STATE OF NEW YORK

2392--A

2017-2018 Regular Sessions

IN SENATE

January 13, 2017

Introduced by Sen. GALLIVAN -- 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

AN ACT to amend the public officers law, in relation to freedom of information requests and attorney's fees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (c) of subdivision 4 of section 89 of the public officers law, as amended by chapter 492 of the laws of 2006, is amended to read as follows:

(c) The court in such a proceeding**: (i)** may assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed, [~~when: i. the agency had no reasonable basis for denying access; or ii.~~] **and when** the agency failed to respond to a request or appeal within the statutory time**; and (ii) shall assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed and the court finds that the agency had no reasonable basis for denying access**.

§ 2. This act shall take effect immediately.

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

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