STATE OF NEW YORK

9738

IN ASSEMBLY

February 5, 2018

Introduced by M. of A. BUCHWALD -- read once and referred to the Committee on Governmental Operations

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:

Section 1. Section 84 of the public officers law, as added by chapter 933 of the laws of 1977, is amended to read as follows:

§ 84. Legislative declaration. The legislature hereby finds that a free society is maintained when government is responsive and responsible to the public, and when the public is aware of governmental actions. The more open a government is with its citizenry, the greater the understanding and participation of the public in government.

As state and local government services increase and public problems become more sophisticated and complex and therefore harder to solve, and with the resultant increase in revenues and expenditures, it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible.

The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.

Since the freedom of information law was first adopted, advances in technology have enhanced the ability to gain access to and widely disseminate public information. Accordingly, the legislature finds that government agencies, to the extent practicable, should publish records proactively on the internet that are of public interest and available under this article.

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

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

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

LBD01914-03-8

§ 90. Records of public interest. 1. Each agency and house of the state legislature shall publish, on its internet website, to the extent practicable, records or portions of records that are available to the public pursuant to the provisions of this article, and which, in consideration of their nature, content or subject matter, are determined by the agency to be of substantial interest to the public. Any such records may be removed from the internet website when the agency or house of the state legislature determines that they are no longer of substantial interest to the public. Any such records may be removed from the internet website when they have reached the end of their legal retention period. Guidance on creating records in accessible formats and ensuring their continuing accessibility shall be available from the office for technology and the state archives.

2. The provisions of subdivision one of this section shall not apply to records or portions of records the disclosure of which would constitute an unwarranted invasion of personal privacy in accordance with subdivision two of section eighty-nine of this article.

3. The committee on open government shall promulgate regulations to effectuate this section.

4. Nothing in this section shall be construed as to limit or abridge the power of an agency or house of the state legislature to publish records on its internet website that are subject to the provisions of this article prior to a written request or prior to a frequent request.

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