

Legislative Analysis



CONTACT INFORMATION FOR FOIA REQUESTERS

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

House Bill 6582 as enacted
Public Act 523 of 2018
Sponsor: Rep. Jim Lilly
House Committee: Elections and Ethics
Senate Committee: Elections and Government Reform
Complete to 2-12-19

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

SUMMARY:

House Bill 6582 amends 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" is actually a corporation or governmental entity, or other similar entity considered to be a legal person, the request must include the name, address, and contact information of the entity's agent who is an individual. The address and contact information must be valid and comply with applicable standards. (This information disclosure is not 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 exceeds \$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 is not received by the public body within 45 days of the day the requester receives notice of the required deposit, and the requester has not appealed the deposit amount as excessive, the request is considered abandoned and the public body does not have to fulfill the request. A notice is considered received three days after it is sent and must state that the deposit must be received within 48 days of the date the notice is sent.

MCL 15.233 and 15.234

BACKGROUND INFORMATION:

The bill is 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 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 is voted for, for 22 months after that election. The bill seeks to address these issues by requiring additional identifying information from FOIA requesters and requiring that requesters submit a required deposit within 45 days of a request or the request will be considered abandoned.

FISCAL IMPACT:

House Bill 6582 would result in potential marginal cost savings for the 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 likely not exceed dollar amounts in the thousands.

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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.