

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1469 Session of 2010

INTRODUCED BY PILEGGI, BAKER, M. WHITE, FONTANA, RAFFERTY, FOLMER, O'PAKE, ERICKSON, VANCE, COSTA, EARLL, GREENLEAF, EICHELBERGER, TOMLINSON, WAUGH, ALLOWAY, PIPPY, YAW, BRUBAKER, MENSCH AND D. WHITE, SEPTEMBER 20, 2010

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, SEPTEMBER 28, 2010

AN ACT

1 Amending the act of February 14, 2008 (P.L.6, No.3), entitled
2 "An act providing for access to public information, for a
3 designated open-records officer in each Commonwealth agency,
4 local agency, judicial agency and legislative agency, for
5 procedure, for appeal of agency determination, for judicial
6 review and for the Office of Open Records; imposing
7 penalties; providing for reporting by State-related
8 institutions; requiring the posting of certain State contract
9 information on the Internet; and making related repeals,"
10 further providing for definitions, for requests, for access, ←
11 for written requests, for exceptions for public records, for ←
12 general rule, for filing of appeal, for appeals officers, for ←
13 Office of Open Records and for applicability FURTHER ←
14 PROVIDING FOR DEFINITIONS; PROVIDING FOR PENNSYLVANIA
15 INTERSCHOLASTIC ATHLETIC ASSOCIATION; FURTHER PROVIDING FOR
16 REQUESTS, FOR ACCESS, FOR WRITTEN REQUESTS, FOR EXCEPTIONS
17 FOR PUBLIC RECORDS, FOR GENERAL RULE, FOR EXTENSION OF TIME
18 FOR FILING OF APPEAL, FOR APPEALS OFFICERS AND FOR OFFICE OF
19 OPEN RECORDS.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. The definitions of "independent agency,"
23 "personal financial information" and "State-affiliated entity"
24 in section 102 of the act of February 14, 2008 (P.L.6, No.3),
25 known as the Right-to-Know Law, are amended and the section is

1 amended by adding a definition to read:

2 Section 102. Definitions.

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

6 \* \* \*

7 "Independent agency." Any board, commission, authority or  
8 other agency or officer of the Commonwealth, that is not subject  
9 to the policy supervision and control of the Governor. The term  
10 does not include a legislative or judicial agency.

11 \* \* \*

12 "Personal financial information." An individual's personal  
13 credit, charge or debit card information; bank account  
14 information; bank, credit or financial statements; account or  
15 PIN numbers; forms required to be filed with or by any taxing  
16 authority; and other information relating to an individual's  
17 personal finances.

18 \* \* \*

19 "State-affiliated entity." A Commonwealth authority or  
20 Commonwealth entity. The term includes ~~the~~ Pennsylvania Higher ←  
21 Education Assistance Agency and any entity established thereby,  
22 the Pennsylvania Gaming Control Board, the Pennsylvania Game  
23 Commission, the Pennsylvania Fish and Boat Commission, the  
24 Pennsylvania Housing Finance Agency, the Pennsylvania Municipal  
25 Retirement Board, the State System of Higher Education, a  
26 community college, the Pennsylvania Turnpike Commission, the  
27 Pennsylvania Public Utility Commission, the Pennsylvania  
28 Infrastructure Investment Authority, the State Public School  
29 Building Authority, [the Pennsylvania Interscholastic Athletic ←  
30 Association] and the Pennsylvania Higher Educational Facilities ←

1 Authority. The term does not include a State-related  
2 institution] ~~the Pennsylvania Turnpike Commission, the~~ ←  
3 ~~Pennsylvania Housing Finance Agency, the Pennsylvania Municipal~~  
4 ~~Retirement System, the Pennsylvania Infrastructure Investment~~  
5 ~~Authority, the State Public School Building Authority, the~~  
6 ~~Pennsylvania Higher Educational Facilities Authority and the~~  
7 ~~State System of Higher Education.~~ The term does not include any  
8 court or other officer or agency of the unified judicial system,  
9 the General Assembly and its officers and agencies, any State-  
10 related institution, political subdivision or any local,  
11 regional or metropolitan transportation authority.

12 \* \* \*

13 "Time response log." A log created, received, maintained, or  
14 retained by a public-safety answering point (PSAP), AS DEFINED ←  
15 IN SECTION 2 OF THE ACT OF JULY 9, 1990 (P.L.340, NO.78), KNOWN  
16 AS THE PUBLIC SAFETY EMERGENCY TELEPHONE ACT, containing the  
17 following information:

18 (1) The time the call was received by the PSAP.

19 (2) The time the PSAP contacted or dispatched the  
20 appropriate agency for response.

21 (3) The time the appropriate agency responded.

22 (4) The time the appropriate agency arrived on the  
23 scene.

24 (5) The time the appropriate agency became available.

25 (6) The address of the incident or the cross street or  
26 mile marker nearest the scene of the incident.

27 \* \* \*

28 SECTION 1.1. THE ACT IS AMENDED BY ADDING A SECTION TO READ. ←  
29 SECTION 307. PENNSYLVANIA INTERSCHOLASTIC ATHLETIC ASSOCIATION.  
30 THIS ACT SHALL APPLY TO THE PENNSYLVANIA INTERSCHOLASTIC

1 ATHLETIC ASSOCIATION.

2 Section 2. Sections 506, 701 and 703 of the act are amended  
3 to read:

4 Section 506. Requests.

5 (a) Disruptive requests.--

6 (1) An agency may deny a requester access to a record if  
7 the requester has made repeated requests for that same record  
8 and the repeated requests have placed an unreasonable burden  
9 on the agency.

10 (2) A denial under this subsection shall not restrict  
11 the ability to request a different record.

12 (b) Disaster or potential damage.--

13 (1) An agency may deny a requester access:

14 (i) when timely access is not possible due to fire,  
15 flood or other disaster; or

16 (ii) to historical, ancient or rare documents,  
17 records, archives and manuscripts when access may, in the  
18 professional judgment of the curator or custodian of  
19 records, cause physical damage or irreparable harm to the  
20 record.

21 (2) To the extent possible, the contents of a record  
22 under this subsection shall be made accessible to a requester  
23 even when the record is physically unavailable.

24 (c) Agency discretion.--An agency may exercise its  
25 discretion to make any otherwise exempt record accessible for  
26 inspection and copying under this chapter, if all of the  
27 following apply:

28 (1) Disclosure of the record is not prohibited under any  
29 of the following:

30 (i) Federal or State law or regulation.

1 (ii) Judicial order or decree.

2 (2) The record is not protected by a privilege.

3 (3) The agency head determines that the public interest  
4 favoring access outweighs any individual, agency or public  
5 interest that may favor restriction of access.

6 (d) Agency possession.--

7 (1) A [public record] contract between an agency and a  
8 business or organization that is not in the possession of an  
9 agency but is in the possession of [a party with whom the  
10 agency has contracted to perform a governmental function on  
11 behalf of the agency, and which directly relates to the  
12 governmental function and is not exempt under this act,] the  
13 business or organization shall be [considered a] public  
14 [record of the agency for purposes of] under this act. This  
15 paragraph includes financial records directly relating to the  
16 contract. FINANCIAL INFORMATION THAT IS NOT DIRECTLY RELATED ←  
17 TO THE CONTRACT MAY BE REDACTED.

18 (2) Nothing in this act shall be construed to require  
19 access to any other record of the party in possession of the  
20 public record.

21 (3) A request for a [public record] contract in  
22 possession of a party other than the agency shall be  
23 submitted to the open records officer of the agency. Upon a  
24 determination that the record is subject to access under this  
25 act, the open records officer shall assess the duplication  
26 fee established under section 1307(b) and upon collection  
27 shall remit the fee to the party in possession of the record  
28 if the party duplicated the record.

29 Section 701. Access.

30 (a) General rule.--Unless otherwise provided by law, a

1 public record, legislative record or financial record shall be  
2 accessible for inspection and duplication in accordance with  
3 this act. A record being provided to a requester shall be  
4 provided in the medium ~~or computer file format,~~ COMPUTER FILE  
5 FORMAT OR OTHER FORMAT requested if it exists in that medium ~~or~~  
6 ~~computer file format,~~ COMPUTER FILE FORMAT OR OTHER FORMAT;  
7 otherwise, it shall be provided in the medium in which it  
8 exists. Public records, legislative records or financial records  
9 shall be available for access during the regular business hours  
10 of an agency.

11 (b) Construction.--Nothing in this act shall be construed to  
12 require access to any computer either of an agency or individual  
13 employee of an agency.

14 Section 703. Written requests.

15 A written request for access to records may be submitted in  
16 person, by mail, by e-mail, by facsimile or, to the extent  
17 provided by agency rules, by any other electronic means. A  
18 written request must be addressed to the open-records officer  
19 designated pursuant to section 502 ~~or to the agency head~~ HEAD OF  
20 A COMMONWEALTH AGENCY. Employees of an agency shall be directed  
21 to promptly forward requests for records to the agency's open-  
22 records officer. A written request should identify or describe  
23 the records sought with sufficient specificity to enable the  
24 agency to ascertain which records are being requested and shall  
25 include the name and address to which the agency should address  
26 its response. A written request need not include any explanation  
27 of the requester's reason for requesting or intended use of the  
28 records unless otherwise required by law.

29 Section 3. Section 708(b) (9), (10) and (17) of the act are  
30 amended and the subsection is amended by adding paragraphs to

1 read:

2 Section 708. Exceptions for public records.

3 \* \* \*

4 (b) Exceptions.--Except as provided in subsections (c) and  
5 (d), the following are exempt from access by a requester under  
6 this act:

7 \* \* \*

8 (5.1) The payment records of a person receiving services  
9 from a public water or sewer authority or other ~~municipality~~ ←  
10 ~~authority~~ MUNICIPAL AUTHORITY, MUNICIPALITY, cooperative or ←  
11 entity that provides a utility service, including  
12 electricity, telecommunications, water, sewer, natural gas or  
13 similar service. The authority or entity shall establish a  
14 process to provide a clearance certificate to a person to  
15 certify that all fees and charges owed have been paid. A  
16 reasonable fee for ~~certification~~ A CLEARANCE CERTIFICATE may ←  
17 be charged.

18 \* \* \*

19 (6.1) Tax records. ~~An agency~~ A TAX COLLECTOR shall ←  
20 establish a process to provide a clearance certificate to a  
21 person certifying that all LOCAL taxes owed have been paid. A ←  
22 reasonable fee for ~~certification~~ A CLEARANCE CERTIFICATE may ←  
23 be charged. FOR PURPOSES OF THIS PARAGRAPH, THE TERM TAX ←  
24 COLLECTOR SHALL INCLUDE AN ELECTED TAX COLLECTOR OR AN  
25 EMPLOYEE OR CONTRACTOR OF AN AGENCY THAT COLLECTS TAXES  
26 PURSUANT TO LAW.

27 \* \* \*

28 (9) The draft of a bill, resolution, regulation,  
29 statement of policy, management directive, ordinance or  
30 amendment thereto prepared by or for an agency, except when

1 the record is presented to a quorum for deliberation at an ←  
2 advertised A public meeting in accordance with 65 Pa.C.S. ←  
3 Ch.7 (relating to open meetings).

4 (10) (i) A record that reflects:

5 (A) The internal, predecisional deliberations of  
6 an agency, its members, employees or officials or  
7 predecisional deliberations between agency members,  
8 employees or officials and members, employees or  
9 officials of another agency, including predecisional  
10 deliberations relating to a budget recommendation,  
11 legislative proposal, legislative amendment,  
12 contemplated or proposed policy or course of action  
13 or any research, memos or other documents used in the  
14 predecisional deliberations.

15 (B) The strategy to be used to develop or  
16 achieve the successful adoption of a budget,  
17 legislative proposal or regulation.

18 (ii) [Subparagraph (i)(A)] This paragraph shall  
19 apply to agencies subject to 65 Pa.C.S. Ch. 7 [(relating  
20 to open meetings)] in a manner consistent with 65 Pa.C.S.  
21 Ch. 7. A record which is not otherwise exempt from access  
22 under this act and which is presented to a quorum for  
23 deliberation at a public meeting in accordance with 65  
24 Pa.C.S. Ch. 7 shall be a public record regardless of  
25 whether a vote occurs at that meeting.

26 (iii) This paragraph shall not apply to a written or  
27 Internet application or other document that has been  
28 submitted to request Commonwealth funds.

29 (iv) This paragraph shall not apply to the results  
30 of public opinion surveys, polls, focus groups, marketing



1 research or similar effort designed to measure public  
2 opinion.

3 \* \* \*

4 (17) A record of an agency [relating to a noncriminal  
5 investigation] that would reveal the institution, progress or  
6 result of a noncriminal investigation, including:

7 (i) Complaints submitted to an agency.

8 (ii) Investigative materials, notes, correspondence  
9 and reports.

10 (iii) A record that includes the identity of a  
11 confidential source, including individuals subject to the  
12 act of December 12, 1986 (P.L.1559, No.169), known as the  
13 Whistleblower Law.

14 (iv) A record that includes information made  
15 confidential by law.

16 (v) Work papers underlying an audit.

17 (vi) A record that, if disclosed, would do any of  
18 the following:

19 (A) [Reveal the institution, progress or result  
20 of an agency investigation, except the imposition of  
21 a fine or civil penalty, the suspension, modification  
22 or revocation of a license, permit, registration,  
23 certification or similar authorization issued by an  
24 agency or an executed settlement agreement unless the  
25 agreement is determined to be confidential by a  
26 court] (Reserved).

27 (B) Deprive a person of the right to an  
28 impartial adjudication.

29 (C) Constitute an unwarranted invasion of  
30 privacy.

1 (D) Hinder an agency's ability to secure an  
2 administrative or civil sanction.

3 (E) Endanger the life or physical safety of an  
4 individual.

5 This paragraph shall not apply to records reflecting the  
6 imposition of a fine or civil penalty, the issuance of a  
7 notice of violation, the suspension, modification or  
8 revocation of a license, permit, registration, certification  
9 or similar authorization issued by an agency, the result of a ←  
10 regular inspection AN INSPECTION CONDUCTED PURSUANT TO LAW, ←  
11 or an executed settlement agreement unless the agreement is  
12 determined to be confidential by a court.

13 \* \* \*

14 (31) A record of:

15 (i) A volunteer ambulance service.

16 (ii) A volunteer fire company.

17 (iii) A volunteer rescue company.

18 (iv) A volunteer water rescue company.

19 (v) A volunteer organization that provides hazardous  
20 materials response services.

21 (vi) A volunteer organization that provides  
22 emergency medical services.

23 This paragraph shall not apply to the financial records of A ←  
24 CONTRACT BETWEEN A VOLUNTEER ORGANIZATION AND A LOCAL AGENCY ←  
25 TO PROVIDE SERVICES TO THE LOCAL AGENCY OR TO FINANCIAL  
26 RECORDS RELATING TO THE CONTRACT a volunteer organization  
27 under this paragraph if the volunteer organization has a  
28 contract with a local agency to provide services to the local  
29 agency OR TO FINANCIAL RECORDS RELATING TO THE CONTRACT. ←

30 (32) An agency's bank account numbers, bank routing

1 numbers, credit card numbers or passwords.

2 \* \* \*

3 ~~Section 4. Sections 901, 1101, 1102(a), 1310 and 3101 of the~~ ←

4 SECTION 4. SECTIONS 901, 902(B), 1101, 1102(A), 1307(B) AND ←

5 (H) AND 1310 OF THE act are amended to read:

6 Section 901. General rule.

7 (a) Determination.--Upon receipt of a written request for

8 access to a record, an agency shall make a good faith effort to

9 determine if the record requested is a public record,

10 legislative record or financial record and whether the agency

11 has possession, custody or control of the identified record, and

12 to respond as promptly as possible under the circumstances

13 existing at the time of the request. All applicable fees shall

14 be paid in order to receive access to the record requested.

15 (b) Time for response.--The time for response shall not

16 exceed:

17 (1) In the case of a request submitted by e-mail, web

18 form, facsimile or similar means, five business days from the

19 date the written request is received by the open-records

20 officer for an agency. If the agency fails to send the

21 response within five business days of receipt of the written

22 request for access, the written request for access shall be

23 deemed denied.

24 (2) In the case of a request submitted by first class

25 mail or similar means, ten business days from the postmark

26 date. If the agency fails to send the response within ten


27 business days from the postmark date, the written request for

28 access shall be deemed denied.

29 (3) In the case of a request submitted by certified mail

30 or similar means requiring signature as proof of delivery,

1 five business days from the date the written request is  
2 received by the open-records officer for an agency. If the  
3 agency fails to send the response within five business days  
4 of receipt of the written request for access, the written  
5 request for access shall be deemed denied.

6 SECTION 902. EXTENSION OF TIME. 

7 \* \* \*

8 (B) NOTICE.--

9 (1) UPON A DETERMINATION THAT ONE OF THE FACTORS LISTED  
10 IN SUBSECTION (A) APPLIES, THE OPEN-RECORDS OFFICER SHALL  
11 SEND WRITTEN NOTICE TO THE REQUESTER WITHIN FIVE BUSINESS  
12 DAYS OF RECEIPT OF THE REQUEST FOR ACCESS UNDER SUBSECTION  
13 (A).

14 (2) THE NOTICE SHALL INCLUDE A STATEMENT NOTIFYING THE  
15 REQUESTER THAT THE REQUEST FOR ACCESS IS BEING REVIEWED, THE  
16 REASON FOR THE REVIEW, A REASONABLE DATE THAT A RESPONSE IS  
17 EXPECTED TO BE PROVIDED AND AN ESTIMATE OF APPLICABLE FEES  
18 OWED WHEN THE RECORD BECOMES AVAILABLE. IF THE DATE THAT A  
19 RESPONSE IS EXPECTED TO BE PROVIDED IS IN EXCESS OF 30  
20 BUSINESS DAYS, FOLLOWING THE FIVE BUSINESS DAYS ALLOWED FOR  
21 IN SECTION 901, THE REQUEST FOR ACCESS SHALL BE DEEMED DENIED  
22 UNLESS THE REQUESTER HAS AGREED IN WRITING TO AN EXTENSION TO  
23 THE DATE SPECIFIED IN THE NOTICE.

24 (3) IF THE REQUESTER AGREES TO THE EXTENSION, THE  
25 REQUEST SHALL BE DEEMED DENIED ON THE DAY FOLLOWING THE DATE  
26 SPECIFIED IN THE NOTICE IF THE AGENCY HAS NOT PROVIDED A  
27 RESPONSE BY THAT DATE.

28 Section 1101. Filing of appeal.

29 (a) Authorization.--

30 (1) If a written request for access to a record is

1 denied or deemed denied, the requester may file an appeal  
2 with the Office of Open Records or judicial, legislative or  
3 other appeals officer designated under section 503(d) within  
4 [15] 20 business days of the [mailing] postmark date of the  
5 agency's response or within [15] 20 business days of a deemed  
6 denial, whichever date comes first. IF A DENIAL IS ISSUED VIA ←  
7 E-MAIL, THE REQUESTER MAY FILE AN APPEAL UNDER THIS PARAGRAPH  
8 WITHIN 20 BUSINESS DAYS OF THE AGENCY'S RESPONSE. The appeal  
9 shall [state the grounds upon which the requester asserts  
10 that the record is a public record, legislative record or  
11 financial record and shall address any grounds stated by the  
12 agency for delaying or denying the request.] identify the  
13 records to which the requester has been denied access that  
14 are the subject of the appeal.

15 (2) Except as provided in section 503(d), in the case of  
16 an appeal of a decision by a Commonwealth agency or local  
17 agency, the Office of Open Records shall assign an appeals  
18 officer to review the denial.

19 (b) Determination.--

20 (1) [Unless the requester agrees otherwise, the] The  
21 appeals officer shall make a final determination which shall  
22 be mailed to the requester and the agency within 30 days of  
23 receipt of the appeal filed under subsection (a). The appeals  
24 officer may extend this deadline by up to 15 days by  
25 providing notice to both parties. If a hearing is held under  
26 section 1102(a)(2), the appeals officer may extend the  
27 deadline up to 15 ADDITIONAL days. ←

28 (2) If the appeals officer fails to issue a final  
29 determination within 30 days, the appeal is deemed denied.

30 (3) Prior to issuing a final determination, a hearing

1 may be conducted. The determination by the appeals officer  
2 shall be a final order. The appeals officer shall provide a  
3 written explanation of the reason for the decision to the  
4 requester and the agency.

5 (c) Direct interest.--

6 (1) A person other than the agency or requester with a  
7 direct interest in the record subject to an appeal under this  
8 section may, within 15 days following receipt of actual  
9 knowledge of the appeal but no later than the date the  
10 appeals officer issues an order, file a written request to  
11 provide information or to appear before the appeals officer  
12 or to file information in support of the requester's or  
13 agency's position.

14 (2) The appeals officer may grant a request under  
15 paragraph (1) if:

16 (i) no hearing has been held;

17 (ii) the appeals officer has not yet issued its  
18 order; and

19 (iii) the appeals officer believes the information  
20 will be probative.

21 (3) Copies of the written request shall be sent to the  
22 agency and the requester.

23 Section 1102. Appeals officers.

24 (a) Duties.--An appeals officer designated under section 503  
25 shall do all of the following:

26 (1) Set a schedule for the requester and the open-  
27 records officer to submit documents in support of their  
28 positions.


29 (2) Review all information filed relating to the  
30 request. The appeals officer may hold a hearing, in which

1 case the appeals officer may extend the deadline in section  
2 1101(b)(1) by up to 15 days. A decision to hold or not to  
3 hold a hearing is not appealable. The appeals officer may  
4 admit into evidence testimony, evidence and documents that  
5 the appeals officer believes to be reasonably probative and  
6 relevant to an issue in dispute. The appeals officer may  
7 limit the nature and extent of evidence found to be  
8 cumulative.

9 (3) Consult with agency counsel as appropriate.

10 (4) Issue a final determination on behalf of the Office  
11 of Open Records or other agency.

12 \* \* \*

13 SECTION 1307. FEE LIMITATIONS. 

14 \* \* \*

15 (B) DUPLICATION.--

16 (1) FEES FOR DUPLICATION BY PHOTOCOPYING, PRINTING FROM  
17 ELECTRONIC MEDIA OR MICROFILM, COPYING ONTO ELECTRONIC MEDIA,  
18 TRANSMISSION BY FACSIMILE OR OTHER ELECTRONIC MEANS AND OTHER  
19 MEANS OF DUPLICATION SHALL BE ESTABLISHED:

20 (I) BY THE OFFICE OF OPEN RECORDS, FOR COMMONWEALTH  
21 AGENCIES AND LOCAL AGENCIES;

22 (II) BY EACH JUDICIAL AGENCY; AND

23 (III) BY EACH LEGISLATIVE AGENCY.

24 (2) THE FEES MUST BE REASONABLE AND BASED ON PREVAILING  
25 FEES FOR COMPARABLE DUPLICATION SERVICES PROVIDED BY LOCAL  
26 BUSINESS ENTITIES.

27 (3) FEES FOR LOCAL AGENCIES MAY REFLECT REGIONAL PRICE  
28 DIFFERENCES.

29 (4) THE FOLLOWING APPLY TO COMPLEX AND EXTENSIVE DATA  
30 SETS, INCLUDING GEOGRAPHIC INFORMATION SYSTEMS OR INTEGRATED

1 PROPERTY ASSESSMENT LISTS.

2 (I) FEES FOR COPYING MAY BE BASED ON THE REASONABLE  
3 MARKET VALUE OF THE SAME OR CLOSELY RELATED DATA SETS.

4 (II) SUBPARAGRAPH (I) SHALL NOT APPLY TO:

5 (A) A REQUEST BY AN INDIVIDUAL EMPLOYED BY OR  
6 CONNECTED WITH A NEWSPAPER OR MAGAZINE OF GENERAL  
7 CIRCULATION, WEEKLY PUBLICATION, PRESS ASSOCIATION OR  
8 RADIO OR TELEVISION STATION, FOR THE PURPOSE OF  
9 OBTAINING INFORMATION FOR PUBLICATION OR BROADCAST;  
10 OR

11 (B) A REQUEST BY A NONPROFIT ORGANIZATION FOR  
12 THE CONDUCT OF EDUCATIONAL RESEARCH.

13 (III) INFORMATION OBTAINED UNDER SUBPARAGRAPH (II)  
14 SHALL BE SUBJECT TO PARAGRAPHS (1), (2) AND (3).

15 (5) A LOCAL AGENCY MAY CHARGE A PER PAGE FEE NOT TO  
16 EXCEED ONE-HALF OF THE FEE ESTABLISHED UNDER PARAGRAPH (1) TO  
17 REVIEW THE RECORDS IF THE REQUESTER DOES NOT REQUEST  
18 DUPLICATION OF THE RECORDS.

19 \* \* \*

20 (H) PREPAYMENT.--PRIOR TO GRANTING A REQUEST FOR ACCESS IN  
21 ACCORDANCE WITH THIS ACT, AN AGENCY MAY REQUIRE A REQUESTER TO  
22 PREPAY AN ESTIMATE OF THE FEES AUTHORIZED UNDER THIS SECTION IF  
23 THE FEES REQUIRED TO FULFILL THE REQUEST ARE EXPECTED TO EXCEED  
24 [\$100] \$50.

25 Section 1310. Office of Open Records.

26 (a) Establishment.--There is established in the Department  
27 of Community and Economic Development an Office of Open Records.  
28 The office shall do all of the following:

29 (1) Provide information relating to the implementation  
30 and enforcement of this act.



1 (2) Issue advisory opinions to agencies and requesters.

2 (3) Provide annual training courses to agencies, public  
3 officials and public employees on this act and 65 Pa.C.S. Ch.  
4 7 (relating to open meetings).

5 (4) Provide annual, regional training courses to local  
6 agencies, public officials and public employees.

7 (5) Assign appeals officers to review appeals of  
8 decisions by Commonwealth agencies or local agencies, except  
9 as provided in section 503(d), filed under section 1101 and  
10 issue orders and opinions. The office shall employ or  
11 contract with attorneys to serve as appeals officers to  
12 review appeals and, if necessary, to hold hearings on a  
13 regional basis under this act. Each appeals officer must  
14 comply with all of the following:

15 (i) Complete a training course provided by the  
16 Office of Open Records prior to acting as an appeals  
17 officer.

18 (ii) If a hearing is necessary, hold hearings  
19 regionally as necessary to ensure access to the remedies  
20 provided by this act.

21 (iii) Comply with the procedures under section  
22 1102(b).

23 (6) Establish an informal mediation program to resolve  
24 disputes under this act.

25 (7) Establish an Internet website with information  
26 relating to this act, including information on fees, advisory  
27 opinions and decisions and the name and address of all open  
28 records officers in this Commonwealth.

29 (8) Conduct a biannual review of fees charged under this  
30 act.

1           (9) Annually report on its activities and findings to  
2           the Governor and the General Assembly. The report shall be  
3           posted and maintained on the Internet website established  
4           under paragraph (7).

5           (b) Executive director.--Within 90 days of the effective  
6           date of this section, the Governor shall appoint an executive  
7           director of the office who shall serve for a term of six years.  
8           Compensation shall be set by the Executive Board established  
9           under section 204 of the act of April 9, 1929 (P.L.177, No.175),  
10          known as The Administrative Code of 1929. The executive director  
11          may serve no more than two terms.

12          (c) Limitation.--The executive director shall not seek  
13          election nor accept appointment to any political office during  
14          his tenure as executive director and for one year thereafter.

15          (d) Staffing.--The executive director shall appoint  
16          attorneys to act as appeals officers and additional clerical,  
17          technical and professional staff as may be appropriate and may  
18          contract for additional services as necessary for the  
19          performance of the executive director's duties. The compensation  
20          of attorneys and other staff shall be set by the Executive  
21          Board. The appointment of attorneys shall not be subject to the  
22          act of October 15, 1980 (P.L.950, No.164), known as the  
23          Commonwealth Attorneys Act.

24          (e) Duties.--The executive director shall ensure that the  
25          duties of the Office of Open Records are carried out and shall  
26          monitor cases appealed to the Office of Open Records.

27          (f) Appropriation.--The appropriation for the office shall  
28          be in a separate line item and shall be under the jurisdiction  
29          of the executive director.

30          (g) Standing.--The Office of Open Records shall have

1 standing and may participate as a party in an appeal of a  
2 decision of the office.

3 ~~Section 3101. Applicability.~~ ←

4 ~~The following shall apply:~~

5 ~~(1) This act shall apply to requests for information~~  
6 ~~made after December 31, 2008.~~

7 ~~(2) In addition to any other entity to which this act~~  
8 ~~applies by its express provisions, and notwithstanding any~~  
9 ~~other provision of law to the contrary, this act shall apply~~  
10 ~~to the following:~~

11 ~~(i) The Pennsylvania Higher Education Assistance~~  
12 ~~Agency and any entity established thereby.~~

13 ~~(ii) The Pennsylvania Interscholastic Athletic~~  
14 ~~Association.~~

15 ~~(iii) Community colleges.~~

16 SECTION 5. THE AMENDMENT OF SECTION 506(D) OF THE ACT SHALL ←  
17 APPLY RETROACTIVELY TO ACTIONS WHICH, ON THE EFFECTIVE DATE OF  
18 THIS SECTION, ARE:

19 (1) PENDING BEFORE A COMMONWEALTH AGENCY OR A LOCAL  
20 AGENCY; OR

21 (2) ON APPEAL FROM A COMMONWEALTH AGENCY OR A LOCAL  
22 AGENCY.

23 Section ~~5~~ 6. This act shall take effect in 60 days. ←