STATE OF NEW YORK

9621--A

Cal. No. 416

IN ASSEMBLY

March 26, 2024

Introduced by M. of A. McDONALD, SIMON, FAHY, KELLES, McMAHON -- read once and referred to the Committee on Governmental Operations -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public officers law, in relation to requiring agencies to report information about FOIL inquiries to the committee on open government

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

Section 1. Section 90 of the public officers law is renumbered section 90-a and a new section 90 is added to read as follows:

§ 90. FOIL request reporting. 1. All agencies that perform governmental or proprietary functions for the state subject to this article shall, for each year in which they received or have pending a request for records under this article, submit to the committee on open government their log of all such freedom of information law requests. For the purposes of this section, pending shall mean requests that were open at any point during the twelve-month period, including those first submitted in prior years. The freedom of information law request logs shall:

(a) cover a twelve-month range of dates as prescribed by the committee on open government and shall include data regarding all requests received or pending during that range of dates;

(b) be submitted on a schedule prescribed by the committee on open government;

(c) be in a machine-readable, tabular spreadsheet format prescribed by the committee on open government, including but not limited to the order of the data fields included;

(d) be submitted in a method as prescribed by the committee on open government, such as by electronic mail, web form, web portal, or other method as prescribed by the committee;

(e) include data prescribed and defined by the committee on open government, but at the minimum including:

(i) the name of the requestor;

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

LBD14610-04-4

(ii) the affiliation and/or the employer of the requestor, if applicable;
(iii) the subject or subjects of the request;
(iv) the date of receipt of the request;
(v) the date of acknowledgment by the agency of the request;
(vi) the date of the expected response time as provided in the acknowledgment;
(vii) the number of extensions of time to respond to date;
(viii) the date of the final response or of the closure of the request, if applicable;
(ix) whether the request was granted in whole; granted in part and denied in part; or denied;
(x) if the request was denied in whole or in part, a list of exemptions cited in the final response, if applicable;
(xi) if the request was denied in whole or in part, whether the agency determined there were no responsive records;
(xii) the date an appeal of the final response was filed, or whether no appeal was filed;
(xiii) the status of any appeals, including whether the appeal was:
(A) not filed;
(B) filed and pending;
(C) filed and granted in whole;
(D) filed and granted in part and denied in part; or
(E) filed and denied;
(xiv) a list of exemptions cited in an appeal denial, if applicable;
(xv) the amount, in dollars, of total fees collected from requestor;
(xvi) how many documents were produced;
(xvii) how many pages were produced;
(xviii) whether any of the produced documents were redacted;
(xix) whether the request was subject to a proceeding filed under article seventy-eight of the civil practice law and rules, and if so:
(A) the result, including judgment for petitioner; judgment for respondent; or settlement;
(B) the date of the final judgment, whether it be a final judgment or stipulation of dismissal pursuant to a settlement;
(C) the amount of attorney fees assessed by the court to be paid by the agency, if any;
(D) the date of any appeal of the article seventy-eight judgment; and
(E) the result of any appeal of an article seventy-eight judgment; and
(f) be published on the agency's website.

2. Agencies that perform governmental or proprietary functions for municipalities subject to this article shall submit annually to the committee on open government the total number of freedom of information requests received in a twelve-month period beginning no earlier than January first, two thousand twenty-six, and the number of freedom of information requests closed in such twelve-month period. Submissions shall be provided in the format, method, and schedule as prescribed by the committee on open government.

3. By January first of each year, the committee on open government shall publish, on one webpage, all freedom of information law request logs and municipal government submissions it receives, in a machine-readable format such as a spreadsheet or comma separated value file, in addition to any other format it shall determine, and such logs and submissions shall be preserved on such webpage. The committee and the office of information technology services shall additionally publish and preserve row-level data of such logs and submissions on data.ny.gov or

such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the office of information technology services under executive order 95 of 2013, or any successor agency or order.

4. The committee on open government shall at a minimum provide, in its annual report required by section eighty-nine of this article, the total number of FOIL logs submitted by agencies pursuant to this section, and the committee shall further be authorized to analyze the data in the freedom of information law request logs and use such data and analyses thereof in such annual report or other reports or analyses.

5. No later than January first, two thousand twenty-seven, the committee on open government shall publish a report providing recommendations regarding the benefits and feasibility of agencies subject to subdivision two of this section submitting freedom of information request logs to the committee. Such recommendations shall consider requiring data to be provided regarding the status of requests, response times, use of exemptions, whether records were provided in full, in part, or denied, and any other fields required by this section for state agencies. Such report shall be published on the committee's website and issued to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on local government, the chair of the senate standing committee on investigations and government operations, the chair of the assembly standing committee on local governments, and the chair of the assembly standing committee on governmental operations.

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