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STATE GOVERNMENT

State Printing and Documents: Change the Definition of Agency

CODE SECTION: O.C.G.A. § 50-18-70 (amended)
BILL NUMBER: HB 1313
ACT NUMBER: 955
SUMMARY: The Act amends the Code section relating to public access to and inspection of public records. It broadens the term “agency” as used in that Code section to include a corporation that has membership composed of counties or political subdivisions of counties and that derives substantial parts of its operating budgets from counties. It provides that all records of the agency shall be open to inspection by the public unless prohibited by law or court order.
EFFECTIVE DATE: March 29, 1994

History

This Act revising the definition of the term “agency” was introduced to broaden the scope of the Open Records Act.¹ Code section 50-18-70, commonly referred to as the Open Records Act, draws its definition of “agency” from Code section 50-14-1(a)(1), which provides for public access to state agency meetings.² The idea for the bill originated from a state legislator’s inability to procure needed salary information from the Association of County Commissioners.³

HB 1313

The original version of HB 1313 added to the definition of agency the following:

[A]ny association, corporation, or other similar organization which: (1) has a membership or ownership body composed primarily of counties, municipal corporations, school districts, local authorities, or other political subdivisions of this state or their officers or any combination thereof; and (2) derives a

1. Telephone Interview with Rep. Bobby Harris, House District No. 112 (Apr. 5, 1994) [hereinafter Harris Interview]. Rep. Harris was the sponsor of HB 1313. *Id.*; see O.C.G.A. § 50-18-70 to -76 (1994).

2. See O.C.G.A. § 50-14-1(a)(1) (1994).

3. Harris Interview, *supra* note 1.

substantial portion of its general operating budget from payments from such political subdivisions.⁴

In addition, the bill provided that all "public records,"⁵ except those prohibited by law or specifically exempted, would be open to the public.⁶

The House Committee on Judiciary offered a substitute bill which subsequently passed without further revision.⁷ This version deleted the words "local authorities, or other political subdivisions from the proposed definition of 'agency.'"⁸ The Committee was concerned that including other local authorities and political subdivisions in the definition of agency might expose hospitals to open-records challenges.⁹ Confidentiality considerations would necessarily have to exclude hospital records from any open-records statute.¹⁰ Therefore, the Committee deleted the language potentially including hospitals in the definition of "agency."¹¹

In contrast to the original version of HB 1313, the Committee substitute restricted inspection of public records to those "of any agency as defined in subsection (a)."¹² This language provided even more assurance that the Open Records Act would not violate hospital confidentiality rules.¹³

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4. HB 1313, as introduced, 1994 Ga. Gen. Assem.

5. *Id.* In providing public access to all "public records," this bill dropped the language of the former Code section which provided public access to all "state, county, and municipal records." *Id.* The statutory definition of "public records" is found at O.C.G.A. § 50-18-70(a) (1994).

6. O.C.G.A. § 50-18-70(a) (1994).

7. Harris Interview, *supra* note 1. Rep. Harris noted that the bill as a whole sailed relatively easily through both houses. *Id.*

8. HB 1313 (HCS), 1994 Ga. Gen. Assem.

9. Harris Interview, *supra* note 1.

10. *Id.*

11. *Id.*

12. HB 1313 (HCS), 1994 Ga. Gen. Assem. The bill, as introduced, would have allowed public access to all "public records" as that term is defined in subsection (a) of the same Code section. *Compare* HB 1313, as introduced, 1994 Ga. Gen. Assem. with O.C.G.A. § 50-18-70(b) (1994).

13. Harris Interview, *supra* note 1. Rep. Harris added that the Committee on Judiciary considered only hospitals, and no other agencies, for its confidentiality exception. *Id.*