives a packet, if obviously more than a quorum has received that, does that constitute a quorum? So this basically brings it back to the Sunshine Law. There has to be a public meeting where it is then again put forth, because obviously in these packets there is personal information that would not be made public, but could be at a later date. So it is basically just clarifying a quorum being a public meeting.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. Yes, a question for the maker of the amendment.

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. SAMUELSON. As I understand the amendment, the trigger for making materials public such as bills, legislative proposals, agenda items, would be when the body meets in an open meeting. Now, the current practice of many legislative bodies is to publish their agendas ahead of time so the citizens have a chance to review what is going to be on the agenda. If this language were adopted saying that it is not a public document until the meeting actually starts, would not that take away the time period when the citizens could look at a bill or a proposal ahead of the public meeting?

Mr. FLECK. Currently there is no statutory requirement that the meeting agenda be distributed prior to a meeting, so again, this is basically in regard to what is contained in a packet of information that is mailed out to a local government agency, a body, whether it is a board of supervisors, a board of commissioners, a school board body, because as the bill reads, it is saying once this is in the hands of more than a quorum, it is then public information, and so what are you opening up then?

Mr. SAMUELSON. I guess the one part of your amendment amends line 25 on page 58. If I read that whole paragraph, it talks about budget recommendations, legislative proposals, policy statements, a lot of things in that agenda packet that the public would be very interested in, and if it were precluded from being given to the public until the meeting actually starts, my concern is that would take away the public's time to review a budget or a legislative proposal.

Mr. FLECK. Well, I mean, the purpose for a public meeting is to open it up for debate, and I believe as another Representative had already stated here, in regard to e-mails, phone calls, I think people need a venue that they can bring up and air certain ideas without, you know, causing a firestorm that is never going to happen. I have been to many of these public meetings where it is a tad bit scary and everyone is worked up because they think they know what is on the agenda, and it is not.

Mr. SAMUELSON. Okay. My thought would be it is best to put all the information out there that is on the agenda so people can see exactly what is coming up.

So that concludes my interrogation. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Mahoney.

Mr. MAHONEY. I rise to oppose this amendment, because I think we already have most of these issues covered in the bill, the existing bill.

The SPEAKER. Will the House agree to the amendment? The Chair recognizes, for the second time, Representative Fleck.

Mr. FLECK. Thank you.

Also in regard to my previous position as a school board member, there is a lot of personnel information in these packets that would not be made public, whether it is educational field trips or personnel matters, and it is really not keeping the agenda private. I know in my 5 years on the school board, I never got an agenda that had not been released to the general public, but there is a lot of private information, contracts that have not been settled, and so, basically, if I interpret this law as it is written, it is saying that once these packets, or any of this information, is distributed to more than a quorum, that it then becomes public information. This just clarifies, as the current law is, that a public meeting is a public meeting, and the quorum takes place at a public meeting. So if you are receiving something in the mail, just because a quorum of that body has it, I do not believe that that should be public yet, and I would appreciate an affirmative vote.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—83

Argall	Fleck	Marshall	Raymond
Baker	Geist	Marsico	Reed
Barrar	Gillespie	McIlhattan	Reichley
Bastian	Gingrich	Millard	Roae
Bear	Godshall	Miller	Rohrer
Beyer	Grell	Milne	Ross
Boback	Harhart	Moul	Rublely
Boyd	Harper	Moyer	Saylor
Brooks	Harris	Murt	Smith, S.
Cappelli	Helm	Nailor	Sonney

Causser	Hennessey	Nickol	Stairs
Civera	Hershey	O'Neill	Steil
Clymer	Hess	Peifer	Stern
Creighton	Hickernell	Perry	Stevenson
Cutler	Keller, M.	Perzel	Taylor, J.
Denlinger	Kenney	Petri	True
DiGiroamo	Killion	Phillips	Turzai
Ellis	Mackereth	Pickett	Vereb
Evans, J.	Maher	Pyle	Vulakovich
Everett	Major	Quigley	Watson
Fairchild	Mantz	Quinn	

NAYS—111

Belfanti	Galloway	Mann	Schroder
Benninghoff	George	Markosek	Seip
Bennington	Gerber	McCall	Shapiro
Bianucci	Gergely	McGeehan	Shimkus
Bishop	Gibbons	McI. Smith	Siptroth
Blackwell	Goodman	Melio	Smith, K.
Brennan	Grucela	Metcalfe	Smith, M.
Buxton	Haluska	Mundy	Staback
Caltagirone	Hanna	Myers	Sturla
Carroll	Harhai	O'Brien, M.	Surra
Casorio	Harkins	Oliver	Swanger
Cohen	Hornaman	Pallone	Tangretti
Conklin	Hutchinson	Parker	Taylor, R.
Costa	Josephs	Pashinski	Thomas
Cox	Kauffman	Payne	Vitali
Cruz	Keller, W.	Payton	Wagner
Curry	Kessler	Petrarca	Walko
Daley	King	Petrone	Wansacz
DeLuca	Kirkland	Preston	Waters
DePasquale	Kortz	Ramaley	White
Dermody	Kotik	Rapp	Williams
DeWeese	Kula	Readshaw	Wojnaroski
Donatucci	Leach	Rock	Yewcic
Eachus	Lentz	Sabatina	Youngblood
Evans, D.	Levdansky	Sainato	Yudichak
Fabrizio	Longiatti	Samuelson	
Frankel	Mahoney	Santoni	O'Brien, D.,
Freeman	Manderino	Scavello	Speaker
Gabig			

NOT VOTING—0

EXCUSED—9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

The SPEAKER. Will the gentleman, Representative Fleck, indicate which amendment he wishes to offer next?  
Mr. FLECK. Yes, Mr. Speaker, amendment 03885.  
The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. FLECK offered the following amendment No. A03885:

Amend Sec. 502, page 67, line 23, by inserting after "HEARING"

in the county where the agency is located

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Fleck on the amendment.

Mr. FLECK. Thank you, Mr. Speaker.

Again, I believe if someone wants to challenge a public record ruling, they should be able to do that in their own domicile county. Even, it has been brought up that they would not have to come to Harrisburg or wherever this new office is going to be, however, again, there are going to be school board solicitors, there are going to be solicitors for local government agencies, who do not come cheap. They are going to have a lot of time and effort and travel in this, and again, I would like to give my constituents the option of a hearing on the local level.

I would appreciate your support.

The SPEAKER. Will the House agree to the amendment?  
The Chair recognizes Representative Mahoney.

Mr. MAHONEY. I rise to oppose this amendment.

The SPEAKER. Is there any member seeking recognition?  
The Chair recognizes Representative Fleck for the second time.

Mr. FLECK. Thank you, Mr. Speaker.

I believe it is a right of each citizen to a speedy trial, or a speedy ruling in this case, and I think that that could be easily carried out if they had the option of going to a local county venue instead of having to travel to the State capital or another venue.

So I would appreciate your support.

PARLIAMENTARY INQUIRY

The SPEAKER. Representative Pallone.

Mr. PALLONE. Thank you, Mr. Speaker.

I have a parliamentary inquiry.

How would this amendment affect the recent passage of the magisterial district justice venue that we passed less than about an hour ago?

The SPEAKER. The House will be at ease.

Mr. PALLONE. Thank you.

The SPEAKER. Representative Pallone, it will have no effect.

Mr. PALLONE. Thank you, Mr. Speaker.

May I speak on the amendment?

The SPEAKER. The gentleman is in order and may proceed.

Mr. PALLONE. Thank you, Mr. Speaker.

I believe that since it has no effect on the magisterial district justice proposal that we have already included as part of the proposed legislation, it almost becomes moot, because now we can offer it in each of the local jurisdictions at the magisterial district justice level. Therefore, we are not going to need to look for any other alternate venues to be any more convenient than we already have at the most local level, at the people's court and the magisterial district justices.

So I would suggest strongly that we consider that, that we already have that piece in the legislation, that we go forward

from there, that we do not need another opportunity or another venue just to complicate what already exists.

Thank you, Mr. Speaker.

The SPEAKER. Representative Baker.

Mr. BAKER. Thank you, Mr. Speaker.

Mr. Speaker, this is a good amendment in that it brings the recourse in a nonadversarial manner prior to a judicial decision at the district magistrate level, at the local level, where it is easily accessible, and hopefully can be resolved during this period of a private hearing. So I do not see any harm in this. It may resolve this in a nonadversarial manner and preclude the necessity for a hearing at the district magistrate level.

So I think this is a good-government, equal-access, and expedited process that the gentleman has offered in his amendment, and I would encourage the support.

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, the way we read the amendment, it is actually a "may" provision, and for the information of the members, it basically requires the PRO office (Public Records Office) to travel to the location where an appeal is being made or a hearing is being requested.

The issue is, is it going to be too cumbersome to logistically have the PRO actually do their job? If there are 200 requests in a given year, this amendment will require them to hold 200 hearings around the Commonwealth. Logistically, that may be impossible for them to hold these hearings in a timely manner.

The fact that it is a "may" provision, I guess we could say "yes" or "no" to the amendment. Seeing that it is a "may" provision, it is not as egregious as we thought. However, I would think, just because of the costs associated with this, to have the entire staff of that office move around and logistically hold these hearings, even though it would be convenient to the local agency, I think it may be cost-prohibitive and logistically impossible to really hold these hearings in a timely manner, and I would ask for a "no" vote on the amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-95

Argall	Gabig	Marsico	Reed
Baker	Geist	McIlhattan	Reichley
Barrar	Gillespie	Metcalfe	Roae
Bastian	Gingrich	Millard	Rock
Bear	Godshall	Miller	Rohrer
Benninghoff	Grell	Milne	Ross
Beyer	Harhart	Moul	Rubley
Boback	Harper	Moyer	Saylor
Boyd	Harris	Murt	Scavello
Brooks	Helm	Nailor	Schroder
Cappelli	Hennessey	Nickol	Smith, S.
Causar	Hershey	O'Neill	Sonney
Civera	Hess	Payne	Stairs
Clymer	Hickernell	Peifer	Steil
Cox	Hutchinson	Perry	Stern
Creighton	Kauffman	Perzel	Stevenson
Cutler	Keller, M.	Petri	Swanger
Denlinger	Kenney	Phillips	Taylor, J.
DiGirolamo	Killion	Pickett	True
Ellis	Mackereth	Pyle	Turzai

Evans, J.	Maher	Quigley	Vereb
Everett	Major	Quinn	Vulakovich
Fairchild	Mantz	Rapp	Watson
Fleck	Marshall	Raymond	

NAYS-99

Belfanti	Galloway	Manderino	Shapiro
Bennington	George	Mann	Shimkus
Biancucci	Gerber	Markosek	Siptroth
Bishop	Gergely	McCall	Smith, K.
Blackwell	Gibbons	McGeehan	Smith, M.
Brennan	Goodman	McI. Smith	Staback
Buxton	Grucela	Melio	Sturla
Caltagirone	Haluska	Mundy	Surra
Carroll	Hanna	Myers	Tangretti
Casorio	Harhai	O'Brien, M.	Taylor, R.
Cohen	Harkins	Oliver	Thomas
Conklin	Hornaman	Pallone	Vitali
Costa	Josephs	Parker	Wagner
Cruz	Keller, W.	Pashinski	Walko
Curry	Kessler	Payton	Wansacz
Daley	King	Petrarca	Waters
DeLuca	Kirkland	Petrone	White
DePasquale	Kortz	Preston	Williams
Dermody	Kotik	Ramaley	Wojnaroski
DeWeese	Kula	Readshaw	Yewcic
Donatucci	Leach	Sabatina	Youngblood
Eachus	Lentz	Sainato	Yudichak
Evans, D.	Levdansky	Samuelson	
Fabrizio	Longietti	Santoni	O'Brien, D., Speaker
Frankel	Mahoney	Seip	
Freeman			

NOT VOTING-0

EXCUSED-9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

The SPEAKER. Will the gentleman, Representative Fleck, advise the Chair of his next amendment number?

Mr. FLECK. Thank you, Mr. Speaker.

The final amendment that I wish to offer is 03886.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. FLECK offered the following amendment No. **A03886**:

Amend Sec. 704, page 73, lines 5 through 10, by striking out all of said lines and inserting

Section 704. (Reserved).

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Fleck on the amendment.

Mr. FLECK. Thank you, Mr. Speaker.

This amendment eliminates a requirement in the bill that a person shall be given access to any public record or a portion of a public record regarding themselves. This is already State law, so I do not know that it is necessary to be continued to be spelled out in this fashion. So I would appreciate an affirmative vote.

The SPEAKER. Will the House agree to the amendment? Representative Mahoney.

Mr. MAHONEY. This amendment gets right to the heart. This is an open records law, bill, so I rise to oppose this amendment because the amendment is closing part of the open records law.

The SPEAKER. Will the House agree to the amendment? The Chair recognizes Representative Fleck for the second time.

Mr. FLECK. Again, I believe we are dealing with personnel files here that are private and confidential, and while salacious as they may be, I believe that we should respect the individual privacy of the personnel, whether it is employees or our local government officials, and I would appreciate your support.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—33

Barrar	Fleck	Killion	Reichley
Bear	Harhart	Marsico	Smith, S.
Beyer	Harris	McIlhattan	Sonney
Boback	Hennessey	Moul	Stern
Boyd	Hershey	Perzel	Stevenson
Civera	Hess	Pyle	Taylor, J.
Creighton	Hickernell	Raymond	True
Cutler	Kenney	Reed	Turzai
Everett			

NAYS—161

Argall	Galloway	Markosek	Rubley
Baker	Geist	Marshall	Sabatina
Bastian	George	McCall	Sainato
Belfanti	Gerber	McGeehan	Samuelson
Benninghoff	Gergely	McI. Smith	Santoni
Bennington	Gibbons	Melio	Saylor
Bianucci	Gillespie	Metcalfe	Scavello
Bishop	Gingrich	Millard	Schroder
Blackwell	Godshall	Miller	Seip
Brennan	Goodman	Milne	Shapiro
Brooks	Grell	Moyer	Shimkus
Buxton	Grucela	Mundy	Siptroth
Caltagirone	Haluska	Murt	Smith, K.
Cappelli	Hanna	Myers	Smith, M.
Carroll	Harhai	Nailor	Staback
Casorio	Harkins	Nickol	Stairs
Causer	Harper	O'Brien, M.	Steil
Clymer	Helm	O'Neill	Sturla
Cohen	Hornaman	Oliver	Surra
Conklin	Hutchinson	Pallone	Swanger
Costa	Josephs	Parker	Tangretti
Cox	Kauffman	Pashinski	Taylor, R.
Cruz	Keller, M.	Payne	Thomas
Curry	Keller, W.	Payton	Vereb
Daley	Kessler	Peifer	Vitali
DeLuca	King	Perry	Vulakovich
Denlinger	Kirkland	Petrarca	Wagner

DePasquale	Kortz	Petri	Walko
Dermody	Kotik	Petrone	Wansacz
DeWeese	Kula	Phillips	Waters
DiGirolamo	Leach	Pickett	Watson
Donatucci	Lentz	Preston	White
Eachus	Levdansky	Quigley	Williams
Ellis	Longiatti	Quinn	Wojnaroski
Evans, D.	Mackereth	Ramaley	Yewcic
Evans, J.	Maher	Rapp	Youngblood
Fabrizio	Mahoney	Readshaw	Yudichak
Fairchild	Major	Roae	
Frankel	Manderino	Rock	O'Brien, D., Speaker
Freeman	Mann	Rohrer	
Gabig	Mantz	Ross	

NOT VOTING—0

EXCUSED—9

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley
James			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. SHAPIRO offered the following amendment No. A03887:

Amend Sec. 103, page 38, by inserting between lines 15 and 16 "Governmental function." The performance, execution implementation or exercise of authority of an agency in relation to its duties, responsibilities or authority.

Amend Sec. 103, page 40, lines 15 through 20, by striking out "FOR PURPOSES" in line 15 and all of lines 16 through 20

Amend Sec. 103, page 40, lines 23 through 26, by striking out all of said lines and inserting

entity performs a governmental function under the contract.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Shapiro on the amendment.

Mr. SHAPIRO. Thank you, Mr. Speaker.

This amendment, I would say, is somewhat technical in nature. There is a definition of "governmental function" that appears not in the definition section of the bill but in another section of the bill. We want to return it to the definition section of the bill, and that is what the amendment 3887, originally proposed by the majority leader, seeks to do.

I want to make it clear, it still opens third-party contracts to public scrutiny where appropriate, but it moves this issue into the definition section, and my understanding is this issue has been agreed to.

Thank you, Mr. Speaker.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. In the spirit of open records, this amendment is not available on the computer screen, so we do not have access to a copy of this amendment.

The SPEAKER. The amendment is on the system under Representative DeWeese. Representative Shapiro is offering the amendment.

Mr. SAMUELSON. The computer indicates this amendment has been withdrawn, so no text is available.

The SPEAKER. The House will be at ease.

#### AMENDMENT WITHDRAWN

The SPEAKER. There is a corrective reprint number on this amendment.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **SHAPIRO** offered the following amendment No. **A03944**:

Amend Sec. 103, page 38, by inserting between lines 15 and 16 "Governmental function." The performance, execution implementation or exercise of authority of an agency in relation to its duties, responsibilities or authority.

Amend Sec. 103, page 40, lines 15 through 20, by striking out "FOR PURPOSES" in line 15 and all of lines 16 through 20

Amend Sec. 103, page 40, lines 23 through 26, by striking out all of said lines and inserting

entity performs a governmental function under the contract.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Shapiro.

Will the House agree to the amendment? On the question, those in favor will vote "aye"; those opposed— Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I understand the gentleman offering the amendment expressed that it was oh so very complicated, but perhaps he can assist us with some responses to a couple of questions so that we might find our way through these complications.

The SPEAKER. Is Representative Maher asking Representative Shapiro to stand for interrogation?

Mr. MAHER. I am. Thank you, Mr. Speaker.

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. MAHER. Thank you, Mr. Speaker.

This amendment is only 10 lines of text. What was the complicated nature that you were referring to?

Mr. SHAPIRO. Mr. Speaker, if the gentleman could repeat the question, I was not able to hear it.

The SPEAKER. Could the gentleman repeat the question?

Mr. MAHER. Well, I will just move on to another question actually.

Governmental function, this apparently would say that an entity which performs a governmental function under a contract would then be subject to this legislation. Is that correct?

Mr. SHAPIRO. Mr. Speaker, an entity that is already performing a governmental function would be subject to this bill and the provisions therein.

Mr. MAHER. Thank you. And to get a better understanding of what is a governmental function, do you think it is a governmental function to maintain roads and bridges, for instance?

Mr. SHAPIRO. Mr. Speaker, I think a governmental function is exactly what is written on this sheet of paper. It is the amendment and the text of the amendment that defines a governmental function. That is what we are seeking to do with this amendment, is to clarify that issue.

Mr. MAHER. And so that definition is "The performance, execution implementation or exercise of authority of an agency in relation to its duties, responsibilities or authority." Is that correct? Is that the definition you are referring to?

Mr. SHAPIRO. Mr. Speaker, that is in fact what is stated in this amendment.

Mr. MAHER. So if a contractor is hired to perform and implement the design and construction of a road and exercise authority subject to contract with this government agency, then that bridge builder would be subject to the open records law?

Mr. SHAPIRO. Mr. Speaker, I always hate to engage in hypotheticals with the gentleman from Upper St. Clair, but I would state, for the purposes of his question, that if a contractor is performing his or her duties under a contract through the Commonwealth or through another agency as part of its governmental functions, then yes, in fact, it would be included under this definition.

Mr. MAHER. And if for instance— By background, I am a C.P.A., an auditor. There are lots of auditing firms that do lots of audits for lots of governments, and many of which are required by statute that an audit be undertaken. Would all these audit firms then be subject to the open records law?

Mr. SHAPIRO. Again, Mr. Speaker, I am not going to get into hypotheticals back and forth about which contractor is in and which contractor is out. I think this definition is clear on its face. Again, it reads, "The performance, execution implementation or exercise of authority of an agency in relation to its duties, responsibilities or authority," and if a contractor is used within the context of that definition, then that would be covered under this proposal.

Mr. MAHER. Mr. Speaker—

The SPEAKER. If the gentleman will suspend.

#### AMENDMENT WITHDRAWN

The SPEAKER. The Chair announced the wrong amendment number. The correct amendment number— The House will be at ease.

The maker of the amendment is withdrawing the amendment.

#### LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative James on the floor. His name will be added to the master roll.

**CONSIDERATION OF HB 443 CONTINUED**

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **VITALI** offered the following amendment No. **A03667**:

Amend Sec. 307, page 56, lines 2 through 4, by striking out all of lines 2 and 3 and "INDIVIDUAL HAS A REASONABLE EXPECTATION OF PRIVACY" in line 4

Amend Sec. 307, page 56, line 11, by inserting a period after "INDIVIDUAL"

Amend Sec. 307, page 56, lines 11 through 14, by striking out "WHICH CONTAINS INFORMATION THAT THE" in line 11 and all of lines 12 through 14

Amend Sec. 307, page 56, line 18, by inserting a period after "USE"

Amend Sec. 307, page 56, lines 19 through 22, by striking out all of said lines and inserting

(4) (Reserved)

Amend Sec. 307, page 59, by inserting between lines 16 and 17

(22) Telephone records that identify the caller or the person called.

On the question,

Will the House agree to the amendment?

**PARLIAMENTARY INQUIRY**

**AMENDMENT DIVIDED**

The **SPEAKER**. The Chair recognizes Representative Vitali on the amendment.

Mr. **VITALI**. Mr. Speaker, I would like to divide this amendment between lines 13 and 14 and run lines 14, 15, and 16.

The **SPEAKER**. The amendment is divisible.

The Chair recognizes the gentleman from Delaware County, Representative Vitali, who offers amendment A03667-B.

On the question,

Will the House agree to part B of the amendment?

The **SPEAKER**. The gentleman is in order and may speak on the amendment.

Mr. **VITALI**. Thank you, Mr. Speaker.

Mr. Speaker, what this amendment does is adds another exception to the work product series of exceptions, and this exception would include telephone records that identify the caller or the person called.

Right now, as I read the bill, some phone records, the lists of phone bills, phone records, that we get every month that have the people who called us and we call are public record. This would exempt that and put that in the work product exception, and I think the reason behind this is analogous to the arguments made with regard to e-mail, which is, people call us for various reasons – constituents call us, whistleblowers might call us, and we call other people. We may call all sorts of groups, popular and unpopular, in an effort to do our business. And I would argue that with regard to the publishing of those phone numbers, they would have a chilling effect on those who might

call us, because they would be public record, and it might inhibit us from seeking out information because the people we may be calling might have a political tinge to them.

So I would request that the members support this amendment. Thank you.

The **SPEAKER**. Representative Maher.

Mr. **MAHER**. Thank you, Mr. Speaker.

I was just hoping to get clarification on where the division occurs.

The **SPEAKER**. Between lines 13 and 14.

Mr. **MAHER**. Thank you, Mr. Speaker.

The **SPEAKER**. Representative Maher.

Mr. **MAHER**. And the item that is before us now then is—

The **SPEAKER**. Is B.

Mr. **MAHER**. —is lines 14, 15, 16 of the amendment?

The **SPEAKER**. The gentleman is correct.

Mr. **MAHER**. Thank you.

The **SPEAKER**. Will the House agree to the amendment?

The Chair recognizes Representative Mahoney.

Mr. **MAHONEY**. I rise to support this amendment.

On the question recurring,

Will the House agree to part B of the amendment?

The following roll call was recorded:

**YEAS—156**

Argall	Geist	Markosek	Sainato
Baker	George	Marsico	Santoni
Barrar	Gerber	McCall	Saylor
Belfanti	Gergely	McGeehan	Seip
Beyer	Gibbons	McI. Smith	Shapiro
Biancucci	Gingrich	McIlhattan	Shimkus
Bishop	Godshall	Melio	Sip troth
Blackwell	Goodman	Metcalfe	Smith, K.
Boback	Grell	Millard	Smith, M.
Brennan	Grucela	Milne	Smith, S.
Buxton	Haluska	Moyer	Sonney
Caltagirone	Hanna	Mundy	Staback
Cappelli	Harhai	Murt	Stairs
Carroll	Harkins	Myers	Steil
Casorio	Harper	Nailor	Stern
Causar	Harris	O'Brien, M.	Sturla
Civera	Helm	O'Neill	Surra
Clymer	Hennessey	Oliver	Swanger
Cohen	Hershey	Pallone	Tangretti
Conklin	Hess	Parker	Taylor, J.
Costa	Hornaman	Pashinski	Taylor, R.
Cruz	James	Payton	Thomas
Curry	Keller, M.	Perzel	Vereb
Daley	Keller, W.	Petrarca	Vitali
DeLuca	Kessler	Petri	Vulakovich
DePasquale	Killion	Petrone	Wagner
Dermody	King	Phillips	Walko
DeWeese	Kirkland	Pickett	Wansacz
DiGirolamo	Kortz	Preston	Waters
Donatucci	Kotik	Pyle	Watson
Eachus	Kula	Quigley	White
Evans, D.	Leach	Quinn	Williams
Evans, J.	Lentz	Ramaley	Wojnaroski
Everett	Levdansky	Rapp	Yewcic
Fabrizio	Longietti	Raymond	Youngblood
Fairchild	Maher	Readshaw	Yudichak
Fleck	Mahoney	Ross	
Frankel	Major	Rubley	O'Brien, D.,
Gabig	Manderino	Sabatina	Speaker
Galloway	Mann		

## NAYS—39

Bastian	Ellis	Mantz	Roae
Bear	Freeman	Marshall	Rock
Benninghoff	Gillespie	Miller	Rohrer
Bennington	Harhart	Moul	Samuelson
Boyd	Hickernell	Nickol	Scavello
Brooks	Hutchinson	Payne	Schroder
Cox	Josephs	Peifer	Stevenson
Creighton	Kauffman	Perry	True
Cutler	Kenney	Reed	Turzai
Denlinger	Mackereth	Reichley	

## NOT VOTING—0

## EXCUSED—8

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley

The majority having voted in the affirmative, the question was determined in the affirmative and part B of the amendment was agreed to.

On the question,  
Will the House agree to part A of the amendment?

## PART A OF AMENDMENT WITHDRAWN

The SPEAKER. The gentleman, Representative Vitali, is withdrawing part A of that amendment? The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

Mr. S. SMITH offered the following amendment No. **A03961**:

Amend Sec. 103, page 37, lines 24 through 28, by striking out all of said lines

Amend Sec. 103, page 37, lines 29 and 30, by striking out ", A LOCAL AGENCY OR A" in line 29, all of line 30 and inserting  
or a local agency.

Amend Sec. 103, page 38, line 2, by inserting after "AGENCY"  
, legislative agency

Amend Sec. 103, page 38, line 3, by inserting after "AGENCY"  
where it appears the second time  
, legislative agency

Amend Sec. 103, page 38, line 6, by inserting after "AGENCY"  
where it appears the second time  
, legislative agency

Amend Sec. 103, page 38, line 12, by inserting after  
"COMMONWEALTH."

The term includes the Office of Attorney General, the Department of the Auditor General and the Treasury Department.

Amend Sec. 103, page 38, lines 13 and 14, by striking out "THE" in line 13 where it appears the second time, all of line 14 and inserting  
a legislative agency,

Amend Sec. 103, page 38, lines 19 and 20, by striking out "THE OFFICE OF ATTORNEY GENERAL, THE DEPARTMENT OF THE AUDITOR GENERAL, AND THE TREASURY DEPARTMENT." and inserting

the Pennsylvania Gaming Control Board, the Pennsylvania Public Utility Commission, the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission.

Amend Sec. 103, page 38, lines 22 and 23, by striking out "THE GENERAL ASSEMBLY AND ITS OFFICERS AND AGENCIES" and inserting

a legislative agency

Amend Sec. 103, page 41, by inserting between lines 20 and 21

"Requester." A person who requests a record under this chapter.

"Response." Access to a record or an agency's written notice granting, denying or partially granting or denying access to a record.

Amend Sec. 301, page 43, lines 11 and 12, by striking out "307; OR" in line 11, all of line 12 and inserting  
305; or

(7) e-mail.

(c) Damage to certain records.—Access to historical, ancient or rare public records, archives, manuscripts or documents may be restricted by an agency when the access may cause physical damage or irreparable harm to the public records or when timely access is not possible due to fire, flood or other disaster. To the extent possible, the contents of the public record shall be made accessible to a requester even when the public record is physically unavailable pursuant to this subsection.

Amend Sec. 301, page 43, line 13, by striking out "(C)" and inserting

(d)

Amend Sec. 301, page 43, line 15, by striking out "SUBSECTION (B) APPLIES" and inserting

subsections (b) and (c) apply

Amend Sec. 301, page 43, by inserting between lines 15 and 16

(e) Public records not in the possession of an agency.—A public record that is not in the possession of an agency because it is in the possession of a party with whom the agency has contracted to perform a governmental function for the agency, and which directly relates to the governmental function, shall be considered a public record of the agency for all purposes of this chapter. Notwithstanding this subsection, nothing in this chapter shall be deemed to require access to any other record of the party with whom the agency has contracted.

(f) Denials.—

(1) An agency may not deny a requester access to a public record due to the intended use of the public record by the requester.

(2) An agency may deny a requester access to a public record if the request places an unreasonable burden on the agency in producing the public record or if the agency has reason to believe that repeated requests from a requester for the same public record are intended to disrupt or have the effect of disrupting essential functions of the agency.

Amend Sec. 302, page 43, lines 16 through 23, by striking out all of said lines and inserting  
Section 302. (Reserved).

Amend Bill, page 44, lines 7 through 30; pages 45 through 48, lines 1 through 30; page 49, lines 1 through 9, by striking out all of said lines on said pages and inserting

Section 304. Procedure for access to public records.

(a) General rule.—A public record shall be provided to a requester in the medium requested if the public record exists in that medium. If the public record does not exist in the medium requested, it shall be provided in the medium in which it exists. Public records shall also be available for inspection or copying by the requester during the regular business hours of the agency if the requester so requests. Nothing in this chapter shall be deemed to require access to the computer of an individual agency employee or of an agency.

(b) Oral or anonymous requests.—An agency may fulfill an oral or anonymous request for access to public records. If the requester wishes to pursue any relief and remedies provided for under this chapter, the requester must initiate the request in writing.

(c) Written requests.—A written request for access to public records may be submitted in person, by mail, by facsimile or, to the extent provided by agency policy established under section 704, by any other electronic means. A written request shall be addressed to the compliance officer of the agency. A written request must identify or describe the public records sought with sufficient specificity to enable the agency to ascertain which public records are being requested and shall include the name and address to which the agency should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the public records.

(d) Electronic access.—In addition to the requirements of subsection (a), an agency may respond to a request by notifying the requester that the public records are available through publicly accessible electronic means or that it will provide access to inspect the public records electronically. If the requester is unwilling or unable to use such electronic access, the requester shall submit a written request to the compliance officer of the agency, within ten business days following receipt of the agency notification, to have the public record converted to paper.

(e) Creation of public record.—Except as required under subsection (f), in responding to a request for access, an agency shall not be required to create a public record that does not exist at the time of the request or to compile, maintain, format or organize a public record in a manner in which the agency does not compile, maintain, format or organize the public record at the time of the request.

(f) Conversion of electronic record to paper.—If a public record is only maintained electronically or in other nonpaper media, an agency shall, upon request, duplicate the public record on paper if responding to a request for access in accordance with this chapter.

(g) Retention of records.—Nothing in this chapter is intended to modify, rescind or supersede any record retention and disposition schedule of an agency established pursuant to law, regulation or administrative policy.

Amend Sec. 307, page 49, line 10, by striking out "307" and inserting

305

Amend Sec. 308, page 61, line 5, by striking out "308" and inserting

306

Amend Sec. 308, page 61, lines 7 through 20, by striking out all of said lines

Amend Sec. 308, page 61, line 21, by striking out "(3)" and inserting

(1)

Amend Sec. 308, page 61, line 22, by striking out "307" and inserting

305

Amend Sec. 308, page 62, line 1, by striking out "(4)" and inserting

(2)

Amend Bill, page 62, lines 12 through 30; page 63, lines 1 through 30; page 64, lines 1 through 19, by striking out all of said lines on said pages and inserting

Section 307. Redaction.

(a) Procedure.—

(1) If an agency determines that a record contains information that is subject to access as well as information that is not subject to access, the agency's response shall grant access to the information that is subject to access and, unless the agency has determined to provide access to information that is not subject to access pursuant to section 306, deny access to the information that is not subject to access.

(2) If the information that is not subject to access is an integral part of the record and cannot be separated, the agency may redact from the record the information that is not subject to access, and the response shall grant access to the information that is subject to access. An agency determination not to redact

information that is not subject to access shall be subject to the provisions of section 306.

(3) The agency may not deny access to the record if the information that is not subject to access is able to be redacted. A redaction of information from a public record shall be clearly marked as such and shall constitute a denial by the agency of access to the redacted information.

(b) Alternate format permissible.—An agency may provide public records in an alternate format when information must be redacted, but only when the redactions cannot readily be made in the existing format. In such event, the agency shall advise the requester that the public records are being provided in the alternate format and the alternate format must indicate where information was redacted.

Section 308. Commonwealth agency's response to written requests for access.

(a) General rule.—

(1) Upon receipt of a written request for access to a record, a compliance officer of a Commonwealth agency shall make a good faith effort to determine if the request is sufficiently specific, and if the request is sufficiently specific, whether:

(i) the Commonwealth agency has possession, custody or control of the identified record; and

(ii) the record requested is a public record.

(2) The compliance officer of the Commonwealth agency shall respond as promptly as possible under the circumstances existing at the time of the request, but the response shall not exceed ten business days from the date the written request is received by the compliance officer of the Commonwealth agency.

(3) If the compliance officer of the Commonwealth agency fails to send the response within ten business days of receipt of the written request for access, the written request for access shall be deemed denied.

(4) A compliance officer of a Commonwealth agency that denies a request because the record requested is not a public record for that Commonwealth agency but has knowledge that the record is a public record of another agency shall, within ten business days following receipt of the request, notify the requester of the appropriate agency to which a request should be addressed.

(b) Extensions.—

(1) Upon receipt of a written request for access, if a compliance officer of a Commonwealth agency determines that one of the following applies:

(i) the request for access requires redaction of a record in accordance with section 307;

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

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

(iv) a legal review is necessary to determine whether the record is a public record subject to access under this chapter or whether all or any part of the record is exempt;

(v) the requester has not complied with this chapter or the Commonwealth agency's policies regarding access to public records;

(vi) the extent or nature of the request precludes a response within the requisite time period; or

(vii) the requester refuses to pay applicable fees authorized under section 703, the compliance officer of the Commonwealth agency shall send written notice to the requester within ten business days of the compliance officer's receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the



review and a reasonable date that a response is expected to be provided.

(2) The following shall apply:

(i) If the date that a response is expected to be provided is in excess of 30 calendar days following the ten business days allowed for in subsection (a), the request for access shall be deemed denied after the 30-day period has expired, unless the requester has agreed in writing to an extension to the date specified in the notice.

(ii) If the requester has agreed to an extension to the date specified in the notice, the request shall be deemed denied on the day following the specified date if the Commonwealth agency has not provided a response to the request by that date.

(c) Denial.—In cases other than a deemed denial, if a response of the compliance officer of a Commonwealth agency is a denial of a written request for access, whether in whole or in part, the compliance officer of the Commonwealth agency shall issue a written response which shall include:

(1) A description of the record requested for which access is denied.

(2) The specific reasons for the denial. If the specific reason for the denial is the result of a determination that the record requested is not a public record, a citation to a specific paragraph of section 305(a) if the record is exempt under that subsection or a citation to specific other legal authority.

(3) The typed or printed name, title, business address, business telephone number and signature of the compliance officer.

(4) Date of the response.

(5) The procedure to appeal the denial of access under this chapter.

(d) Certified copies.—If a response of a compliance officer of a Commonwealth agency grants a request for access, the compliance officer of the Commonwealth agency shall, upon request, provide the requester with a certified copy of the public record if the requester pays the applicable fees under section 703.

Section 309. Local agency's response to written requests for access.

(a) General rule.—

(1) Upon receipt of a written request for access to a record, a compliance officer of a local agency shall make a good faith effort to determine if the request is sufficiently specific, and if the request is sufficiently specific, whether:

(i) the local agency has possession, custody or control of the identified record; and

(ii) the record requested is a public record.

(2) The compliance officer of the local agency shall respond as promptly as possible under the circumstances existing at the time of the request, but the response shall not exceed five business days from the date the written request is received by the compliance officer of the local agency.

(3) If the compliance officer of the local agency fails to send the response within five business days of receipt of the written request for access, the written request for access shall be deemed denied.

(4) A compliance officer of a local agency that denies a request because the record requested is not a public record for that local agency but has knowledge that the record is a public record of another agency shall, within five business days following receipt of the request, notify the requester of the appropriate agency to which a request should be addressed.

(b) Extensions.—

(1) Upon receipt of a written request for access, if a compliance officer of a local agency determines that one of the following applies:

(i) the request for access requires redaction of a record in accordance with section 307;

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

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

(iv) a legal review is necessary to determine whether the record is a public record subject to access under this chapter or whether all or any part of the record is exempt;

(v) the requester has not complied with this chapter or the local agency's policies regarding access to public records;

(vi) the extent or nature of the request precludes a response within the requisite time period; or

(vii) the requester refuses to pay applicable fees authorized under section 703, the compliance officer of the local agency shall send written notice to the requester within five business days of the compliance officer's receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expected to be provided.

(2) The following apply:

(i) If the date that a response is expected to be provided is in excess of 30 calendar days following the five business days allowed for in subsection (a), the request for access shall be deemed denied after the 30-day period has expired, unless the requester has agreed in writing to an extension to the date specified in the notice.

(ii) If the requester has agreed to an extension to the date specified in the notice, the request shall be deemed denied on the day following the specified date if the local agency has not provided a response to the request by that date.

(c) Denial.—In cases other than a deemed denial, if the response of a compliance officer of the local agency is a denial of a written request for access, whether in whole or in part, the compliance officer of the local agency shall issue a written response which shall include:

(1) A description of the record requested for which access is denied.

(2) The specific reasons for the denial. If the specific reason for the denial is the result of a determination that the record requested is not a public record, a citation to a specific paragraph of section 305(a) if the record is exempt under that subsection or a citation to specific other legal authority.

(3) The typed or printed name, title, business address, business telephone number and signature of the compliance officer.

(4) Date of the response.

(5) The procedure to appeal the denial of access under this chapter.

(d) Certified copies.—If a response of the compliance officer of a local agency grants a request for access, the compliance officer of the local agency shall, upon request, provide the requester with a certified copy of the public record if the requester pays the applicable fees under section 703.

Section 310. Final Commonwealth agency determination.

(a) Filing of exceptions.—If a written request for access to records of a Commonwealth agency is denied or deemed denied, the requester may file exceptions with the head of the Commonwealth agency denying the request for access within 15 business days of the mailing date of the response by the compliance officer of the Commonwealth agency or within 15 days of the date of a deemed denial. The exceptions shall state grounds upon which the requester asserts that the record is public record and shall address any grounds

stated by the compliance officer of the Commonwealth agency for delaying or denying the request.

(b) Determination.—Unless the requester agrees otherwise, the Commonwealth agency head or his designee shall make a final determination regarding the exceptions within 30 days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the Commonwealth agency head or his designee may conduct a hearing or order that briefs should be submitted. The determination shall be the final order of the Commonwealth agency. If the Commonwealth agency head or his designee determines that the Commonwealth agency correctly denied the request for access, the Commonwealth agency head or his designee shall provide a written explanation to the requester of the reason for the denial. If the Commonwealth agency head or his designee determines that the agency incorrectly denied the request for access, the Commonwealth agency head or his designee shall order the Commonwealth agency to grant access to the record requested.

Section 311. Judicial appeal.

(a) Commonwealth agency.—Within 30 days of the date of a final determination of a Commonwealth agency under section 310 which affirms the denial of access, a requester may file a petition for review or other document as might be required by rule of court with the Commonwealth Court.

(b) Local agency.—Within 30 days of a denial by a compliance officer of a local agency under section 309, a requester may file a petition for review or other document as might be required by rule of court with the court of common pleas for the county where the local agency's office or facility is located or bring an action in the local magisterial district. A requester is entitled to a reasoned decision containing findings of fact and conclusions of law based upon the evidence as a whole which clearly and concisely states and explains the rationale for the decisions so that all can determine why and how a particular result was reached.

(c) Notice.—All parties in interest shall be served notice of actions commenced in accordance with subsection (a) or (b) and shall have an opportunity to respond in accordance with applicable court rules.

(d) Effect of petition for review.—The filing of a petition for review under subsection (a) or (b) shall have the effect of staying access to the records requested if such access has not yet been made available. If access to the records requested has already been made available to the requester at the time the petition for review has been filed and if a copy of the petition for review has been provided to the requester, the requester shall be required to keep the contents of the records confidential until the appeal has been finally disposed of.

(e) Record on appeal.—The record before a court shall consist of the request, the compliance officer's response under section 308 or 309, as applicable, the requester's exceptions, if applicable, the hearing transcript, if any, and the Commonwealth agency's final determination under section 310, if applicable. The court, on its own motion, may augment the record as it sees fit.

(f) Scope of review.—After a hearing, the court shall affirm the decision of the agency unless it finds that the decision is in violation of the constitutional rights of an aggrieved party, is not in accordance with law or that any finding of fact made by the agency necessary to support the decision of the agency is not supported by substantial evidence. If the decision is not affirmed, the court may enter any order authorized by 42 Pa.C.S. § 706 (relating to disposition of appeals).

Section 312. Court costs and attorney fees.

(a) Reversal of agency determination.—If a court reverses a Commonwealth agency's final determination under section 310 or a local agency's determination under section 309, the court may award reasonable attorney fees and costs of litigation or an appropriate portion thereof to a requester if the court finds either of the following:

(1) the agency intentionally violated any provision of this chapter, acted in bad faith or acted with wanton disregard to deprive the requester of access to a public record subject to access under the provisions of this chapter; or

(2) the exemptions, exclusions or defenses asserted by the agency in its determination were not based on a reasonable interpretation of law.

(b) Sanctions for frivolous requests or appeals.—If a court affirms an agency's determination under section 309 or 310 and finds that the appeal was frivolous or was brought with no substantial justification, the court may award reasonable attorney fees and costs of litigation or an appropriate portion thereof to the agency.

(c) Other sanctions.—Nothing in this act shall prohibit a court from imposing penalties and costs in accordance with applicable rules of court.

Amend Bill, page 64, lines 22 through 30; pages 65 through 70, lines 1 through 30; page 71, lines 1 through 19, by striking out all of said lines on said pages and inserting

Section 501. Public Records Office.

(a) Establishment.—The Department of State shall establish a Public Records Office within the department.

(b) Powers and duties.—The office shall have the following powers and duties:

(1) To compile and make available to agencies, requesters and other persons agency open records policies required under section 704, Pennsylvania court decisions relating to the application of this act and other information relating to the implementation and enforcement of this act.

(2) To establish an Internet website, which shall include all information listed in paragraph (3).

(3) To annually report to the General Assembly regarding its activities. The report shall include the number of requests for information received by the office during the applicable year. The office shall include in its 2010 report and each subsequent report any recommendations it may have for improving the implementation or enforcement of this act.

Amend Bill, page 71, lines 22 through 30; page 72, lines 1 through 30; page 73, line 1, by striking out all of said lines on said pages and inserting

Section 701. Penalties.

(a) Summary offense.—An agency or public official who violates this chapter with the intent and purpose of violating this chapter commits a summary offense subject to prosecution by the Attorney General or the appropriate district attorney and shall, upon conviction, be sentenced to pay a fine of not more than \$300 plus costs of prosecution.

(b) Civil penalty.—An agency or public official who does not promptly comply with a court order under this chapter is subject to a civil penalty of not more than \$300 per day until the public records are provided.

Section 702. Immunity.

(a) General rule.—Except as provided under section 312 or 701 and other statutes governing the release of records, no agency, public official or employee of an agency shall be liable for civil or criminal damages or penalties resulting from compliance or failure to comply with this chapter.

(b) Schedules.—No agency, public official or employee of an agency shall be liable for civil or criminal damages or penalties under this chapter for complying with any written record retention and disposition schedule.

Section 703. Fees.

(a) Postage, duplication and various other processing services.—Unless waived under subsection (f) or unless the agency is required or permitted to charge a different fee pursuant to other law, an agency shall charge the requester to respond to a request as provided in this section. The agency may charge a reasonable flat fee to cover its costs or an agency may charge the agency's actual costs, in each case as reasonably determined and substantiated by the agency. With respect to such fees, the following shall apply:

(1) Fees for postage or for a delivery service may not exceed the actual cost of mailing or delivery.

(2) Fees for redaction, retrieval, search, compilation, special handling, or for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means, transferring sound recordings and other means of duplication shall be the actual cost of the service charged by the service provider or shall be based on prevailing fees for comparable services provided by local business entities if the service is performed by the agency.

(3) The agency may include a fee for the labor cost of personnel providing the service, but it may not charge for the cost of legal review to determine whether the requested records are required to be disclosed under this chapter.

(b) Certification.—An agency may impose reasonable fees for official certification of copies if the certification is at the behest of the requester.

(c) Conversion to paper.—If a public record is only maintained electronically or in other nonpaper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the native media as provided by subsection (a) unless the requester specifically requests for the public record to be duplicated in the more expensive medium.

(d) Enhanced electronic access.—If an agency offers enhanced electronic access to public records in addition to making the public records accessible for inspection and duplication by a requester as required by this chapter, the agency may establish user fees specifically for the provision of the enhanced electronic access. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. The user fees for enhanced electronic access must be reasonable and may not be established with the intent or effect of excluding persons from access to public records or duplicates thereof or of creating profit for the agency.

(e) Compilation in a new format.—If a request is for a public record:

- (1) in a medium not routinely used by the agency;
- (2) not routinely developed or maintained by the agency;

or

- (3) requiring a substantial amount of manipulation or programming of information technology;

and the agency, in its discretion, agrees to provide the public record in the requested format, the agency may charge, in addition to the actual cost of duplication, a reasonable fee based on the cost of the compilation, including special use of information technology, and for the labor cost of personnel providing the service, which is actually incurred by the agency or attributable to the agency for the programming, clerical and supervisory assistance required to provide the public record in the new format.

(f) Waiver of fees.—An agency may waive the fees for providing access to or a copy of a public record, including, when:

- (1) the requester duplicates the public record; or
- (2) the agency deems it is in the public interest to do so.

(g) Prepayment.—Prior to granting a request for access in accordance with this chapter, and unless the fees have been waived under subsection (f), a requester shall prepay an estimate of the fees authorized under this section.

Section 704. Implementation.

(a) Requirement.—Each agency is responsible for establishing written policies necessary to implement this act.

(b) Content.—The written policies shall include the name of the compliance officer to which requests for access shall be addressed and a list of applicable fees.

(c) Prohibition.—A policy may not include any of the following:

- (1) A limitation on the number of public records which may be requested or made available for inspection or duplication.
- (2) A requirement to disclose the purpose or motive in requesting access to records that are public records.

(d) Posting.—The policies shall be forwarded to the Public Records Office established in Chapter 5 for posting.

Section 705. Confidentiality agreements.

If an agency receives a request for a public record that is subject to a confidentiality agreement executed before the effective date of this section, the law in effect at the time the agreement was executed, including judicial interpretation of the law, shall govern access to the public record, unless all parties to the confidentiality agreement agree in writing that access or nonaccess to the public record shall be governed by this chapter.

Amend Sec. 703, page 73, line 2, by striking out "703" and inserting

706

Amend Sec. 704, page 73, line 5, by striking out "704" and inserting

707

Amend Sec. 704, page 73, line 10, by striking out "305" and inserting

307

Amend Sec. 705, page 73, lines 11 through 30, page 74, lines 1 through 14, by striking out all of said lines on said pages

Amend Sec. 707, page 74, line 15, by striking out "707" and inserting

708

Amend Sec. 708, page 74, line 20, by striking out "708" and inserting

709

Amend Sec. 709, page 74, line 26, by striking out "709" and inserting

710

Amend Sec. 2101, page 76, line 14, by striking out "A COMMONWEALTH" and inserting

an executive

Amend Sec. 2101, page 76, line 15, by striking out "AN" and inserting

the

Amend Sec. 2101, page 76, line 21, by striking out "JUDICIAL ACTIONS" and inserting

laws

Amend Sec. 2101, page 76, line 22, by striking out "CHAPTER" and inserting

act

Amend Sec. 2101, page 76, line 23, by inserting after "ANY" Federal or State law or regulation or

Amend Sec. 2101, page 76, line 23, by striking out "CHAPTER" and inserting

act

Amend Sec. 2103, page 77, line 5, by striking out all of said line and inserting

July 1, 2008:

Amend Sec. 2103, page 77, lines 6 and 7, by striking out all of said lines and inserting

(i) Sections 303, 501, 704 and 708.

Amend Sec. 2103, page 77, lines 10 through 12, by striking out all of said lines and inserting

year.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the minority leader, Representative Smith, on the amendment.

Mr. S. SMITH. Thank you, Mr. Speaker.

Mr. Speaker, I made a passing reference to this amendment when we considered an earlier amendment that had to do with access to the courts in terms of people that might need to appeal the ruling, and I think that this amendment goes a little bit

further in opening up the access to individuals, but I think more importantly, it helps to streamline that process.

This amendment, essentially, would keep that appeals process consistent with the current law, and although I am not the most familiar with all the past practices of these efforts, I am not aware that the current law presented problems to people or organizations that had to enter the courtroom.

One of the things that this amendment does, that some may be opposed to, is that it changes the authority that the Public Records Office would have, and it keeps it in— The Public Records Office remains, it just changes some of the authority. It would still be there to provide for uniformity of the types of forms and records that the various offices and agencies around the Commonwealth would use. But what it does, most importantly in my mind, Mr. Speaker, is streamlines the process so that when a local agency rules on whether or not a record is a public record or not, and that is going to be appealed, you would go straight to the common pleas court, the court in your home county. If, on the other hand, that was a question of appeal of a decision for a State agency, the legislature, the administration, someone here in Harrisburg, then that appeal would go directly to Commonwealth Court.

I believe, Mr. Speaker, that when we— Obviously a lot of the debate has been about what is and is not a public record, and this does not deal with that at all. It is strictly about the process that I think most economically and fairly allows individuals or the local government to protect their interests, to follow through their interests in court.

One of the discussions at that time talked about, if you went to this Public Records Office initially, then you had to go here and back there. For anyone to follow through these appeals, they would be jumping back and forth. I believe they are going to be doing that with full legal representation. I do not believe it is the kind of thing that they are just going to walk in there without representation. I think it is going to be the kind of thing that would require representation. This is a competent court at a local level. The concerns of consistency of rulings is something you are going to have no matter what, but eventually, as the Public Records Office compiles these, as some maybe get appealed, some rulings might go the whole way to the Supreme Court, uniformity will come about in its own right.

But I would ask the members to support this amendment. It is something that I believe goes a long way in garnering the support of the local government agencies, whether it be your townships, your counties, those types of people. And in fact, Mr. Speaker, it would shorten the time to get the records from 30 days to 10 days, which is the current ruling. And so I think it expedites the process and keeps the access more available to people in their own kind of home venue, if you will, and I would ask the members to support this amendment.

The SPEAKER. Will the House agree to the amendment?

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Would my colleague from Jefferson, the minority leader, submit to a one-question interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. DeWEESE. Thank you, Mr. Speaker. I am going to opine that it is one question.

Mr. Speaker—

The SPEAKER. The gentleman will suspend.

Will the members please take their seats. The noise level is entirely too loud. Conferences in the back of the House will please break up.

The gentleman is in order.

Mr. DeWEESE. It might be two questions, Mr. Speaker.

The first one: The Public Records Office under your amendment will do what? We have been debating that over here, and we would like some clarification, if possible.

Mr. S. SMITH. Thank you, Mr. Speaker.

Perhaps in fairness of what you are trying to understand, I would say that this, as I mentioned in my other remarks, it does change the responsibilities of the Public Records Office in a significant way, admittedly, in that they would no longer be the initial point of appeal or of deciding what is or is not, it removes that specific authority. But as the amendment identifies the powers and duties of that Public Records Office, there are three items that are enumerated. The main one is to complete and make available to agencies, requesters, and other persons an agency's open record policies required under section 704. It would establish an Internet site to also make those decisions available. It would also be required to provide an annual report to the General Assembly including a significant amount of information relative to what the office had been doing.

I think the key thing is that, from my perspective anyways, for those that want to try to maintain some uniformity, and obviously that is a good goal and I agree with it, the Public Records Office would still be in a position to provide that uniformity, but it would be more of a, ultimately I would see it being more of a clearinghouse of the decisions that would ultimately be rendered by the courts, as opposed to being the first point of adjudication for those decisions.

Mr. DeWEESE. Thank you, Mr. Speaker.

A final question. I did come up with one more just as you finished your remarks: So the Public Records Office would not have any adjudicatory authority under your amendment?

Mr. S. SMITH. That is correct, Mr. Speaker, and the purpose for that is that under the current law that exists in Pennsylvania, my amendment would be consistent with how the current law is. This bill, as it is proposed, creates a new step in that process of adjudicating the decisions about what is or is not a public record. And as a member noted earlier on a parallel amendment, the one that dealt with the magisterial districts – and I think he made an excellent analogy – as the complaints or the appeals come in, if you have all of this going through one central office, you are creating, as he used, the analogy of a straw. You are going to have a straw where all those decisions have to come through, and either you are going to have a small straw and there is going to be a backup or you are going to have a straw that is huge in order for everything to flow through, which would be a much more expensive and, I think, questionable expense.

This amendment will allow each of those local decisions to be initially adjudicated at the common pleas court at your own county level and, therefore, allow that process to move along in a more expeditious fashion, in my opinion, Mr. Speaker.

Mr. DeWEESE. Thank you. That concludes my interrogation.

Just a couple—

The SPEAKER. The gentleman is in order and may proceed.

Mr. DeWEESE. I think I understand the honorable gentleman's intent, and I am not going to aggressively counter

it. I am going to say that the essence of his effort would be to eliminate much of the propulsion, momentum, and new dynamic of this Public Records Office, and that is up to our individual membership to make a decision on whether they think that is efficacious or whether they think that is wrong-headed. So that is why we all have a red and a green button, a "yes" or a "no" vote.

But it is fundamental. The courts will make the final pronouncements on all of these matters, so that will not change. Do we want to have a Public Records Office? I think the debate that has gone on over the last 12 hours pretty much indicates that the majority of us would like to have this new apparatus. I respect and understand my colleague's perspective that is against my own, so I will not support the amendment, but I certainly do understand its intent. It is certainly not mischievous, it is just a different point of view, and I thank the gentleman for his responses.

The SPEAKER. Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker. Just to point out one other thing.

As I mentioned, I believe this will expedite the process, and ultimately, it will allow for more consistent rulings as various records are debated or challenged and that becomes more clear, those that do not fall under the enumerated exceptions.

I would point out, Mr. Speaker, that when we are talking about consistency in process and interpretation, that the process that I am putting forth here is actually consistent with how appeals of petitions, and in the election process, work. If you are running for a statewide office and you are going to challenge a petition or challenge things that have to do with a ballot, you go to Commonwealth Court directly. If you are challenging a petition or something that has to do with the ballot for a municipal election, you go to the common pleas court. It is absolutely consistent with that.

To use that same analogy of elections, it would be like saying that if someone wanted to go and appeal a petition that had been filed for an elective office, you would have to go to the Bureau of Elections first and get their determination as to whether this was proper or improper. And then if you did not like that, then you would go back to the common pleas court in your county, and if someone did not, whichever one of the two sides did not like that ruling, come back to the Commonwealth Court in Harrisburg. And I just think that that process is cumbersome, and I do not think it is conducive. I do not think it is open to a fundamental, one of the fundamental tenets of our system, and that is to try to have immediate and easy access to the courts, in terms of getting a decision made on whatever it is the decision that you are appealing.

So it is not like this is something new. It is existing law. It is consistent with how we handle challenges to the Election Code or to our election process, and I think that it is a good process. It is something, as I mentioned before, Mr. Speaker, that will go a long way in gaining support with our local government community. Those of you who have lots of townships in your legislative districts or lots of smaller municipalities, this is the kind of thing that will actually be helpful to them, not only at the local government side but to the individual who may be challenging the decision that that local government rendered. It will make it more accessible to them, and I just think it is a better way to go.

Thank you, Mr. Speaker.

The SPEAKER. Representative Shapiro.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, if the minority leader, the maker of the amendment, would agree to stand for interrogation, I have a few questions on his amendment.

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. SHAPIRO. Thank you, Mr. Speaker.

I appreciate where the gentleman is coming from, and I am not going to argue our positions. We disagree on the issue of what this office should do. But I would like to just ask the maker of the amendment to discuss, really, one section of his amendment, and that is the powers and duties of the Public Records Office. It appears on page 10 of the gentleman's amendment, and it appears on the section he is amending, page 64 of the bill.

And specifically the "powers and duties" section, Mr. Speaker, there appear to be just three sections of the "powers and duties" section of the minority leader's amendment. There are indeed 11 enumerated powers and duties under the underlying legislation. Is that correct, Mr. Speaker?

Mr. S. SMITH. Yes, Mr. Speaker. I think you have the bill before you. I actually do not, so if it is 11— They are numbered.

Mr. SHAPIRO. Thank you, Mr. Speaker.

What I would like to do, just to let the gentleman know where I am going with this, I would like to state the powers and duties that exist under the bill that we have all spent many hours discussing and see whether or not these powers and duties would exist under the gentleman's amendment. And so the first power and duty that exists under our legislation is to receive and respond to requests for information from persons who were denied access to public records by a Commonwealth agency or a local agency under this act. Does that appear in the gentleman's amendment anywhere?

Mr. S. SMITH. Now, Mr. Speaker, if your intention is to go down through that list, I think it is simple. I mean, it was not like anybody was trying to hide anything here. I told you what the three things are. They are in the amendment; they are easy to read. And of the other items that were in the bill, they are not in my amendment, so those powers would be deleted. But fundamentally, Mr. Speaker, those items have to do with the powers of a proposed Public Records Office if, in fact, it was going to be the adjudicating, the initial point of adjudication for appealing or for questioning what records are public or what records are not.

Mr. SHAPIRO. Thank you for the answer, Mr. Speaker.

So I was, in fact, going to go through all 11 items. Does the gentleman just simply want to submit for the record that these 11 items, these 11 powers and duties that exist under the legislation that we have all been working on for the last several hours, are, in fact, not contained in your amendment? I do not want to misrepresent where the minority leader is coming from. Is that, in fact, where your amendment takes us, Mr. Speaker?

Mr. S. SMITH. Well, Mr. Speaker, the language is indeed stricken. I mean, like I say, that is obvious. Some of those items are embodied in number (1) under the amendment, the powers and duties. If you read through number (1), it clearly identifies some of those. So not everything is eliminated, but I think the core and the key thing is the one that I have identified in terms of the adjudication.

Mr. SHAPIRO. Thank you, Mr. Speaker.

On the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Indeed the 11 powers and duties that we have put in this legislation that we have used to empower the Public Records Office have been stricken by the proposed, or would be stricken by the minority leader's proposed amendment. I think this takes us in a huge step backwards in terms of being able to enforce a new open records law, one that flips the presumption, one that subjects the legislature to the Right-to-Know Law. I think this significantly weakens our bill, and I would urge my colleagues to oppose the Smith amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Vitali.

Mr. VITALI. Will the maker of the amendment stand for brief interrogation?

The SPEAKER. Representative Smith indicates that he will. The gentleman is in order and may proceed.

Mr. VITALI. I just want to be clear. A citizen applies for a record at PENNDOT, let us say a bridge safety study. PENNDOT says no, not covered by the act. Under your amendment, what would his recourse be at that point?

Mr. S. SMITH. He would go to, if it was a State agency such as PENNDOT, he would go to Commonwealth Court.

Mr. VITALI. Okay. That concludes my interrogation. I would like to just speak on the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. VITALI. I think the Smith amendment is a bad idea. I think this makes it tougher for a citizen to get access to public records. Frankly, as an attorney, it is difficult to get a lawsuit together to file. Going before an agency like the State Ethics Commission is much more amenable to self-representation. You can go to them, under the Mahoney bill, you can get a ruling where they can say to PENNDOT, listen, that is a public record; you have got to give it up. You are much more likely to get what you want if you are a citizen under the Mahoney bill as opposed to the Smith amendment, so I would urge a "no" vote.

The SPEAKER. Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I agree with Representative Shapiro and Representative Vitali that this amendment is not a particularly good idea. I have a lot of experience with election law, and Representative Smith indicated that the election law process should be a model for us. But it used to be, years ago, that the Election Bureau in Harrisburg would accept any nominating petition filed if it had 100, or whatever the number of signatures required was at that time, spaces filled, they would accept it automatically. But that led to many lawsuits in which obviously invalid petitions were thrown out, and under pressure from litigants and the courts over time, the Election Bureau now carefully scrutinizes the petitions that were filed to see if they are, on their face, valid petitions or not. If it requires 300 signatures to get on the ballot for State Representative and you only submit 250 signatures, which are fully filled out with name and address and date, you are rejected. And that is different from the way it used to be.

Furthermore, getting beyond the analogy to the election board, the appellate courts in this Commonwealth have many, many things to do. They have many, many cases every year, and worrying about open records litigation is going to be a very, very small percent of their total caseload and they are going to

be spending a very small percentage of their time figuring out what is an open record and what is not an open record. And because they are not going to be spending an awful lot of time on it, and because there is an awful lot of turnover on the courts, and because no two sets of facts are the same, and only a very tiny number of cases are actually going to wind up before the appellate courts, there is going to be very little consistency. We are much more likely to get consistency by having a bunch of people whose sole job is to focus on open records litigation and open records rights and open records protections.

For all these reasons, I would join Representative Shapiro, Representative Vitali, and Representative Mahoney in urging a "no" vote on this amendment.

The SPEAKER. Representative George.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, this comes to my mind, that the Office of Public Records could act like an ombudsman to help to be an advocate for the uniform disclosure of public information.

Mr. Speaker, a few years ago I proposed a municipal authority ombudsman to help the public with these authorities and the problems, and in the judgment of those on the other side of the aisle, those members on the other side just did not like that idea. Mr. Speaker, then some time later I proposed a veterans ombudsman who would receive and investigate complaints made by individual veterans concerning medical care or services provided by a Federal or a State medical-care facility, or even a veterans home. Mr. Speaker, some members on the other side of the aisle in the State Senate did not like that idea and prevented it from becoming a law.

Mr. Speaker, we have had already several votes tonight that rejected weakening this law, and honestly, I believe we should respectfully reject this amendment and we should go home this weekend and say, hey, a lot of things have happened here, but this open records law that we are going to give you shortly will keep that from happening again.

Let us vote "no" on this amendment.

The SPEAKER. Representative Mahoney.

Mr. MAHONEY. I rise in opposition to the Smith amendment for one main reason: It guts one of the main things out of the open records law that we need in this law. It guts the Office of Access. That is one of the most important steps that we need to keep in this bill, and if you want to vote for the Smith amendment, it is going to be status quo. Nothing is going to change in Pennsylvania, because there will be no unity across the State that we desperately need. So I vote "no."

The SPEAKER. The Chair recognizes the minority leader, Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker. I will be brief.

Look, Mr. Speaker, this amendment is really intended to streamline this process. I believe it opens up the process more conveniently to individuals and to those, in particular, at the local government level. To suggest that creating some additional responsibilities under this new Public Records Office, to get into some of the other things that it might do if it were the adjudicating authority under the bill that is proposed, is some sacrosanct thing that is beyond reproach, I think, is a little bit much, Mr. Speaker.

This legislation is about defining what open records are, what records are open to the public, and it is about the process as to how we will get from here to there. The fact is that if you create this agency as it is in the bill, 4 or 5 or 6 years from now you are going to just have a bureaucracy running wild. It will

become its own animal of sorts, and in fact, this legislation, I think, is much more economical in terms of how this process will work. It uses the existing court system, and I think it uses it in an efficient manner.

I would urge the members to support the amendment. Thank you, Mr. Speaker.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—68

Argall	Everett	Mantz	Pyle
Baker	Fairchild	Marshall	Quigley
Barrar	Fleck	Marsico	Quinn
Bastian	Geist	McIlhattan	Rapp
Bear	Godshall	Metcalfe	Raymond
Beyer	Harhart	Millard	Reichley
Boback	Harper	Miller	Scavello
Brooks	Harris	Milne	Smith, S.
Cappelli	Helm	Moul	Sonney
Causser	Hennessey	Moyer	Stairs
Civera	Hershey	Murt	Stern
Clymer	Hess	O'Neill	Stevenson
Creighton	Keller, M.	Peifer	Taylor, J.
Denlinger	Kenney	Perzel	Turzai
DiGirolamo	Killion	Petri	Vereb
Ellis	Maher	Phillips	Vulakovich
Evans, J.	Major	Pickett	Watson

#### NAYS—127

Belfanti	Gerber	Mann	Santoni
Benninghoff	Gergely	Markosek	Saylor
Bennington	Gibbons	McCall	Schroder
Bianucci	Gillespie	McGeehan	Seip
Bishop	Gingrich	McI. Smith	Shapiro
Blackwell	Goodman	Melio	Shimkus
Boyd	Grell	Mundy	Siptroth
Brennan	Grucela	Myers	Smith, K.
Buxton	Haluska	Nailor	Smith, M.
Caltagirone	Hanna	Nickol	Staback
Carroll	Harhai	O'Brien, M.	Steil
Casorio	Harkins	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, R.
Cruz	Josephs	Payton	Thomas
Curry	Kauffman	Perry	True
Cutler	Keller, W.	Petrarca	Vitali
Daley	Kessler	Petrone	Wagner
DeLuca	King	Preston	Walko
DePasquale	Kirkland	Ramaley	Wansacz
Dermody	Kortz	Readshaw	Waters
DeWeese	Kotik	Reed	White
Donatucci	Kula	Roe	Williams
Eachus	Leach	Rock	Wojnaroski
Evans, D.	Lentz	Rohrer	Yewcic
Fabrizio	Levdansky	Ross	Youngblood
Frankel	Longiatti	Rublely	Yudichak
Freeman	Mackereth	Sabatina	
Gabig	Mahoney	Sainato	O'Brien, D., Speaker
Galloway	Manderino	Samuelson	
George			

NOT VOTING—0

#### EXCUSED—8

Adolph Dally	Mensch Micozzie	Mustio Roebuck	Solobay Wheatley
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

The SPEAKER. The Chair intends to recess regular session and reconvene special session at 10:23 p.m.

#### RECESS

The SPEAKER. The House will stand in recess to the call of the Chair.

#### AFTER RECESS

The time of recess having expired, the House was called to order.

#### CALENDAR CONTINUED

#### CONSIDERATION OF HB 443 CONTINUED

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

The SPEAKER. It is the understanding of the Chair that all timely filed amendments have either been offered or withdrawn. There are late-filed amendments. Is there any member seeking to offer any of those amendments that would require a suspension of the rules?

#### BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader, who moves that the following bills be removed from the tabled bill calendar and placed on the active calendar:

HB 259;  
HB 260;  
HB 261; and  
HB 895.

On the question,  
Will the House agree to the motion?  
Motion was agreed to.

#### CONSIDERATION OF HB 443 CONTINUED

#### MOTION TO SUSPEND RULES

The SPEAKER. Representative Freeman moves to suspend the rules. Will the gentleman inform the Chair of the amendment number?

Mr. FREEMAN. Yes, Mr. Speaker. Thank you. It is amendment No. A04016.

The SPEAKER. The gentleman moves that the rules be suspended for the immediate consideration of amendment A04016. Is that correct?

Mr. FREEMAN. Yes.

On the question,

Will the House agree to the motion?

The SPEAKER. On the motion to suspend, those in favor—

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. Representative Vitali.

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. I do not want to supersede my honorable colleague.

The SPEAKER. Representative Vitali.

Mr. VITALI. I was simply going to ask for a brief description of the amendment prior to the suspension vote.

Mr. FREEMAN. Sure, I would be happy to.

The SPEAKER. Representative Freeman will offer an explanation.

Mr. FREEMAN. Yes. Thank you, Mr. Speaker.

Very briefly, this amendment is intended to correct an unintended problem that occurred when we adopted my earlier amendment today, which was amendment A04001. In that earlier amendment, we sought to make sure that the transcripts of a hearing would become public record at the time that the administrative proceedings concluded. However, in that earlier amendment, we also said at the conclusion of the hearing process. That poses a serious logistical problem as well as a hardship for the stenographic companies, which could result in actually increased costs for the Commonwealth, I am told.

So what we are doing, we are adapting the exact same amendment. We are just taking out the word "hearing" so that the transcripts will become part of the public record at the conclusion of the administrative proceedings. That would clear the problem up and still be an improvement over the original amendment offered by Representative Dermody, which would have had that occur only after the adjudication of the hearing process.

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. I would strenuously object, Mr. Speaker, to a suspension of the rules. We have inaugurated a new day in this chamber, and we have had almost, almost 100 bites at the apple. This proposal has been around for 11 days to be amended. If my honorable colleagues are dilatory in preparing amendments, so be it, but we have had almost 100 amendments either offered or withdrawn. The consideration process has been very, very liberal tonight. We have not had time to digest this. We are not going to go past 11 o'clock, as is our new method, and I would strenuously object to a suspension of the rules. We need 24 hours to look at this, and I just do not think this is the way we should be doing business in the new era.

The SPEAKER. Representative Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

There is no stronger advocate for informing the members as to the contents of amendments on the floor than myself. However, I would recommend that the majority leader keep in mind that suspension of the rules actually is a procedure in our

rules. What this amendment is seeking to do is to correct an error, and I think it is important for us to pass the best possible legislation we can. The error was not detected initially with the original amendment. This is a way of making sure that we refine the product.

I would urge the membership to provide for a suspension of the rules to consider this so that we can pass a better piece of legislation. It is basically a technical correction, and to not address that means that we will be passing on to the other chamber a bill that is flawed that we could have corrected prior to passing that legislation.

Our rules provide for the suspension of the rules. It is this body's determination as to whether that is an appropriate motion. I think it is a way to provide a better product, and I would urge the membership to support me in suspension of the rules, pass this technical correction, and make for a better bill.

### PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Reichley, rise?

Mr. REICHLEY. Thank you, Mr. Speaker.

A point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. REICHLEY. Would a motion to adjourn be proper to bring before the House at this time? Is that a motion in order, I suppose?

The SPEAKER. A motion to adjourn is always in order.

### MOTION TO ADJOURN

Mr. REICHLEY. All right. Mr. Speaker, in light of the concern that Representative Freeman has, and I think to be fair, we have been at this since 10 o'clock this morning. It has been, by all accounts, I guess, an extraordinarily successful day in terms of the resolution of those amendments. But to be fair to all those who have concerns, as I have an amendment to present, Representative Freeman has an amendment to present, I would move to adjourn the House at this point until 11 a.m., October 31, 2007.

The SPEAKER. It has been moved by the gentleman, Representative Reichley, that the House adjourn until 11 a.m. on Wednesday, October 31, 2007.

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair recognizes Representative DeWeese on the motion.

Mr. DeWEESE. Again, I would ask that the membership object to the honorable gentleman from Lehigh Valley's motion to adjourn.

I believe that, again, we have had months and months and months of consideration. We have had 11 days for people to come up with their amendments on second consideration. My honorable colleagues will have another bite at the proverbial apple, when Senator Pileggi's proposal comes over, they will have another bite at the proverbial apple on final passage.

I would like to thank the membership for their indulgence over the last 12 1/2 hours, but I do not want to adjourn tonight,



come back in here tomorrow, and have another 6-, 8-, 10-hour debate if it is not necessary on a whole ream of other amendments. Some of the ideas that have effloresced in the perfervid brains of my wonderful colleagues could keep us debating, ad infinitum, tomorrow.

So after almost 13 hours of debate, I would like to think that we have time to have a vote on final passage of second consideration. I would ask strenuously that we negate the honorable gentleman's effort to adjourn, we have some other conversation on our final vote, and we vote the measure.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

We have been at this since 10 a.m. this morning, it is 10:30 this evening, and on second consideration, I will remind the members that there are occasions that we take a vote on second consideration. And I think that given the transformation of the original Mahoney proposal to where it is today, whether we adjourn tonight or not, I just want folks to understand that it is my hopeful expectation that we will actually have a vote on second consideration. I appreciate that may entail some debate, but as you consider your position on whether to adjourn now until tomorrow, you may want to consider that we will not just be done for the night in any case. Because I think it is important to make it clear where people stand on this measure in its current form.

Thank you, Mr. Speaker.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

I will just sum up very briefly, I think as we heard earlier today, the procedure for consideration of this legislation has been tinged with an allegation of rushing to judgment, and I do not think it will harm the integrity of the legislation, or the process here, to adjourn 24 minutes before our deadline under the rules. So it will give at least Mr. Mahoney, who has said he is tired, and as I am sure all the other members are tired, a chance to regroup, to come back to this at a fair time tomorrow, and to proceed.

So I would ask the members— Let us not get bull-rushed into something here. We had a full day of consideration of 100 amendments. Let us not be so craven to the idea that somehow we have to rush through this for some ulterior motive. We will have tomorrow to vote on second consideration, and next Monday for third.

So let us adjourn at this point until 11 a.m. tomorrow. Thank you.

The SPEAKER. Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Whether or not we should adjourn at this moment or try to conduct a little more business before the 11 o'clock hour, it might be worthy to just repeat back a few comments that are from the text of an October 26 press release, and it is entitled "Rep. Bill DeWeese: DeWeese prepares House for lengthy debate on open records."

The third paragraph in the press release says, quote, "After discussions with Whip Keith McCall and others, and as the Majority Floor Leader, I made the decision that we would not ask members to withdraw their amendments from this most important issue. We also are not offering a gut-and-replace omnibus amendment, as had been done routinely during the last 12 years. Instead, I am promoting an open process to allow for as many amendments and as much debate as members wish –

in the spirit of the new House rules – and I will let the chips fall where they may." End quote.

Thank you, Mr. Speaker.

The SPEAKER. On the motion to adjourn, those in favor of the motion to adjourn will vote "aye"; those opposed, "nay."

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

#### YEAS—84

Argall	Fairchild	Mantz	Raymond
Baker	Gabig	Marsico	Reed
Barrar	Geist	McIlhattan	Reichley
Bastian	Gillespie	Millard	Roae
Bear	Gingrich	Miller	Rock
Benninghoff	Godshall	Milne	Rohrer
Beyer	Grell	Moul	Ross
Boback	Harhart	Moyer	Rubley
Boyd	Harper	Nailor	Saylor
Brooks	Harris	Nickol	Scavello
Cappelli	Helm	O'Neill	Smith, S.
Civera	Hennessey	Payne	Sonney
Clymer	Hershey	Peifer	Stairs
Cox	Hickernell	Perry	Stevenson
Creighton	Hutchinson	Perzel	Swanger
Cutler	Keller, M.	Petri	Taylor, J.
Denlinger	Kenney	Phillips	True
DiGirolamo	Killion	Pickett	Turzai
Ellis	Mackereth	Pyle	Vereb
Evans, J.	Maher	Quigley	Vulakovich
Everett	Major	Rapp	Watson

#### NAYS—111

Belfanti	George	Mann	Seip
Bennington	Gerber	Markosek	Shapiro
Bianucci	Gergely	Marshall	Shimkus
Bishop	Gibbons	McCall	Siptroth
Blackwell	Goodman	McGeehan	Smith, K.
Brennan	Grucela	McI. Smith	Smith, M.
Buxton	Haluska	Melio	Staback
Caltagirone	Hanna	Metcalfe	Steil
Carroll	Harhai	Mundy	Stern
Casorio	Harkins	Murt	Sturla
Causer	Hess	Myers	Surra
Cohen	Hornaman	O'Brien, M.	Tangretti
Conklin	James	Oliver	Taylor, R.
Costa	Josephs	Pallone	Thomas
Cruz	Kauffman	Parker	Vitali
Curry	Keller, W.	Pashinski	Wagner
Daley	Kessler	Payton	Walko
DeLuca	King	Petrarca	Wansacz
DePasquale	Kirkland	Petrone	Waters
Dermody	Kortz	Preston	White
DeWeese	Kotik	Quinn	Williams
Donatucci	Kula	Ramaley	Wojnaroski
Eachus	Leach	Readshaw	Yewcic
Evans, D.	Lentz	Sabatina	Youngblood
Fabrizio	Levdansky	Sainato	Yudichak
Fleck	Longiotti	Samuelson	
Frankel	Mahoney	Santoni	O'Brien, D., Speaker
Freeman	Manderino	Schroder	
Galloway			

#### NOT VOTING—0

#### EXCUSED—8

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,  
Will the House agree to the motion?

The SPEAKER. The Chair returns to the motion to suspend the rules.

Those in favor of the Freeman motion— The gentleman spoke twice on the motion to suspend.

Those in favor of the motion to suspend the rules will vote "aye"; those opposed, "nay."

On the question recurring,  
Will the House agree to the motion?

The following roll call was recorded:

**YEAS—54**

Argall	Gabig	Millard	Reichley
Bennington	Geist	Miller	Samuelson
Beyer	Harhart	Moul	Saylor
Boback	Harper	Murt	Smith, S.
Boyd	Helm	Nickol	Sonney
Brennan	Hennessey	O'Neill	Stairs
Brooks	Hershey	Pallone	Stevenson
Cappelli	Killion	Payne	Tangretti
Civera	Levdansky	Petri	Taylor, J.
Clymer	Major	Pyle	Vitali
Creighton	Mann	Quinn	Watson
Denlinger	Marsico	Rapp	Wojnaroski
Everett	McIlhattan	Raymond	Yewcic
Freeman	Melio		

**NAYS—141**

Baker	Galloway	Maher	Rubley
Barrar	George	Mahoney	Sabatina
Bastian	Gerber	Manderino	Sainato
Bear	Gergely	Mantz	Santoni
Belfanti	Gibbons	Markosek	Scavello
Benninghoff	Gillespie	Marshall	Schroder
Biancucci	Gingrich	McCall	Seip
Bishop	Godshall	McGeehan	Shapiro
Blackwell	Goodman	McI. Smith	Shimkus
Buxton	Grell	Metcalfe	Siptroth
Caltagirone	Grucela	Milne	Smith, K.
Carroll	Haluska	Moyer	Smith, M.
Casorio	Hanna	Mundy	Staback
Causer	Harhai	Myers	Steil
Cohen	Harkins	Nailor	Stern
Conklin	Harris	O'Brien, M.	Sturla
Costa	Hess	Oliver	Surra
Cox	Hickernell	Parker	Swanger
Cruz	Hornaman	Pashinski	Taylor, R.
Curry	Hutchinson	Payton	Thomas
Cutler	James	Peifer	True
Daley	Josephs	Perry	Turzai
DeLuca	Kauffman	Perzel	Vereb
DePasquale	Keller, M.	Petrarca	Vulakovich
Dermody	Keller, W.	Petrone	Wagner
DeWeese	Kenney	Phillips	Walko
DiGirolamo	Kessler	Pickett	Wansacz
Donatucci	King	Preston	Waters
Eachus	Kirkland	Quigley	White
Ellis	Kortz	Ramaley	Williams
Evans, D.	Kotik	Readshaw	Youngblood
Evans, J.	Kula	Reed	Yudichak
Fabrizio	Leach	Roae	

Fairchild	Lentz	Rock	O'Brien, D.,
Fleck	Longietti	Rohrer	Speaker
Frankel	Mackereth	Ross	

NOT VOTING—0

EXCUSED—8

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

**MOTION TO SUSPEND RULES**

The SPEAKER. Is there any other member seeking to suspend the rules?

The Chair recognizes Representative Pallone. Will he inform the Chair of the amendment number?

Mr. PALLONE. Thank you, Mr. Speaker.

It is amendment A03986.

The SPEAKER. The gentleman, Representative Pallone, moves that the rules be suspended for the immediate consideration of amendment A03986.

Representative Pallone, will you offer an explanation of the amendment?

Mr. PALLONE. Yes. Thank you, Mr. Speaker.

This amendment, while it is most certainly untimely filed, it is with the deepest regret that I ask my colleagues to understand that for the last 2 weeks, I had unexpected surgery 2 weeks ago yesterday and had been off for 2 weeks, and in all due respect to my own personal medical problems, I did not exercise my due diligence to file this timely and only had an opportunity to get it done when I returned to work yesterday, for the first time in 2 weeks.

But this particular amendment deals with the effective date of this particular proposed legislation, allowing for a look-back period to January of 2005. It is a reasonable time period, being one session more than we will be enacting this particular legislation. It is just an opportunity for the members to look back one session for open records, for public disclosure of what we have done here in the House and through the General Assembly.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, we are trying to move this process forward. All of the amendments – I think there will be six or seven additional motions to suspend the rules – we are going to ask that on all of those motions, that the members vote "no" so we could get this bill to third consideration.

So I would ask the members to vote "no" to suspend the rules.

The SPEAKER. For the information of the members, the motion to suspend the rules is only debatable by the majority leader and minority leader, the maker of the motion,

the maker of the amendment under consideration, and the prime sponsor of the bill under consideration.

**PARLIAMENTARY INQUIRY**

The SPEAKER. For what purpose does the gentleman, Representative Boyd, rise?

Mr. BOYD. Parliamentary inquiry, please.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. BOYD. Just real quickly, if we suspend the rules, are we suspending the 11 o'clock hour rule?

The SPEAKER. No.

Mr. BOYD. Thank you.

On the question recurring,  
Will the House agree to the motion?

The following roll call was recorded:

**YEAS—39**

Argall	Freeman	McIlhattan	Raymond
Beyer	Gabig	Millard	Reichley
Boyd	Geist	O'Neill	Samuelson
Brooks	Harhart	Pallone	Smith, K.
Caltagirone	Helm	Payne	Smith, S.
Cappelli	Hennessey	Petrarca	Sonney
Creighton	Hershey	Petri	Stevenson
Denlinger	Hutchinson	Pyle	Tangretti
Ellis	Keller, W.	Quinn	Yewcic
Everett	Major	Rapp	

**NAYS—156**

Baker	George	Mantz	Sabatina
Barrar	Gerber	Markosek	Sainato
Bastian	Gergely	Marshall	Santoni
Bear	Gibbons	Marsico	Saylor
Belfanti	Gillespie	McCall	Scavello
Benninghoff	Gingrich	McGeehan	Schroder
Bennington	Godshall	McI. Smith	Seip
Bianucci	Goodman	Melio	Shapiro
Bishop	Grell	Metcalfe	Shimkus
Blackwell	Grucela	Miller	Siptroth
Boback	Haluska	Milne	Smith, M.
Brennan	Hanna	Moul	Staback
Buxton	Harhai	Moyer	Stairs
Carroll	Harkins	Mundy	Steil
Casorio	Harper	Murt	Stern
Causar	Harris	Myers	Sturla
Civera	Hess	Nailor	Surra
Clymer	Hickernell	Nickol	Swanger
Cohen	Hornaman	O'Brien, M.	Taylor, J.
Conklin	James	Oliver	Taylor, R.
Costa	Josephs	Parker	Thomas
Cox	Kauffman	Pashinski	True
Cruz	Keller, M.	Payton	Turzai
Curry	Kenney	Peifer	Vereb
Cutler	Kessler	Perry	Vitali
Daley	Killion	Perzel	Vulakovich
DeLuca	King	Petrone	Wagner
DePasquale	Kirkland	Phillips	Walko
Dermody	Kortz	Pickett	Wansacz
DeWeese	Kotik	Preston	Waters
DiGirolamo	Kula	Quigley	Watson
Donatucci	Leach	Ramaley	White
Eachus	Lentz	Readshaw	Williams
Evans, D.	Levdansky	Reed	Wojnaroski
Evans, J.	Longietti	Roae	Youngblood
Fabrizio	Mackereth	Rock	Yudichak

Fairchild	Maher	Rohrer	
Fleck	Mahoney	Ross	O'Brien, D.,
Frankel	Manderino	Rubley	Speaker
Galloway	Mann		

**NOT VOTING—0**

**EXCUSED—8**

Adolph	Mensch	Mustio	Solobay
Dally	Micozzie	Roebuck	Wheatley

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

**MOTION TO SUSPEND RULES**

The SPEAKER. The Chair recognizes Representative Reichley.

Will he inform the Chair of the amendment number.

Mr. REICHLEY. It is amendment A04006, Mr. Speaker.

The SPEAKER. The gentleman, Representative Reichley, moves that the House rules be suspended for the immediate consideration of amendment A04006.

On the question,  
Will the House agree to the motion?

The SPEAKER. On the motion, the Chair recognizes the gentleman, Representative Reichley, for an explanation.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, in the course of the consideration during caucus yesterday, it appeared that there was a necessary amendment to the rules dealing with a topic which is fairly timely right now in the media, which is the background investigations of the gaming applicants for slot machine gambling here in Pennsylvania. What this amendment would propose to do is to allow the sunshine to be broadcast into the Gaming Board process, and that the information related to an applicant for a slot machine license would be open to public scrutiny. We certainly have seen media accounts that there were allegations that information was not provided to the Gaming Board by fault of the prohibitions under the Criminal History Record Information Act. Most recently, there have been assertions that an applicant who was awarded another license may have had information regarding his background that may or may not have been considered, and I think it is necessary for – Mr. Speaker, I am trying to explain the amendment – that if the members are truly interested in assuring that the operations of the Gaming Board are open to full public inquiry—

Mr. DeWEESE. Mr. Speaker, is the gentleman on suspension?

The SPEAKER. The gentleman has been asked to offer a brief description. I think the gentleman has accomplished that.

Mr. REICHLEY. Okay. Well, I am trying to do that, Mr. Speaker.

This would be an amendment which would bring to the open disclosure process the deliberations of the Gaming Board and the material they consider, except for information which is protected as confidential under the Criminal History Record Information Act and trade secrets regarding the gaming applicants.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the motion?

The following roll call was recorded:

YEAS—85

Argall	Freeman	Millard	Reichley
Baker	Gabig	Miller	Rock
Barrar	Gingrich	Milne	Rohrer
Bastian	Harhart	Moul	Ross
Bear	Harper	Murt	Samuelson
Benninghoff	Helm	Nailor	Saylor
Beyer	Hennessey	Nickol	Smith, S.
Boback	Hershey	O'Neill	Sonney
Boyd	Hickernell	Pallone	Stairs
Brooks	Hornaman	Payne	Stern
Causar	Hutchinson	Peifer	Stevenson
Civera	Kauffman	Perry	Swanger
Clymer	Keller, M.	Perzel	Tangretti
Cox	Kenney	Petri	Taylor, J.
Creighton	Killion	Pickett	True
Cutler	Maher	Pyle	Turzai
Denlinger	Major	Quigley	Vereb
DiGirolamo	Mantz	Quinn	Vitali
Ellis	Marsico	Rapp	Vulakovich
Evans, J.	McIlhattan	Raymond	Watson
Everett	Metcalfe	Reed	Yewcic
Fleck			

NAYS—110

Belfanti	Geist	Longietti	Sainato
Bennington	George	Mackereth	Santoni
Bianucci	Gerber	Mahoney	Scavello
Bishop	Gergely	Manderino	Schroder
Blackwell	Gibbons	Mann	Seip
Brennan	Gillespie	Markosek	Shapiro
Buxton	Godshall	Marshall	Shimkus
Caltagirone	Goodman	McCall	Siptroth
Cappelli	Grell	McGeehan	Smith, K.
Carroll	Grucela	McI. Smith	Smith, M.
Casorio	Haluska	Melio	Staback
Cohen	Hanna	Moyer	Steil
Conklin	Harhai	Mundy	Sturla
Costa	Harkins	Myers	Surra
Cruz	Harris	O'Brien, M.	Taylor, R.
Curry	Hess	Oliver	Thomas
Daley	James	Parker	Wagner
DeLuca	Josephs	Pashinski	Walko
DePasquale	Keller, W.	Payton	Wansacz
Dermody	Kessler	Petrarca	Waters
DeWeese	King	Petrone	White
Donatucci	Kirkland	Phillips	Williams
Eachus	Kortz	Preston	Wojnaroski
Evans, D.	Kotik	Ramaley	Youngblood
Fabrizio	Kula	Readshaw	Yudichak
Fairchild	Leach	Roe	
Frankel	Lentz	Rubley	O'Brien, D.,
Galloway	Levdansky	Sabatina	Speaker

NOT VOTING—0

EXCUSED—8

Adolph Dally	Mensch Micozzie	Mustio Roebuck	Solobay Wheatley
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?

The SPEAKER. Is there any other member seeking to suspend the rules? The Chair sees none.

On the question recurring,  
Will the House agree to the bill on second consideration as amended?  
Bill as amended was agreed to.

(Bill as amended will be reprinted.)

The SPEAKER. The Chair recognizes Representative DeWeese.

PARLIAMENTARY INQUIRY

Mr. S. SMITH. Mr. Speaker?  
The SPEAKER. Representative Smith.  
Mr. S. SMITH. A parliamentary inquiry, Mr. Speaker.  
Is it possible to ask for a roll-call vote on the procedure that the Chair just read across the desk?  
The SPEAKER. If two members request.  
Mr. S. SMITH. Pardon me, Mr. Speaker?  
The SPEAKER. If two members request a roll call.

PARLIAMENTARY INQUIRY

Mr. DeWEESE. Mr. Speaker? A parliamentary inquiry.  
The SPEAKER. The Chair recognizes the majority leader.  
Mr. DeWEESE. A parliamentary inquiry.  
The SPEAKER. The gentleman will state his point of parliamentary inquiry.  
Mr. DeWEESE. The Speaker of the House just said, has this been agreed to? Agreed to. Now, how can we go backwards and do business if we have already agreed to it? I am vexed.

MOTION TO ADJOURN

Mr. DeWEESE. Mr. Speaker, I would like to withdraw my parliamentary inquiry and make a motion to adjourn.  
The SPEAKER. The gentleman, Representative DeWeese, moves that the House adjourn— On the motion to adjourn— The gentleman, Representative DeWeese, moves that the House do now adjourn until—  
Mr. S. SMITH. Mr. Speaker?  
The SPEAKER. —October 31, 2007, at 11 a.m.  
Mr. S. SMITH. Mr. Speaker?

On the question,  
Will the House agree to the motion?

The SPEAKER. On the motion to adjourn, Representative Smith.

Mr. S. SMITH. Mr. Speaker, I would oppose this motion to adjourn, Mr. Speaker, and let me tell you why. I had posed a parliamentary inquiry of the Chair as to whether or not the process the Speaker had just announced, whether we could have a roll-call vote on it. I knew the answer to that question, in all fairness, but I thought it was a proper way to go about seeking a vote when the Chair read that the bill that had been before us all day was agreed to, thus moving it from second to third consideration. Since I had a parliamentary inquiry before the Chair, Mr. Speaker, I believe that it would be in good sense to answer that question before we adjourn, at least.

Secondly, Mr. Speaker—

The SPEAKER. The Chair will respond to the gentleman.

The Chair did respond to the gentleman's point of parliamentary inquiry that the gentleman would require two members to make that motion. There was no second. The gentleman, Representative DeWeese, the gentleman, Representative DeWeese—

Mr. S. SMITH. Mr. Speaker—

The SPEAKER. —the gentleman, Representative DeWeese, then advanced a second point of parliamentary inquiry.

Mr. S. SMITH. Mr. Speaker, I believe I have the floor to debate whether or not we should adjourn. And, Mr. Speaker, the simple fact is that when one was in the process of asking for a roll-call vote—

The SPEAKER. If the gentleman will suspend.

The question was asked. There was never a motion made. The motion was not seconded, and it was not made before the vote was taken. The issue before the House is the motion to adjourn.

Mr. S. SMITH. Mr. Speaker, I believe I still have the floor as I was properly recognized to debate the motion to adjourn.

Mr. Speaker, it is clear that there are many amendments that members would like to run, and I am not for most of them, probably. I may be against most of them, who knows. But the fact is, Mr. Speaker, that I was in the process of simply getting the members to be allowed to have a roll-call vote on moving a bill from second to third consideration. I do not know what the major objection is to having a roll-call vote, as I suspect many members will support moving the bill from second to third. So what the majority leader is trying to run from on that is beyond me.

Secondly, Mr. Speaker, I would note that it was only yesterday that, when a similar question was posed, the Chair reversed, or rescinded, the motion to move a bill from second and third in order that another amendment could be considered. So it is not like we are doing something that is uncalled for or inappropriate.

All I am simply trying to do, Mr. Speaker, is say that I would oppose the motion to adjourn because the members deserve the opportunity, under the rules, to vote, to have a roll-call vote, on moving this bill from second to third. That is simply the request before, and I would ask the members to oppose the motion to adjourn.

## PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does Representative Steil rise?

Mr. STEIL. Thank you, Mr. Speaker.

A parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. STEIL. Would the Chair please advise the members the earliest date and time this bill could be considered, assuming that it received second consideration at 10:50 p.m. tonight?

The SPEAKER. Twenty-four hours has to elapse.

Mr. STEIL. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

For what purpose does Representative Maher rise?

Mr. MAHER. Thank you, Mr. Speaker.

A motion to adjourn is a debatable motion, although it is only 3 minutes to 11. So I am going to talk like that old FedEx commercial, and I will observe that I had put the House on notice, and the Chair on notice, of my intent to require a vote on second consideration. When you brought it up for second consideration, I rose out of my Chair, but you only allowed a microsecond and refused to recognize me at the time.

The SPEAKER. The gentleman is incorrect.

Mr. MAHER. I am speaking on adjournment, Mr. Speaker, and therefore it is a sad state that in an issue that is supposed to deal with process and improving government, that the gavel is being put down to prevent the "yeas" and "nays" from being taken. And when we return in the morning, I hope we will find a motion to reconsider that second consideration on your desk so that we can have the "yeas" and "nays" taken so the people of Pennsylvania can know who is actually advancing reform and who is actually moving records out of the public eye.

So I oppose the motion to adjourn. I recognize our rules require that we depart, but I certainly will be aiming for the motion to reconsider, and I find it appalling that members cannot be recognized, even when the Chair knows that a member is going to be seeking recognition for that purpose, and everyone in this chamber knew it, and you looked right at me and you just went right on. It is a shame.

## PARLIAMENTARY INQUIRY

The SPEAKER. Representative Daley.

Mr. DALEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. DALEY. Mr. Speaker, it is my understanding, so the members understand what has happened, the Speaker has said on second consideration that we now move this bill to third consideration by having the members agree to this, and you made that announcement. Is that correct, Mr. Speaker?

The SPEAKER. The gentleman is correct.

Mr. DALEY. And after that, Mr. Speaker, there was an inquiry by the minority leader as a parliamentary vote on this, a roll-call vote, and he asked the Speaker under a parliamentary inquiry, and the Speaker ruled that it takes two members to so request. Is that correct, Mr. Speaker?

The SPEAKER. It is not a ruling. A point of parliamentary inquiry is a request for information, and the Chair furnished the minority leader with that information.

Mr. DALEY. Now, since that determination by the Chair, there has been intervening business, and that being the motion to adjourn. Is that correct, Mr. Speaker?

The SPEAKER. The motion to adjourn is always in order and takes precedence.

Mr. DALEY. Mr. Speaker, but that was intervening business from the decision by the Chair or the point of information that was requested. Is that correct, Mr. Speaker?

The SPEAKER. It does not matter if there is intervening business. The motion to adjourn is always in order.

Mr. DALEY. Well, the reason is, Mr. Speaker, my point of parliamentary inquiry at this point would be that once that intervening business occurred, Mr. Speaker, once that intervening—

### **BILLS AND RESOLUTIONS PASSED OVER**

The SPEAKER. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

### **ADJOURNMENT**

The SPEAKER. The hour of 11 p.m.—

Mr. DALEY. Thank you, Mr. Speaker.

The SPEAKER. —having arrived, this House is now adjourned until Wednesday, October 31, 2007, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.