

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1281 (Delegate Korman)
Environment and Transportation

State Highway Administration - Project Planning Documents - Public Access

This bill requires the State Highway Administration (SHA) to make available to the public any reports, studies, or others documents that it produces directly or has produced by any consultant or contractor during an initial or final project planning phase. SHA may redact traffic accident data from any report, study, or other document as required by federal law but may not withhold the report, study, or other document in its entirety. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: SHA can handle the bill’s requirements using existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: State law separates the status planning phases for SHA projects into two categories: the “initial project planning phase” and the “final project planning phase.” The initial phase includes early steps in the planning process, such as notification of government officials, public meetings, and initial systems planning. The final phase includes steps taken immediately before construction on a project begins, such as preparation of the final environmental impact studies and selection of the final alignment and scope of the project.

The Public Information Act (PIA) establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative who a member of the public may contact to request a public record. A custodian of public information must deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. Denial of inspection is also mandatory for certain types of records (*e.g.* adoption and hospital records). Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. PIA specifies the types of records that are eligible for discretionary denials, including documents that would not be available through discovery in a lawsuit.

Current regulations set forth the procedure by which a PIA request may be filed with the Maryland Department of Transportation. If the custodian decides to grant a written request for inspection, the custodian must produce the record within a specified time period. If the custodian denies the request, the custodian must provide a written statement to the applicant that includes the grounds for the denial and remedies available, including the right to request an administrative hearing. If, in the opinion of the custodian, disclosure of any public record which is otherwise required to be disclosed under PIA would do substantial injury to the public interest, the custodian may temporarily deny the request, as specified.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation; Federal Highway Administration; Department of Legislative Services

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mm/lgc

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