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## **HOUSE BILL 42 Public Information Act – Applications for Inspection – Responses and Time Limits (Guyton)**

### **STATEMENT OF INFORMATION**

**DATE: February 11, 2020**

**COMMITTEE: House Health & Government Operations Committee**

**SUMMARY OF BILL:** HB 42 reduces from: 30 days to seven days, the deadline for granting or denying a public information request; 10 working days to 5 working days, the deadline to explain why the public record cannot be produced within five days after receiving the request, including the time anticipated to produce the record and an estimate of the fee range that may be charged for record production; and 10 working days to five working days to provide a written statement pertaining to reasons for denying a request, including the legal authority for denial, why redaction is not a remedy, and notice of remedies for review of the denial. Further, an extension of any time limit imposed under the section, with the consent of the applicant, is reduced from 30 days to seven days.

**EXPLANATION:** The Department of Budget and Management (DBM) takes seriously our commitment to being open, transparent, and collaborative with the public and communities we serve. Allowing the public to request and inspect documents under the Public Information Act (PIA) is a vital element of the public's trust in our governmental institutions. DBM is committed to safeguarding, archiving, and maintaining public records as well as individual Personally Identifiable Information (PII), in accordance with all laws and regulations. DBM works in good faith to provide timely and cost-efficient responses, while also balancing the legal and ethical obligations to protect personal and proprietary information. We are entrusted with millions of public records dispersed throughout the State and have established a robust records management program to maintain records while also ensuring transparency.

Within the current 30-day response deadline, the DBM goes through a copious process of:

- researching and retrieving the sources and locations of data, oftentimes at satellite locations; analyzing correspondence and documents for pertinent information;
- awaiting legal review by assistant attorney generals;
- redacting information, as advised by assistant attorney generals;
- preparing PDF documents; and
- formatting information for release to requestor.

Every step in this process has potential for delay, depending on the specific PIA request and necessary staff available at any given time. While all agencies have a staff contact for purposes of receiving PIA requests, agencies do not have staff assigned for the specific purpose of complying with PIA requests. Reducing timeframes for compliance will redirect staffing priorities to responding to PIA requests, rather than fulfilling the mission of the agency.

**Volume and Scope of PIA Requests.** There is no limit to the amount of materials that may be requested.

- A recent request required seven staff to be assigned evening, weekend, and remote work in order to comply, resulting in 400 hours to fulfill the request. This does not include the time of assistant attorney generals.
- DBM received a PIA request in August 2019 for records within the period of February 3, 2017 to August 7, 2019 (two and a half years).

**Legal Review Required.** Approval by assistant attorney generals is necessary in virtually all PIA requests which obviously cannot occur until records are retrieved and organized.

- Requests sometimes involve third parties which is required because of its proprietary information, confidential information and discretionary exemptions.
- Current deadlines are strained when third parties have to review the information to be released to the requestor, and the assistant attorney general must review the third party's discretionary exemptions.

**Clarity of the Request for Records.** Requests for information are not always submitted with specificity or even accurately described by the requestor, which may waste days before the actual request is understood. The unavoidable result is a delayed response.

An unintended consequence of reducing timeframes for responding to PIA requests may result in more denials or the inadvertent release of protected information. The shorter time limits may compromise the review and approval steps involved prior to release of information. It is important to recognize the number of obstacles that are inherent in the process of compiling information to respond to a PIA request.

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