9621--A

Cal. No. 416

IN ASSEMBLY

March 26, 2024

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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:

1   Section 1. Section 90 of the public officers law is renumbered section
2 90-a and a new section 90 is added to read as follows:
3   **§ 90. FOIL request reporting. 1. All agencies that perform govern-**
4 **mental or proprietary functions for the state subject to this article**
5 **shall, for each year in which they received or have pending a request**
6 **for records under this article, submit to the committee on open govern-**
7 **ment their log of all such freedom of information law requests. For the**
8 **purposes of this section, pending shall mean requests that were open at**
9 **any point during the twelve-month period, including those first submit-**
10 **ted in prior years. The freedom of information law request logs shall:**
11   **(a) cover a twelve-month range of dates as prescribed by the committee**
12 **on open government and shall include data regarding all requests**
13 **received or pending during that range of dates;**
14   **(b) be submitted on a schedule prescribed by the committee on open**
15 **government;**
16   **(c) be in a machine-readable, tabular spreadsheet format prescribed by**
17 **the committee on open government, including but not limited to the order**
18 **of the data fields included;**
19   **(d) be submitted in a method as prescribed by the committee on open**
20 **government, such as by electronic mail, web form, web portal, or other**
21 **method as prescribed by the committee;**
22   **(e) include data prescribed and defined by the committee on open**
23 **government, but at the minimum including:**
24   **(i) the name of the requestor;**

1   (ii) the affiliation and/or the employer of the requestor, if applica-
2 ble;
3   (iii) the subject or subjects of the request;
4   (iv) the date of receipt of the request;
5   (v) the date of acknowledgment by the agency of the request;
6   (vi) the date of the expected response time as provided in the
7 acknowledgment;
8   (vii) the number of extensions of time to respond to date;
9   (viii) the date of the final response or of the closure of the
10 request, if applicable;
11   (ix) whether the request was granted in whole; granted in part and
12 denied in part; or denied;
13   (x) if the request was denied in whole or in part, a list of
14 exemptions cited in the final response, if applicable;
15   (xi) if the request was denied in whole or in part, whether the agency
16 determined there were no responsive records;
17   (xii) the date an appeal of the final response was filed, or whether
18 no appeal was filed;
19   (xiii) the status of any appeals, including whether the appeal was:
20   (A) not filed;
21   (B) filed and pending;
22   (C) filed and granted in whole;
23   (D) filed and granted in part and denied in part; or
24   (E) filed and denied;
25   (xiv) a list of exemptions cited in an appeal denial, if applicable;
26   (xv) the amount, in dollars, of total fees collected from requestor;
27   (xvi) how many documents were produced;
28   (xvii) how many pages were produced;
29   (xviii) whether any of the produced documents were redacted;
30   (xix) whether the request was subject to a proceeding filed under
31 article seventy-eight of the civil practice law and rules, and if so:
32   (A) the result, including judgment for petitioner; judgment for
33 respondent; or settlement;
34   (B) the date of the final judgment, whether it be a final judgment or
35 stipulation of dismissal pursuant to a settlement;
36   (C) the amount of attorney fees assessed by the court to be paid by
37 the agency, if any;
38   (D) the date of any appeal of the article seventy-eight judgment; and
39   (E) the result of any appeal of an article seventy-eight judgment; and
40   (f) be published on the agency's website.
41   2. Agencies that perform governmental or proprietary functions for
42 municipalities subject to this article shall submit annually to the
43 committee on open government the total number of freedom of information
44 requests received in a twelve-month period beginning no earlier than
45 January first, two thousand twenty-six, and the number of freedom of
46 information requests closed in such twelve-month period. Submissions
47 shall be provided in the format, method, and schedule as prescribed by
48 the committee on open government.
49   3. By January first of each year, the committee on open government
50 shall publish, on one webpage, all freedom of information law request
51 logs and municipal government submissions it receives, in a machine-
52 readable format such as a spreadsheet or comma separated value file, in
53 addition to any other format it shall determine, and such logs and
54 submissions shall be preserved on such webpage. The committee and the
55 office of information technology services shall additionally publish and
56 preserve row-level data of such logs and submissions on data.ny.gov or

1 such other successor website maintained by, or on behalf of, the state,
2 as deemed appropriate by the office of information technology services
3 under executive order 95 of 2013, or any successor agency or order.
4   4. The committee on open government shall at a minimum provide, in its
5 annual report required by section eighty-nine of this article, the total
6 number of FOIL logs submitted by agencies pursuant to this section, and
7 the committee shall further be authorized to analyze the data in the
8 freedom of information law request logs and use such data and analyses
9 thereof in such annual report or other reports or analyses.
10   5. No later than January first, two thousand twenty-seven, the commit-
11 tee on open government shall publish a report providing recommendations
12 regarding the benefits and feasibility of agencies subject to subdivi-
13 sion two of this section submitting freedom of information request logs
14 to the committee. Such recommendations shall consider requiring data to
15 be provided regarding the status of requests, response times, use of
16 exemptions, whether records were provided in full, in part, or denied,
17 and any other fields required by this section for state agencies. Such
18 report shall be published on the committee's website and issued to the
19 governor, the temporary president of the senate, the speaker of the
20 assembly, the chair of the senate standing committee on local govern-
21 ment, the chair of the senate standing committee on investigations and
22 government operations, the chair of the assembly standing committee on
23 local governments, and the chair of the assembly standing committee on
24 governmental operations.
25   § 2. This act shall take effect on the ninetieth day after it shall
26 have become a law.