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House Bill 5412 as reported from committee w/o amendment
Sponsor: Rep. Brandt Iden

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5413 as reported from committee w/o amendment
Sponsor: Rep. Steven Johnson

Committee: Oversight
Complete to 3-5-18

SUMMARY:

House Bills 5412 and 5413 would amend the Freedom of Information Act (FOIA) to clarify that the fee for providing public records in response to a FOIA request could include the costs of providing the information on any physical media that is not paper and also to allow state agencies to use an electronic format when publishing certain types of information required to be published and made available to the public.

House Bill 5412 would amend Section 4 of the Act. Currently, a public body may charge a fee for a public record search, for a copy of the record for inspection, for the necessary copying of public records for inspection, or for providing a copy of the record. The fee is limited to actual mailing costs and to the actual incremental cost of duplication or publication, including labor, the cost of the search, examination, review, and separation of information that is exempt from disclosure under the Act from that which is not exempt. If the public body estimates or charges a fee, the total fee cannot exceed the sum of components listed in the Act. The components include such things as the portion of labor costs directly associated with the search to locate the requested public records.

The list of components that may be included in the total fee also allows a public body to include—when public records are provided to a requestor on nonpaper physical media—the actual and most reasonably economical cost of computer discs, computer tapes, or other digital or similar media.

The bill would revise this provision to refer instead to public records provided to a requestor on *any form of nonpaper physical media*.

MCL 15.234

House Bill 5413 would amend Section 11 of the Act. Currently, a state agency is required to publish and make available to the public certain information: for example, promulgated rules and other written statements that implement or interpret laws, rules, or policy (e.g., guidelines, manuals, and certain forms adopted or used by an agency in the discharge of its functions). Publications may be in pamphlet, loose-leaf, or other appropriate form in printed, mimeographed, or other written matter.

The bill would allow, in addition to the above, the publications to be in electronic format.

MCL 15.241

FISCAL IMPACT:

House Bill 5412 would have no fiscal impact on state and local governments. The provisions of the bill could lower costs associated with FOIA compliance, thereby leading to lower costs for FOIA requestors. However, since the act authorizes a public body to charge a fee that includes “the actual and most reasonably economic cost,” a public body would realize no overall fiscal impact.

House Bill 5413 would lower costs for state agencies by a minimal amount. Any fiscal impact would be the result of reduced printing costs associated with making the required publications available to the public.

BRIEF DISCUSSION:

The bills simply update the Freedom of Information Act to reflect and include the current practice of disseminating documents via email and posting downloadable information on websites. For example, few, if any, public agencies still provide copies of requested materials on computer discs or tapes. Further, the bills’ provisions do not preclude agencies from providing information in a paper format, if requested, for those who are not digitally inclined. House Bill 5412 would allow an agency to charge a fee for costs associated with providing the requested materials via electronic means, and House Bill 5413 would allow certain publications to be published in an electronic format in addition to a paper format.

POSITIONS:

No positions were offered on the bills.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.