

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2471 Session of 2022

INTRODUCED BY BURNS, HERRIN, MILLARD AND KEEFER, APRIL 4, 2022

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 13, 2022

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," in
10 preliminary provisions, further providing for definitions; in
11 procedure, further providing for written requests; in agency
12 response, further providing for extension of time; in appeal <--
13 of agency determination, further providing for filing of
14 appeal; and, in judicial review, further providing for
15 Commonwealth agencies, legislative agencies and judicial
16 agencies, for local agencies and for Office of Open Records.

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

19 Section 1. Section 102 of the act of February 14, 2008
20 (P.L.6, No.3), known as the Right-to-Know Law, is amended by
21 adding a definition to read:

22 Section 102. Definitions.

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

1 * * *

2 "Public official." An elected member of the General Assembly
3 or an individual who is elected to a Statewide office in the
4 Commonwealth.

5 * * *

6 Section 2. Section 703 of the act is amended to read:

7 Section 703. Written requests.

8 (a) Manner of submission.--A written request for access to
9 records may be submitted in person, by mail, by e-mail, by
10 facsimile or, to the extent provided by agency rules, by any
11 other electronic means. A written request must be addressed to
12 the open-records officer designated pursuant to section 502.
13 Employees of an agency shall be directed to forward requests for
14 records to the open-records officer. A written request should
15 identify or describe the records sought with sufficient
16 specificity to enable the agency to ascertain which records are
17 being requested and shall include the name and address to which
18 the agency should address its response. A written request need
19 not include any explanation of the requester's reason for
20 requesting or intended use of the records unless otherwise
21 required by law.

22 (b) Public official requesters.--An individual who is a
23 public official may file a written request for access to records
24 either in the capacity as an individual or a public official and <--
25 the capacity chosen shall be identified at the time the written
26 request is submitted to an agency. EITHER IN THEIR CAPACITY AS: <--

27 (1) AN INDIVIDUAL; OR

28 (2) A PUBLIC OFFICIAL IF THE REQUEST FOR ACCESS TO
29 RECORDS IS IN FURTHERANCE OF THE INDIVIDUAL'S OFFICIAL
30 DUTIES.

1 THE CAPACITY CHOSEN SHALL BE IDENTIFIED AT THE TIME THE WRITTEN
2 REQUEST IS SUBMITTED TO AN AGENCY.

3 Section 3. Section 902 of the act is amended by adding a
4 subsection to read:

5 Section 902. Extension of time.

6 * * *

7 (c) Exception.--This section shall not apply to a written
8 request for access to records submitted by a public official.

9 ~~Section 4. Section 1101(b) (1) of the act is amended and~~ <--
10 ~~subsection (b) is amended by adding a paragraph to read:~~

11 ~~Section 1101. Filing of appeal.~~

12 ~~* * *~~

13 ~~(b) Determination.--~~

14 ~~(1) [Unless] Except as provided under paragraph (1.1),~~
15 ~~unless the requester agrees otherwise, the appeals officer~~
16 ~~shall make a final determination which shall be mailed to the~~
17 ~~requester and the agency within 30 days of receipt of the~~
18 ~~appeal filed under subsection (a).~~

19 ~~(1.1) If the requester is a public official and unless~~
20 ~~the public official requester agrees otherwise, the appeals~~
21 ~~officer shall make a final determination which shall be~~
22 ~~mailed to the public official and the agency within five days~~
23 ~~of receipt of the appeal filed under subsection (a).~~

24 ~~* * *~~

25 ~~Section 5 4. Sections 1301(a) and 1302(a) of the act are~~ <--
26 ~~amended and the sections are amended by adding subsections to~~
27 ~~read:~~

28 Section 1301. Commonwealth agencies, legislative agencies and
29 judicial agencies.

30 (a) General rule.--[Within] Except as provided under

1 subsection (c), within 30 days of the mailing date of the final
2 determination of the appeals officer relating to a decision of a
3 Commonwealth agency, a legislative agency or a judicial agency
4 issued under section 1101(b) or the date a request for access is
5 deemed denied, a requester or the agency may file a petition for
6 review or other document as might be required by rule of court
7 with the Commonwealth Court. The decision of the court shall
8 contain findings of fact and conclusions of law based upon the
9 evidence as a whole. The decision shall clearly and concisely
10 explain the rationale for the decision.

11 * * *

12 (c) Exception.--A final determination by an appeals officer
13 relating to a decision of an agency issued under section 1101(b)
14 to a public official shall not be subject to judicial review.
15 Section 1302. Local agencies.

16 (a) General rule.--[Within] Except as provided under
17 subsection (c), within 30 days of the mailing date of the final
18 determination of the appeals officer relating to a decision of a
19 local agency issued under section 1101(b) or of the date a
20 request for access is deemed denied, a requester or local agency
21 may file a petition for review or other document as required by
22 rule of court with the court of common pleas for the county
23 where the local agency is located. The decision of the court
24 shall contain findings of fact and conclusions of law based upon
25 the evidence as a whole. The decision shall clearly and
26 concisely explain the rationale for the decision.

27 * * *

28 (c) Exception.--A final determination by an appeals officer
29 relating to a decision of an agency issued under section 1101(b)
30 (1) to a public official shall not be subject to judicial

1 review.

2 Section ~~6~~ 5. Section 1310(d) of the act is amended to read: <--

3 Section 1310. Office of Open Records.

4 * * *

5 (d) Staffing.--The executive director shall appoint
6 attorneys to act as appeals officers and additional clerical,
7 technical and professional staff as may be appropriate and may
8 contract for additional services as necessary for the
9 performance of the executive director's duties. At least one
10 appeals officer shall be designated by the executive director to
11 handle appeals from requesters who are public officials. The
12 compensation of attorneys and other staff shall be set by the
13 Executive Board. The appointment of attorneys shall not be
14 subject to the act of October 15, 1980 (P.L.950, No.164), known
15 as the Commonwealth Attorneys Act.

16 * * *

17 Section ~~78~~ 6. This act shall take effect in 60 days. <--