



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
HOUSE STATE GOVERNMENT COMMITTEE**

ON

RIGHT-TO-KNOW LAW

PRESENTED BY

**JOE GERDES
DIRECTOR OF GOVERNMENT RELATIONS**

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HARRISBURG, PA**

Chairman Grove and members of the House State Government Committee:

My name is Joe Gerdes and I am the director of government relations for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to provide comments on behalf of the 1,454 townships in Pennsylvania represented by the Association.

The Association represents Pennsylvania's 1,454 townships of the second class and is committed to preserving and strengthening township government and securing greater visibility and involvement for townships in the state and federal political arenas. Townships of the second class cover 95% of Pennsylvania's land mass and represent more residents — 5.5 million Pennsylvanians — than any other type of political subdivision in the commonwealth.

Transparency During the Shutdown

Transparency is a governmental responsibility that the Association and its membership take seriously.

When the pandemic first hit and the shutdown began one year ago this week, PSATS actively worked with its members to provide guidance and clarification on how to comply with Commonwealth orders while continuing to provide critical governmental services. This communication was delivered via direct daily email, weekly virtual town halls, continually updated website, and through hundreds of direct phone calls and emails. Townships officials wanted to know how they could serve their residents safely and this meant rethinking how we govern, communicate, and deliver services.

We appreciate that the General Assembly provided clarification with Act 15 of 2020, allowing our boards and commissions to meet remotely and providing a temporary pause on mandatory reviews and approvals for development. In addition, the Office of Open Records provided guidance on both the Right-to-Know Law and the Sunshine Law as early as March, which we promoted to our membership through the various platforms I mentioned. During the early days of the shutdown, township officials working from home may not have had access to all documents and requests could be challenging to fulfill within the required 5-business days.

The Office advised local agencies that had Continuity of Operations Plans should be addressing how RTKL requests will be handled and clearly communicate the plan to the public. In some cases, this means that local agencies needed to take additional time to respond to requests, up to the 30 days provided by law. Agencies were encouraged to reach out to requesters to see if an extension would be agreeable and to find out the timely need for the information. Local agencies were appropriately reminded that transparency builds trust, especially in times of crisis.

As the reopening began, the Office advised that those agencies in yellow and green counties process requests as they normally would, in compliance with state law. This guidance has been in place since May.

While we had a handful of questions and concerns about RTKL requests during the lock down, these were mostly frustrations at some entities submitting identical requests to hundreds of municipalities across the state during a global pandemic (often as a means of marketing research at the expense of taxpayers). For example, American Transparency sent a mass request in late March, while a union sent out requests in May.

The biggest challenge for our members was to change how to hold safe and transparent townships meetings that still provided public participation opportunities for residents and taxpayers. Suspending local government operations was simply not an option as residents rely on these services and functions. Townships met this challenge with creativity in finding solutions that worked for their community. These solutions were yet the latest examples of the value of flexibility and the necessity to resist one-size-fits-all solutions. They ranged from fully virtual meetings, to teleconferences, to livestreaming, to outdoor and drive-in meetings, to finding a larger venue to allow for social distancing, to recording and posting audio or video of meetings. In many cases, hybrid options were embraced to provide the public with options. Some expanded opportunities for public participation by encouraging advance written comments by email or mail and offering residents the option to call-in during public comment instead of appearing in person.

As we look back over the last year, we are happy to note that, with few exceptions, our membership has met this challenge. In cases where a situation should be handled differently, we have worked hard to continue to educate and promote best practices that are both transparent and provide options for public participation. There remains no doubt, however, that technology capacity MUST be addressed by the Commonwealth moving forward if we are to ensure that all Pennsylvanians have equal access to opportunity.

Many members have noted that they have learned to better communicate with their residents, both proactively and through more mediums than before. Others have noted increased public engagement through virtual or hybrid meeting arrangements, which they hope will continue. And many have begun offering services digitally and accepting payments electronically over this past year.

Making Good Law Even Better

We again thank the General Assembly for Act 15-2020 to allow remote access to meetings during a declared emergency. Given the overwhelming success, and in many cases, expanded public access, we would strongly encourage the General Assembly to allow this option of expanded access to public meetings to be extended moving forward without the need for a declared emergency.

On another note, while PSATS strongly supports the public's right to view and obtain copies of municipal public documents, we must take this opportunity to note that current Right-to-Know

Law places a financial burden on municipalities (and therefore local taxpayers), which was recognized by the SR 323 Report on Unfunded Mandates.

Commercial interests, particularly out-of-state businesses, are using public records about law-abiding citizens and taxpayers for private gain, often free-of-charge under existing fee schedules. In fact, a 2016 study found that 26 percent of all the requests for public documents received that year were from outside of Pennsylvania, with almost 71 percent of these being made for a commercial purpose. The study also found that local governments overwhelmingly complied with the law.

As such, PSATS supports protections for taxpayer resources and thus reforms to the Right-to-Know Law to allow: 1) charges for staff time when fulfilling requests or providing online responses; 2) additional commercial fees if a request will be for information used for resale, business solicitation, or financial benefit; and 3) prepayment for requests of copies of more than 200 physical pages (*current law is more than 400 pages of documents*) or if the requester owes payment for previous unpaid requests of \$50 or more.

PSATS supports changes to protect taxpayer funds from theft as well as to protect law enforcement officers and employees from harassment and identity theft. To protect taxpayer funds from theft, credit card numbers, account numbers, usernames, and passwords must be exempted from disclosure in the act.

To protect all public employees from identity theft and harassment, personal identification information must be protected from disclosure, such as personal tax information, employee home addresses, and date-of-birth. To protect the law enforcement community, inmates should be limited in the types of information they may request.

In addition, PSATS supports an amendment to the Right-to-Know Law to address abusive or harassing use of this law by some requesters. This should include a prohibition on using the Right-to-Know Law to submit discovery requests by lawyers.

Thank you for the opportunity to participate today and talk about the importance of government transparency. I am happy to take any questions that you have.