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Office

H.B. 265
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 265's Bill Analysis](#)

Version: As Reported by Senate Judiciary

Primary Sponsors: Reps. Wiggam and Hall

Local Impact Statement Procedure Required: No

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Highlights

- Public offices required to process redaction requests under the bill could see some small increase in staff time devoted to handling the requests, but nothing requiring additional resources.
- The bill specifies personnel files and payroll and attendance records of designated public service workers as public records. This could result in some small amount of additional administrative costs for public offices that receive requests to disclose public records added under the bill.
- The bill designates more than 1,000 election officials as designated public service workers whose residential and familial information is exempt from disclosure in public records. This could result in some small amount of additional administrative costs for public offices that receive requests to redact certain identifying information from public records.
- Under the bill, a judge and a prosecuting attorney may submit an affidavit to have their name removed from the general tax list and duplicate of real and public utility property, and replaced with the person's initials. This could result in some small amount of additional administrative costs for public offices that receive requests to redact certain identifying information from public records.
- The bill makes various changes to state obligations under the Public Records Law which (1) codifies current practice that each state agency and public office, and not the Attorney General, is the custodian of its own records for all purposes including litigation, (2) shields the state from paying certain statutory damages eligible under current law, and (3) potentially decreases litigation costs by requiring an allegedly aggrieved person to allow an agency to cure or address a complaint.

Detailed Analysis

Designated public service workers

The bill exempts certain records from disclosure under the Public Records Law, including: (1) the work schedules of designated public service workers, (2) redaction request forms, and (3) certain records managed by a county auditor for a designated public service worker, a qualifying former designated public service worker, or the spouse of either. Also under the bill, a qualifying former designated public service worker may request that a public office redact the former worker's address from any record made available to the general public on the internet, and to request that a county auditor remove the name of the individual from certain publicly available documents.

Any fiscal effects these changes in the Public Records Law will have on public entities are likely to be small. On the one hand, these exemptions could lead to some small savings in administrative time for public entities when fulfilling public records requests and managing employment records of designated public service workers because the applicable information would not need to be collected and reported. On the other hand, allowing former public service workers to request that certain identifying information be redacted and protected from disclosure on the internet could cause some negligible increase in staff time. At any rate, there are likely to be few requests to redact this information, nothing that could not be handled by existing staff using available resources.

The bill also specifies that a "public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation were an adult" includes personnel files and payroll and attendance records of designated public service workers. This could result in some small amount of additional administrative costs for public offices that receive requests to disclose public records added under the bill.

Election officials

The bill exempts certain election officials from having their residential and familial information disclosed as a public record by designating them as designated public service workers. The persons included in the definition of "election official" are listed in the LSC bill analysis. Continuing law includes a number of other persons as designated public service workers, including law enforcement and other first responders, judges, prosecutors, and certain medical and social service providers. In order to prevent their residential and familial information from being disclosed as a public record, election officials will need to notify the necessary public offices.

Classifying election officials as designated public service workers could result in some small amount of additional administrative costs for public offices. Allowing former public service workers to request that certain identifying information be redacted and protected from disclosure on the internet could result in some minimal increase in staff time for handling these requests. Presumably, there will likely be few requests to redact this information, with any such requests handled by existing staff using available resources. However, there is also the possibility that these exemptions could lead to some negligible savings in administrative time when fulfilling public records requests and managing employment records of designated public service workers because the applicable information would not need to be collected and reported. Statewide, over

1,000 state and local government employees are classified as election officials who could request the redaction of identifying information under the bill.

Judges and prosecuting attorneys

Under the bill, a judge and a prosecuting attorney may submit an affidavit to have their name removed from the general tax list and duplicate of real and public utility property, and replaced with the person's initials. This could result in some small amount of additional administrative costs for public offices that receive requests to redact certain identifying information from public records.

State public records

The bill establishes that each state agency and public office, and not the Attorney General, is the custodian of its own records for all purposes including litigation, and that state agencies and public officials are not to be considered parties in any litigation unless named in the litigation. According to the Attorney General, this change is not expected to shift any costs associated with complying with the Public Records Law from the Attorney General to state agencies or public officials, as it codifies current practice.

Additionally, the bill makes statutory damages unavailable to incarcerated persons, including children committed to the Department of Youth Services and federal inmates, who commence mandamus actions under the Public Records Law. The amount of statutory damages that would no longer be paid under this provision will depend on the number of cases where statutory damages would have been awarded and the magnitude of each award.

The bill also may decrease litigation costs by requiring an allegedly aggrieved person to allow an agency to cure or address a complaint. Specifically, the bill requires a person allegedly aggrieved by a violation of the Public Records Law to transmit a complaint to the public office or person responsible for public records allegedly responsible for the violation. If the public office or person does not cure or address the complaint within a three-day period, the allegedly aggrieved person may file an action in court under the Public Records Law. However, they may not file an action before the three-day period has expired.

Vexatious litigators

The bill prohibits a person found to be a vexatious litigator from requesting public records from a public office or person responsible for public records without first receiving both leave to proceed from the court of common pleas and an accompanying order from the court that specifies which public records the person may request. This provision would likely cause minimal fiscal savings due to time saved in the presumably rare situations when vexatious litigators request public records.

Investigation reports

The bill clarifies that the contents of a presentence investigation report or of a part of a presentence investigation report may be shared between courts. The provision has no direct fiscal effect on the state or political subdivisions.