

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 50 Session of 2017

INTRODUCED BY HARPER, FREEMAN, FARRY, MURT, JAMES, READSHAW, BAKER, D. COSTA, WATSON, SCHLOSSBERG, NEILSON, MILLARD, GILLEN, B. MILLER AND PICKETT, JANUARY 31, 2017

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 8, 2017

A RESOLUTION

1 Directing the Legislative Budget and Finance Committee to
2 conduct a comprehensive review of the fiscal impact on
3 Commonwealth agencies and local governmental agencies for
4 implementation of the Right-to-Know Law and to make
5 recommendations.

6 WHEREAS, The General Assembly enacted the act of February 14,
7 2008 (P.L.6, No.3), known as the Right-to-Know Law; and

8 WHEREAS, The Right-to-Know Law dramatically expanded
9 citizens' access to public records, financial records, judicial
10 records and legislative records across this Commonwealth; and

11 WHEREAS, The Right-to-Know Law requires State and local
12 agencies, the Senate, the House of Representatives and the
13 Judiciary to appoint:

14 (1) Open records officers who are responsible for
15 thoroughly reviewing and completely responding to Right-to-
16 Know Law requests in a timely manner.

17 (2) Appeals officers who must conduct administrative
18 appeals to review decisions made by the open records officer;

1 and

2 WHEREAS, The Right-to-Know Law is credited by many for making
3 the operation of State and local government more transparent;

4 and

5 WHEREAS, It is believed that this new transparency in
6 government has had a dramatic fiscal impact on agencies,
7 particularly local government agencies, that must dedicate
8 scarce resources to the following tasks:

9 (1) Reviewing Right-to-Know Law requests and collecting
10 records responsive to the requests.

11 (2) Redacting sensitive or privileged information from
12 the records.

13 (3) Reproducing the records.

14 (4) Responding to Right-to-Know Law requests;

15 and

16 WHEREAS, The Right-to-Know Law prohibits an agency from
17 adopting a policy or regulation to place a limitation on the
18 number of records which may be requested or requiring a
19 requester to disclose the purpose or motive in requesting access
20 to records; and

21 WHEREAS, Agencies are prohibited from assessing
22 administrative costs for an agency's review of records
23 requested, the search for or retrieval of documents or the staff
24 time or salaries for employees whose duty assignments are
25 limited due to compliance with the Right-to-Know Law; and

26 WHEREAS, The Right-to-Know Law requires agencies to respond
27 to requests within five days of the date that the request is
28 made and authorizes extensions for responses of 30 days for
29 limited circumstances; and

30 WHEREAS, In their dissenting opinion, three judges of the

1 Commonwealth Court expressed their concern in *Pennsylvania*
2 *Gaming Control Board v. Office of Open Records*, 48 A.3d 503,
3 (Pa. Commonwealth 2012) that the court had expanded the law so
4 that "an unaddressed request written on the back of a brown
5 paper bag and given to a Penndot plow driver by the side of the
6 road on a snowy winter night" now must be considered a valid
7 Right-to-Know Law request; and

8 WHEREAS, Numerous other appellate court decisions reviewing
9 the Right-to-Know Law have expanded the administrative and legal
10 burdens placed on State and local agencies; and

11 WHEREAS, The Right-to-Know Law limits the ability of State
12 and local agencies to recover from the fiscal impact of the
13 various tasks associated with the Right-to-Know Law requests;
14 therefore be it

15 RESOLVED, That the Legislative Budget and Finance Committee
16 conduct a comprehensive review relating to the implementation of
17 the Right-to-Know Law and prepare a report of its findings which
18 shall include all of the following:

19 (1) Annual costs associated with administration of the
20 Right-to-Know Law for Commonwealth, judicial and legislative
21 agencies.

22 (2) Annual costs associated with the administration of
23 the Right-to-Know Law for local agencies of various sizes and
24 classification.

25 (3) Recommendations ~~to the General Assembly~~ on <--
26 amendments to the Right-to-Know Law which would decrease the
27 administrative burdens of the law on State and local agencies
28 WHILE STILL ENSURING REASONABLE PUBLIC ACCESS TO PUBLIC <--
29 RECORDS AND INFORMATION.

30 (4) Recommendations ~~to the General Assembly~~ on <--

1 amendments to the Right-to-Know Law which may be necessary to
2 offset the costs associated with administration of the Right-
3 to-Know Law for State and local agencies WHILE STILL ENSURING <--
4 REASONABLE PUBLIC ACCESS TO PUBLIC RECORDS AND INFORMATION;

5 and be it further

6 RESOLVED, That the Legislative Budget and Finance Committee
7 submit a report of its findings to the House of Representatives
8 within one year of the adoption of this resolution.