

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 854 Session of 2021

INTRODUCED BY ECKER, MARCH 10, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 6, 2021

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; providing for judicial administration; and
18 prescribing the manner in which the number and compensation
19 of the deputies and all other assistants and employes of
20 certain departments, boards and commissions shall be
21 determined," providing for COVID-19 record retention.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
25 as The Administrative Code of 1929, is amended by adding an
26 article to read:

27 ARTICLE XXI-E

1 COVID-19 RECORD RETENTION

2 Section 2101-E. Definitions.

3 The following words and phrases when used in this article
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Contractor." A person that has entered into a contract with
7 an executive agency. The term includes an officer, shareholder,
8 owner and employee of the person.

9 "COVID-19." The coronavirus disease 2019, being an
10 infectious disease caused by severe acute respiratory syndrome
11 coronavirus 2 that was first identified during December 2019 in
12 Wuhan, China.

13 "Executive agency." An office, department, authority, board,
14 multistate agency or commission of the executive branch of the
15 Commonwealth which is subject to the policy supervision and
16 control of the Governor.

17 "Order." Any of the following:

18 (1) the declaration of disaster emergency issued by the
19 Governor on March 6, 2020, published at 50 Pa.B. 1644 (March
20 21, 2020); or

21 (2) a declaration of disaster emergency relating to
22 COVID-19 which is issued after March 6, 2020.

23 "Record." Information, regardless of physical form or
24 characteristics, that documents a transaction or activity of an
25 executive agency and that is created, received or retained
26 pursuant to law or in connection with a transaction, business or
27 activity of the executive agency. The term includes a document,
28 paper, letter, map, book, tape, photograph, film or sound
29 recording, information stored or maintained electronically and a
30 data-processed or image-processed document.

1 Section 2102-E. Retention of records related to COVID-19.

2 (a) General rule.--An executive agency or contractor shall
3 preserve all records in possession of the agency or contractor
4 relating to any of the following for a period of 10 years after
5 the order is terminated by executive order, proclamation or
6 operation of law:

7 (1) A record created as part of the predecisional
8 deliberations about an action of the executive agency or
9 contractor which is in support of or undertaken under the
10 authority of the order.

11 (2) A record created in connection with an action of the
12 executive agency or contractor which is in support of or
13 undertaken under the authority of the order.

14 (3) A record created as part of the predecisional
15 deliberations about an action of the executive agency or
16 contractor which is in support of or undertaken as part of
17 the executive agency or contractor's response to COVID-19.

18 (4) A record created in connection with an action of the
19 executive agency or contractor which is in support of or
20 undertaken as part of the executive agency or contractor's
21 response to COVID-19.

22 (b) Method of preservation.--The preservation of records
23 under subsection (a) shall conform with the preservation of
24 records undertaken by an executive agency or contractor in
25 preparation for litigation.

26 (c) Revision of management directives.--The Office of
27 Administration shall promptly revise its management directives
28 relating to record management policies to conform with the
29 requirements of this section, and shall provide public notice of
30 the requirements of this article by publishing the requirements

1 on its publicly accessible Internet website and shall submit the
2 requirements to the Legislative Reference Bureau for publication
3 in the Pennsylvania Bulletin.

4 SECTION 2103-E. CONSTRUCTION.

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5 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REDUCE THE
6 RETENTION PERIOD OF ANY COMMONWEALTH RECORD AS PROVIDED BY LAW
7 OR PREVENT THE TRANSFER OF RECORDS TO THE STATE ARCHIVES FOR
8 PERMANENT RETENTION.

9 Section 2. This act shall take effect immediately.