

# HOUSE BILL No. 5488

March 17, 2016, Introduced by Reps. Howrylak, McBroom, Robinson, Cole, Irwin, Lauwers, Lucido, LaVoy, Plawecki, Chang, Runestad, Hooker, Yanez, Somerville, Pagan, Phelps, Goike and Aaron Miller and referred to the Committee on Oversight and Ethics.

A bill to amend 1976 PA 442, entitled  
"Freedom of information act,"  
(MCL 15.231 to 15.246) by adding section 10c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **SEC. 10C. (1) THE OPEN GOVERNMENT COMMISSION IS CREATED WITHIN**  
2 **THE DEPARTMENT OF CIVIL RIGHTS.**

3           **(2) THE OPEN GOVERNMENT COMMISSION CONSISTS OF 9 MEMBERS**  
4 **APPOINTED BY THE GOVERNOR, AS FOLLOWS:**

5           **(A) ONE FROM RECOMMENDATIONS BY THE SENATE MAJORITY LEADER.**

6           **(B) ONE FROM RECOMMENDATIONS BY THE SENATE MINORITY LEADER.**

7           **(C) ONE FROM RECOMMENDATIONS BY THE SPEAKER OF THE HOUSE.**

8           **(D) ONE FROM RECOMMENDATIONS BY THE HOUSE MINORITY LEADER.**

9           **(E) TWO FROM RECOMMENDATIONS BY THE MICHIGAN ASSOCIATION OF**  
10 **BROADCASTERS.**

11           **(F) TWO FROM RECOMMENDATIONS BY THE MICHIGAN PRESS**

1 ASSOCIATION.

2 (G) ONE AT THE GOVERNOR'S DISCRETION.

3 (3) THE MEMBERS FIRST APPOINTED TO THE OPEN GOVERNMENT  
4 COMMISSION SHALL BE APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE  
5 DATE OF THIS SECTION.

6 (4) MEMBERS OF THE OPEN GOVERNMENT COMMISSION SHALL SERVE FOR  
7 TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS APPOINTED, WHICHEVER IS  
8 LATER, EXCEPT THAT OF THE MEMBERS FIRST APPOINTED 2 SHALL SERVE FOR  
9 1 YEAR, 2 SHALL SERVE FOR 2 YEARS, AND 2 SHALL SERVE FOR 3 YEARS.

10 (5) IF A VACANCY OCCURS ON THE OPEN GOVERNMENT COMMISSION, THE  
11 GOVERNOR SHALL FILL THE VACANCY IN THE UNEXPIRED TERM IN THE SAME  
12 MANNER AS THE ORIGINAL APPOINTMENT.

13 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE OPEN GOVERNMENT  
14 COMMISSION FOR INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE,  
15 MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

16 (7) THE FIRST MEETING OF THE OPEN GOVERNMENT COMMISSION SHALL  
17 BE CALLED BY THE GOVERNOR. AT THE FIRST MEETING, THE OPEN  
18 GOVERNMENT COMMISSION SHALL ELECT FROM AMONG ITS MEMBERS A  
19 CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS NECESSARY OR  
20 APPROPRIATE. AFTER THE FIRST MEETING, THE OPEN GOVERNMENT  
21 COMMISSION SHALL MEET AT LEAST MONTHLY, OR MORE FREQUENTLY AT THE  
22 CALL OF THE CHAIRPERSON OR IF REQUESTED BY 3 OR MORE MEMBERS.

23 (8) A MAJORITY OF THE MEMBERS OF THE OPEN GOVERNMENT  
24 COMMISSION CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS. A  
25 MAJORITY OF THE MEMBERS SERVING ARE REQUIRED FOR OFFICIAL ACTION OF  
26 THE OPEN GOVERNMENT COMMISSION.

27 (9) THE BUSINESS THAT THE OPEN GOVERNMENT COMMISSION PERFORMS

1 SHALL BE CONDUCTED AT A PUBLIC MEETING HELD IN COMPLIANCE WITH THE  
2 OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275. THE  
3 COMMISSION MAY MEET IN CLOSED SESSION TO DELIBERATE ON THE MERITS  
4 OF AN ASSERTED EXEMPTION, EXCLUSION, OR PRIVILEGE FROM DISCLOSURE  
5 FOR A WRITING.

6 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR  
7 RETAINED BY THE OPEN GOVERNMENT COMMISSION IN THE PERFORMANCE OF AN  
8 OFFICIAL FUNCTION IS SUBJECT TO THIS ACT. HOWEVER, IF AN EXEMPTION,  
9 EXCLUSION, OR PRIVILEGE FROM DISCLOSURE HAS BEEN ASSERTED FOR A  
10 WRITING, THE WRITING IS NOT SUBJECT TO DISCLOSURE UNTIL AFTER THE  
11 COMMISSION DETERMINES THAT THE ASSERTION IS WITHOUT MERIT.

12 (11) MEMBERS OF THE OPEN GOVERNMENT COMMISSION SHALL SERVE  
13 WITHOUT COMPENSATION. HOWEVER, MEMBERS OF THE OPEN GOVERNMENT  
14 COMMISSION MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY  
15 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS  
16 MEMBERS OF THE OPEN GOVERNMENT COMMISSION.

17 (12) THE OPEN GOVERNMENT COMMISSION SHALL DO ALL OF THE  
18 FOLLOWING:

19 (A) RECEIVE CITIZEN COMPLAINTS REGARDING RESPONSES TO REQUESTS  
20 FOR INFORMATION UNDER THIS ACT.

21 (B) IN RESPONSE TO A CITIZEN COMPLAINT, INVESTIGATE A PUBLIC  
22 BODY'S POLICIES REGARDING FREEDOM OF INFORMATION REQUESTS.

23 (C) IN RESPONSE TO A CITIZEN COMPLAINT, INVESTIGATE A PUBLIC  
24 BODY'S RESPONSE TO A CITIZEN REQUEST UNDER THIS ACT.

25 (D) IN RESPONSE TO A CITIZEN COMPLAINT AND REQUEST FOR AN  
26 OPINION, INVESTIGATE AND ISSUE AN OPINION THAT IS BINDING AND  
27 ENFORCEABLE AS TO THE PUBLIC BODY AND THE PERSON BRINGING THE

1 COMPLAINT ABSENT APPEAL TO THE COURT, RESOLVING THE FOLLOWING  
2 ISSUES CONCERNING A REQUEST UNDER THIS ACT:

3 (i) THE AMOUNT OF THE FEE AUTHORIZED UNDER THIS ACT.

4 (ii) THE VALIDITY, APPLICABILITY, OR EXTENT OF ANY EXEMPTION  
5 OR EXCLUSION ASSERTED.

6 (iii) THE DOCUMENTS THAT THIS ACT REQUIRES THE PUBLIC BODY TO  
7 MAKE AVAILABLE IN RESPONSE TO THE REQUEST.

8 (13) THE OPEN GOVERNMENT COMMISSION MAY DO 1 OR MORE OF THE  
9 FOLLOWING:

10 (A) REFER A CITIZEN COMPLAINT TO THE ATTORNEY GENERAL.

11 (B) RECOMMEND POLICIES OR ACTIONS TO A PUBLIC BODY AFTER  
12 INVESTIGATING A CITIZEN COMPLAINT.

13 (C) RECOMMEND CHANGES TO LAWS BASED ON INFORMATION GATHERED IN  
14 RECEIVING, INVESTIGATING, AND RESPONDING TO A CITIZEN COMPLAINT.

15 (14) THE PERIODS SPECIFIED FOR FILING A COURT ACTION UNDER  
16 SECTIONS 10 AND 10A ARE TOLLED WHILE A CITIZEN COMPLAINT IS PENDING  
17 BEFORE THE OPEN GOVERNMENT COMMISSION.

18 Enacting section 1. This amendatory act takes effect 90 days  
19 after the date it is enacted into law.