

Stricken language would be deleted from and underlined language would be added to present law.
Act 1107 of the Regular Session

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/17/17
A Bill

HOUSE BILL 1623

By: Representatives Johnson, Lowery, Brown

By: Senator J. English

For An Act To Be Entitled

AN ACT TO AMEND THE FREEDOM OF INFORMATION ACT OF 1967; TO AMEND THE LAW CONCERNING INFORMATION FOR PUBLIC GUIDANCE; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE FREEDOM OF INFORMATION ACT OF 1967; TO AMEND THE LAW CONCERNING INFORMATION FOR PUBLIC GUIDANCE; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) It is vital to a democratic society that public business be performed in an open and public manner so that the electors are advised of the performance of public officials and of the decisions that are reached in public activity and in making public policy;

(2) Under the current law, state agencies, boards, and commissions must prepare and make available on the internet certain information, free of charge;

(3) Upon the state agency, board, or commission providing the information on the internet, the information provided is deemed a sufficient response to a request to inspect the materials, unless the requestor specifies another medium or format under § 25-19-105;



(4) The provisions of § 25-19-105, while ensuring transparency, have the added benefit of diminishing compliance costs associated with large, complicated, and frequent requests for public records, as the state agency, board, or commission is deemed compliant by providing the legally specified information on the internet;

(5) However, the current law does not afford local governments, including their boards and instrumentalities, the ability to increase transparency and efficiency by the means available to state agencies, boards, and commissions;

(6) Local governments often receive large, complicated, and frequent requests for public records, requiring additional staff and resources to which the local government must dedicate its limited resources;

(7) Local governments should have the discretion to make all or part of the information listed under § 25-19-105 available on the internet and, upon publication, be deemed in compliance with the Freedom of Information Act of 1967, § 25-19-101 et seq., for those records; and

(8) While not every local government has the resources to comply with all or part of the provisions included under § 25-19-105, allowing local governments the option to comply with all or part of the provisions under § 25-19-105, and be deemed compliant concerning those records, would allow local governments to be more effective stewards of taxpayer dollars.

(b) It is the intent of the General Assembly to allow local governments the opportunity to be more transparent, while reducing the burden on local governments' limited resources, thereby reducing the financial cost to taxpayers of additional staff and other resources.

(c) It is not the intent of the General Assembly to:

(1) Allow the custodian or government entity to act in bad faith to avoid transparency; or

(2) Place an unreasonable burden on local governments.

SECTION 2. Arkansas Code § 25-19-108, concerning information for public guidance, is amended to add an additional subsection to read as follows:

(c)(1) An entity that is subject to the Freedom of Information Act of 1967, § 25-19-101 et seq., that is not included in subsection (a) of this section may opt in to any provision under subdivisions (a)(1)-(5) through

ordinance or resolution enacted by its governing body.

(2) The ordinance or resolution under subdivision (c)(1) of this section shall comply with subdivision (b)(1) of this section.

SECTION 3. DO NOT CODIFY. Applicability.

This act does not apply to a request for a public record that is received by the government entity before the effective date of this act.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that government entities are being overwhelmed by voluminous requests for production of public records under the Freedom of Information Act of 1967, § 25-19-101 et seq.; that timely compliance with such requests comes at a great expense to the taxpayers; and that this act is immediately necessary to protect custodians and government entities from criminal and civil liability for violations of the Freedom of Information Act of 1967, § 25-19-101 et seq., that cannot be prevented by their good faith efforts to comply. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Johnson

APPROVED: 04/07/2017