

393--B

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KRUEGER, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged and said bill committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law, in relation to publishing records of public interest by agencies and the state legislature

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 84 of the public officers law, as added by chapter
2 933 of the laws of 1977, is amended to read as follows:
3 S 84. Legislative declaration. The legislature hereby finds that a
4 free society is maintained when government is responsive and responsible
5 to the public, and when the public is aware of governmental actions. The
6 more open a government is with its citizenry, the greater the under-
7 standing and participation of the public in government.
8 As state and local government services increase and public problems
9 become more sophisticated and complex and therefore harder to solve, and
10 with the resultant increase in revenues and expenditures, it is incum-
11 bent upon the state and its localities to extend public accountability
12 wherever and whenever feasible.
13 The people's right to know the process of governmental decision-making
14 and to review the documents and statistics leading to determinations is
15 basic to our society. Access to such information should not be thwarted
16 by shrouding it with the cloak of secrecy or confidentiality.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 SINCE THE FREEDOM OF INFORMATION LAW, ADVANCES IN TECHNOLOGY HAVE
2 ENHANCED THE ABILITY TO GAIN ACCESS TO AND WIDELY DISSEMINATE PUBLIC
3 INFORMATION. ACCORDINGLY, THE LEGISLATURE FINDS THAT GOVERNMENT AGEN-
4 CIES, TO THE EXTENT PRACTICABLE, SHOULD PUBLISH RECORDS THAT ARE OF
5 PUBLIC INTEREST AND AVAILABLE UNDER THIS ARTICLE PROACTIVELY ON THE
6 INTERNET.

7 The legislature therefore declares that government is the public's
8 business and that the public, individually and collectively and repres-
9 ented by a free press, should have access to the records of government
10 in accordance with the provisions of this article.

11 S 2. Section 90 of the public officers law is renumbered section 90-a
12 and a new section 90 is added to read as follows:

13 S 90. RECORDS OF PUBLIC INTEREST. 1. EACH AGENCY AND HOUSE OF THE
14 STATE LEGISLATURE SHALL PUBLISH, ON ITS INTERNET WEBSITE, TO THE EXTENT
15 PRACTICABLE, RECORDS OR PORTIONS OF RECORDS THAT ARE AVAILABLE TO THE
16 PUBLIC PURSUANT TO THE PROVISIONS OF THIS ARTICLE, OR WHICH, IN CONSID-
17 ERATION OF THEIR NATURE, CONTENT OR SUBJECT MATTER, ARE DETERMINED BY
18 THE AGENCY TO BE OF SUBSTANTIAL INTEREST TO THE PUBLIC. ANY SUCH RECORDS
19 MAY BE REMOVED FROM THE INTERNET WEBSITE WHEN THE AGENCY DETERMINES THAT
20 THEY ARE NO LONGER OF SUBSTANTIAL INTEREST TO THE PUBLIC. ANY SUCH
21 RECORDS MAY BE REMOVED FROM THE INTERNET WEBSITE WHEN THEY HAVE REACHED
22 THE END OF THEIR LEGAL RETENTION PERIOD. GUIDANCE ON CREATING RECORDS IN
23 ACCESSIBLE FORMATS AND ENSURING THEIR CONTINUING ACCESSIBILITY SHALL BE
24 AVAILABLE FROM THE OFFICE FOR TECHNOLOGY AND THE STATE ARCHIVES.

25 2. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY
26 TO RECORDS OR PORTIONS OF RECORDS THE DISCLOSURE OF WHICH WOULD CONSTI-
27 TUTE AN UNWARRANTED INVASION OF PERSONAL PRIVACY IN ACCORDANCE WITH
28 SUBDIVISION TWO OF SECTION EIGHTY-NINE OF THIS ARTICLE.

29 3. THE COMMITTEE ON OPEN GOVERNMENT SHALL PROMULGATE REGULATIONS TO
30 EFFECTUATE THIS SECTION.

31 4. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS TO LIMIT OR ABRIDGE
32 THE POWER OF AN AGENCY OR HOUSE OF THE STATE LEGISLATURE TO PUBLISH
33 RECORDS ON ITS INTERNET WEBSITE THAT ARE SUBJECT TO THE PROVISIONS OF
34 THIS ARTICLE PRIOR TO A WRITTEN REQUEST OR PRIOR TO A FREQUENT REQUEST.

35 S 3. This act shall take effect on the ninetieth day after it shall
36 have become a law.