

FISCAL NOTE

May 10, 2022

Bill No:	HB 2471	Printer's No:	2991	Sponsor:	Burns
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COST / (SAVINGS)

Fund (s)	2021-22	2022-23
General Fund	See Fiscal Impact	See Fiscal Impact

SUMMARY: HB 2471 amends the Right-to-Know-Law (RTKL) in requests made by public officials.

ANALYSIS: HB 2471 amends the RTKL to define a “public official” as an elected member of the General Assembly or an individual who is elected to a statewide office in the commonwealth. It requires the public official to designate if they are making the request as an individual or in their capacity as a public official. If it is as a public official the request must be in furtherance of their official duties.

This bill exempts requests made by public officials from being granted an extension for determinations by agencies. HB 2471 also exempts requests made by public officials from judicial review.

HB 2471 states that at least one appeals officer in the Office of Open Records (OOR) shall be designated by the executive director to handle appeals from requesters who are public officials.

This act shall take effect in 60 days.

FISCAL IMPACT: ORR would require additional personnel if this legislation were to become law:

Position	Annual Cost
Attorney 3	\$175,169.28

While a dedicated attorney is all that is required by the bill, OOR has stated that, regardless of personnel levels, they would have a difficult time making appeal decisions in this time frame. OOR would require an additional appropriation, as they do not have sufficient funds to add to their complement.

This legislation will have a significant fiscal impact on agencies responding to RTKL requests that cannot be calculated at this time. Agencies already get a large number of RTKL requests and this legislation would require stretching already thin resources and prioritizing requests from public officials. Agencies find it difficult to respond to these requests already, no matter how much staff are available. This would lead to an increase in overtime costs and personnel. This legislation may also increase the number of RTKL requests from public officials. Given the size of some agencies and the number of requests, this quick turnaround is not feasible logistically. Some agencies (such as Environmental Protection) also have records with proprietary or confidential information and a decision on whether records may be released or not may not be possible within five days.

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Additionally, there are concerns with the provisions in the bill that exempt these types of requests from judicial review.

The 5-day appeals period would expose agencies to potential penalties and sanctions if they fail to meet the short deadline. For example, “[a]n agency or public official who does not promptly comply with a court order under this act is subject to a civil penalty of not more than \$500 per day until the public records are provided.” 65 P.S. 67.1305(b). Something to note here: “public official” is not currently defined in statute. Defining “public official” as a member of the General Assembly may open members up to fines.