

From: @x
To: @x ; @x ; @x
Subject: Amendments to OPRA/OPMA Bills
Date: Thursday, June 14, 2018 9:47:14 AM
Attachments: [S107 Amendments.pdf](#)
[S106 Amendments.pdf](#)

Attached are the proposed amendments to Senator Weinberg's OPRA/OPMA bills and below is the OLS description of the changes.

Please review and provide your thoughts.

If you are so inclined you can listen to today's 1pm Senate State Government Committee hearing at http://www.njleg.state.nj.us/media/live_audio.asp. You will need to refresh the link, maybe several times, until you see LISTEN. Click on Listen to for the hearing. There may be moments of silence.

Lori

From: Couture, Louis
Sent: Wednesday, June 13, 2018 7:00 PM
To: Lori Buckelew
Subject: Amendments to S106 and S107

Hi Lori,

As promised, please find attached the draft amendments for tomorrow.

Here are the OLS descriptions:

S106 PROPOSED COMMITTEE AMENDMENTS :

The committee proposes to amend the bill to:

- permit members of public bodies to communicate privately with independent consultants or advisors about matters on an agenda;
- require that the Legislature keep comprehensive, rather than reasonably comprehensible, minutes of its meetings;
- clarify that minutes shall be made available to the public within 15 business days after its next meeting;
- provides municipalities with 5,000 or less inhabitants, boards of education with 500 or less pupils, and public authorities with less than \$10 million in assets will have 20 business days after the next meeting to make the amendments available to the public;
- permits a public body to vote in favor of a reasonable delay in making the minutes available due to an emergency;
- requires the Legislature to record its voting sessions;
- requires subcommittees to prepare reports of meetings that are closed to the public;
- removes language concerning a public body keeping reports of meetings of subcommittees.

S107 PROPOSED COMMITTEE AMENDMENTS:

The committee proposes to amend the bill to:

- remove a provision permitting volunteer fire companies or departments to contract with a municipal governing body to have its clerk serve as the fire company's records custodian;
- exclude volunteer fire companies and departments from the definition of "public agency" and "quasi-governmental agency";
- exempt from disclosure any portion of a document that discloses personal identifying information of minors, except when permitted by law for the New Jersey Motor Vehicle Commission, or when driver information is disclosed to insurance companies for use in connection with claims investigation activities, antifraud activities, rating or underwriting;
- remove a provision that would have included interns and volunteer employees in the definition of "public employee";
- permit a public agency to charge a special service charge whenever a person requests a paper copy of a record that is available electronically after the person was advised that the record may be emailed at no charge to the requestor or advised as to the specific location that the record may be accessed online;
- removes the requirement that the *sole* purpose of a requestor's request must be harassment in order to file a petition in court against the requestor;
- incorporates into the "New Jersey Open Data Initiative" law, N.J.S.A.52:18A-234.1 et seq, rather than creating a new section of law, the requirement that the State maintain a single, searchable Internet website providing certain State agency information;
- requires the Office of Information Technology to develop and maintain a searchable, online database to which units of local government may submit any government record for retention on the database;
- updates certain provisions to current law and updates references to specific dates; and
- makes a technical correction.

Let me know what you think. You can share the description with other groups, but please refrain from sharing the documents with people outside the League.

Thanks,

Louis Couture
NJ Senate Democratic Office

From: [John Burns](#)
To: [John Donnadio \(xxxxxxx@xxxx.xxx\)](#) [Lori Buckelew](#)
Subject: FW: Latest OPRA/OPMA Amendments
Date: Tuesday, October 16, 2018 11:46:17 AM
Attachments: [N209_0002.docx](#)
[N209_0001.docx](#)

See below.

John J. Burns, Esq.
Counsel
NJ School Boards Association
413 West State Street
Trenton, NJ 08618-5697
[@xx](#)
609-278-5275
www.njsba.org

From: Mitchell, Shane <[@xx](#)>
Sent: Tuesday, October 16, 2018 11:25 AM
To: John Burns <[@xx](#)>
Subject: RE: Latest OPRA/OPMA Amendments

Hey John,

Here are the amendments that would have been up yesterday. Will update you if there are any more changes coming down the pike... but there are none planned as of right now.

Best,
Shane

From: John Burns [<mailto:xxxxxxx@xxxxx.xxx>]
Sent: Wednesday, October 10, 2018 2:11 PM
To: Mitchell, Shane
Subject: RE: Latest OPRA/OPMA Amendments

Thanks! Will review and get back to you.

John J. Burns, Esq.
Counsel
NJ School Boards Association
413 West State Street
Trenton, NJ 08618-5697
[@xx](#)
609-278-5275
www.njsba.org

From: Mitchell, Shane <[@x](#)>
Sent: Wednesday, October 10, 2018 2:09 PM
To: John Burns <[@x](#)>
Subject: Latest OPRA/OPMA Amendments

Hey John,

Just got these back from the drafter a few minutes ago! Happy to discuss any issues NJSBA might have with the latest changes.

Best,

--

Shane Mitchell
Legislative Director
Senator Loretta Weinberg
Senate Majority Leader
(201) 928-0100

From: xxxxxx@xxxxxx.xxx
To: xxxxxxxx@xxxxxx.xxx
Cc: xxxxxx@xxxxxx.xxx
Subject: FW: OPRA
Date: Monday, January 7, 2019 1:40:01 PM
Attachments: [image001.png](#)
[image003.png](#)
[N06_0063.docx](#)

Michael J. Darcy, CAE | Executive Director
New Jersey State League of Municipalities
222 West State Street, Trenton, NJ 08608
609-695-3481 extn 116
c-609-510-9472



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From: Paul Anzano [mailto:xxxxxxx@xxx.xxx]
Sent: Monday, January 07, 2019 1:18 PM
To: Michael J. Darcy, CAE; Michael F. Cerra; Michele.Hovan
Subject: FW: OPRA

Three M's Please take a look and offer me any comments you may have. This is what Senator Cryan is willing to introduce in response to my discussion with him about that electronic fence company and its' lawyer requesting pet licensing information and then suing if the government entity is a day late with no subsequent attempt to resolve the request. Thank you. Paul

From: Cohen, Jessica [mailto:xxxxxxx@xxxxxx.xxx]
Sent: Monday, January 07, 2019 12:55 PM
To: xxxxxxx@xxx.xxx
Subject: FW: OPRA

Please take a read....

From: [Paul Anzano](#)
To: [Michael J. Darcy, CAE](#); [Michael F. Cerra](#); [Michele.Hovan](#)
Subject: FW: OPRA
Date: Monday, January 7, 2019 1:15:30 PM
Attachments: [N06_0063.docx](#)

Three M's Please take a look and offer me any comments you may have. This is what Senator Cryan is willing to introduce in response to my discussion with him about that electronic fence company and its' lawyer requesting pet licensing information and then suing if the government entity is a day late with no subsequent attempt to resolve the request. Thank you. Paul

From: Cohen, Jessica [mailto:xxxxxx@xxxxx.xxx]
Sent: Monday, January 07, 2019 12:55 PM
To: xxxxxxxx@xxx.xxx
Subject: FW: OPRA

Please take a read....

From: xxxxxx@xxxxxx.xxx
To: xxxxxx@xxxxxx.xxx; xxxxxx@xxxxxx.xxx
Cc: xxxxxx@xxxxxx.xxx
Subject: FW: OPRA
Date: Monday, January 7, 2019 1:17:28 PM
Attachments: [N06_0063.docx](#)

Lori and Frank, Please review attached. Looks like Cryan will drop this soon.

mike

From: Paul Anzano [mailto:xxxxxx@xxxxxx.xxx]
Sent: Monday, January 7, 2019 1:18 PM
To: Michael J. Darcy, CAE <xxxxxx@xxxxxx.xxx>; Michael F. Cerra <mcerra@njslom.org>; Michele.Hovan <xxxxxx@xxxxxx.xxx>
Subject: FW: OPRA

Three M's Please take a look and offer me any comments you may have. This is what Senator Cryan is willing to introduce in response to my discussion with him about that electronic fence company and its' lawyer requesting pet licensing information and then suing if the government entity is a day late with no subsequent attempt to resolve the request. Thank you. Paul

From: Cohen, Jessica [<mailto:xxxxxx@xxxxxx.xxx>]
Sent: Monday, January 07, 2019 12:55 PM
To: xxxxxx@xxxxxx.xxx
Subject: FW: OPRA

Please take a read....

From: [DENISE SZABO](#)
To: [Lori Buckelew](#) (~~@x~~)
Subject: FW: Request OPRA Info
Date: Tuesday, August 14, 2018 2:01:43 PM
Attachments: [OPRA Fair Share.pdf](#)

Per our phone conversation. Let me know if you find anything out.

Thanks.

Denise Szabo, RMC/MMC

Bernards Township Municipal Clerk/Assistant Administrator
1 Collyer Lane
Basking Ridge, NJ 07920
908-204-3014 (phone)
[@.](#)

From: Justin Flood [mailto:~~@x~~]
Sent: Sunday, July 29, 2018 4:37 PM
To: ~~@x~~
Subject: Request OPRA Info

Hello,

Please see attached OPRA Request.

Thanks,
Justin

From: [Paul Tomasko](#)
To: [@x](#); [@x](#)
Subject: Fwd: Memorandum on proposed OPRA and OPMA legislation
Date: Tuesday, February 6, 2018 4:02:15 PM
Attachments: [\[16178061 Comments to S1045-217.pdf](#)
[Comments to S1046-217.pdf](#)

Mike and Lori,
FYI.
Are the OPMA and OPRA bills still being pushed?
Thanks,
Paul

-----Original Message-----

From: Stephanie Wehmann <[@.](#)>
To: Paul Tomasko <[@.](#)>
Cc: Nancy Wehmann <[@.](#)>
Sent: Tue, Feb 6, 2018 3:14 pm
Subject: FW: Memorandum on proposed OPRA and OPMA legislation

From: John L. Shahdanian II [<mailto:@x>]
Sent: Tuesday, February 06, 2018 2:35 PM
To: Stephanie Wehmann <[@x](#)>; Boro Clerk <[@x](#)>
Subject: Memorandum on proposed OPRA and OPMA legislation

Mayor Tomasko:

Attached please find the memoranda regarding the pending bills on OPRA/OPMA.

Regards,

John Shahdanian



JOHN L. SHAHDANIAN II
CHASAN LAMPARELLO MALLON & CAPPUZZO, PC
300 LIGHTING WAY, SUITE 200
SECAUCUS, NEW JERSEY 07094

201-809-6038

201-348-6633

[@x](#)

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From: @x
To: @x
Subject: Fwd: OPRA/OPMA Bills Hearing
Date: Thursday, June 14, 2018 8:07:58 PM
Attachments: image001.png
image003.png
Importance: High

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Lori Buckelew <xxxxxxxx@xxxxxx.xxx>
Date: 6/14/18 5:18 PM (GMT-05:00)
To: Dina Zawadski <xxxxxxxx@xxxxxxxxxxxxxxx>, "Kevin Galland (kgalland@wpnj.us)"
<xxxxxxxx@xxxx.xx>, "Diane Pflugfelder (xxxxx@xxxxxxxxxxxxxxxxxxxxxxx)"
<xxxxx@xxxxxxxxxxxxxxxxxxxxxxx>, xxxxx@xxxxxxxxxxxxxxx, "Denise Szabo
(xxxxxx@xxxxxxxxxxx)" <xxxxxx@xxxxxxxxxxx>, "Joel Popkin (joelpopkix@xxxxxxxxxxx)"
<xxxxxxxxxx@xxxxxxxxxxx>, "Denise Cafone (xxxxxxx@xxxxxxxxxxxxxxxxxxx)"
<xxxxxxxx@xxxxxxxxxxxxxxxxxxx>
Cc: "Michael F. Cerra (xxxxxx@xxxxxx.xxx)" <xxxxxx@xxxxxx.xxx>
Subject: OPRA/OPMA Bills Hearing

The OPRA/OPMA bills were amended and released by the Senate State Government Committee. Below is a link to the hearing and a story recapping the hearing on the bills. I need to bring to your attention, Senator Weinberg's comments and the Politico article which includes the MCANJ's two emails on the bills. I strongly suggest you listen to the Senator's representation of the emails at the hearing. The bills are the first on the agenda after the flag salute and the MCANJ emails are brought up at 4:40. Here is the link - <http://www.njleg.state.nj.us/media/mp.asp?M=A/2018/SSG/0614-0100PM-M0-1.m4a&S=2018>

If you wish to discuss further please call me on my cell 732-895-9611.

Here is the Politico article, I would also caution that other Reporters may use this Politico article for the basis for their articles. So if you hear from reporters, it would be helpful to be kept in the loop.

Senate panel advances bills to overhaul public records laws

By Matt Friedman

06/14/2018 04:32 PM EDT

State lawmakers are trying once again to overhaul New Jersey's public records laws, after previous attempts have repeatedly stalled amid opposition from groups that represent local governments.

The Senate State Government, Wagering, Tourism & Historic Preservation Committee on

Thursday advanced five bills related to public records, two of which make significant changes to the Open Public Meetings Act, [NJ S106 \(18R\)](#), and Open Public Records Act, [NJ S107 \(18R\)](#).

"I believe these bills will not only protect the public and their right to know, which is the foundation of these bills, but will make life easier for the municipalities and the people who are the custodians of records," state Sen. Loretta Weinberg (D-Bergen), sponsor of the two bills, said during the committee meeting.

Both bills were approved, 4-0, with one abstention. They still need to be approved by the state Senate Budget and Appropriations Committee before they can be voted on by the full chamber.

The Assembly has not yet taken up the measures.

The two bills would require stronger meeting notice rules from government entities, an expansion of public meeting and records requirements to include several types of quasi-independent authorities and a requirement that meetings have public comment periods.

They would also require the state to assist local governments in putting information online if they do not have their own websites. Local governments would also have to allow meeting attendees to record the proceedings.

Groups representing local governments opposed a requirement that attorney fees be awarded to plaintiffs who a court determines were improperly denied records. If a public official "knowingly" violates public records law, he or she would personally face a fine of between \$100 and \$500.

In addition, the Government Records Council, which hears appeals of records denials, would be expanded from four members to five — including one who's had experience working in the news media. The council would also have to create a searchable online index of its opinions.

One of the bills, [NJ S107 \(18R\)](#), would also rename the state's law the Open Public Record's Act in honor of Martin O'Shea, the late open government activist.

The New Jersey Press Association and several open records activists testified in support of the two bills. Tom Cafferty, general counsel of the press association, said awarding attorneys fees to plaintiffs is especially important.

"Our Supreme Court has talked about attorneys fees in the context of OPRA and said it's the great equalizer," Cafferty said. "It gives the citizens the power to contest denial of access by government."

Some public records advocates, however, took issue with a provision that allows courts to temporarily bar people who request documents to the point of harassment from making more public records requests.

Lori Buckelew, senior legislative analyst for the New Jersey State League of Municipalities, also questioned a provision that subcommittees formed by local governments report to the governing bodies.

"They do not expend public funds, nor do they commit the governing body to action, and

there's a need for subcommittees to have meetings where they're not always open to the public," Buckelew said.

Buckelew also said it should be up to the courts to determine whether someone who sued for documents and won should be paid attorney fees. "We just think it needs to be permissive and left to the discretion of a judge," she said.

Similar bills were approved by the same committee last year but never got a vote in the full Senate. Earlier efforts have stalled before even getting a hearing.

Weinberg made several amendments in an attempt to assuage the government groups, including the League of Municipalities. For instance, subcommittees would only have to report to a governing body — either verbally or in writing — that they're having meetings.

"We started out with this bill with much more stringent regulations concerning subcommittees," Weinberg said. "The public complaint is a municipality organizes a subcommittee which is not subject to [the Open Public Meetings Act]. The subcommittee ... goes out and interviews five developers, comes back to the council and the council votes 'OK, we're going to redevelop Main Street and give the award to so-and-so. And the public has had no ability to find out what went into that decision.

"We negotiated out the subcommittee idea until it's almost meaningless, and I really can't understand the League's continued objection to that," she said.

Weinberg said committee members received an email from Dina Zawadski, president of the Municipal Clerks' Association of New Jersey, opposing the bill. But she read another email written by several other members of the association, including its incoming president, saying Zawadski did not speak for them.

"I am very hopeful it's going to pass because every issue that was raised today was really pretty minor, in my opinion," Weinberg said.

The committee also voted 5-0 to approve three less controversial measures:

— [NJ S1232 \(18R\)](#) would bar the public release of information that would identify people who receive pet licenses and home alarm permits.

— [NJ S1903 \(18R\)](#) would require redaction of parts of 911 calls that could reveal a person's health information.

— [NJ S1905 \(18R\)](#) would require the redaction of personal email addresses from public records.

State Sen. Shirley Turner (D-Mercer), sponsor of the bill to exempt pet and alarm license information, said for-profit companies often request the information to market their products and services.

Cafferty, the New Jersey Press Association counsel, requested an amendment to the 911 bill because he thought it was written unintentionally broadly. He said that as written, if a person was shot and was in serious condition, that information would be barred from public release even if it contains no information that could identify the victim.

Lori Buckelew
Senior Legislative Analyst
NJ League of Municipalities
609.695.3481 x112

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Please be advised that the New Jersey State League of Municipalities is subject to the New Jersey Open Public Records Act. As such, any email sent or received by the League may be subject to a records request.

From: [@x](#)
To: [@x](#)
Subject: NorthJersey.com: Judge tosses councilman's OPRA harassment claim
Date: Friday, May 4, 2018 9:11:16 AM

From NorthJersey.com

Judge tosses councilman's OPRA harassment claim

<https://njersy.co/2HJT7BA>

HACKENSACK— A municipal judge dismissed a complaint by Ridgewood Councilman Jeffrey Voigt against one of his constituents Thursday. Voigt had alleged that resident Anne Loving violated a September agreement between herself and Voigt when she filed anonymous records requests for his emails. That agreement was set after the two traded harassment complaints late last year. On Thursday, Judge Anthony Gallina said that without the opinion of a handwriting expert, there was no probable cause to find that Loving had penned the anonymous Open Public Records Act requests, and found that the requests did not constitute harassment, as they lacked any “offensively course language,” or were "otherwise made to cause alarm."

Sent from my T-Mobile 4G LTE Device

From: [Mitchell, Shane](#)
To: [Lori Buckelew](#)
Cc: [Millsaps Wolfinger, Kate](#)
Subject: OPRA Amendments
Date: Tuesday, September 4, 2018 11:04:20 AM
Attachments: [N209_0003.pdf](#)

Hey Lori,

Hope you had a good Labor Day weekend! I just received these draft amendments from OLS. Please let me know if we missed something or added something that wasn't agreed to! To my mind, there are only two things here that were not discussed at the summer meeting.

First, we eliminated section 13 on the Office of Dispute Settlement. We mentioned at the meeting that we were seeking a cost-neutral replacement for ODS, but none could be found! I'm talking now with the Governor's Office about additional funding for the GRC so they can handle their caseload in a more expeditious fashion, but otherwise it looks like this is a problem NOT being addressed through the bill.

Second, we added some language to the definition of criminal investigatory record to address the recent Paff decision on mobile video recordings. The Senator wants to address the issue, but we're still thinking this one through. If the League has any suggestions, please let us know! As it stands, it appears it will be incredibly rare for the public to ever have access to dashcam/bodycam footage; whereas, the Senator believes that it would be appropriate for the public to have access if access does not compromise an ongoing investigation or some privacy concern.

I'm sharing this with everyone else, too, so I imagine there will likely be a need for some tinkering after everyone has a look. The Senator is still gunning for Senate Budget in September/October, so hopefully we'll all be on the same page by the end of the month!

Best,
Shane

From: [Carl Woodward](#)
To: [Frank F. Caruso \(x@xxx\)](#)
Cc: [Lori Buckelew \(x@x\)](#)
Subject: OPRA Presentation for League Convention
Date: Tuesday, November 6, 2018 10:25:19 AM
Attachments: [NJILGA 2018 OPRA Presentation V.2.DOC](#)

Frank,

Enclosed is a copy of the case summary that I will be using next Wednesday. I suggest that we speak in advance to go over topics, order, etc.

Regards,

Carl R. Woodward, III
Carella, Byrne, Cecchi, Olstein,
Brody & Agnello, P.A.
5 Becker Farm Road
Roseland, New Jersey 07068
Phone: (973) 994-1700
Fax: (973) 994-1744
Email: [xxxxxxxx@xxxxxxxxxxx.xxx](#)

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From: [xxxxxxxx@xxxxx.xxx](#)
To: [xxxxxx@xxxxx.xxx](#); [xxxxxxxx@xxxxx.xxx](#); [xxxxxxxx@xxxxxx.xxx](#); [xxxxxxxx@xxxxx.xxx](#)
[xxxxxxxxxxxx@xxxxxxxxxxx.xxx](#)
Subject: OPRA/OPMA Amendments
Date: Thursday, October 11, 2018 11:25:07 AM
Attachments: [N209_0001.docx](#)
[N209_0002.docx](#)

Folks,

It is that time again when Senator Weinberg bills are scheduled before the Senate Budget Committee on Monday (Oct 15) and additional amendments will be made to the bills. Attached are a copy of the proposed amendments we received from Senator Weinberg's office today. Can you please provide me with your thoughts as soon as possible. To expedite the discussion here are the changes:

S-106 (OPMA)

- [REDACTED]

S-107 (OPRA)

- [REDACTED]
- [REDACTED]
- [REDACTED]
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From: [xxxxxxxx@xxxxx.xxx](#)
To: [xxxxxxxx@xxxx.xx](#); [xxxxx@xxxxxxxxxxxxxxxxxxx.xx](#); [xxxxxx@xxxxxxxxxxxxxxx.xxx](#); [xxxxxx@xxxxxxxxxxxxxxx.xxx](#);
[xxxxxxxx@xxxxxxxxxxxxxxx.xx](#); [xxxxxxxx@xxxxxxxxxxxxxxx.xx](#); [xxxxxxxx@xxxxxxxxxxxxxxx.xx](#)
Subject: OPRA/OPMA Amendments
Date: Thursday, October 11, 2018 11:30:23 AM
Attachments: [N209_0001.docx](#)
[N209_0002.docx](#)

Folks,

As you know on Monday (Oct 15) the Senate Budget Committee will be considering Senator Weinberg's OPRA and OPMA bills. Attached are additional proposed amendments we received from Senator Weinberg's office. Can you please provide me with your thoughts as soon as possible. To expedite the discussion here are the changes:

S-106 (OPMA)

- [REDACTED]

S-107 (OPRA)

- [REDACTED]
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From: [xxxxxxxx@xxxxx.xxx](#)
To: [xxxxxxxx@xxxx.xxx](#); [xxxxx@xxxx.xxx](#); [xxxxxx@xxxx.xxx](#); [xxxxxxxx@xxxx.xxx](#)
Cc: [xxxxxx@xxxxxx.xxx](#)
Subject: OPRA/OPMA Amendments
Date: Thursday, October 11, 2018 11:27:53 AM
Attachments: [N209_0001.docx](#)
[N209_0002.docx](#)

Sharing with you a summary of the proposed amendments. I would note that I spoke with Shane yesterday. The 3 business day requirement for electronic records was a drafting error and should be removed.

S-106 (OPMA)

- [REDACTED]

S-107 (OPRA)

- [REDACTED]
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From: @x
To: @x; @x; @x; @x;
@x; @x; @x
Cc: @x
Subject: OPRA/OPMA Bills Hearing
Date: Thursday, June 14, 2018 5:18:39 PM
Attachments: [image001.png](#)
[image003.png](#)
Importance: High

The OPRA/OPMA bills were amended and released by the Senate State Government Committee. Below is a link to the hearing and a story recapping the hearing on the bills. I need to bring to your attention, Senator Weinberg's comments and the Politico article which includes the MCANJ's two emails on the bills. I strongly suggest you listen to the Senator's representation of the emails at the hearing. The bills are the first on the agenda after the flag salute and the MCANJ emails are brought up at 4:40. Here is the link - <http://www.njleg.state.nj.us/media/mp.asp?M=A/2018/SSG/0614-0100PM-M0-1.m4a&S=2018>

If you wish to discuss further please call me on my cell 732-895-9611.

Here is the Politico article, I would also caution that other Reporters may use this Politico article for the basis for their articles. So if you hear from reporters, it would be helpful to be kept in the loop.

Senate panel advances bills to overhaul public records laws

By Matt Friedman

06/14/2018 04:32 PM EDT

State lawmakers are trying once again to overhaul New Jersey's public records laws, after previous attempts have repeatedly stalled amid opposition from groups that represent local governments.

The Senate State Government, Wagering, Tourism & Historic Preservation Committee on Thursday advanced five bills related to public records, two of which make significant changes to the Open Public Meetings Act, [NJ S106 \(18R\)](#), and Open Public Records Act, [NJ S107 \(18R\)](#).

"I believe these bills will not only protect the public and their right to know, which is the foundation of these bills, but will make life easier for the municipalities and the people who are the custodians of records," state Sen. Loretta Weinberg (D-Bergen), sponsor of the two bills, said during the committee meeting.

Both bills were approved, 4-0, with one abstention. They still need to be approved by the state Senate Budget and Appropriations Committee before they can be voted on by the full chamber.

The Assembly has not yet taken up the measures.

The two bills would require stronger meeting notice rules from government entities, an expansion of public meeting and records requirements to include several types of quasi-independent authorities and a requirement that meetings have public comment periods.

They would also require the state to assist local governments in putting information online if they do not have their own websites. Local governments would also have to allow meeting attendees to record the proceedings.

Groups representing local governments opposed a requirement that attorney fees be awarded to plaintiffs who a court determines were improperly denied records. If a public official "knowingly" violates public records law, he or she would personally face a fine of between \$100 and \$500.

In addition, the Government Records Council, which hears appeals of records denials, would be expanded from four members to five — including one who's had experience working in the news media. The council would also have to create a searchable online index of its opinions.

One of the bills, [NJ S107 \(18R\)](#), would also rename the state's law the Open Public Record's Act in honor of Martin O'Shea, the late open government activist.

The New Jersey Press Association and several open records activists testified in support of the two bills. Tom Cafferty, general counsel of the press association, said awarding attorneys fees to plaintiffs is especially important.

"Our Supreme Court has talked about attorneys fees in the context of OPRA and said it's the great equalizer," Cafferty said. "It gives the citizens the power to contest denial of access by government."

Some public records advocates, however, took issue with a provision that allows courts to temporarily bar people who request documents to the point of harassment from making more public records requests.

Lori Buckelew, senior legislative analyst for the New Jersey State League of Municipalities, also questioned a provision that subcommittees formed by local governments report to the governing bodies.

"They do not expend public funds, nor do they commit the governing body to action, and there's a need for subcommittees to have meetings where they're not always open to the public," Buckelew said.

Buckelew also said it should be up to the courts to determine whether someone who sued for documents and won should be paid attorney fees. "We just think it needs to be permissive and left to the discretion of a judge," she said.

Similar bills were approved by the same committee last year but never got a vote in the full Senate. Earlier efforts have stalled before even getting a hearing.

Weinberg made several amendments in an attempt to assuage the government groups, including the League of Municipalities. For instance, subcommittees would only have to report to a governing body — either verbally or in writing — that they're having meetings.

"We started out with this bill with much more stringent regulations concerning subcommittees," Weinberg said. "The public complaint is a municipality organizes a subcommittee which is not subject to [the Open Public Meetings Act]. The subcommittee ... goes out and interviews five developers, comes back to the council and the council votes 'OK,

we're going to redevelop Main Street and give the award to so-and-so. And the public has had no ability to find out what went into that decision.

"We negotiated out the subcommittee idea until it's almost meaningless, and I really can't understand the League's continued objection to that," she said.

Weinberg said committee members received an email from Dina Zawadski, president of the Municipal Clerks' Association of New Jersey, opposing the bill. But she read another email written by several other members of the association, including its incoming president, saying Zawadski did not speak for them.

"I am very hopeful it's going to pass because every issue that was raised today was really pretty minor, in my opinion," Weinberg said.

The committee also voted 5-0 to approve three less controversial measures:

— [NJ S1232 \(18R\)](#) would bar the public release of information that would identify people who receive pet licenses and home alarm permits.

— [NJ S1903 \(18R\)](#) would require redaction of parts of 911 calls that could reveal a person's health information.

— [NJ S1905 \(18R\)](#) would require the redaction of personal email addresses from public records.

State Sen. Shirley Turner (D-Mercer), sponsor of the bill to exempt pet and alarm license information, said for-profit companies often request the information to market their products and services.

Cafferty, the New Jersey Press Association counsel, requested an amendment to the 911 bill because he thought it was written unintentionally broadly. He said that as written, if a person was shot and was in serious condition, that information would be barred from public release even if it contains no information that could identify the victim.

Lori Buckelew
Senior Legislative Analyst
NJ League of Municipalities
609.695.3481 x112

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Please be advised that the New Jersey State League of Municipalities is subject to the New Jersey Open Public Records Act. As such, any email sent or received by the League may be subject to a records request.

From: TOM DUNN
To: "Frank Marshall"
Cc: Trishka Waterbury Cecil Esq .
Subject: RE: Facebook OPRA Case
Date: Friday, February 15, 2019 4:12:19 PM
Attachments: [image001.png](#)
[image003.png](#)
[2018-10 LGLR.pdf](#)

Frank,

I have attached the October Law Review in which we reported on both the Larkin case and the Gelber case that came to different conclusions. I don't know whether either of them have been appealed, but there certainly were no Appellate decisions reported on them in our January edition. The January edition did contain a squib about *Carter v. Franklin Fire Dist. No. 1* (Unpub. App. Div. Oct. 3, 2018)

https://scholar.google.com/scholar_case?case=11074235840564658428. That case deals with a little different fact pattern: PAC emails on a Fire District's server which were declared not to be public records. We are currently in the process of preparing for the April edition and, in the 48 cases we have assigned to the editors for summary, there appear to be none that deal with similar issues.

I am forwarding the thread to Trishka in case she knows of any cases or other information on Facebook and OPRA.

Regards,
Tom

From: Frank Marshall <[@x](#)>
Sent: Friday, February 15, 2019 2:06 PM
To: [@x](#)
Subject: Facebook OPRA Case

Tom,

Back in October you asked for a copy of the Larkin v. Glen Rock case (see, below). You were going to publish them in the law review. I have had a few questions about this issue recently and was wondering if you put together any other information on the topic that I could pass along.

Thanks,
Frank

From: TOM DUNN [<mailto:@x>]
Sent: Wednesday, October 17, 2018 2:12 PM
To: Trishka Waterbury Cecil Esq.; Frank Marshall; 'Carl R. Woodward, III Esq'
Subject: LARKIN V GLEN ROCK

"Would any of you have immediately available the opinion in Larkin v. Glen Rock – a Facebook OPRA case—that we discussed in the amicus committee and at the ILGA Board meeting? If so can you send me a pdf ASAP? Sorry for the procrastination but apparently my copy of the case got swallowed by the internet.

Steve Kleinman has given me an opinion by Judge Mizdol in which – under somewhat similar, but

different, facts—she came to a different conclusion. I want to publish them both in the Law Review and would like to have the Larkin case today or tomorrow if possible.”

NJLM has recently changed its web and email addresses to njlm.org (previously njslom.org). Please update your email safe lists and saved web bookmarks.

Frank Marshall, Esq. | Staff Attorney
New Jersey State League of Municipalities
222 West State Street, Trenton, NJ 08608
609-695-3481 x. 137



NJLM is subject to the Open Public Records Act; any email sent or received may be subject to a records request.

From: [Mitchell, Shane](#)
To: [Lori Buckelew](#)
Subject: RE: OPRA Amendments
Date: Tuesday, October 16, 2018 11:26:13 AM
Attachments: [N209_0002.docx](#)
[N209_0001.docx](#)

Hey Lori,

Here are the updated amendments. I'll let you know if we get any new ideas from the Governor or the members on SBA.

Best,
Shane

From: Mitchell, Shane
Sent: Wednesday, October 10, 2018 1:54 PM
To: 'Lori Buckelew'
Subject: RE: OPRA Amendments

Hey Lori,

Instead of a list, I just have updated amendments. Everything is much the same, except we took out the ACLU's change on victim's records (with the ACLU's agreement). The Press Association pointed out some technical items... but otherwise I think this matches what we discussed over the summer. Please let me know if there are any issues or if we got something wrong vis-à-vis the agreed changes from the summer.

Best,
Shane

From: Mitchell, Shane
Sent: Wednesday, September 26, 2018 1:59 PM
To: 'Lori Buckelew'
Cc: Millsaps Wolfinger, Kate
Subject: RE: OPRA Amendments

Hey Lori,

I think I may have told you this in-person on Monday, but wanted to reiterate that we're looking at October 15th as a likely SBA date. Some of the other groups have identified issues in the amendments, which I'm going to try to put in a list to circulate to everyone next week for comment. If the League has something to add to that, please let me know!

Best,
Shane

From: Mitchell, Shane

Sent: Tuesday, September 04, 2018 11:04 AM
To: 'Lori Buckelew'
Cc: Millsaps Wolfinger, Kate
Subject: OPRA Amendments

Hey Lori,

Hope you had a good Labor Day weekend! I just received these draft amendments from OLS. Please let me know if we missed something or added something that wasn't agreed to! To my mind, there are only two things here that were not discussed at the summer meeting.

First, we eliminated section 13 on the Office of Dispute Settlement. We mentioned at the meeting that we were seeking a cost-neutral replacement for ODS, but none could be found! I'm talking now with the Governor's Office about additional funding for the GRC so they can handle their caseload in a more expeditious fashion, but otherwise it looks like this is a problem NOT being addressed through the bill.

Second, we added some language to the definition of criminal investigatory record to address the recent Paff decision on mobile video recordings. The Senator wants to address the issue, but we're still thinking this one through. If the League has any suggestions, please let us know! As it stands, it appears it will be incredibly rare for the public to ever have access to dashcam/bodycam footage; whereas, the Senator believes that it would be appropriate for the public to have access if access does not compromise an ongoing investigation or some privacy concern.

I'm sharing this with everyone else, too, so I imagine there will likely be a need for some tinkering after everyone has a look. The Senator is still gunning for Senate Budget in September/October, so hopefully we'll all be on the same page by the end of the month!

Best,
Shane

From: [Mitchell, Shane](#)
To: [Lori Buckelew](#)
Subject: RE: OPRA Amendments
Date: Wednesday, October 10, 2018 1:53:50 PM
Attachments: [N209_0001.docx](#)
[N209_0002.docx](#)

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Best,
Shane

From: [xxxxxxx@xxxxx.xxx](#)
To: [xxxxxx@xxxxxx.xxx](#); [xxxxxxxx@xxxxxx.xxx](#)
Cc: [xxxxxx@xxxxxx.xxx](#)
Subject: RE: OPRA
Date: Monday, January 7, 2019 3:20:22 PM
Attachments: [N06_0063 - FM Comments.docx](#)

Frank Marshall, Esq., Staff Attorney
New Jersey State League of Municipalities
609-695-3481 x. 137
222 West State St.
Trenton, NJ 08608

This email is not confidential communication and is read by others.

From: Michael F. Cerra
Sent: Monday, January 07, 2019 1:17 PM
To: Lori Buckelew; Frank Marshall
Cc: Michael J. Darcy, CAE
Subject: FW: OPRA

Lori and Frank, Please review attached. Looks like Cryan will drop this soon.

mike

From: Paul Anzano [mailto:~~x@x~~]
Sent: Monday, January 7, 2019 1:18 PM
To: Michael J. Darcy, CAE <~~x@x~~>; Michael F. Cerra <mcerra@njslom.org>; Michele.Hovan <~~x@x~~>
Subject: FW: OPRA

Three M's Please take a look and offer me any comments you may have. This is what Senator Cryan is willing to introduce in response to my discussion with him about that electronic fence company and its' lawyer requesting pet licensing information and then suing if the government entity is a day late with no subsequent attempt to resolve the request. Thank you. Paul

From: Cohen, Jessica [<mailto:xxxxxx@xxxxx.xxx>]
Sent: Monday, January 07, 2019 12:55 PM
To: [xxxxxxx@xxx.xxx](#)
Subject: FW: OPRA

Please take a read....

From: [John Burns](#)
To: [Lori Buckelew](#); [John Donnadio \(xxxxxxxx@xxx.xxx\)](#) [Allen Weston](#)
Cc: [Michael F. Cerra](#); [Michael Vrancik](#)
Subject: RE: OPRA/OPMA Amendments
Date: Wednesday, October 10, 2018 4:09:59 PM
Attachments: [N209_0001.docx](#)
[N209_0002.docx](#)

Yes. Sorry. I didn't realize I was Weinberg's point person for the loyal opposition. Here are the amendments.

I'm available all day Friday. Perhaps Friday morning would work best?

John J. Burns, Esq.
Counsel
NJ School Boards Association
413 West State Street
Trenton, NJ 08618-5697
[@xx](#)
609-278-5275
www.njsba.org

From: Lori Buckelew <[@xx](#)>
Sent: Wednesday, October 10, 2018 4:05 PM
To: John Donnadio ([@xx](#) <[@xx](#)>); Allen Weston <[@xx](#)>;
John Burns <[@xx](#)>
Cc: Michael F. Cerra <[@xx](#)>; Michael Vrancik <mvrancik@njsba.org>
Subject: OPRA/OPMA Amendments

I understand that Senator Weinberg has sent you copies of the proposed amendments to the OPRA/OPMA bills. Do we want to schedule a quick conference call to discuss our game plan for Monday?

Lori