Sponsored by:
Senator KRISTIN M. CORRADO
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS
Establishes Open Public Records Act Study Commission.

CURRENT VERSION OF TEXT
As introduced.
AN ACT establishing a commission to evaluate 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 study 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 Study Commission, to consist of 14 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 a member of law enforcement, one of whom shall have experience with commercial requests of government records, one of whom shall be a member of the general public with an interest in open and transparent government, and one of whom, with the recommendation of the New Jersey Association of Counties, shall have experience as a county records custodian. 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 a member of the New Jersey Press Association, one of whom shall be a member of the general public with experience advocating for privacy rights, one of whom shall be an attorney with knowledge and experience of the open public records act and representing local
governments, 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. Three
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
shall be a State records custodian, one of whom shall be a member
of the American Civil Liberties Union, and one of whom, with the
recommendation of the New Jersey School Board 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. evaluate how advancements in technology, administrative
decisions, and court rulings have impacted OPRA;
   c. analyze how OPRA requests are balanced with the public’s
      right to privacy;
   d. examine how OPRA has been used for commercial,
      marketing, business, and research purposes;
   e. study the advantages and disadvantages of expanding access
to law enforcement records;
   f. research public records statutes and their operation and use,
both positive and negative, of other states;
   g. consider such other matters relating to OPRA as the
members of the commission may deem appropriate; and
   h. make recommendations for legislation or such other action
as it deems appropriate with regard to improving, expanding, and
facilitating OPRA.
6. The commission, as it deems appropriate, may create subcommittees to assist it in the completion of its duties.

7. 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.

8. 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 one year of its initial organizational meeting.

9. 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 14 member commission, to be known as the Open Public Records Act Study Commission. The study 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;
- evaluate how advancements in technology, administrative decisions, and court rulings have impacted OPRA;
- analyze how OPRA requests are balanced with the public’s right to privacy;
- examine how OPRA has been used for commercial, marketing, business, and research purposes;
- study the advantages and disadvantages of expanding access to law enforcement records;
- research public records statutes and their operation and use, both positive and negative, of other states;
- 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 may create subcommittees as it deems
appropriate to assist it in the completion of its duties.

The commission will report its findings and recommendations to
the Legislature and the Governor within one year 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.