

# Legislative Analysis



## FOIA REQUESTS AND PUBLIC INSPECTION OF VOTER REGISTRATION INFORMATION

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

**House Bill 6568 as introduced**  
**Sponsor: Rep. Pam Faris**

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

**House Bill 6582 as introduced**  
**Sponsor: Rep. Jim Lilly**

**Committee: Elections and Ethics**  
**Complete to 12-11-18**

### SUMMARY:

**House Bill 6568** would amend the Michigan Election Law to provide that voter registration information would not be open for public inspection and could not be released or made available by the Michigan Secretary of State, voter registration agencies, or local clerks.

Section 516 of the Law states that the registration record must be open for public inspection. The bill would stipulate that this requirement exempts the protected personal information under Section 509gg, which includes a voter's driver's license number and date of birth, among other information. The bill would also add a voter's manual signature to the information that is exempt from disclosure.

MCL 168.509gg and 168.516

**House Bill 6582** would amend the Freedom of Information Act (FOIA) to require that a person's request for information under FOIA include the person's complete name, address, and contact information. If the "person" were actually a corporation or governmental entity, or other similar entity considered to be a legal person, the request would have to include the name, address, and contact information of the entity's agent who is an individual. The address and contact information would have to be valid and comply with applicable standards. (This information disclosure would not be required for requesters who qualify as indigent—or unable to pay the requisite cost—under FOIA.)

Section 4 of FOIA allows a public body to charge a fee for a public record search. The fee must be limited to mailing costs, the cost of searching for, reviewing, and duplicating the materials, separating exempt from nonexempt information, and labor costs. In certain cases, the public body may require payment prior to production of documents. When the fee estimate or charge authorized would exceed \$50, the public body may require a good-faith deposit from the requestor. Additionally, if the public body has not been paid in full for the amount charged for a prior request, it may require a deposit of up to 100% for a subsequent request from that individual, as long as the prior request met certain requirements.

Under the bill, if one of those deposits were not received by the public body within 45 days of the day the requester received notice of the required deposit, and the requester had not appealed the deposit amount as excessive, the request would be considered abandoned and the public body would not have to fulfill the request. A notice would be considered received three days after it was sent, and it would state that the deposit would have to be received within 48 days of the date the notice was sent.

Finally, the bill would allow a public body to add a person's manual or electronic signature to the information exempt from disclosure as a public record.

MCL 15.233, 15.234, and 15.243

## **BACKGROUND:**

The bills are understood as a response to a FOIA request for every ballot cast statewide in the 2016 election filed by a person known only as "Emily" and a New York organization known as the "United Impact Group." The request was filed approximately 21 months after the election, and federal law<sup>1</sup> requires retention of records where a president, vice president, presidential elector, U.S. senator or representative, or resident commissioner from the Commonwealth of Puerto Rico are voted for, for 22 months after that election.

The bills would seek to address these issues by exempting voter signatures from disclosure, requiring additional identifying information from FOIA requesters, and requiring that requesters submit a required deposit within 45 days of a request or the request would be considered abandoned.

## **FISCAL IMPACT:**

House Bill 6582 would result in potential marginal cost savings to state and local units of government. Public bodies would realize marginal savings, or additional revenue, to the extent that the bill leads persons requesting information to submit all fees, including deposits, for labor costs or permits a public body to no longer fulfill a request prior to spending personnel and office costs. Potential savings to individual public bodies would not likely exceed dollar amounts in the thousands.

House Bill 6568 would have no fiscal impact on state or local units of government.

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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.

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<sup>1</sup> 52 USC 20701, <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20701&num=0&edition=prelim>