

## FOIA: EXECUTIVE BRANCH REQUESTS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5713 (proposed H-1 substitute)**  
**Sponsor: Rep. Julie Alexander**  
**Committee: Oversight**  
**Complete to 3-15-18**

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

### SUMMARY:

House Bill 5713 would amend the Freedom of Information Act (FOIA) to require executive branch agencies and departments (with some exceptions) to notify certain legislative offices if the agency or department fails within 15 days to fulfill a FOIA request that was not denied.

Currently, with some exceptions, a public body is required to respond to a request for a public record within 5 business days after receiving the request. The public body must either grant the request, issue a written notice denying the request, grant the request in part and issue a written notice denying the request in part, or issue a notice extending, for no more than an additional 10 business days, the period during which the public body must respond to the request. The public body may also, if certain conditions are met, deny the request by not responding to it (see **Note**, below, for more information).

House Bill 5713 would amend the Act to specify that if a public body under Section 2(d)(i) (e.g., agencies, departments, and employees of the executive branch) fails to fulfill a request for a public record, and the request was not denied, for more than 15 days from receiving the request, the public body would be required to notify in writing on the sixteenth day all of the following of the failure to fulfill the request:

- The governor.
- The Speaker of the House of Representatives.
- The Senate Majority Leader.
- The chairpersons of the Senate and House committees having responsibility for government oversight and for appropriations.
- The minority leaders of the Senate and House of Representatives.

(It is not clear if the time period in the bill that would trigger this notification refers to *business* days or *calendar* days.)

Section 2(d)(i) is part of the definition of “public body” and includes a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government. The term does not include the governor or lieutenant governor or the executive offices of the governor or lieutenant governor or employees of those offices.

**Note:** The Act also provides that failure to respond to a request within the time required constitutes a public body's final determination to deny the request (i.e., failure to respond to a request effectively acts as a denial) **if** the failure was willful and intentional **or if** the request conveyed a request for information within the first 250 words or included specific terms on the

front of an envelope or in the subject line of an e-mail, letter, or facsimile cover sheet. Thus, a denial is provided simply by the failure to respond to a request within the 5-business-day or 15-business-day period if either of the conditions is satisfied.]

MCL 15.235

**FISCAL IMPACT:**

The provisions of the bill would have no fiscal impact on state or local government. Any additional duties or responsibilities associated with notifying the stated recipients would be addressed in the normal course of business.

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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.