SENATE, No. 2685

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 9, 2020

Sponsored by:
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)

SYNOPSIS

Establishes Open Public Records Act Review Commission.

CURRENT VERSION OF TEXT

As introduced.

AN ACT establishing a commission to review the open public records act.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:

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

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

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

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

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

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

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

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

2. There is established a commission, to be known as the Open Public Records Act Review Commission, to consist of 15 members. The New Jersey Attorney General, the Commissioner of the Department of Community Affairs, and the Executive Director of the Government Records Council, or their designees, shall serve as ex-officio members. The Senate President shall appoint four members, not more than two of whom shall be a member of the same political party, one of whom shall be the chair of the Senate State Government, Wagering, Tourism and Historic Preservation Committee, one of whom shall be a Republican member of the Senate State Government Wagering, Tourism and Historic Preservation Committee, one of whom shall be a member of the general public with experience advocating for privacy rights, and one of whom shall be a member of the New Jersey Association of Counties. The Speaker of the General Assembly shall appoint four members, no more than two of whom shall be a member of the same political party, one of whom shall be the chair of the Assembly State and Local Government Committee, one of whom shall be a Republican member of the Assembly State and Local Government Committee, one of whom shall be an attorney with knowledge of and experience with the open public records act,

and one of whom, with the recommendation of the New Jersey League of Municipalities and the Municipal Clerks Association of New Jersey, shall be a municipal clerk. Four members shall be appointed by the Governor, no more than two of whom shall be a member of the same political party, one of whom, with the recommendation of the New Jersey Association of Counties, shall be a records custodian, one of whom shall be a member of the League of Municipalities, one of whom shall be a Mayor, and one of whom, with the recommendation of the New Jersey School Boards Association, shall be a school board records custodian.

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

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

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

a. review OPRA and examine how the statute compares with actual operation and use;

b. review and evaluate the use of anonymous requests;

c. determine if OPRA is meeting its goal of open government, balanced with the public’s right to privacy;

d. examine how OPRA has been used for commercial, marketing, business, research, and harassing or frivolous purposes;

e. study the fine structure and overall costs of OPRA to taxpayers;

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

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

6. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or

municipal department, board, bureau, commission or agency, as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to the commission.

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

8. This act shall take effect immediately and shall expire on the 1st day of the 13th month after the commission submits its findings and recommendations to the Governor and the Legislature in order to respond to questions of the Governor or the Legislature, or to provide clarification regarding the commission's findings and recommendations.

STATEMENT

This bill establishes a 15 member commission, to be known as the Open Public Records Act Review Commission. The commission will examine how the open public records act, OPRA, is implemented and utilized in actual day-to-day situations.

At a minimum, the commission will:

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

review and evaluate the use of anonymous requests;

determine if OPRA is meeting its goal of open government, balanced with the public's right to privacy;

examine how OPRA has been used for commercial, marketing, business, research, and harassing or frivolous purposes;

study the fine structure and overall costs of OPRA to taxpayers;

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

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

The commission will report its findings and recommendations to the Legislature and the Governor within six months of its initial organizational meeting. The commission will expire one year after the commission submits its findings and recommendations to the Governor and the Legislature in order to respond to questions of the Governor or the Legislature, or to provide clarification regarding the commission's findings and recommendations..