Governor Markell Signs Executive Order To Simplify and Clarify State Agency FOIA Policies

Governor Also Signs SB 87 Establishing Standard FOIA Form

New policies will significantly reduce costs to many parties requesting information under FOIA

Photos available for media use on flickr courtesy of Patrick Jackson, Delaware State Senate.

Governor Jack Markell today signed Executive Order No. 31, which requires executive branch agencies to adopt a standardized policy for requests under the state's Freedom of Information Act (FOIA). Executive Order No. 31 brings greater consistency to agency FOIA policies, makes it easier to file a FOIA request and in many cases, makes it less expensive for citizens to request and receive public records. The cost of a state agency FOIA request will be lowered, in many cases, between 60-and-80-percent.

The Governor also signed Senate Bill 87, which establishes a standard form for FOIA requests. SB 87 was sponsored by Sen. Karen E. Peterson (D-Stanton) and Rep. E. Bradford Bennett (D-Dover), and is intended to reduce confusion and simplify the process for making requests to state government, local governments, school districts and other public bodies. The form was prepared by the Attorney General's Office in accordance with SB 87 and will be available on the web pages of all executive branch agencies. You can find the form here.

“Delaware’s Freedom of Information Act helps ensure transparency and accountability in government, which is the people’s business,” said Governor Markell. “This Executive Order makes it easier for citizens to make FOIA requests, requires executive branch agencies to be more consistent in how they respond to these requests, and in many cases, substantially reduces the cost of FOIAs. This Order and Senate Bill 87 are an important part of our efforts to make state government more open, efficient and responsive to the needs of Delaware citizens.”

“Helping to ensure that citizens have access to information they can use to protect themselves and improve their communities one of many ways we serve Delawareans,” Attorney General Beau Biden said. “Delaware’s government sunshine laws guarantee citizens have the right to information that is essential when it comes to protecting our families, guarding our finances and making our communities stronger.”

“Senate Bill 87 is going to make it easier and simpler for the public to make FOIA requests,” said Senator Karen Peterson. “A standard form will help reduce confusion, and I applaud the Attorney General for crafting a form that is simple and easy to use. The Governor’s executive order is going to help too, by making sure executive branch agencies follow a set of uniform policies. We have made substantial progress on open government in the last few years, and we’re continuing that today.”

The Governor’s Executive Order requires state agencies to adopt standardized FOIA policies from a template prepared with input from executive branch agencies and the Office of the Attorney General. Currently, not all state agencies have adopted FOIA policies and for those that have had policies, there has been little consistency or coordination among agencies. Agencies will also be required to develop a web portal to accept FOIA requests over the internet. The website for making requests of executive branch agencies will be

located at http://de.gov/foiarequest.

Executive Order No. 31 will:

- Reduce copying costs. Under existing FOIA policies, state agencies may charge copying fees ranging from $0.10 to $0.50 per page for standard black-and-white copies. Under the new policy, fees for such copies will be $0.10 per page, with the first 20 pages free. Thus, requesting parties from many agencies may save up to 60-80% over what they would have paid under existing agency policies.
- Adopt a "No Wrong Door" policy. If a Requesting Party initiates a FOIA request that would more appropriately be directed to another agency, the agency must promptly forward the request to the FOIA coordinator at the appropriate agency.
- Make it easier to request public records. The policy allows individuals to initiate FOIA requests in person; by mail, fax, or email; or via the form required by SB 87. Existing agency policies permit individuals to initiate requests in some of the above ways, but not all.
- Provide a point of contact in each executive branch agency. Each executive branch agency must designate a "FOIA Coordinator" to serve as the point of contact for FOIA requests, and to coordinate the agency's responses. The FOIA Coordinator, who must be identified on the Agency's website, is required to make every reasonable effort to assist parties requesting public records under FOIA. Click here for list of FOIA Coordinators.

Executive branch agencies must develop a portal for receiving FOIA requests through the internet, if they don't already have one, by December 1, 2011 and adopt new FOIA policies no later than February 1, 2012.