

5867--B

2011-2012 Regular Sessions

I N   A S S E M B L Y

March 2, 2011

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Introduced by M. of A. KAVANAGH, STEVENSON -- Multi-Sponsored by -- M. of A. P. RIVERA, THIELE -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- 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.  
17    SINCE THE FREEDOM OF INFORMATION LAW, ADVANCES IN TECHNOLOGY HAVE  
18    ENHANCED THE ABILITY TO GAIN ACCESS TO AND WIDELY DISSEMINATE PUBLIC  
19    INFORMATION. ACCORDINGLY, THE LEGISLATURE FINDS THAT GOVERNMENT AGEN-  
20    CIES, TO THE EXTENT PRACTICABLE, SHOULD PUBLISH RECORDS THAT ARE OF

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

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1 PUBLIC INTEREST AND AVAILABLE UNDER THIS ARTICLE PROACTIVELY ON THE  
2 INTERNET.

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

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

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

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

25 3. THE COMMITTEE ON OPEN GOVERNMENT SHALL PROMULGATE REGULATIONS TO  
26 EFFECTUATE THIS SECTION.

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

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