

ASSEMBLY, No. 2358

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Creates Open Public Records Act Study Commission.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT creating a study commission to review the open public
2 records act.

3

4 BE IT RESOLVED by the Senate and General Assembly of the
5 State of New Jersey:

6

7 1. The Legislature finds and declares that:

8 a. The State of New Jersey believes in an open and transparent
9 government;

10 b. The open public records act, commonly referred to as
11 OPRA, was adopted in 2001 to provide citizens with the ability to
12 examine the records of their government;

13 c. Since 2001, administrative decisions and court rulings have
14 been made to interpret how OPRA applies in day-to-day situations;

15 d. OPRA, at times, is challenging for the public to understand
16 and for the records custodians to follow, such as when balancing the
17 release of a document against a citizen's right to privacy;

18 e. OPRA has had a positive impact, yet there are issues with
19 harassment of records custodians and frequent requests by
20 commercial entities;

21 f. The public demands efficient and cost effective access to
22 government records;

23 g. The actual, day-to-day effect of OPRA should be reviewed
24 to ensure that the intent of OPRA is being achieved and is as fair as
25 possible to all interested parties; and

26 h. The establishment of a study commission is appropriate to
27 examine how OPRA is being implemented and utilized.

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29 2. There is established a commission, to be known as the Open
30 Public Records Act Study Commission, to consist of 11 members.
31 The Commissioner of the Department of Community Affairs and
32 the Executive Director of the Government Records Council, or their
33 designees, shall serve as ex-officio members. The Senate President
34 shall appoint three members, no more than two of whom shall be a
35 member of the same political party, one of whom shall have
36 experience with the news media, one of whom shall have
37 experience with the powers, functions, or duties of a municipal
38 clerk, and one of whom shall be a member of the general public
39 with an interest in an open and transparent government. The
40 Speaker of the General Assembly shall appoint three members, no
41 more than two of whom shall be a member of the same political
42 party, one of whom shall be a member of the New Jersey Press
43 Association, one of whom shall have experience with State
44 government as a public records custodian, and one of whom shall be
45 a member of the general public with experience in State
46 government. Three members shall be appointed by the Governor,
47 no more than two of whom shall be a member of the same political
48 party, one of who shall be a member of the general public interested

1 in an open and transparent government, and two of whom shall be
2 attorneys licensed in the State of New Jersey with knowledge and
3 experience with the open public records act, one of whom shall
4 have experience as an attorney on the local government level and
5 one of whom shall have experience as an attorney on the State
6 government level.

7 A vacancy in the membership of the commission shall be filled
8 in the same manner in which the original appointment was made.
9

10 3. The members of the commission shall be appointed and shall
11 hold their initial organizational meeting within 45 days after the
12 effective date of this act. The members shall elect one of the
13 members to serve as chair and one of the members to serve as vice-
14 chair. The chair may appoint a secretary, who need not be a
15 member of the commission. The members of the commission shall
16 serve without compensation, but shall be eligible for reimbursement
17 for necessary and reasonable expenses incurred in the performance
18 of their official duties within the limits of funds appropriated or
19 otherwise made available to the commission.
20

21 4. The commission shall meet at the call of the chair. The
22 commission shall hold at least three public hearings in different
23 parts of the State and elicit testimony from the public at such times
24 and places as the chair shall designate. A meeting of the
25 commission shall be called at the request of six of the commission's
26 members and six members of the commission shall constitute a
27 quorum at any meeting thereof.
28

29 5. It shall be the duty of the commission to, at a minimum:

- 30 a. review OPRA and examine how the statute compares with
31 actual operation and use;
32 b. evaluate how advancements in technology, administrative
33 decisions, and court rulings have impacted OPRA;
34 c. analyze how OPRA requests are balanced with the public's
35 right to privacy;
36 d. examine how OPRA has been used for commercial,
37 marketing, business, and research purposes;
38 e. research public records statutes and their operation and use,
39 both positive and negative, of other states;
40 f. consider such other matters relating to OPRA as the
41 members of the commission may deem appropriate; and
42 g. make recommendations for legislation or such other action
43 as it deems appropriate with regard to improving, expanding, and
44 facilitating OPRA.
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46 6. The commission shall be entitled to call to its assistance and
47 avail itself of the services of the employees of any State, county, or
48 municipal department, board, bureau, commission or agency, as it

1 may require and as may be available for its purposes, and to employ
2 stenographic and clerical assistance and incur traveling and other
3 miscellaneous expenses as may be necessary in order to perform its
4 duties, within the limits of funds appropriated or otherwise made
5 available to the commission.

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7 7. The commission shall report its findings and
8 recommendations to the Legislature, pursuant to section 2 of
9 P.L.1991, c.164 (C.52:14-19.1), and the Governor within one year
10 of its initial organizational meeting.

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12 8. This act shall take effect immediately and shall expire 30
13 days after the commission submits its findings and
14 recommendations to the Governor and the Legislature.

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17 STATEMENT
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19 This bill establishes an 11 member commission, to be known as
20 the Open Public Records Act Study Commission. The study
21 commission will examine how the open public records act, OPRA,
22 is implemented and utilized in actual day-to-day situations.

23 At a minimum, the commission will:

24 review OPRA and examine how the statute compares with actual
25 operation and use;

26 evaluate how advancements in technology, administrative
27 decisions, and court rulings have impacted OPRA;

28 analyze how OPRA requests are balanced with the public's right
29 to privacy;

30 examine how OPRA has been used for commercial, marketing,
31 business, and research purposes;

32 research public records statutes and their operation and use, both
33 positive and negative, of other states;

34 consider such other matters relating to OPRA as the members of
35 the commission may deem appropriate; and

36 make recommendations for legislation or such other action as it
37 deems appropriate with regard to improving, expanding, and
38 facilitating OPRA.

39 The commission will report its findings and recommendations to
40 the Legislature and the Governor within one year of its initial
41 organizational meeting. The commission will expire 30 days after
42 submission of its findings and recommendations to the Legislature
43 and the Governor.

44 This bill is a recommendation of the League of Municipalities
45 2018 Conference.