

**SUMMARY
OF PENNSYLVANIA'S
NEW RIGHT-TO-KNOW LAW**

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The following is a summary of the provisions of Pennsylvania's new Right-to-Know Law which will take effect January 1, 2009. The summary is intended to provide an easier to read format of the law, highlighting the significant portions of the Act. This is not a verbatim summary of the Act's provisions and some parts of the statute have been omitted. If you have a specific interest in a particular section, it is recommended that you review that particular portion of the legislation itself.

If you have any questions about a specific section or activity covered by the Act or if we can be of further assistance, please feel free to contact our offices at the address below.

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SUMMARY OF PENNSYLVANIA'S NEW RIGHT-TO-KNOW LAW

CHAPTER 1. PRELIMINARY PROVISIONS

Section 101. Short Title.

Right-to-Know Law.

Section 102. Definitions.

Administrative proceeding.

Agency.

A Commonwealth agency, a local agency, a judicial agency or a legislative agency.

Aggregated data.

Appeals officer.

Commonwealth agency.

Any office, department, authority, board, multistate agency or commission of the executive branch, an independent agency and a state-affiliated entity. Includes Governor's Office, the Office of Attorney General, the Office of Auditor General the Treasury Department and any organization established by law or executive order which performs or is intended to perform an essential governmental function. Does not include a legislative or judicial agency.

Confidential proprietary information.

Commercial or financial information received by an agency which is privileged or confidential and the disclosure of which would cause substantial harm to the competitive position of the person submitting the information.

Financial record.

Accounts, vouchers or contracts for the receipt or disbursement of funds by an agency or the agency's acquisition, use or disposal of services, supplies, materials, equipment or property; payment of salaries and expenses of an agency officer or employee, including the name and title of the officer or employee; a financial audit report (but not the work papers underlying an audit).

Homeland security.

Independent agency.

Any, board, commission or other agency not subject to the policy supervision and control of the Governor. Does not include a legislative or judicial agency.

Judicial agency.

A Pennsylvania court or any entity or office of the unified judicial system.

Legislative agency.

The Senate, the House of Representatives, the Capitol Preservation Committee, the Center for Rural Pennsylvania, the Joint Legislative Air and Water Pollution Control and Conservation Committee, the Joint State Government Commission, the Legislative Budget and Finance Committee, the Legislative Data Processing Committee, the Independent Regulatory Review Commission, the Legislative Reference Bureau, the Local Government Commission, the Pennsylvania Commission on Sentencing, the Legislative Reapportionment Commission, the Legislative Office of Research Liaison and the Legislative Audit Advisory Commission.

Legislative record.

The following records as applied to a legislative agency or a standing committee, subcommittee or conference committee of a legislative agency:

a financial record; a bill or resolution that has been introduced and amendments offered thereto; fiscal notes; a cosponsorship memorandum; a chamber journal; the minutes of, record of attendance of members at a public hearing or public committee meeting and all recorded votes taken in a public committee meeting; transcripts of public hearings when available; executive nomination calendars; the rules of a chamber; a record of all recorded votes taken in a legislative session; administrative staff manuals or written policies; audits prepared pursuant to Act 151 of 1970 [71 P.S. § 1189.1 et seq.]; final or annual reports required by law to be submitted to the General Assembly; Legislative Budget and Finance Committee Reports; daily session calendars and marked calendars; records communicating to an agency the appointment or resignation of a legislative appointee; proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency; and the results of public opinion surveys, polls, focus groups, marketing research or similar efforts to measure public opinion funded by a legislative agency.

Local agency.

A political subdivision, an intermediate unit, a charter school, a cyber charter school or public trade or vocational school.

Any local, intergovernmental, regional or municipal agency, authority, council, board, commission or similar governmental agency.

Office of Open Records.

Personal financial information.

An individual's personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual's personal finances.

Privilege.

Attorney-work product doctrine, attorney-client privilege, doctor-patient privilege, speech and debate privilege, or other privilege recognized by a court interpreting Pennsylvania law.

Public record.

A record of a Commonwealth agency or local agency that is not made exempt from disclosure by the RTKL Act, that is not exempt from being disclosed by other federal or state law, regulation or judicial order, or that is not protected by privilege. A public record includes a financial record.

Record.

Information regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. Includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

Requester.

A person that is a legal resident of the United States and requests a record under the RTKL Act. The term includes an agency.

Response.

Social Services.

Cash assistance and other welfare benefits; medical, mental and other health care services; drug and alcohol treatment; adoption services; vocational services and training; occupational training; education services; counseling services; workers' compensation services and unemployment compensation services; foster care services; services for the elderly; services for individuals with disabilities; services for victims of crimes and domestic violence.

State-affiliated entity.

A Pennsylvania authority or entity. Includes the Pennsylvania Higher Education Assistance Agency and any entity established by PHEAA, the Pennsylvania Gaming Control Board, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission, the Pennsylvania Housing Finance Agency, the Pennsylvania Municipal Retirement Board, the State System of Higher Education, community colleges, the Pennsylvania Turnpike Commission, the Public Utility Commission, PennVEST, the State

Public School Building Authority, the Pennsylvania Interscholastic Athletic Association, and the Pennsylvania Educational Facilities Authority. The term does not include a state-related institution.

State-related institutions.

Temple University, University of Pittsburgh, Pennsylvania State University and Lincoln University.

Terrorist act.

Trade secret.

Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that (1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by others who can obtain economic value from its disclosure or use, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Includes data processing software obtained by an agency under a licensing agreement prohibiting disclosure.

CHAPTER 3. REQUIREMENTS AND PROHIBITIONS

Section 301. Commonwealth agencies.

A Commonwealth agency must provide public records in accordance with the RTKL Act.

A Commonwealth agency may not deny a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law.

Section 302. Local agencies.

A local agency must provide public records in accordance with the RTKL Act.

A local agency may not deny a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law.

Section 303. Legislative agencies.

A legislative agency must provide legislative records in accordance with the RTKL Act.

A legislative agency may not deny a requester access to a legislative record due to the intended use of the legislative record by the requester.

Section 304. Judicial agencies.

A judicial agency must provide financial records in accordance with the RTKL Act or any rule or order of court providing equal or greater access to records.

A judicial agency may not deny a requester access to a financial record due to the intended use of the financial record by the requester.

Section 305. Presumption.

A record in the possession of a Commonwealth agency or local agency shall be presumed to be a public record. The presumption does not apply if the record is exempt under Section 708 of the RTKL Act, if it is protected by privilege or if it is exempt from disclosure under other federal or state law or regulation or by judicial order or decree.

A legislative record in the possession of a legislative agency or a financial record in the possession of a judicial agency shall be presumed to be available under the RTKL Act. The presumption does not apply if the record is exempt under section 708 of the RTKL Act, if it is protected by privilege or if it is exempt from disclosure under other federal or state law or regulation or by judicial order or decree

Section 306. Nature of document.

Nothing in the RTKL Act shall supersede or modify the public or nonpublic nature of a record or document established in federal or state law or regulation or by judicial order or decree.

CHAPTER 5. ACCESS

Section 501. Scope of chapter.

Sections 501 through 507 apply to all agencies.

Section 502. Open records officer.

An agency must designate an open records officer. For a legislative agency other than the Senate or the House of Representatives, the open records officer shall be the officer designated by the Legislative Reference Bureau. A political party caucus of a legislative agency may appoint its own open records officer.

Open-records officers will receive and track requests submitted to an agency and direct requests to appropriate persons within the agency or another agency, track the agency's progress in responding and issue interim and final responses. Open records officers must log and track requests, note the date of receipt, determine when the 5 day period to respond will expire, maintain an electronic or paper copy of the request and maintain denied requests for a period of 30 days or during any appeal period. Commonwealth agencies must also maintain files retaining the original request and all related responses and communications.

Section 503. Appeals officer.

Appeals officers hear appeals pursued under the RTKL Act. Appeals officers are designated as follows: for Commonwealth agencies and local agencies, by the Office of Open Records; for judicial agencies, by the judicial agency itself; for legislative agencies other than the

Senate and the House of Representatives, by the Legislative Reference Bureau; for the House of Representatives and the Senate, each shall designate its own appeals officers; for the Attorney General, State Treasurer and Auditor General, each shall designate its own appeals officers; and for appeals relating to criminal investigative records in the possession of a local agency, appeals officers are designated by each district attorney of a county.

Section 504. Regulations and policies.

Agencies and the Office of Open Records may promulgate regulations and policies to implement the RTKL Act. Agencies must post on their websites contact information, a form to file a RTKL request, and regulations, policies and procedures of the agency relating to the RTKL Act.

Section 505. Uniform form.

The Office of Open Records will develop a uniform request form which must be accepted by all Commonwealth and local agencies in addition to their own form. The uniform form will be published in the Pennsylvania Bulletin and will be posted on the Office of Open Records web site. Legislative and judicial agencies may use their own form or may accept the form prepared by the Office of Open Records.

Section 506. Requests.

An agency may deny a requester access to a record if the requester has made repeated requests for the same record and the requests place an unreasonable burden on the agency. A denial of such a record does not restrict the ability of the requester to seek a different record.

An agency may deny access to a public record when timely access is not possible due to fire, flood or disaster. An agency may deny access to historical or rare documents if, in the judgment of the curator or custodian, access could result in physical damage to the record itself. If possible, the agency must make the contents of the record available.

In its discretion, an agency may make an otherwise exempt record available if access is not prohibited by federal or state law or regulation or by judicial order or decree, if the record is not protected by privilege, and if the agency head determines the public interest favoring access outweighs any individual, agency or public interest that may favor restriction of access.

A public record not in the possession of the agency but in the possession of a contractor to the agency is a public record (if not otherwise exempt under the RTKL Act) and can be accessed upon request.

Section 507. Retention of records.

The RTKL Act does not modify, rescind or supersede any record retention schedule or policy or disposition schedule of an agency established by law, regulation, policy or other directive.

CHAPTER 7. PROCEDURE

Section 701. Access.

Unless otherwise provided by law, a public record, a legislative record or a financial record shall be accessible for inspection and duplication in accordance with the RTKL Act. The record is to be provided in the medium requested, if it exists in that medium; otherwise, in the medium in which it exists. Such records are to be available for access during normal business hours of the agency.

Nothing in the RTKL Act shall be construed to require access to any computer of an agency or agency employee.

Section 702. Requests.

Agencies may fulfill verbal, written, or anonymous requests for access to records, but only written requests are subject to the relief and remedies provided under the RTKL Act.

Section 703. Written requests.

Written requests may be submitted in person, by e-mail, by fax or by other electronic means to the extent provided by agency rules. A written request must be addressed to the open-records officer for the agency. A written request should identify or describe the records sought with sufficient specificity to enable the agency to determine which records are being requested. The written request must contain a name and address to which the agency should address its response. The written request does not need to explain why the record is being requested or what the requester intends to do with the records unless otherwise required by law.

Section 704. Electronic access.

The agency may provide access to records through publicly accessible electronic means. An agency may respond to a request by advising the requester that the record is available through publicly accessible electronic means or that the agency will provide access to the requester to inspect the record electronically. Within 30 days after receipt of such notification from the agency, a requester may request in writing that the electronic document be provided to him in a paper copy, and the agency is to provide a paper copy within 5 days of receipt of the request.

Section 705. Creation of record.

The agency is not required to create a record that does not currently exist or to compile, maintain, format or organize a record in a manner the agency does not already utilize.

Section 706. Redaction.

If an agency determines that a public, legislative or financial record contains information that is both subject to access and not subject to access, the agency shall grant access to the

information that is subject to access and deny access to non-accessible information. If the non-accessible information is integral to the record in question, the agency shall redact the non-accessible information. Information which is redacted is deemed a denial under the RTKL Act.

Section 707. Production of certain records.

If an agency produces a record in response to a request and that record is not a public, legislative or financial record as defined by the RTKL Act, the agency shall notify any third party that provided the record to the agency, the person that is the subject of the record and the requester.

An agency must notify a third party of a request for access to a record if the third party provided the record and included a signed written statement that the record contained trade secret or confidential proprietary information. This notification must be provided within 5 business days of receipt of the request. The third party will have 5 business days from the receipt of this notification to respond to the agency. The agency shall either grant or deny the request for access within 10 business days after giving notice to the third party and shall notify the third party of its decision.

Prior to an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester by the agency stenographer or court reporter, in accordance with agency procedure or contract. Following an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding will be provided in accordance with the duplication rates established in the RTKL Act.

Section 708. Exceptions for public records.

The burden of proof that a record is exempt from public access is on the Commonwealth agency or local agency. The burden of proof that a legislative record is exempt from public access is on the legislative agency. The burden of proof that a financial record is exempt from public access is on the judicial agency. In all three cases, the standard to be applied to substantiate exemption is by a preponderance of the evidence.

The following records are exempt from access under the RTKL Act:

Where disclosure of a record would result in loss of federal or state funds by an agency or the Commonwealth, or would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or personal security of an individual.

Where disclosure of a record in connection with the military, homeland security, national defense, law enforcement or other public safety activity would be reasonably likely to jeopardize or threaten public safety, or the record is designated as classified by an appropriate Federal or State military authority.

Where disclosure of a record creates a reasonable likelihood of endangering the safety or physical security of a building, public utility, resource, infrastructure, facility or information storage system or public resource.

Where disclosure of a record regarding computer hardware, software or networks might be reasonably likely to jeopardize computer security.

A record of an individual's medical or psychiatric history or disability status, including results of drug tests.

Personal identification information, including Social Security number, driver's license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, spouse's name, marital status, beneficiary information, and the home address of a law enforcement officer or judge. The exemption does not include information relating to name, position, salary, compensation, employment contract or length of service of a public official or agency employee. An agency may redact the name or other identifying information relating to an individual performing undercover or covert law enforcement activity.

Letters of recommendation or references regarding the qualifications of an individual (does not apply to information prepared for individuals appointed to fill a vacancy in an elected office or an appointed office requiring Senate confirmation). Employee performance ratings and reviews. The results of civil service or similar tests administered by a Commonwealth, legislative or judicial agency. The results of such tests shall not be disclosed by a local agency if restricted by a collective bargaining agreement. Applications submitted by employees not hired by an agency. Written criticisms of an employee. Grievance material. Information regarding discipline, demotion or discharge except for records regarding the final action of an agency that results in demotion or discharge. An academic transcript.

Labor and collective bargaining negotiation strategies (does not include final agreements or arbitration awards). An exhibit entered into evidence at an arbitration proceeding.

Drafts of bills, resolutions, amendments, statements of policy, ordinances and regulations prepared by or for an agency.

A record that reflects the internal, predecisional deliberations of an agency, its members, officers, officials and employees. This exemption applies to agencies subject to the Sunshine Act, but does not apply (1) to written or internet applications requesting Commonwealth funds, or (2) to the results of public opinion surveys, polls, etc.

A record that constitutes or reveals a trade secret or confidential proprietary information.

Notes and working papers prepared by or for a public official or employee used solely for the individual's own personal use that do not have an official purpose.

The identity of an individual who makes a lawful donation to an agency.

Unpublished lecture notes and manuscripts and similar documents of a community college or an institution of the State System of Higher Education or faculty members or employees thereof.

Academic transcripts. Examinations and exam questions, scoring keys and answers. Includes licensing exams and exams given in primary and secondary schools and institutions of higher education.

An agency record relating to or resulting in a criminal investigation. Does not apply to information contained in a police blotter and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police or other law enforcement agency, or information contained in a traffic report.

An agency record relating to a noncriminal investigation.

Records or parts of records (except for time response logs) pertaining to audio recordings, telephone or radio transmissions of EMS personnel, including 911 recordings. Does not apply to a 911 recording or a transcript of a 911 recording if an agency or court determines the public interest in disclosure outweighs the interest in nondisclosure.

DNA and RNA records.

Autopsy records of a coroner or medical examiner. Does not limit the reporting of the name of the deceased and the cause and manner of death.

Draft minutes of a meeting until the next regularly scheduled meeting of the agency or minutes of an executive session.

Real estate appraisals, engineering estimates, or environmental reviews made for or by an agency relative to leasing, acquiring or disposal of property, the purchase of public supplies or equipment or construction projects prior to the agency making a decision on the matter.

Records of library and archive circulation.

Library archived and museum materials, including rare books, and documents donated with restrictions on access.

Locations of archeological sites or endangered plant or animal species if not already public knowledge.

Procurement proposals prior to the award of a contract or the opening and rejection of bids. Financial information of a bidder or offeror requested in an invitation to bid or request for proposals. Identity of members and records of an agency proposal evaluation committee established under the Procurement Code.

Communications between an agency and its insurance carrier (does not apply to contracts with an insurance carrier or to financial records relating to the provision of insurance).

Information relating to individuals who apply for or receive social services.

Correspondence between a person and a member of the General Assembly requesting assistance on constituent services. Does not apply to correspondence between a member and a lobbyist under the Lobbyist Disclosure Act.

A record identifying the name, home address or date of birth of a child 17 years of age or younger.

The exemptions listed do not apply to financial records, except that the agency may redact portions of a financial record otherwise protected by one of the exemptions. An agency shall not disclose the identity of an individual performing undercover or covert law enforcement activity.

The exemptions do not apply to aggregated data (except for the first five exemptions listed above).

In determining whether a record is exempt from access, the agency must consider each exemption separately.

CHAPTER 9. AGENCY RESPONSE.

Section 901. General Rule.

Upon receipt of a written request, an agency must make a good faith effort to determine if the record is a public, legislative or financial record and the location of the record, and to respond as promptly as possible. All applicable fees shall be paid in order to receive access to the record. An agency must respond to a written request for access within 5 business days or the request will be deemed to be denied.

Section 902. Extension of time.

An agency may have additional time to provide the record requested if any of the following apply: the record requires redaction; the record is located at a remote location; timely response is not possible because of staffing limitations; a legal review is necessary; the requester has not complied with the agency's policies; the requester refuses to pay the applicable fee; or the extent or nature of the request precludes a response within the 5 day time period.

If one of the above factors exists, the open records officer shall send a written notice to the requester within 5 business days after receipt of the request for access, identify the reason for the delay and provide a reasonable date that a response will be provided and an estimate of applicable fees to be paid. If the estimated date for a response is in excess of 30 days, the request shall be deemed to be denied unless the requester has agreed in writing to the extension of time.

Section 903. Denial.

If an agency denies access to a record in whole or part, the denial shall be issued in writing and shall include a description of the record requested, the specific reason for the denial, the name, title and address of the open records officer issuing the denial, the date of the response, and the procedure for appeal of the denial.

Section 904. Certified copies.

The agency is to provide upon request a certified copy of a record deemed accessible subject to payment of fee.

Section 905. Record discard.

If the requester fails to pick up the requested copies of public records within 60 days, the agency may discard the copies after that period and retain any fees paid.

CHAPTER 11. APPEAL OF AGENCY DETERMINATION

Section 1101. Filing of appeal.

If a written request has been denied, the requester may file an appeal with the Office of Open Records or the legislative, judicial or other appeals officer designated, as appropriate, within 15 business days of the mailing date of the denial. The appeal must state the grounds upon which the requester asserts that the record in question is a public, legislative or financial record and address the grounds given for the denial. Appeals by a Commonwealth or local agency may be filed with the Office of Open Records. The Office of Open Records will assign an appeals officer to hear appeals filed with that Office.

The appeals officer shall make a final determination within 30 days of receipt of the appeal. The determination of the appeals officer shall be a final order. If the appeals officer fails to issue a final determination within that time period, the appeal shall be deemed to be denied. The appeals officer may conduct a hearing.

A third party with a direct interest in the record subject to an appeal may file a request to provide additional information regarding the record and its accessibility within 15 days of obtaining actual knowledge of the appeal but before the issuance of a final determination by the appeals officer. The appeals officer may grant the request if no hearing has been held, the appeals officer has not yet issued its order and the appeals officer believes the information will be probative. Copies of third party requests must be sent to the requester and the agency.

Section 1102. Appeals officers.

This section applies to all agencies and establishes the duties of appeals officers. The appeals officer sets the schedule for the submission of documents, reviews all information filed in the request, may hold a hearing (failure to hold a hearing is not appealable), accept evidence and testimony believed to be probative and relevant to the appeal, consult with agency counsel and issue a final determination.

The Office of Open Records, a judicial agency or a legislative agency may adopt procedures relating to appeals. If there is no hearing, the General Rules of Administrative Practice and Procedure do not apply unless the agency has adopted those rules in its procedural rules and regulations. On the other hand, the General Rules of Administrative Practice and Procedure do apply to hearings held by an appeals officer, unless the agency has adopted procedural rules and regulations which provide otherwise.

CHAPTER 13. JUDICIAL REVIEW.

Section 1301. Commonwealth agencies, legislative agencies and judicial agencies.

The decision of the appeals officer involving a Commonwealth, legislative or judicial agency may be appealed by the requester or the agency through filing a petition for review with the Commonwealth Court within 30 days of the mailing date of the final determination. A petition for review shall stay release of documents until a decision is rendered.

Section 1302. Local agencies.

The decision of the appeals officer involving a local agency may be appealed by the requester or the local agency through filing a petition for review or other document as required by rule of court to the county court of common pleas within 30 days of the mailing date of the decision. A petition for review shall stay release of the document until a decision is rendered.

Section 1303. Notice and records.

Notice of appeal is to be provided to the agency, the requester and the Office of Open Records or the designated appeals officer. The record on appeal will consist of the request, the agency's response, the appeal, the hearing transcript if any, and the final written determination of the appeals officer.

Section 1304. Court costs and attorney fees.

In reversing a final determination of an appeals officer or in granting access to a record for which access was deemed denied, a court may grant reasonable attorney fees and costs to the requester if it finds that the agency willfully and with wanton disregard deprived the requester of access or otherwise acted in bad faith, or the exemptions, exclusions or defenses asserted in the final determination were not based on a reasonable interpretation of the law. The court may award reasonable attorney fees and costs of litigation to an agency or the requester if the court finds that the legal challenge was frivolous.

Section 1305. Civil penalty.

A court may impose a civil penalty of not more than \$1,500 if an agency denied access to a public record in bad faith. An agency or public official who does not promptly comply with a court order under the RTKL Act is subject to a civil penalty of not more than \$500 per day until the public records are provided.

Section 1306. Immunity.

Except as otherwise provided in the RTKL Act and other laws governing the release of records, no agency, public official or public employee shall be liable for civil penalties resulting from compliance with or failure to comply with the RTKL Act. Actions taken by an agency pursuant to a written public record retention and disposition schedule are not subject to civil or criminal penalties.

Section 1307. Fee limitations.

Fees for postage may not exceed the actual cost of mailing.

Fees for photocopying and other duplication services will be established by the Office of Open Records for Commonwealth agencies and local agencies, and by each judicial and legislative agency. Fees must be reasonable and based on prevailing fees for comparable duplication services provided by local business entities. Fees for local agencies may reflect regional price differences. Fees for duplication of complex or extensive data sets may be based on reasonable market value, except for requests submitted by an individual employed by or connected with a newspaper, magazine of general circulation, weekly publication, press association of radio or television, for the purpose of obtaining information for publication or broadcast.

Reasonable fees may be charged for official certification of copies.

If a record is only maintained electronically, fees charged for duplication are to be the lesser of the duplication fee for paper versus the duplication fee for electronic media, unless the requester specifically requested duplication in the more expensive medium.

Fees may also be charged for enhanced electronic access to records if enhanced electronic access is offered as an additional means of accessing public records.

An agency may waive duplication fees if the requester duplicates the record or if the agency deems it in the public interest to waive the fees.

Except as otherwise provided by law, no other fees may be charged unless the agency necessarily incurs costs in order to comply with the request.

An agency may require prepayment of fees if the estimated fees are expected to exceed \$100.

Section 1308. Prohibition.

A policy or regulation adopted under the RTKL Act may not limit the number of records requested or made available for inspection or duplication nor require that the requester disclose the purpose or motive behind a request.

Section 1309. Practice and procedure.

The provisions of Title 2 of the Pa. Consolidated Statutes (administrative law and procedure) do not apply to the RTKL Act unless specifically adopted by regulation or policy.

Section 1310. Office of Open Records.

The Office of Open Records is established in the Department of Community and Economic Development. The Office will provide information relating to implementation and enforcement of the RTKL Act, issue advisory opinions, provide annual training courses, assign appeals officers to review appeals of Commonwealth and local agencies, establish an informal mediation program, establish an Internet website to contain information relating to RTKL requests, practice and procedure, conduct a biennial review of fees charged, and report annually on its activities to the Governor and the General Assembly.

Appeals officers are to be attorneys employed by or under contract with the Office. Each appeals officer must complete a training course, hold regional hearings as necessary, and comply with the appeals procedures adopted under the RTKL Act.

Within 90 days of the effective date of this section (which is immediately upon signature by the Governor), the Governor is to appoint an executive director who will serve a 6 year term, with possible reappointment to one additional term. The executive director may not seek election or appointment to political office while serving as executive director or for one year thereafter. Appropriations for the Office will be a separate line item and will be under the jurisdiction of the executive director.

CHAPTER 15. STATE-RELATED INSTITUTIONS.

Section 1501. Definitions.

State-related institutions: Temple University, University of Pittsburgh, Pennsylvania State University and Lincoln University.

Section 1502. Reporting.

Each institution must file a report with the Governor's office, the General Assembly, the Auditor General and the State Library by May 30 of each year.

Section 1503. Contents of report.

The report is to contain all information required by IRS Form 990, the salaries of all officers and directors of the Institution, and the highest 25 salaries paid to employees of the Institution not otherwise included within the reported information. No information on donors is to be reported.

Section 1504. Copies and posting.

A copy of the report is to be maintained for at least 7 years in the Institution's library and the report is to be posted with free access on the Institution's website.

CHAPTER 17. STATE CONTRACT INFORMATION.

Section 1701. Submission and retention of contracts.

Copies of contracts of Commonwealth, legislative and judicial agencies in the amount of \$5,000 or more are to be provided to the Treasury Department within 10 days after the contract is fully executed. This does not apply to contracts for services protected by a privilege. This also does not apply to purchase orders evidencing fulfillment of an existing contract but does apply to purchase orders evidencing new obligations.

Copies of contracts are to be submitted in a form and structure mutually agreed upon by the Commonwealth, legislative and judicial agencies and the State Treasurer. The State Treasurer may require the agencies to provide a summary of the contract. Each agency must create and maintain the data required in an ASCII-delimited text file, spreadsheet file or other file provided by Treasury Department regulations.

A contract is to remain on file with the Treasury Department for a period of not less than 4 years after the end date of the contract.

Each Commonwealth, legislative and judicial agency is responsible for the accuracy of the information provided to the Treasury Department. Copies of contracts may be redacted in accordance with the provisions of the RTKL Act.

The RTKL Act does not apply to contracts filed with the Treasury Department for the purpose of audits and warrants for disbursement pursuant to the Fiscal Code (72 P.S. §§ 307, 401, 402 or 403).

Section 1702. Public availability of contracts.

The Treasury Department is to make each contract filed with it available for public inspection by posting a copy of the contract or a summary of the contract on its website, with a searchable format. Paper copies of contracts are to be requested from the appropriate Commonwealth, legislative or judicial agency.

CHAPTER 31. MISCELLANEOUS PROVISIONS.

Section 3101. Applicability.

The RTKL Act shall apply to requests made on or after December 31, 2008.

Section 3101.1. Relation to other law or judicial actions.

If the provisions of the RTKL Act regarding access to public records conflict with other federal or state law, the provisions of the RTKL Act will not apply.

Section 3101.2. Severability.

All provisions of the RTKL Act are severable.

Section 3102. Repeals.

The 1957 Right-to-Know Law (65 P.S. § 66.1 et seq.).

62 Pa.C.S. § 106 (relating to public access to procurement information).

71 P.S. § 324 (relating to copies of contracts to be provided to the State Treasurer).

Section 3103. References.

Any reference in statute, regulation or judicial order to the 1957 Right to Know Law shall be deemed a reference to the RTKL Act.

Section 3104. Effective date.

Sections 101, 102, 1310 and 3104 take effect immediately.

Chapters 15 and 17 and section 3102(1)(i) and (2)(i) take effect July 1, 2008.

The remainder of the RTKL Act takes effect January 1, 2009.