AN ACT

Amending the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employees in certain departments, boards, and commissions; providing for judicial administration; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employees of certain departments, boards and commissions shall be determined," providing for access to public records during disaster declaration.

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

Section 1. The act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is amended by adding an article to read:
ARTICLE XXVIII-G
ACCESS TO PUBLIC RECORDS DURING DISASTER DECLARATION

Section 2801-G. 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:

"Commonwealth agency." Any agency or commission of the executive branch under the policy, direction or supervision of the Governor.

"Disaster declaration." A declaration by the Governor of disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor).

"Office." The Office of Open Records established under section 1310 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

"Record." Information, regardless of physical form or characteristics, that documents a transaction or activity of a Commonwealth agency and is created, received or retained in accordance with the laws of this Commonwealth or in connection with a transaction, business or activity of the 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.

"Request for records." A request made under the Right-to-Know Law for records held by a Commonwealth agency.

"Requester." An individual or entity making a request for records.

Section 2802-G. Request for records.

(a) Prohibition on Governor.--The Governor may not direct a Commonwealth agency to ignore requests for records or suspend
the Commonwealth agency's process to answer a request for
records during a disaster declaration.

(b) Prohibition on Commonwealth agencies.--A Commonwealth
agency may not suspend the process by which a Commonwealth
agency responds to a request for records during a disaster
declaration.

Section 2803-G. Guidelines for Commonwealth agencies.
No later than five days after the effective date of this
section, the office shall publish guidelines for a Commonwealth
agency specifying how the Commonwealth agency is required to
respond to a request for records made during a disaster
declaration when the Governor has ordered the Commonwealth
agency to close the Commonwealth agency's physical location. A
Commonwealth agency shall adhere to the guidelines published by
the office under this section.

Section 2804-G. Failure to respond to requests for records.

(a) Petitions.--If a Commonwealth agency fails to respond to
a request for records during a disaster declaration, a requester
may bring a petition before the Commonwealth Court to compel the
Commonwealth agency to respond to the request for records.

(b) Reimbursement.--If a Commonwealth agency is ordered by
the Commonwealth Court to answer a request for records under
subsection (a), the Commonwealth agency shall reimburse the
requester for attorney costs and fees incurred by the requester.

(c) Appeals.--If a Commonwealth agency denies a request for
records after being ordered to respond by the Commonwealth Court
under subsection (a), a requester may conduct the request for
records in accordance with Chapter 11 of the act of February 14,
2008 (P.L.6, No.3), known as the Right-to-Know Law.

(d) Denials.--
(1) Except as provided under paragraph (2), a
Commonwealth agency may only deny a request for records
during a disaster declaration for reasons authorized under
the Right-to-Know Law.

(2) A Commonwealth agency may not deny a request for
records during a disaster declaration for a reason specified
under section 506(b) of the Right-to-Know Law.

Section 2805-G. Public records under Right-to-Know Law.

The following information shall be considered a public record
under the act of February 14, 2008 (P.L.6, No.3), known as the
Right-to-Know Law, during a disaster declaration:

(1) Data used by a Commonwealth agency for any rules,
policies or actions taken by the Commonwealth agency in
relation to a disaster declaration.

(2) The process by which a Commonwealth agency
determines how the Commonwealth agency will collect the data
used by the Commonwealth agency for any rules, policies or
actions taken by the Commonwealth agency in relation to a
disaster declaration.

Section 2806-G. Applicability.

This article shall apply retroactively to the disaster
declaration issued by the Governor on March 6, 2020, published
at 50 Pa.B. 1644 (March 21, 2020), and any renewal of the
disaster declaration.

Section 2. This act shall take effect immediately.