

# 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:

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

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

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

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

LBD01914-03-8

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

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

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

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

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