S T A T E O F N E W Y O R K

5070--D

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. LAVALLE -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law, in relation to the disclosure of agency records

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

Section 1. Subdivision 3 of section 86 of the public officers law, as added by chapter 933 of the laws of 1977, is amended to read as follows:

3. (A) "Agency" means any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, except the judiciary or the state legislature.

(B) FOR PURPOSES OF THIS ARTICLE, "AGENCY" SHALL INCLUDE THE RESEARCH FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK, FOUNDATIONS AND AUXILIARY SERVICE CORPORATIONS ASSOCIATED WITH ANY PUBLIC COLLEGE OR UNIVERSITY, AND NOT-FOR-PROFIT CORPORATIONS AND LIMITED LIABILITY CORPORATIONS CREATED OR CONTROLLED BY ANY PUBLIC COLLEGE OR UNIVERSITY, AND THE CORPORATIONS IDENTIFIED IN PARAGRAPH (D) OF SUBDIVISION FIVE OF SECTION FIFTY-THREE-A OF THE STATE FINANCE LAW, PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO THE STATUTORY COLLEGES AND CONTRACT COLLEGES AT ALFRED AND CORNELL OR ANY ALUMNI ASSOCIATION ASSOCIATED WITH A PUBLIC COLLEGE OR UNIVERSITY.

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

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S 2. Paragraph (l) of subdivision 2 of section 87 of the public officers law, as added by section 12 of part II of chapter 59 of the laws of 2010, is amended and two new paragraphs (m) and (n) are added to read as follows:

(l) are photographs, microphotographs, videotape or other recorded images produced by a bus lane photo device prepared under authority of section eleven hundred eleven-c of the vehicle and traffic law[.];

(M) ARE RECORDS OF AN AGENCY RELATING TO CHARITABLE DONORS OR PROSPECTIVE DONORS, INCLUDING BUT NOT LIMITED TO THE FUND-RAISING STRATEGIES OF AGENCIES IDENTIFIED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION EIGHTY-SIX OF THIS ARTICLE, PROVIDED THAT RECORDS RELATING TO FUND-RAISING STRATEGIES WOULD, IF DISCLOSED, IMPAIR THE ABILITY OF THOSE AGENCIES TO ATTRACT OR GAIN DONATIONS, AND PROVIDED FURTHER THAT THE NAME OF ANY DONOR AND THE AMOUNT OF DONATION MADE BY SUCH DONOR SHALL BE SUBJECT TO DISCLOSURE IF SUCH DONOR, OR ANY ENTITY IN WHICH SUCH DONOR HAS A SUBSTANTIAL INTEREST, SEEKS TO TRANSACT BUSINESS, OR DOES TRANSACT BUSINESS, WITH THE AGENCY TO WHICH THE DONATION IS MADE WITHIN THREE YEARS OF THE DATE OF SUCH DONATION. NOTHING IN THIS SECTION SHALL EXEMPT FROM DISCLOSURE THE AMOUNT OR VALUE OF AN INDIVIDUAL GIFT, GRANT, DONATION OR PLEDGE;

(N) ARE ACADEMIC OR SCIENTIFIC RESEARCH OR RESEARCH-RELATED RECORDS, INCLUDING ANY DRAFT, PRELIMINARY OR UNFUNDED GRANT OR CONTRACT DOCUMENT, WHETHER SPONSORED BY THE AGENCY ITSELF OR IN CONJUNCTION WITH A THIRD PARTY, OR RECORDS RELATING TO THE AGENCY'S INTELLECTUAL PROPERTY, WHICH, IF DISCLOSED, WOULD ADVERSELY AFFECT LICENSE, PATENT, COPYRIGHT OR OTHER RIGHTS OF THE AGENCY. THIS PARAGRAPH SHALL NOT PERMIT AN AGENCY TO WITHHOLD RECORDS OR PORTIONS THEREOF PERTAINING TO THE NAME, TITLE, EXPENDITURE, SOURCE OR AMOUNT OF PUBLIC FUNDING RELATING TO SUCH RESEARCH OR INTELLECTUAL PROPERTY.

S 3. The opening paragraph of subdivision 1 of section 74 of the public officers law, as amended by chapter 14 of the laws of 2007, is amended to read as follows:

As used in this section: The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department or any public benefit corporation or public authority at least one of whose members is appointed by the governor or corporations closely affiliated with specific state agencies as defined by paragraph (d) of subdivision five of section fifty-three-a of the state finance law or their successors, THE STATE UNIVERSITY OF NEW YORK, THE RESEARCH FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK, FOUNDATIONS AND AUXILIARY SERVICE CORPORATIONS ASSOCIATED WITH ANY PUBLIC COLLEGE OR UNIVERSITY, AND NOT-FOR-PROFIT CORPORATIONS AND LIMITED LIABILITY CORPORATIONS CREATED OR CONTROLLED BY ANY PUBLIC COLLEGE OR UNIVERSITY, PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO THE STATUTORY COLLEGES AND CONTRACT COLLEGES AT ALFRED AND CORNELL OR ANY ALUMNI ASSOCIATION ASSOCIATED WITH A PUBLIC COLLEGE OR UNIVERSITY.

S 4. This act shall take effect January 1, 2012; provided, however, that the amendments to paragraph (l) of subdivision 2 of section 87 of the public officers law made by section two of this act shall not affect the repeal of such paragraph and shall expire and be deemed repealed therewith.