

Hall of the House of Representatives

91st General Assembly - Regular Session, 2017

Amendment Form

Subtitle of House Bill No. 1946

TO AMEND THE LAW CONCERNING ACCESS TO PUBLIC INFORMATION; AND TO AMEND THE
FREEDOM OF INFORMATION ACT OF 1967.

Amendment No. 3 to House Bill No. 1946

Amend House Bill No. 1946 as engrossed, H3/16/17 (version: 03/16/2017 11:03:32 AM):

Add Representative Ballinger as a cosponsor of the bill

AND

Page 1, line 27, delete "attorneys" and substitute "members"

AND

Page 1, delete lines 31 through 36, and substitute the following:

"(B) One (1) member of the panel shall be an attorney who is licensed to practice law in this state.

(C) One (1) member of the panel shall be an attorney who:
(i) Teaches or has taught at a law school in this state; and

(ii) Is licensed to practice law in any state in the United States or in the District of Columbia.

(D) One (1) member of the panel shall be a former custodian of records who has experience responding to requests for information under the Freedom of Information Act of 1967, § 25-19-101 et seq."

AND

Page 2, delete line 1

AND

Page 2, lines 2 through 6, and substitute the following:

"(2) The members of the panel shall be appointed in the following manner:

(A) One (1) member of the panel shall be appointed by the Speaker of the House of Representatives;



(B) One (1) member of the panel shall be appointed by the Governor; and

(C) One (1) member of the panel shall be appointed by the President Pro Tempore of the Senate.

(3) An action by the panel may be taken upon two (2) concurring votes of the members of the panel."

Page 2, line 7, delete "panel attorney" and substitute "member of the panel"

AND

Page 2, delete line 9, and substitute the following:
"original appointment.

(3) A member of the panel may be reappointed to a successive term or terms or to fill another vacancy on the panel."

AND

Page 2, delete lines 11 through 13, and substitute the following:

"(B)(i)(a) If the panel decides that the record or records in question, in whole or in part, shall remain confidential and not be subject to public disclosure, the review by the panel is not subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) The panel may make a decision as to a portion of the record or records in question and the confidentiality of the record or records in question.

(c) The panel may determine that confidential information is so intertwined with the record or records in question that it renders the entire record or records in question confidential and not subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(ii) A member of the panel shall not disclose any information related to the record or records in question under subdivision (d)(1)(B)(i) of this section that is learned by the member of the panel due to his or her service on the panel.

(iii) However, subdivision (d)(1)(B)(ii) of this section shall not apply to information related to the record or records in question that is learned by the member of the panel from another source other than his or her service on the panel."

AND

Page 2, line 15, delete "(e)(1)(A)" and substitute "(e)(1)(A)(i)"

AND

Page 2, delete line 17, and substitute the following:
records.

"(ii) A review by the panel shall be de novo.

(iii) This section does not interfere with the right of a resident of this state to pursue a claim in court under § 25-19-107."

(iv)(a) The panel may, in its discretion, deny a request for a review by the panel under subdivision (e)(1)(A)(i) of this section or under subdivision (f)(1) of this section.

(b) If the panel denies a request for a review by the panel under subdivision (e)(1)(A)(iv)(a) of this section, the panel shall send notification of its decision to the party who made the request for a review by the panel."

AND

Page 3, delete lines 17 through 22, and substitute the following:

"(i)(1)(A) A decision of the panel shall be final and binding, unless the decision of the panel is appealed to a court.

(B)(i) Either the requestor or the custodian may appeal the decision of the panel.

(ii) A member of the panel who is an attorney is prohibited from representing either the requestor or the custodian in an appeal.

(C) If the custodian appeals the decision of the panel, the custodian shall provide written notice to the panel within two (2) days after the day the panel issues its decision.

(2) A decision of the panel that is appealed shall be reviewed by a court de novo.

(3) A conflict between a decision of the panel and the decision of the court under § 25-19-107 shall be resolved in favor of the decision by the court.

(j)(1) If the panel decides that the record or records in question before the panel shall become public, the record or records shall become public within two (2) business days after the day the panel issues its decision, unless the decision is appealed by the custodian under subdivision (i)(1)(C) of this section.

(2) If the decision of the panel is appealed by the custodian, the record or records under subdivision (j)(1) of this section shall become public within ten (10) business days after the day the panel issues its decision unless a court rules otherwise."

AND

Page 3, line 23, delete "(j)" and substitute "(k)"

AND

Page 3, line 27, delete "(k)(1)" and substitute "(1)(1)"

AND

Page 3, line 27, delete "panel attorney" and substitute "member of the panel"

AND

Page 3, delete lines 29 through 33, and substitute the following:

"(2)(A)(i) A requestor or a custodian under this section may

request that a member of the panel recuse himself or herself from a review by the panel if circumstances exist that would create a conflict between the member of the panel and the requestor or the custodian.

(ii) A member of the panel who is a law professor under subdivision (b)(1)(C) of this section shall recuse himself or herself from a review if the custodian is an institution where the panel attorney is currently employed or was previously employed.

(iii) A member of the panel shall recuse himself or herself from a review by the panel if the custodian is an entity where the member of the panel is currently employed or was previously employed, or if the member of the panel has an ongoing pecuniary interest in or relationship with the entity.

(B) If a member of the panel recuses himself or herself from a review by the panel under subdivision (1)(2)(A) of this section, a qualified person shall be appointed in the same manner as the original appointment of the member of the panel that recused himself or herself from a review by the panel."

AND

Page 3, line 34, delete "(l)" and substitute "(m)"

AND

Page 3, line 34, delete "panel attorneys" and substitute "members of the panel"

AND

Page 3, delete line 36

AND

Page 4, delete line 1

AND

Immediately after SECTION 2 add an additional section to read as follows:

"SECTION 3. DO NOT CODIFY. Temporary legislation.

(a) The members of the panel shall be appointed within thirty (30) days of the effective date of this act.

(b)(1) The panel shall hold its first meeting within ninety (90) days of the effective date of this act.

(2) At the first meeting of the panel, the members shall draw lots for terms so that one (1) member will serve for a term of four (4) years; one (1) member will serve for a term of five (5) years; and one (1) member will serve for a term of six (6) years."

The Amendment was read _____

By: Representative Tucker
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Chief Clerk