

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 854 Session of 2021

INTRODUCED BY ECKER, MARCH 10, 2021

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 9, 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 AND FOR <--
22 TEMPORARY REGULATORY FLEXIBILITY AUTHORITY.

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

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

28 ARTICLE XXI-E

~~Section 2101 E. Definitions.~~

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

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

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

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

~~"Order." Any of the following:~~

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

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

~~"Record." Information, regardless of physical form or characteristics, that documents a transaction or activity of an executive agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the executive agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a 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.~~

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 COVID-19 RECORD RETENTION

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10 SECTION 2101-E. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
12 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
13 CONTEXT CLEARLY INDICATES OTHERWISE:

14 "COVID-19." THE CORONAVIRUS DISEASE 2019, BEING AN
15 INFECTIOUS DISEASE CAUSED BY SEVERE ACUTE RESPIRATORY SYNDROME
16 CORONAVIRUS 2 THAT WAS FIRST IDENTIFIED DURING DECEMBER 2019 IN
17 WUHAN, CHINA.

18 "EXECUTIVE AGENCY." AN OFFICE, DEPARTMENT, AUTHORITY, BOARD,
19 MULTISTATE AGENCY OR COMMISSION OF THE EXECUTIVE BRANCH OF THE
20 COMMONWEALTH WHICH IS SUBJECT TO THE POLICY SUPERVISION AND
21 CONTROL OF THE GOVERNOR.

22 "ORDER." ANY OF THE FOLLOWING:

23 (1) THE DECLARATION OF DISASTER EMERGENCY ISSUED BY THE
24 GOVERNOR ON MARCH 6, 2020, PUBLISHED AT 50 PA.B. 1644 (MARCH
25 21, 2020); OR

26 (2) A DECLARATION OF DISASTER EMERGENCY RELATING TO
27 COVID-19 WHICH IS ISSUED AFTER MARCH 6, 2020.

28 "RECORD." INFORMATION, REGARDLESS OF PHYSICAL FORM OR
29 CHARACTERISTICS, THAT DOCUMENTS A TRANSACTION OR ACTIVITY OF AN
30 EXECUTIVE AGENCY AND THAT IS CREATED, RECEIVED OR RETAINED

1 PURSUANT TO LAW OR IN CONNECTION WITH A TRANSACTION, BUSINESS OR
2 ACTIVITY OF THE EXECUTIVE AGENCY. THE TERM INCLUDES A DOCUMENT,
3 PAPER, LETTER, MAP, BOOK, TAPE, PHOTOGRAPH, FILM OR SOUND
4 RECORDING, INFORMATION STORED OR MAINTAINED ELECTRONICALLY AND A
5 DATA-PROCESSED OR IMAGE-PROCESSED DOCUMENT.

6 SECTION 2102-E. RETENTION OF RECORDS RELATED TO COVID-19.

7 AN EXECUTIVE AGENCY SHALL PRESERVE ALL RECORDS IN POSSESSION
8 OF THE AGENCY RELATING TO THE ORDER IN ACCORDANCE WITH THE
9 EXECUTIVE AGENCY'S EXISTING RECORD RETENTION POLICY.

10 SECTION 2103-E. CONSTRUCTION.

11 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REDUCE THE
12 RETENTION PERIOD OF ANY COMMONWEALTH RECORD AS PROVIDED BY LAW
13 OR PREVENT THE TRANSFER OF RECORDS TO THE STATE ARCHIVES FOR
14 PERMANENT RETENTION.

15 ARTICLE XXI-F

16 TEMPORARY REGULATORY FLEXIBILITY AUTHORITY

17 SECTION 2101-F. DEFINITIONS.

18 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
19 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
20 CONTEXT CLEARLY INDICATES OTHERWISE:

21 "COVID-19." THE CORONAVIRUS DISEASE 2019, BEING AN
22 INFECTIOUS DISEASE CAUSED BY SEVERE ACUTE RESPIRATORY SYNDROME
23 CORONAVIRUS 2 THAT WAS FIRST IDENTIFIED DURING DECEMBER 2019 IN
24 WUHAN, CHINA.

25 "ORDER." ANY OF THE FOLLOWING:

26 (1) THE DECLARATION OF DISASTER EMERGENCY ISSUED BY THE
27 GOVERNOR ON MARCH 6, 2020, PUBLISHED AT 50 PA.B. 1644 (MARCH
28 21, 2020); OR

29 (2) A DECLARATION OF DISASTER EMERGENCY RELATING TO
30 COVID-19 WHICH IS ISSUED AFTER MARCH 6, 2020.

1 SECTION 2102-F. TEMPORARY REGULATORY FLEXIBILITY AUTHORITY.

2 (A) EXTENSION.--THE SUSPENSION OF A REGULATORY STATUTE
3 PRESCRIBING THE PROCEDURES FOR CONDUCT OF COMMONWEALTH BUSINESS,
4 OR AN ORDER, RULE OR REGULATION OF AN COMMONWEALTH AGENCY WHICH
5 WAS SUSPENDED UNDER 35 PA.C.S. § 7301(F)(1) (RELATING TO GENERAL
6 AUTHORITY OF GOVERNOR) AS OF THE LAST DAY THAT THE ORDER, AS
7 AMENDED AND RENEWED, WAS IN EFFECT IS EXTENDED UNTIL SEPTEMBER
8 30, 2021, UNLESS SOONER TERMINATED BY THE AUTHORITY WHICH
9 INITIALLY AUTHORIZED THE SUSPENSION.

10 (B) APPLICABILITY.--A SUSPENSION WHICH IS EXTENDED UNDER
11 SUBSECTION (A) SHALL BE RETROACTIVE TO THE LAST DAY THAT THE
12 ORDER, AS AMENDED AND RENEWED, WAS IN EFFECT.

13 (C) NOTICE.--UPON THE TERMINATION OF AN EXTENSION OF A
14 SUSPENSION UNDER SUBSECTION (A), THE AUTHORITY WHICH TERMINATED
15 THE EXTENSION OF THE SUSPENSION SHALL NOTIFY ALL OF THE
16 FOLLOWING:

17 (1) THE PRESIDENT PRO TEMPORE OF THE SENATE.

18 (2) THE MAJORITY LEADER OF THE SENATE.

19 (3) THE MINORITY LEADER OF THE SENATE.

20 (4) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

21 (5) THE MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

22 (6) THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

23 (7) THE CHAIR AND MINORITY CHAIR OF EACH COMMITTEE OF
24 THE SENATE AND OF THE HOUSE OF REPRESENTATIVES WHICH HAVE
25 OVERSIGHT AUTHORITY OVER THE COMMONWEALTH AGENCY WHICH
26 ADMINISTERS THE REGULATORY STATUTE, ORDER, RULE OR
27 REGULATION.

28 Section 2. This act shall take effect immediately.