

SENATE BILL No. 246

March 15, 2017, Introduced by Senators SCHUITMAKER, JONES and O'BRIEN and referred to the Committee on Government Operations.

A bill to amend 1976 PA 442, entitled "Freedom of information act," by amending sections 1, 2, and 13 (MCL 15.231, 15.232, and 15.243), section 1 as amended by 1997 PA 6, section 2 as amended by 1996 PA 553, and section 13 as amended by 2006 PA 482, by designating part 1, and by adding part 2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 1

Sec. 1. (1) This act **MAY BE CITED AS THE "FREEDOM OF INFORMATION AND LEGISLATIVE OPEN RECORDS ACT"**, AND THIS PART shall be known and may be cited as the "freedom of information act".

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who

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1 represent them as public officials and public employees, consistent
 2 with this act. The people shall be informed so that they may fully
 3 participate in the democratic process.

4 Sec. 2. As used in this ~~act~~-**PART**:

5 (a) "Field name" means the label or identification of an
 6 element of a computer ~~data base~~-**DATABASE** that contains a specific
 7 item of information, and includes but is not limited to a subject
 8 heading such as a column header, data dictionary, or record layout.

9 (b) "FOIA coordinator" means either of the following:

10 (i) An individual who is a public body.

11 (ii) An individual designated by a public body in accordance
 12 with section 6 to accept and process requests for public records
 13 under this act.

14 (c) "Person" means an individual, corporation, limited
 15 liability company, partnership, firm, organization, association,
 16 governmental entity, or other legal entity. Person does not include
 17 an individual serving a sentence of imprisonment in a state or
 18 county correctional facility in this state or any other state, or
 19 in a federal correctional facility.

20 (d) "Public body" means any of the following:

21 (i) A state officer, employee, agency, department, division,
 22 bureau, board, commission, council, authority, or other body in the
 23 executive branch of the state government. ~~, but does not include~~
 24 ~~the governor or lieutenant governor, the executive office of the~~
 25 ~~governor or lieutenant governor, or employees thereof.~~

26 ~~—— (ii) An agency, board, commission, or council in the~~
 27 ~~legislative branch of the state government.~~

1 (ii) ~~(iii)~~—A county, city, township, village, intercounty,
2 intercity, or regional governing body, council, school district,
3 special district, or municipal corporation, or a board, department,
4 commission, council, or agency thereof.

5 (iii) ~~(iv)~~—Any other body ~~which~~**THAT** is created by state or
6 local authority or ~~which~~**THAT** is primarily funded by or through
7 state or local authority, -

8 ~~(v)~~ ~~The~~**EXCEPT THAT IT DOES NOT INCLUDE THE** judiciary,
9 including the office of the county clerk and employees thereof when
10 acting in the capacity of clerk to the circuit court, ~~is not~~
11 ~~included in the definition of public body.~~**OR AN ENTITY IN THE**
12 **LEGISLATIVE BRANCH OF STATE GOVERNMENT.**

13 (e) "Public record" means a writing prepared, owned, used, in
14 the possession of, or retained by a public body in the performance
15 of an official function, from the time it is created. Public record
16 does not include computer software. This act separates public
17 records into the following 2 classes:

18 (i) Those that are exempt from disclosure under section 13.

19 (ii) All public records that are not exempt from disclosure
20 under section 13 and ~~which~~**THAT** are subject to disclosure under
21 this act.

22 (f) "Software" means a set of statements or instructions that
23 when incorporated in a machine usable medium is capable of causing
24 a machine or device having information processing capabilities to
25 indicate, perform, or achieve a particular function, task, or
26 result. Software does not include computer-stored information or
27 data, or a field name if disclosure of that field name does not

1 violate a software license.

2 (g) "Unusual circumstances" means any 1 or a combination of
3 the following, but only to the extent necessary for the proper
4 processing of a request:

5 (i) The need to search for, collect, or appropriately examine
6 or review a voluminous amount of separate and distinct public
7 records pursuant to a single request.

8 (ii) The need to collect the requested public records from
9 numerous field offices, facilities, or other establishments ~~which~~
10 **THAT** are located apart from the particular office receiving or
11 processing the request.

12 (h) "Writing" means handwriting, typewriting, printing,
13 photostating, photographing, photocopying, and every other means of
14 recording, and includes letters, words, pictures, sounds, or
15 symbols, or combinations thereof, and papers, maps, magnetic or
16 paper tapes, photographic films or prints, microfilm, microfiche,
17 magnetic or punched cards, discs, drums, or other means of
18 recording or retaining meaningful content.

19 (i) "Written request" means a writing that asks for
20 information, and includes a writing transmitted by facsimile,
21 electronic mail, or other electronic means.

22 Sec. 13. (1) A public body may exempt from disclosure as a
23 public record under this act any of the following:

24 (a) Information of a personal nature if public disclosure of
25 the information would constitute a clearly unwarranted invasion of
26 an individual's privacy.

27 (b) Investigating records compiled for law enforcement

1 purposes, but only to the extent that disclosure as a public record
2 would do any of the following:

3 (i) Interfere with law enforcement proceedings.

4 (ii) Deprive a person of the right to a fair trial or
5 impartial administrative adjudication.

6 (iii) Constitute an unwarranted invasion of personal privacy.

7 (iv) Disclose the identity of a confidential source, or if the
8 record is compiled by a law enforcement agency in the course of a
9 criminal investigation, disclose confidential information furnished
10 only by a confidential source.

11 (v) Disclose law enforcement investigative techniques or
12 procedures.

13 (vi) Endanger the life or physical safety of law enforcement
14 personnel.

15 (c) A public record that if disclosed would prejudice a public
16 body's ability to maintain the physical security of custodial or
17 penal institutions occupied by persons arrested or convicted of a
18 crime or admitted because of a mental disability, unless the public
19 interest in disclosure under this act outweighs the public interest
20 in nondisclosure.

21 (d) Records or information specifically described and exempted
22 from disclosure by statute.

23 (e) A public record or information described in this section
24 that is furnished by the public body originally compiling,
25 preparing, or receiving the record or information to a public
26 officer or public body in connection with the performance of the
27 duties of that public officer or public body, if the considerations

1 originally giving rise to the exempt nature of the public record
2 remain applicable. **FOR PURPOSES OF THIS SUBDIVISION, "PUBLIC BODY"**
3 **INCLUDES A PUBLIC BODY AS DEFINED IN PART 2.**

4 (f) Trade secrets or commercial or financial information
5 voluntarily provided to an agency for use in developing
6 governmental policy if:

7 (i) The information is submitted upon a promise of
8 confidentiality by the public body.

9 (ii) The promise of confidentiality is authorized by the chief
10 administrative officer of the public body or by an elected official
11 at the time the promise is made.

12 (iii) A description of the information is recorded by the
13 public body within a reasonable time after it has been submitted,
14 maintained in a central place within the public body, and made
15 available to a person upon request. This subdivision does not apply
16 to information submitted as required by law or as a condition of
17 receiving a governmental contract, license, or other benefit.

18 (g) Information or records subject to the attorney-client
19 privilege.

20 (h) Information or records subject to the physician-patient
21 privilege, the psychologist-patient privilege, the minister,
22 priest, or Christian Science practitioner privilege, or other
23 privilege recognized by statute or court rule.

24 (i) A bid or proposal by a person to enter into a contract or
25 agreement, until the time for the public opening of bids or
26 proposals, or if a public opening is not to be conducted, until the
27 deadline for submission of bids or proposals has expired.

1 (j) Appraisals of real property to be acquired by the public
2 body until either of the following occurs:

3 (i) An agreement is entered into.

4 (ii) Three years have elapsed since the making of the
5 appraisal, unless litigation relative to the acquisition has not
6 yet terminated.

7 (k) Test questions and answers, scoring keys, and other
8 examination instruments or data used to administer a license,
9 public employment, or academic examination, unless the public
10 interest in disclosure under this act outweighs the public interest
11 in nondisclosure.

12 (l) Medical, counseling, or psychological facts or evaluations
13 concerning an individual if the individual's identity would be
14 revealed by a disclosure of those facts or evaluation, including
15 protected health information, as defined in 45 CFR 160.103.

16 (m) Communications and notes within a public body or between
17 public bodies of an advisory nature to the extent that they cover
18 other than purely factual materials and are preliminary to a final
19 agency determination of policy or action. This exemption does not
20 apply unless the public body shows that in the particular instance
21 the public interest in encouraging frank communication between
22 officials and employees of public bodies clearly outweighs the
23 public interest in disclosure. This exemption does not constitute
24 an exemption under state law for purposes of section 8(h) of the
25 open meetings act, 1976 PA 267, MCL 15.268. As used in this
26 subdivision, "determination of policy or action" includes a
27 determination relating to collective bargaining, unless the public

1 record is otherwise required to be made available under 1947 PA
2 336, MCL 423.201 to 423.217.

3 (n) Records of law enforcement communication codes, or plans
4 for deployment of law enforcement personnel, that if disclosed
5 would prejudice a public body's ability to protect the public
6 safety unless the public interest in disclosure under this act
7 outweighs the public interest in nondisclosure in the particular
8 instance.

9 (o) Information that would reveal the exact location of
10 archaeological sites. The department of ~~history, arts, and~~
11 ~~libraries~~ **NATURAL RESOURCES** may promulgate rules in accordance with
12 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
13 to 24.328, to provide for the disclosure of the location of
14 archaeological sites for purposes relating to the preservation or
15 scientific examination of sites.

16 (p) Testing data developed by a public body in determining
17 whether bidders' products meet the specifications for purchase of
18 those products by the public body, if disclosure of the data would
19 reveal that only 1 bidder has met the specifications. This
20 subdivision does not apply after 1 year has elapsed from the time
21 the public body completes the testing.

22 (q) Academic transcripts of an institution of higher education
23 established under section 5, 6, or 7 of article VIII of the state
24 constitution of 1963, if the transcript pertains to a student who
25 is delinquent in the payment of financial obligations to the
26 institution.

27 (r) Records of a campaign committee including a committee that

1 receives money from a state campaign fund.

2 (s) Unless the public interest in disclosure outweighs the
3 public interest in nondisclosure in the particular instance, public
4 records of a law enforcement agency, the release of which would do
5 any of the following:

6 (i) Identify or provide a means of identifying an informant.

7 (ii) Identify or provide a means of identifying a law
8 enforcement undercover officer or agent or a plain clothes officer
9 as a law enforcement officer or agent.

10 (iii) Disclose the personal address or telephone number of
11 active or retired law enforcement officers or agents or a special
12 skill that they may have.

13 (iv) Disclose the name, address, or telephone numbers of
14 family members, relatives, children, or parents of active or
15 retired law enforcement officers or agents.

16 (v) Disclose operational instructions for law enforcement
17 officers or agents.

18 (vi) Reveal the contents of staff manuals provided for law
19 enforcement officers or agents.

20 (vii) Endanger the life or safety of law enforcement officers
21 or agents or their families, relatives, children, parents, or those
22 who furnish information to law enforcement departments or agencies.

23 (viii) Identify or provide a means of identifying a person as
24 a law enforcement officer, agent, or informant.

25 (ix) Disclose personnel records of law enforcement agencies.

26 (x) Identify or provide a means of identifying residences that
27 law enforcement agencies are requested to check in the absence of

1 their owners or tenants.

2 (t) Except as otherwise provided in this subdivision, records
3 and information pertaining to an investigation or a compliance
4 conference conducted by the department under article 15 of the
5 public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before
6 a complaint is issued. This subdivision does not apply to records
7 or information pertaining to 1 or more of the following:

8 (i) The fact that an allegation has been received and an
9 investigation is being conducted, and the date the allegation was
10 received.

11 (ii) The fact that an allegation was received by the
12 department; the fact that the department did not issue a complaint
13 for the allegation; and the fact that the allegation was dismissed.

14 (u) Records of a public body's security measures, including
15 security plans, security codes and combinations, passwords, passes,
16 keys, and security procedures, to the extent that the records
17 relate to the ongoing security of the public body.

18 (v) Records or information relating to a civil action in which
19 the requesting party and the public body are parties.

20 (w) Information or records that would disclose the social
21 security number of an individual.

22 (x) Except as otherwise provided in this subdivision, an
23 application for the position of president of an institution of
24 higher education established under section 4, 5, or 6 of article
25 VIII of the state constitution of 1963, materials submitted with
26 such an application, letters of recommendation or references
27 concerning an applicant, and records or information relating to the

1 process of searching for and selecting an individual for a position
2 described in this subdivision, if the records or information could
3 be used to identify a candidate for the position. However, after 1
4 or more individuals have been identified as finalists for a
5 position described in this subdivision, this subdivision does not
6 apply to a public record described in this subdivision, except a
7 letter of recommendation or reference, to the extent that the
8 public record relates to an individual identified as a finalist for
9 the position.

10 (y) Records or information of measures designed to protect the
11 security or safety of persons or property, whether public or
12 private, including, but not limited to, building, public works, and
13 public water supply designs to the extent that those designs relate
14 to the ongoing security measures of a public body, capabilities and
15 plans for responding to a violation of the Michigan anti-terrorism
16 act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL
17 750.543a to 750.543z, emergency response plans, risk planning
18 documents, threat assessments, and domestic preparedness
19 strategies, unless disclosure would not impair a public body's
20 ability to protect the security or safety of persons or property or
21 unless the public interest in disclosure outweighs the public
22 interest in nondisclosure in the particular instance.

23 (Z) RECORDS OR INFORMATION IN THE POSSESSION OF THE EXECUTIVE
24 OFFICE OF THE GOVERNOR OR LIEUTENANT GOVERNOR OR OF AN EMPLOYEE OF
25 EITHER OF THOSE OFFICES THAT RELATES TO ANY OF THE FOLLOWING:

26 (i) THE APPOINTMENT OF AN INDIVIDUAL AS A DEPARTMENT OR AGENCY
27 DIRECTOR; AS A MEMBER OF A BOARD, COMMISSION, OR COUNCIL; TO FILL A

1 VACANCY ON A COURT PURSUANT TO SECTION 23 OF ARTICLE VI OF THE
2 STATE CONSTITUTION OF 1963; OR TO ANY OTHER POSITION THE GOVERNOR
3 APPOINTS AS PROVIDED BY LAW. AFTER AN INDIVIDUAL HAS BEEN APPOINTED
4 TO A POSITION DESCRIBED IN THIS SUBPARAGRAPH, THE EXEMPTION DOES
5 NOT APPLY TO RECORDS OR INFORMATION THAT RELATES TO THAT INDIVIDUAL
6 EXCEPT AS TO A LETTER OF RECOMMENDATION OR REFERENCE.

7 (ii) THE DECISION TO REMOVE OR SUSPEND FROM OFFICE ANY PUBLIC
8 OFFICIAL PURSUANT TO SECTION 10 OF ARTICLE V OF THE STATE
9 CONSTITUTION OF 1963, OR TO REMOVE A JUDGE FROM OFFICE PURSUANT TO
10 SECTION 25 OF ARTICLE VI OF THE STATE CONSTITUTION OF 1963. AFTER
11 AN INDIVIDUAL HAS BEEN REMOVED OR SUSPENDED FROM A POSITION
12 DESCRIBED IN THIS SUBPARAGRAPH, THE EXEMPTION FOR RECORDS AND
13 INFORMATION UNDER THIS SUBPARAGRAPH DOES NOT APPLY TO A RECORD THAT
14 RELATES TO THAT INDIVIDUAL.

15 (iii) THE DECISION TO GRANT OR DENY A REPRIEVE, PARDON, OR
16 COMMUTATION PURSUANT TO SECTION 14 OF ARTICLE V OF THE STATE
17 CONSTITUTION OF 1963.

18 (iv) A BUDGET RECOMMENDATION PREPARED PURSUANT TO SECTION 18
19 OF ARTICLE V OF THE STATE CONSTITUTION OF 1963.

20 (v) A REDUCTION IN EXPENDITURES PURSUANT TO SECTION 20 OF
21 ARTICLE V OF THE STATE CONSTITUTION OF 1963.

22 (vi) A MESSAGE OR RECOMMENDATION TO THE LEGISLATURE PURSUANT
23 TO SECTION 17 OF ARTICLE V OF THE STATE CONSTITUTION OF 1963.

24 (2) A public body shall exempt from disclosure information
25 that, if released, would prevent the public body from complying
26 with 20 USC 1232g, commonly referred to as the family educational
27 rights and privacy act of 1974. A public body that is a local or

1 intermediate school district or a public school academy shall
2 exempt from disclosure directory information, as defined by 20 USC
3 1232g, commonly referred to as the family educational rights and
4 privacy act of 1974, requested for the purpose of surveys,
5 marketing, or solicitation, unless that public body determines that
6 the use is consistent with the educational mission of the public
7 body and beneficial to the affected students. A public body that is
8 a local or intermediate school district or a public school academy
9 may take steps to ensure that directory information disclosed under
10 this subsection shall not be used, rented, or sold for the purpose
11 of surveys, marketing, or solicitation. Before disclosing the
12 directory information, a public body that is a local or
13 intermediate school district or a public school academy may require
14 the requester to execute an affidavit stating that directory
15 information provided under this subsection shall not be used,
16 rented, or sold for the purpose of surveys, marketing, or
17 solicitation.

18 (3) This act does not authorize the withholding of information
19 otherwise required by law to be made available to the public or to
20 a party in a contested case under the administrative procedures act
21 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

22 ~~———— (4) Except as otherwise exempt under subsection (1), this act~~
23 ~~does not authorize the withholding of a public record in the~~
24 ~~possession of the executive office of the governor or lieutenant~~
25 ~~governor, or an employee of either executive office, if the public~~
26 ~~record is transferred to the executive office of the governor or~~
27 ~~lieutenant governor, or an employee of either executive office,~~

1 ~~after a request for the public record has been received by a state~~
2 ~~officer, employee, agency, department, division, bureau, board,~~
3 ~~commission, council, authority, or other body in the executive~~
4 ~~branch of government that is subject to this act.~~

5 PART 2

6 SEC. 51. (1) THIS PART SHALL BE KNOWN AND MAY BE CITED AS THE
7 "LEGISLATIVE OPEN RECORDS ACT".

8 (2) IT IS THE PUBLIC POLICY OF THIS STATE THAT ALL PERSONS,
9 EXCEPT THOSE PERSONS INCARCERATED IN STATE OR LOCAL CORRECTIONAL
10 FACILITIES, ARE ENTITLED TO FULL AND COMPLETE INFORMATION REGARDING
11 THE AFFAIRS OF GOVERNMENT AND THE OFFICIAL ACTS OF THOSE WHO
12 REPRESENT THEM AS PUBLIC OFFICIALS AND PUBLIC EMPLOYEES, CONSISTENT
13 WITH THIS PART. THE PEOPLE SHALL BE INFORMED SO THAT THEY MAY FULLY
14 PARTICIPATE IN THE DEMOCRATIC PROCESS.

15 SEC. 52. AS USED IN THIS PART:

16 (A) "COUNCIL ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE
17 LEGISLATIVE COUNCIL APPOINTED UNDER SECTION 104A OF THE LEGISLATIVE
18 COUNCIL ACT, 1986 PA 268, MCL 4.1104A.

19 (B) "LEGISLATOR" MEANS A MEMBER OF THE SENATE OR THE HOUSE OF
20 REPRESENTATIVES OF THIS STATE.

21 (C) "LORA" MEANS THE LEGISLATIVE OPEN RECORDS ACT.

22 (D) "LORA COORDINATOR" MEANS EITHER OF THE FOLLOWING:

23 (i) AN INDIVIDUAL WHO IS A PUBLIC BODY.

24 (ii) AN INDIVIDUAL DESIGNATED BY A PUBLIC BODY TO ACCEPT AND
25 PROCESS REQUESTS FOR PUBLIC RECORDS UNDER THIS PART.

26 (E) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED
27 LIABILITY COMPANY, PARTNERSHIP, FIRM, ORGANIZATION, ASSOCIATION,

1 GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY. PERSON DOES NOT INCLUDE
2 AN INDIVIDUAL SERVING A SENTENCE OF IMPRISONMENT IN A STATE OR
3 COUNTY CORRECTIONAL FACILITY IN THIS STATE OR ANY OTHER STATE OR IN
4 A FEDERAL CORRECTIONAL FACILITY.

5 (F) "PUBLIC BODY" MEANS A STATE OFFICER, LEGISLATOR, EMPLOYEE,
6 AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COMMITTEE,
7 COUNCIL, AUTHORITY, OR OTHER BODY IN THE LEGISLATIVE BRANCH OF THE
8 STATE GOVERNMENT. PUBLIC BODY DOES NOT INCLUDE THE OFFICE OF THE
9 AUDITOR GENERAL.

10 (G) "PUBLIC RECORD" MEANS A WRITING PREPARED, OWNED, USED, IN
11 THE POSSESSION OF, OR RETAINED BY A PUBLIC BODY IN THE PERFORMANCE
12 OF AN OFFICIAL FUNCTION THAT HAS BEEN IN THE POSSESSION OF THE
13 PUBLIC BODY FOR 15 DAYS OR MORE. PUBLIC RECORD DOES NOT INCLUDE
14 COMPUTER SOFTWARE. THIS PART SEPARATES PUBLIC RECORDS INTO THE
15 FOLLOWING 2 CLASSES:

16 (i) THOSE THAT ARE EXEMPT FROM DISCLOSURE UNDER SECTION 59D.

17 (ii) THOSE THAT ARE NOT EXEMPT FROM DISCLOSURE UNDER SECTION
18 59D AND ARE SUBJECT TO DISCLOSURE UNDER THIS PART.

19 (H) "SESSION DAY" MEANS A DAY IN WHICH EITHER THE HOUSE OF
20 REPRESENTATIVES OR THE SENATE CONVENES IN SESSION AND A QUORUM OF
21 THE BODY IS RECORDED.

22 (I) "SOFTWARE" MEANS A SET OF STATEMENTS OR INSTRUCTIONS THAT,
23 WHEN INCORPORATED IN A MACHINE-USABLE MEDIUM, IS CAPABLE OF CAUSING
24 A MACHINE OR DEVICE HAVING INFORMATION-PROCESSING CAPABILITIES TO
25 INDICATE, PERFORM, OR ACHIEVE A PARTICULAR FUNCTION, TASK, OR
26 RESULT. SOFTWARE DOES NOT INCLUDE COMPUTER-STORED INFORMATION OR
27 DATA OR A FIELD NAME IF DISCLOSURE OF THAT FIELD NAME WOULD NOT

1 VIOLATE A SOFTWARE LICENSE.

2 (J) "UNUSUAL CIRCUMSTANCES" MEANS ANY 1 OR A COMBINATION OF
3 THE FOLLOWING, BUT ONLY TO THE EXTENT NECESSARY FOR THE PROPER
4 PROCESSING OF A REQUEST:

5 (i) THE NEED TO SEARCH FOR, COLLECT, OR APPROPRIATELY EXAMINE
6 OR REVIEW A VOLUMINOUS AMOUNT OF SEPARATE AND DISTINCT PUBLIC
7 RECORDS PURSUANT TO A SINGLE REQUEST.

8 (ii) THE NEED TO COLLECT THE REQUESTED PUBLIC RECORDS FROM
9 NUMEROUS OFFICES, FACILITIES, OR OTHER ESTABLISHMENTS.

10 (K) "WRITING" MEANS HANDWRITING, TYPEWRITING, PRINTING,
11 PHOTOSTATING, PHOTOGRAPHING, PHOTOCOPYING, AND EVERY OTHER MEANS OF
12 RECORDING, AND INCLUDES LETTERS, WORDS, PICTURES, SOUNDS, OR
13 SYMBOLS, OR COMBINATIONS THEREOF, AND PAPERS, MAPS, MAGNETIC OR
14 PAPER TAPES, PHOTOGRAPHIC FILMS OR PRINTS, MICROFILM, MICROFICHE,
15 MAGNETIC OR PUNCHED CARDS, DISCS, DRUMS, OR OTHER MEANS OF
16 RECORDING OR RETAINING MEANINGFUL CONTENT.

17 (L) "WRITTEN REQUEST" MEANS A WRITING THAT ASKS FOR
18 INFORMATION AND INCLUDES A WRITING TRANSMITTED BY FACSIMILE,
19 ELECTRONIC MAIL, OR OTHER ELECTRONIC MEANS.

20 SEC. 53. (1) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 59D, UPON
21 PROVIDING A PUBLIC BODY'S LORA COORDINATOR WITH A WRITTEN REQUEST
22 THAT DESCRIBES A PUBLIC RECORD SUFFICIENTLY TO ENABLE THE PUBLIC
23 BODY TO FIND THE PUBLIC RECORD, A PERSON HAS A RIGHT TO INSPECT,
24 COPY, OR RECEIVE COPIES OF THE REQUESTED PUBLIC RECORD OF THE
25 PUBLIC BODY. A PERSON HAS A RIGHT TO SUBSCRIBE TO FUTURE ISSUANCES
26 OF PUBLIC RECORDS THAT ARE CREATED, ISSUED, OR DISSEMINATED ON A
27 REGULAR BASIS. A SUBSCRIPTION SHALL BE VALID FOR UP TO 6 MONTHS, AT

1 THE REQUEST OF THE SUBSCRIBER, AND IS RENEWABLE. AN EMPLOYEE OF A
2 PUBLIC BODY WHO RECEIVES A REQUEST FOR A PUBLIC RECORD SHALL
3 FORWARD THAT REQUEST TO THE LORA COORDINATOR WITHIN 3 BUSINESS
4 DAYS.

5 (2) A LORA COORDINATOR SHALL KEEP A COPY OF ALL WRITTEN
6 REQUESTS FOR PUBLIC RECORDS ON FILE FOR NOT LESS THAN 1 YEAR.

7 (3) A PUBLIC BODY SHALL FURNISH A REQUESTING PERSON A
8 REASONABLE OPPORTUNITY FOR INSPECTION AND EXAMINATION OF ITS PUBLIC
9 RECORDS AND SHALL FURNISH REASONABLE FACILITIES FOR MAKING
10 MEMORANDA OR ABSTRACTS FROM ITS PUBLIC RECORDS DURING THE USUAL
11 BUSINESS HOURS. A PUBLIC BODY MAY MAKE REASONABLE RULES NECESSARY
12 TO PROTECT ITS PUBLIC RECORDS AND TO PREVENT EXCESSIVE AND
13 UNREASONABLE INTERFERENCE WITH THE DISCHARGE OF ITS FUNCTIONS. A
14 PUBLIC BODY SHALL PROTECT PUBLIC RECORDS FROM LOSS, UNAUTHORIZED
15 ALTERATION, MUTILATION, OR DESTRUCTION.

16 (4) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO MAKE A
17 COMPILATION, SUMMARY, OR REPORT OF INFORMATION.

18 (5) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO CREATE A NEW
19 PUBLIC RECORD, EXCEPT TO THE EXTENT REQUIRED BY THIS PART FOR THE
20 FURNISHING OF COPIES, OR EDITED COPIES OF AN EXISTING PUBLIC RECORD
21 UNDER THIS PART.

22 (6) THE CUSTODIAN OF A PUBLIC RECORD SHALL, UPON WRITTEN
23 REQUEST, FURNISH A REQUESTING PERSON A CERTIFIED COPY OF A PUBLIC
24 RECORD.

25 (7) A PUBLIC BODY SHALL NOT DESTROY OR ALTER A RECORD BEFORE
26 THE RECORD HAS BEEN IN ITS POSSESSION FOR 15 DAYS IF THE RECORD
27 WOULD BECOME A PUBLIC RECORD AFTER IT HAS BEEN IN THE POSSESSION OF

1 THE PUBLIC BODY FOR 15 DAYS.

2 SEC. 54. (1) A PUBLIC BODY MAY CHARGE A FEE FOR A PUBLIC
3 RECORD SEARCH, FOR THE NECESSARY COPYING OF A PUBLIC RECORD FOR
4 INSPECTION, OR FOR PROVIDING A COPY OF A PUBLIC RECORD IF IT HAS
5 ESTABLISHED, MAKES PUBLICLY AVAILABLE, AND FOLLOWS PROCEDURES AND
6 GUIDELINES TO IMPLEMENT THIS SECTION AS DESCRIBED IN SUBSECTION
7 (4). SUBJECT TO SUBSECTIONS (2), (3), (4), (5), AND (9), THE FEE
8 SHALL BE LIMITED TO ACTUAL MAILING COSTS AND TO THE ACTUAL
9 INCREMENTAL COST OF DUPLICATION OR PUBLICATION, INCLUDING LABOR,
10 THE COST OF SEARCH, EXAMINATION, REVIEW, AND THE DELETION AND
11 SEPARATION OF EXEMPT FROM NONEXEMPT INFORMATION AS PROVIDED IN
12 SECTION 59E. EXCEPT AS OTHERWISE PROVIDED IN THIS PART, IF THE
13 PUBLIC BODY ESTIMATES OR CHARGES A FEE IN ACCORDANCE WITH THIS
14 PART, THE TOTAL FEE SHALL NOT EXCEED THE SUM OF THE FOLLOWING:

15 (A) THAT PORTION OF LABOR COSTS DIRECTLY ASSOCIATED WITH THE
16 NECESSARY SEARCHING FOR, LOCATING, AND EXAMINING OF PUBLIC RECORDS
17 IN CONJUNCTION WITH RECEIVING AND FULFILLING A GRANTED WRITTEN
18 REQUEST. THE PUBLIC BODY SHALL NOT CHARGE MORE THAN THE HOURLY WAGE
19 OF ITS LOWEST-PAID EMPLOYEE CAPABLE OF SEARCHING FOR, LOCATING, AND
20 EXAMINING THE PUBLIC RECORDS IN THE PARTICULAR INSTANCE REGARDLESS
21 OF WHETHER THAT PERSON IS AVAILABLE OR WHO ACTUALLY PERFORMS THE
22 LABOR. LABOR COSTS UNDER THIS SUBDIVISION SHALL BE ESTIMATED AND
23 CHARGED IN INCREMENTS OF 15 MINUTES OR MORE, WITH ALL PARTIAL TIME
24 INCREMENTS ROUNDED DOWN.

25 (B) THAT PORTION OF LABOR COSTS, INCLUDING NECESSARY REVIEW,
26 IF ANY, DIRECTLY ASSOCIATED WITH THE SEPARATING AND DELETING OF
27 EXEMPT INFORMATION FROM NONEXEMPT INFORMATION AS PROVIDED IN

1 SECTION 59E. FOR SERVICES PERFORMED BY AN EMPLOYEE OF THE PUBLIC
2 BODY, THE PUBLIC BODY SHALL NOT CHARGE MORE THAN THE HOURLY WAGE OF
3 ITS LOWEST-PAID EMPLOYEE CAPABLE OF SEPARATING AND DELETING EXEMPT
4 INFORMATION FROM NONEXEMPT INFORMATION IN THE PARTICULAR INSTANCE
5 AS PROVIDED IN SECTION 59E, REGARDLESS OF WHETHER THAT PERSON IS
6 AVAILABLE OR WHO ACTUALLY PERFORMS THE LABOR. LABOR COSTS UNDER
7 THIS SUBDIVISION SHALL BE ESTIMATED AND CHARGED IN INCREMENTS OF 15
8 MINUTES OR MORE, WITH ALL PARTIAL TIME INCREMENTS ROUNDED DOWN. A
9 PUBLIC BODY SHALL NOT CHARGE FOR LABOR DIRECTLY ASSOCIATED WITH
10 REDACTION UNDER SECTION 59E IF IT KNOWS OR HAS REASON TO KNOW THAT
11 IT PREVIOUSLY REDACTED THE PUBLIC RECORD IN QUESTION AND THE
12 REDACTED VERSION IS STILL IN THE PUBLIC BODY'S POSSESSION.

13 (C) FOR PUBLIC RECORDS PROVIDED TO THE REQUESTOR ON NONPAPER
14 PHYSICAL MEDIA, THE ACTUAL AND MOST REASONABLY ECONOMICAL COST OF
15 THE COMPUTER DISCS, COMPUTER TAPES, OR OTHER DIGITAL OR SIMILAR
16 MEDIA. THE REQUESTOR MAY STIPULATE THAT THE PUBLIC RECORDS BE
17 PROVIDED ON NONPAPER PHYSICAL MEDIA, ELECTRONICALLY MAILED, OR
18 OTHERWISE ELECTRONICALLY PROVIDED TO HIM OR HER IN LIEU OF PAPER
19 COPIES. THIS SUBDIVISION DOES NOT APPLY IF A PUBLIC BODY LACKS THE
20 TECHNOLOGICAL CAPABILITY NECESSARY TO PROVIDE RECORDS ON THE
21 PARTICULAR NONPAPER PHYSICAL MEDIA STIPULATED IN THE PARTICULAR
22 INSTANCE.

23 (D) FOR PAPER COPIES OF PUBLIC RECORDS PROVIDED TO THE
24 REQUESTOR, THE ACTUAL TOTAL INCREMENTAL COST OF NECESSARY
25 DUPLICATION OR PUBLICATION, NOT INCLUDING LABOR. THE COST OF PAPER
26 COPIES SHALL BE CALCULATED AS A TOTAL COST PER SHEET OF PAPER AND
27 SHALL BE ITEMIZED AND NOTED IN A MANNER THAT EXPRESSES BOTH THE

1 COST PER SHEET AND THE NUMBER OF SHEETS PROVIDED. THE FEE SHALL NOT
2 EXCEED 10 CENTS PER SHEET OF PAPER FOR COPIES OF PUBLIC RECORDS
3 MADE ON 8-1/2- BY 11-INCH PAPER OR 8-1/2- BY 14-INCH PAPER. A
4 PUBLIC BODY SHALL UTILIZE THE MOST ECONOMICAL MEANS AVAILABLE FOR
5 MAKING COPIES OF PUBLIC RECORDS, INCLUDING USING DOUBLE-SIDED
6 PRINTING, IF COST SAVING AND AVAILABLE.

7 (E) THE COST OF LABOR DIRECTLY ASSOCIATED WITH DUPLICATION OR
8 PUBLICATION, INCLUDING MAKING PAPER COPIES, MAKING DIGITAL COPIES,
9 OR TRANSFERRING DIGITAL PUBLIC RECORDS TO BE GIVEN TO THE REQUESTOR
10 ON NONPAPER PHYSICAL MEDIA OR THROUGH THE INTERNET OR OTHER
11 ELECTRONIC MEANS AS STIPULATED BY THE REQUESTOR. THE PUBLIC BODY
12 SHALL NOT CHARGE MORE THAN THE HOURLY WAGE OF ITS LOWEST-PAID
13 EMPLOYEE CAPABLE OF NECESSARY DUPLICATION OR PUBLICATION IN THE
14 PARTICULAR INSTANCE, REGARDLESS OF WHETHER THAT PERSON IS AVAILABLE
15 OR WHO ACTUALLY PERFORMS THE LABOR. LABOR COSTS UNDER THIS
16 SUBDIVISION MAY BE ESTIMATED AND CHARGED IN TIME INCREMENTS OF THE
17 PUBLIC BODY'S CHOOSING. HOWEVER, ALL PARTIAL TIME INCREMENTS SHALL
18 BE ROUNDED DOWN.

19 (F) THE ACTUAL COST OF MAILING, IF ANY, FOR SENDING THE PUBLIC
20 RECORDS IN A REASONABLY ECONOMICAL AND JUSTIFIABLE MANNER. THE
21 PUBLIC BODY SHALL NOT CHARGE MORE FOR EXPEDITED SHIPPING OR
22 INSURANCE UNLESS SPECIFICALLY STIPULATED BY THE REQUESTOR, BUT MAY
23 OTHERWISE CHARGE FOR THE LEAST EXPENSIVE FORM OF POSTAL DELIVERY
24 CONFIRMATION WHEN MAILING PUBLIC RECORDS.

25 (2) WHEN CALCULATING LABOR COSTS UNDER SUBSECTION (1) (A), (B),
26 OR (E), FEE COMPONENTS SHALL BE ITEMIZED IN A MANNER THAT EXPRESSES
27 BOTH THE HOURLY WAGE AND THE NUMBER OF HOURS CHARGED. THE PUBLIC

1 BODY MAY ALSO ADD UP TO 50% TO THE APPLICABLE LABOR CHARGE AMOUNT
2 TO COVER OR PARTIALLY COVER THE COST OF FRINGE BENEFITS IF IT
3 CLEARLY NOTES THE PERCENTAGE MULTIPLIER USED TO ACCOUNT FOR
4 BENEFITS IN THE DETAILED ITEMIZATION DESCRIBED IN SUBSECTION (4).
5 SUBJECT TO THE 50% LIMITATION, THE PUBLIC BODY SHALL NOT CHARGE
6 MORE THAN THE ACTUAL COST OF FRINGE BENEFITS, AND OVERTIME WAGES
7 SHALL NOT BE USED IN CALCULATING THE COST OF FRINGE BENEFITS.
8 OVERTIME WAGES SHALL NOT BE INCLUDED IN THE CALCULATION OF LABOR
9 COSTS UNLESS OVERTIME IS SPECIFICALLY STIPULATED BY THE REQUESTOR
10 AND CLEARLY NOTED ON THE DETAILED ITEMIZATION DESCRIBED IN
11 SUBSECTION (4). A SEARCH FOR A PUBLIC RECORD MAY BE CONDUCTED OR
12 COPIES OF PUBLIC RECORDS MAY BE FURNISHED WITHOUT CHARGE OR AT A
13 REDUCED CHARGE IF THE PUBLIC BODY DETERMINES THAT A WAIVER OR
14 REDUCTION OF THE FEE IS IN THE PUBLIC INTEREST BECAUSE SEARCHING
15 FOR OR FURNISHING COPIES OF THE PUBLIC RECORD CAN BE CONSIDERED AS
16 PRIMARILY BENEFITING THE GENERAL PUBLIC. A PUBLIC RECORD SEARCH
17 SHALL BE MADE AND A COPY OF A PUBLIC RECORD SHALL BE FURNISHED
18 WITHOUT CHARGE FOR THE FIRST \$20.00 OF THE FEE FOR EACH REQUEST BY
19 EITHER OF THE FOLLOWING:

20 (A) AN INDIVIDUAL WHO IS ENTITLED TO INFORMATION UNDER THIS
21 PART AND WHO SUBMITS AN AFFIDAVIT STATING THAT THE INDIVIDUAL IS
22 INDIGENT AND RECEIVING SPECIFIC PUBLIC ASSISTANCE OR, IF NOT
23 RECEIVING PUBLIC ASSISTANCE, STATING FACTS SHOWING INABILITY TO PAY
24 THE COST BECAUSE OF INDIGENCY. IF THE REQUESTOR IS ELIGIBLE FOR A
25 REQUESTED DISCOUNT, THE PUBLIC BODY SHALL FULLY NOTE THE DISCOUNT
26 ON THE DETAILED ITEMIZATION DESCRIBED UNDER SUBSECTION (4). IF A
27 REQUESTOR IS INELIGIBLE FOR THE DISCOUNT, THE PUBLIC BODY SHALL

1 INFORM THE REQUESTOR SPECIFICALLY OF THE REASON FOR INELIGIBILITY
2 IN THE PUBLIC BODY'S WRITTEN RESPONSE. AN INDIVIDUAL IS INELIGIBLE
3 FOR THIS FEE REDUCTION IF ANY OF THE FOLLOWING APPLY:

4 (i) THE INDIVIDUAL HAS PREVIOUSLY RECEIVED DISCOUNTED COPIES
5 OF PUBLIC RECORDS UNDER THIS SUBSECTION FROM THE PUBLIC BODY TWICE
6 DURING THAT CALENDAR YEAR.

7 (ii) THE INDIVIDUAL REQUESTS THE INFORMATION IN CONJUNCTION
8 WITH OUTSIDE PARTIES WHO ARE OFFERING OR PROVIDING PAYMENT OR OTHER
9 REMUNERATION TO THE INDIVIDUAL TO MAKE THE REQUEST. A PUBLIC BODY
10 MAY REQUIRE A STATEMENT BY THE REQUESTOR IN THE AFFIDAVIT THAT THE
11 REQUEST IS NOT BEING MADE IN CONJUNCTION WITH OUTSIDE PARTIES IN
12 EXCHANGE FOR PAYMENT OR OTHER REMUNERATION.

13 (B) A NONPROFIT ORGANIZATION FORMALLY DESIGNATED BY THE STATE
14 TO CARRY OUT ACTIVITIES UNDER SUBTITLE C OF THE DEVELOPMENTAL
15 DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000, PUBLIC LAW
16 106-402, AND THE PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH
17 MENTAL ILLNESS ACT, PUBLIC LAW 99-319, OR THEIR SUCCESSORS, IF THE
18 REQUEST MEETS ALL OF THE FOLLOWING REQUIREMENTS:

19 (i) IS MADE DIRECTLY ON BEHALF OF THE ORGANIZATION OR ITS
20 CLIENTS.

21 (ii) IS MADE FOR A REASON WHOLLY CONSISTENT WITH THE MISSION
22 AND PROVISIONS OF THOSE LAWS UNDER SECTION 931 OF THE MENTAL HEALTH
23 CODE, 1974 PA 258, MCL 330.1931.

24 (iii) IS ACCOMPANIED BY DOCUMENTATION OF ITS DESIGNATION BY
25 THIS STATE, IF REQUESTED BY THE PUBLIC BODY.

26 (3) A FEE AS DESCRIBED IN SUBSECTION (1) SHALL NOT BE CHARGED
27 FOR THE COST OF SEARCH, EXAMINATION, REVIEW, AND THE DELETION AND

1 SEPARATION OF EXEMPT FROM NONEXEMPT INFORMATION AS PROVIDED IN
2 SECTION 59E UNLESS FAILURE TO CHARGE A FEE WOULD RESULT IN
3 UNREASONABLY HIGH COSTS TO THE PUBLIC BODY BECAUSE OF THE NATURE OF
4 THE REQUEST IN THE PARTICULAR INSTANCE AND THE PUBLIC BODY
5 SPECIFICALLY IDENTIFIES THE NATURE OF THESE UNREASONABLY HIGH
6 COSTS.

7 (4) A PUBLIC BODY SHALL ESTABLISH PROCEDURES AND GUIDELINES TO
8 IMPLEMENT THIS PART AND SHALL CREATE A WRITTEN PUBLIC SUMMARY OF
9 THE SPECIFIC PROCEDURES AND GUIDELINES RELEVANT TO THE GENERAL
10 PUBLIC REGARDING HOW TO SUBMIT WRITTEN REQUESTS TO THE PUBLIC BODY
11 AND EXPLAINING HOW TO UNDERSTAND A PUBLIC BODY'S WRITTEN RESPONSES,
12 DEPOSIT REQUIREMENTS, FEE CALCULATIONS, AND AVENUES FOR CHALLENGE
13 AND APPEAL. THE WRITTEN PUBLIC SUMMARY SHALL BE WRITTEN IN A MANNER
14 SO AS TO BE EASILY UNDERSTOOD BY THE GENERAL PUBLIC. A PUBLIC BODY
15 SHALL POST AND MAINTAIN THE PROCEDURES AND GUIDELINES AND ITS
16 WRITTEN PUBLIC SUMMARY ON ITS WEBSITE. A PUBLIC BODY SHALL MAKE THE
17 PROCEDURES AND GUIDELINES PUBLICLY AVAILABLE BY PROVIDING FREE
18 COPIES OF THE PROCEDURES AND GUIDELINES AND ITS WRITTEN PUBLIC
19 SUMMARY BOTH IN THE PUBLIC BODY'S RESPONSE TO A WRITTEN REQUEST AND
20 UPON REQUEST BY VISITORS AT THE PUBLIC BODY'S OFFICE. A PUBLIC BODY
21 MAY INCLUDE THE WEBSITE LINK TO THE DOCUMENTS IN LIEU OF PROVIDING
22 PAPER COPIES IN ITS RESPONSE TO A WRITTEN REQUEST. A PUBLIC BODY'S
23 PROCEDURES AND GUIDELINES SHALL INCLUDE THE USE OF A STANDARD FORM
24 FOR DETAILED ITEMIZATION OF ANY FEE AMOUNT IN ITS RESPONSES TO
25 WRITTEN REQUESTS UNDER THIS PART. THE DETAILED ITEMIZATION SHALL
26 CLEARLY LIST AND EXPLAIN THE ALLOWABLE CHARGES FOR EACH OF THE 6
27 FEE COMPONENTS LISTED UNDER SUBSECTION (1) THAT COMPOSE THE TOTAL

1 FEE USED FOR ESTIMATING OR CHARGING PURPOSES. A PUBLIC BODY THAT
2 HAS NOT ESTABLISHED PROCEDURES AND GUIDELINES, HAS NOT CREATED A
3 WRITTEN PUBLIC SUMMARY, OR HAS NOT MADE THOSE ITEMS PUBLICLY
4 AVAILABLE WITHOUT CHARGE AS REQUIRED IN THIS SUBSECTION IS NOT
5 RELIEVED OF ITS DUTY TO COMPLY WITH ANY REQUIREMENT OF THIS PART
6 AND SHALL NOT REQUIRE DEPOSITS OR CHARGE FEES OTHERWISE PERMITTED
7 UNDER THIS PART UNTIL IT IS IN COMPLIANCE WITH THIS SUBSECTION.
8 NOTWITHSTANDING THIS SUBSECTION AND DESPITE ANY LAW TO THE
9 CONTRARY, A PUBLIC BODY'S PROCEDURES AND GUIDELINES UNDER THIS PART
10 ARE NOT EXEMPT PUBLIC RECORDS UNDER SECTION 59D.

11 (5) ANY PUBLIC RECORDS AVAILABLE TO THE GENERAL PUBLIC ON A
12 PUBLIC BODY'S INTERNET SITE AT THE TIME THE REQUEST IS MADE ARE
13 EXEMPT FROM CHARGE UNDER SUBSECTION (1) (B). IF THE LORA COORDINATOR
14 KNOWS OR HAS REASON TO KNOW THAT ALL OR A PORTION OF THE REQUESTED
15 INFORMATION IS AVAILABLE ON ITS WEBSITE, THE PUBLIC BODY SHALL
16 NOTIFY THE REQUESTOR IN ITS WRITTEN RESPONSE THAT ALL OR A PORTION
17 OF THE REQUESTED INFORMATION IS AVAILABLE ON ITS WEBSITE. THE
18 WRITTEN RESPONSE, TO THE DEGREE PRACTICABLE IN THE SPECIFIC
19 INSTANCE, SHALL INCLUDE A SPECIFIC WEBPAGE ADDRESS WHERE THE
20 REQUESTED INFORMATION IS AVAILABLE. ON THE DETAILED ITEMIZATION
21 DESCRIBED IN SUBSECTION (4), THE PUBLIC BODY SHALL SEPARATE THE
22 REQUESTED PUBLIC RECORDS THAT ARE AVAILABLE ON ITS WEBSITE FROM
23 THOSE THAT ARE NOT AVAILABLE ON THE WEBSITE AND SHALL INFORM THE
24 REQUESTOR OF THE ADDITIONAL CHARGE TO RECEIVE COPIES OF THE PUBLIC
25 RECORDS THAT ARE AVAILABLE ON ITS WEBSITE. IF THE PUBLIC BODY HAS
26 INCLUDED THE WEBSITE ADDRESS FOR A RECORD IN ITS WRITTEN RESPONSE
27 TO THE REQUESTOR AND THE REQUESTOR THEREAFTER STIPULATES THAT THE

1 PUBLIC RECORD BE PROVIDED TO HIM OR HER IN A PAPER FORMAT OR OTHER
2 FORM AS DESCRIBED UNDER SUBSECTION (1) (C), THE PUBLIC BODY SHALL
3 PROVIDE THE PUBLIC RECORDS IN THE SPECIFIED FORMAT BUT MAY USE A
4 FRINGE BENEFIT MULTIPLIER GREATER THAN THE 50% LIMITATION IN
5 SUBSECTION (2), NOT TO EXCEED THE ACTUAL COSTS OF PROVIDING THE
6 INFORMATION IN THE SPECIFIED FORMAT.

7 (6) A PUBLIC BODY MAY PROVIDE REQUESTED INFORMATION AVAILABLE
8 IN PUBLIC RECORDS WITHOUT RECEIPT OF A WRITTEN REQUEST.

9 (7) IF A VERBAL REQUEST FOR INFORMATION IS FOR INFORMATION
10 THAT A PUBLIC BODY BELIEVES IS AVAILABLE ON THE PUBLIC BODY'S
11 WEBSITE, A PUBLIC EMPLOYEE SHALL, IF PRACTICABLE AND TO THE BEST OF
12 THE PUBLIC EMPLOYEE'S KNOWLEDGE, INFORM THE REQUESTOR ABOUT THE
13 PUBLIC BODY'S PERTINENT WEBSITE ADDRESS.

14 (8) IN EITHER THE PUBLIC BODY'S INITIAL RESPONSE OR SUBSEQUENT
15 RESPONSE AS DESCRIBED UNDER SECTION 55(2) (D), THE PUBLIC BODY MAY
16 REQUIRE A GOOD-FAITH DEPOSIT FROM THE PERSON REQUESTING INFORMATION
17 BEFORE PROVIDING THE PUBLIC RECORDS TO THE REQUESTOR IF THE ENTIRE
18 FEE ESTIMATE OR CHARGE AUTHORIZED UNDER THIS SECTION EXCEEDS
19 \$50.00, BASED ON A GOOD-FAITH CALCULATION OF THE TOTAL FEE
20 DESCRIBED IN SUBSECTION (4). SUBJECT TO SUBSECTION (10), THE
21 DEPOSIT SHALL NOT EXCEED 1/2 OF THE TOTAL ESTIMATED FEE, AND A
22 PUBLIC BODY'S REQUEST FOR A DEPOSIT SHALL INCLUDE A DETAILED
23 ITEMIZATION AS REQUIRED UNDER SUBSECTION (4). THE RESPONSE SHALL
24 ALSO CONTAIN A BEST EFFORTS ESTIMATE BY THE PUBLIC BODY REGARDING
25 THE TIME FRAME IT WILL TAKE THE PUBLIC BODY TO COMPLY WITH THE LAW
26 IN PROVIDING THE PUBLIC RECORDS TO THE REQUESTOR. THE TIME FRAME
27 ESTIMATE IS NONBINDING UPON THE PUBLIC BODY, BUT THE PUBLIC BODY

1 SHALL PROVIDE THE ESTIMATE IN GOOD FAITH AND STRIVE TO BE
2 REASONABLY ACCURATE AND TO PROVIDE THE PUBLIC RECORDS IN A MANNER
3 BASED ON THIS STATE'S PUBLIC POLICY UNDER SECTION 51 AND THE NATURE
4 OF THE REQUEST IN THE PARTICULAR INSTANCE. IF A PUBLIC BODY DOES
5 NOT RESPOND IN A TIMELY MANNER AS DESCRIBED UNDER SECTION 55(2), IT
6 IS NOT RELIEVED FROM ITS REQUIREMENTS TO PROVIDE PROPER FEE
7 CALCULATIONS AND TIME FRAME ESTIMATES IN ANY TARDY RESPONSES.
8 PROVIDING AN ESTIMATED TIME FRAME DOES NOT RELIEVE A PUBLIC BODY
9 FROM ANY OF THE OTHER REQUIREMENTS OF THIS PART.

10 (9) IF A PUBLIC BODY DOES NOT RESPOND TO A WRITTEN REQUEST IN
11 A TIMELY MANNER AS REQUIRED UNDER SECTION 55(2), THE PUBLIC BODY
12 SHALL DO THE FOLLOWING:

13 (A) REDUCE THE CHARGES FOR LABOR COSTS OTHERWISE PERMITTED
14 UNDER THIS SECTION BY 5% FOR EACH DAY THE PUBLIC BODY EXCEEDS THE
15 TIME PERMITTED UNDER SECTION 55(2) FOR A RESPONSE TO THE REQUEST,
16 WITH A MAXIMUM 50% REDUCTION, IF EITHER OF THE FOLLOWING APPLIES:

17 (i) THE LATE RESPONSE WAS WILLFUL AND INTENTIONAL.

18 (ii) THE WRITTEN REQUEST INCLUDED LANGUAGE THAT CONVEYED A
19 REQUEST FOR INFORMATION WITHIN THE FIRST 250 WORDS OF THE BODY OF A
20 LETTER, FACSIMILE, ELECTRONIC MAIL, OR ELECTRONIC MAIL ATTACHMENT,
21 OR SPECIFICALLY INCLUDED THE WORDS, CHARACTERS, OR ABBREVIATIONS
22 FOR "FREEDOM OF INFORMATION", "OPEN RECORDS", "INFORMATION",
23 "LORA", "COPY", OR A RECOGNIZABLE MISSPELLING OF SUCH, OR
24 APPROPRIATE LEGAL CODE REFERENCE FOR THIS PART, ON THE FRONT OF AN
25 ENVELOPE OR IN THE SUBJECT LINE OF AN ELECTRONIC MAIL, A LETTER, OR
26 A FACSIMILE COVER PAGE.

27 (B) IF A CHARGE REDUCTION IS REQUIRED UNDER SUBDIVISION (A),

1 FULLY NOTE THE CHARGE REDUCTION ON THE DETAILED ITEMIZATION
2 DESCRIBED UNDER SUBSECTION (4).

3 (10) THIS SECTION DOES NOT APPLY TO PUBLIC RECORDS PREPARED
4 UNDER AN ACT OR STATUTE SPECIFICALLY AUTHORIZING THE SALE OF THOSE
5 PUBLIC RECORDS TO THE PUBLIC, OR IF THE AMOUNT OF THE FEE FOR
6 PROVIDING A COPY OF THE PUBLIC RECORD IS OTHERWISE SPECIFICALLY
7 PROVIDED BY AN ACT OR STATUTE.

8 (11) SUBJECT TO SUBSECTION (12), AFTER A PUBLIC BODY HAS
9 GRANTED AND FULFILLED A WRITTEN REQUEST FROM AN INDIVIDUAL UNDER
10 THIS PART, IF THE PUBLIC BODY HAS NOT BEEN PAID IN FULL THE TOTAL
11 AMOUNT UNDER SUBSECTION (1) FOR THE COPIES OF PUBLIC RECORDS THAT
12 THE PUBLIC BODY MADE AVAILABLE TO THE INDIVIDUAL AS A RESULT OF
13 THAT WRITTEN REQUEST, THE PUBLIC BODY MAY REQUIRE A DEPOSIT OF UP
14 TO 100% OF THE ESTIMATED FEE BEFORE IT BEGINS A FULL PUBLIC RECORD
15 SEARCH FOR ANY SUBSEQUENT WRITTEN REQUEST FROM THAT INDIVIDUAL IF
16 ALL OF THE FOLLOWING APPLY:

17 (A) THE FINAL FEE FOR THE PRIOR WRITTEN REQUEST WAS NOT MORE
18 THAN 105% OF THE ESTIMATED FEE.

19 (B) THE PUBLIC RECORDS MADE AVAILABLE CONTAINED THE
20 INFORMATION BEING SOUGHT IN THE PRIOR WRITTEN REQUEST AND ARE STILL
21 IN THE PUBLIC BODY'S POSSESSION.

22 (C) THE PUBLIC RECORDS WERE MADE AVAILABLE TO THE INDIVIDUAL,
23 SUBJECT TO PAYMENT, WITHIN THE TIME FRAME ESTIMATE DESCRIBED UNDER
24 SUBSECTION (8).

25 (D) NINETY DAYS HAVE PASSED SINCE THE PUBLIC BODY NOTIFIED THE
26 INDIVIDUAL IN WRITING THAT THE PUBLIC RECORDS WERE AVAILABLE FOR
27 PICKUP OR MAILING.

1 (E) THE INDIVIDUAL IS UNABLE TO SHOW PROOF OF PRIOR PAYMENT TO
2 THE PUBLIC BODY.

3 (F) THE PUBLIC BODY CALCULATES A DETAILED ITEMIZATION, AS
4 REQUIRED UNDER SUBSECTION (4), THAT IS THE BASIS FOR THE CURRENT
5 WRITTEN REQUEST'S INCREASED ESTIMATED FEE DEPOSIT.

6 (12) A PUBLIC BODY SHALL NOT CONTINUE TO REQUIRE AN INCREASED
7 ESTIMATED FEE DEPOSIT FROM AN INDIVIDUAL AS DESCRIBED UNDER
8 SUBSECTION (11) IF ANY OF THE FOLLOWING APPLY:

9 (A) THE INDIVIDUAL SHOWS TO THE PUBLIC BODY PROOF OF PRIOR
10 PAYMENT IN FULL FOR THE APPLICABLE PRIOR REQUEST.

11 (B) THE PUBLIC BODY RECEIVES PAYMENT IN FULL FOR THE
12 APPLICABLE PRIOR WRITTEN REQUEST.

13 (C) THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED SINCE THE
14 INDIVIDUAL MADE THE WRITTEN REQUEST FOR WHICH FULL PAYMENT WAS NOT
15 REMITTED TO THE PUBLIC BODY.

16 (13) A DEPOSIT REQUIRED BY A PUBLIC BODY UNDER THIS PART IS A
17 FEE.

18 SEC. 55. (1) EXCEPT AS PROVIDED IN SECTION 53, TO INSPECT OR
19 RECEIVE A COPY OF A PUBLIC RECORD UNDER THIS PART, A PERSON SHALL
20 SUBMIT A WRITTEN REQUEST FOR THE PUBLIC RECORD TO THE LORA
21 COORDINATOR OF THE PUBLIC BODY. A WRITTEN REQUEST MADE BY
22 FACSIMILE, ELECTRONIC MAIL, OR OTHER ELECTRONIC TRANSMISSION UNDER
23 THIS PART IS NOT CONSIDERED TO BE RECEIVED BY A PUBLIC BODY'S LORA
24 COORDINATOR UNTIL 1 BUSINESS DAY AFTER THE ELECTRONIC TRANSMISSION
25 IS MADE. HOWEVER, IF A WRITTEN REQUEST IS SENT BY ELECTRONIC MAIL
26 AND DELIVERED TO THE PUBLIC BODY'S SPAM OR JUNK MAIL FOLDER, THE
27 REQUEST IS NOT RECEIVED UNTIL 1 DAY AFTER THE PUBLIC BODY FIRST

1 BECOMES AWARE OF THE WRITTEN REQUEST. THE PUBLIC BODY SHALL NOTE IN
2 ITS RECORDS BOTH THE TIME A WRITTEN REQUEST IS DELIVERED TO ITS
3 SPAM OR JUNK-MAIL FOLDER AND THE TIME THE PUBLIC BODY FIRST BECOMES
4 AWARE OF THAT REQUEST.

5 (2) UNLESS OTHERWISE AGREED TO IN WRITING BY THE PERSON MAKING
6 THE REQUEST, A PUBLIC BODY SHALL RESPOND TO A REQUEST FOR A PUBLIC
7 RECORD WITHIN 5 BUSINESS DAYS AFTER THE PUBLIC BODY RECEIVES THE
8 REQUEST BY DOING 1 OF THE FOLLOWING:

9 (A) GRANTING THE REQUEST.

10 (B) ISSUING A WRITTEN NOTICE TO THE REQUESTING PERSON DENYING
11 THE REQUEST.

12 (C) GRANTING THE REQUEST IN PART AND ISSUING A WRITTEN NOTICE
13 TO THE REQUESTING PERSON DENYING THE REQUEST IN PART.

14 (D) ISSUING A NOTICE EXTENDING FOR NOT MORE THAN 10 BUSINESS
15 DAYS THE TIME BY WHICH THE PUBLIC BODY MUST RESPOND TO THE REQUEST.
16 A PUBLIC BODY SHALL NOT ISSUE MORE THAN 1 NOTICE OF EXTENSION FOR
17 EACH REQUEST.

18 (3) FAILURE TO RESPOND TO A REQUEST PURSUANT TO SUBSECTION (2)
19 CONSTITUTES A PUBLIC BODY'S FINAL DETERMINATION TO DENY THE REQUEST
20 IF EITHER OF THE FOLLOWING APPLIES:

21 (A) THE FAILURE WAS WILLFUL AND INTENTIONAL.

22 (B) THE WRITTEN REQUEST INCLUDED LANGUAGE THAT CONVEYED A
23 REQUEST FOR INFORMATION WITHIN THE FIRST 250 WORDS OF THE BODY OF A
24 LETTER, FACSIMILE, ELECTRONIC MAIL, OR ELECTRONIC MAIL ATTACHMENT,
25 OR SPECIFICALLY INCLUDED THE WORDS, CHARACTERS, OR ABBREVIATIONS
26 FOR "FREEDOM OF INFORMATION", "OPEN RECORDS", "INFORMATION",
27 "LORA", "COPY", OR A RECOGNIZABLE MISSPELLING OF SUCH, OR

1 APPROPRIATE LEGAL CODE REFERENCE TO THIS PART, ON THE FRONT OF AN
2 ENVELOPE OR IN THE SUBJECT LINE OF AN ELECTRONIC MAIL, LETTER, OR
3 FACSIMILE COVER PAGE.

4 (4) A WRITTEN NOTICE DENYING A REQUEST FOR A PUBLIC RECORD IN
5 WHOLE OR IN PART IS A PUBLIC BODY'S FINAL DETERMINATION TO DENY THE
6 REQUEST OR PORTION OF THAT REQUEST. THE WRITTEN NOTICE SHALL
7 CONTAIN ALL OF THE FOLLOWING:

8 (A) AN EXPLANATION OF THE BASIS UNDER THIS PART OR OTHER
9 STATUTE FOR THE DETERMINATION THAT THE PUBLIC RECORD, OR PORTION OF
10 THAT PUBLIC RECORD, IS EXEMPT FROM DISCLOSURE, IF THAT IS THE
11 REASON FOR DENYING ALL OR A PORTION OF THE REQUEST.

12 (B) A CERTIFICATE THAT THE PUBLIC RECORD DOES NOT EXIST UNDER
13 THE NAME GIVEN BY THE REQUESTER OR BY ANOTHER NAME REASONABLY KNOWN
14 TO THE PUBLIC BODY, IF THAT IS THE REASON FOR DENYING THE REQUEST
15 OR A PORTION OF THE REQUEST.

16 (C) A DESCRIPTION OF A PUBLIC RECORD OR INFORMATION ON A
17 PUBLIC RECORD THAT IS SEPARATED OR DELETED PURSUANT TO SECTION 59E,
18 IF A SEPARATION OR DELETION IS MADE.

19 (D) A FULL EXPLANATION OF THE REQUESTING PERSON'S RIGHT TO DO
20 EITHER OF THE FOLLOWING:

21 (i) SUBMIT A WRITTEN REQUEST FOR RECONSIDERATION TO THE PUBLIC
22 BODY'S LORA COORDINATOR THAT SPECIFICALLY STATES THE WORD
23 "RECONSIDERATION", "APPEAL", "REDETERMINATION", OR "REVERSE" AND
24 IDENTIFIES THE REASON OR REASONS FOR REVERSAL OF THE DISCLOSURE
25 DENIAL.

26 (ii) SEEK FINAL REVIEW OF THE DENIAL UNDER SECTION 59A.

27 (5) THE INDIVIDUAL DESIGNATED UNDER SECTIONS 56 TO 58 AS A

1 LORA COORDINATOR OR UNDER SECTION 59 AS A LORA COORDINATOR DESIGNEE
2 SHALL SIGN THE WRITTEN NOTICE OF DENIAL.

3 (6) IF A PUBLIC BODY ISSUES A NOTICE EXTENDING THE PERIOD FOR
4 A RESPONSE TO THE REQUEST, THE NOTICE SHALL SPECIFY THE REASONS FOR
5 THE EXTENSION AND THE DATE BY WHICH THE PUBLIC BODY WILL DO 1 OF
6 THE FOLLOWING:

7 (A) GRANT THE REQUEST.

8 (B) ISSUE A WRITTEN NOTICE TO THE REQUESTING PERSON DENYING
9 THE REQUEST.

10 (C) GRANT THE REQUEST IN PART AND ISSUE A WRITTEN NOTICE TO
11 THE REQUESTING PERSON DENYING THE REQUEST IN PART.

12 (7) IF A PUBLIC BODY MAKES A FINAL DETERMINATION TO DENY IN
13 WHOLE OR IN PART A REQUEST TO INSPECT OR RECEIVE A COPY OF A PUBLIC
14 RECORD OR PORTION OF A PUBLIC RECORD, THE REQUESTING PERSON MAY
15 SEEK RECONSIDERATION OR APPEAL OF THE DENIAL AS PROVIDED IN SECTION
16 59A.

17 SEC. 56. SUBJECT TO SECTIONS 57 AND 58, THE COUNCIL
18 ADMINISTRATOR SHALL DESIGNATE AN INDIVIDUAL AS THE LORA COORDINATOR
19 FOR ALL PUBLIC BODIES.

20 SEC. 57. THE HOUSE OF REPRESENTATIVES MAY DESIGNATE AN
21 INDIVIDUAL AS THE LORA COORDINATOR FOR THE HOUSE OF
22 REPRESENTATIVES.

23 SEC. 58. THE SENATE MAY DESIGNATE AN INDIVIDUAL AS THE LORA
24 COORDINATOR FOR THE SENATE.

25 SEC. 59. A LORA COORDINATOR MAY DESIGNATE ANOTHER INDIVIDUAL
26 TO ACT ON HIS OR HER BEHALF IN ACCEPTING AND PROCESSING REQUESTS
27 FOR THE PUBLIC BODY'S PUBLIC RECORDS AND IN APPROVING A DENIAL

1 UNDER SECTION 55.

2 SEC. 59A. (1) IF A PUBLIC BODY MAKES A FINAL DETERMINATION TO
3 DENY ALL OR A PORTION OF A REQUEST, THE REQUESTING PERSON MAY DO
4 ANY OF THE FOLLOWING:

5 (A) SUBMIT TO THE PUBLIC BODY'S LORA COORDINATOR A WRITTEN
6 REQUEST FOR RECONSIDERATION THAT SPECIFICALLY STATES THE WORD
7 "RECONSIDERATION", "APPEAL", "REDETERMINATION", OR "REVERSE", AND
8 IDENTIFIES THE REASON OR REASONS FOR REVERSAL OF THE DENIAL.

9 (B) SUBMIT TO THE COUNCIL ADMINISTRATOR A WRITTEN REQUEST TO
10 COMPEL THE PUBLIC BODY'S DISCLOSURE OF THE PUBLIC RECORDS WITHIN
11 180 DAYS AFTER A PUBLIC BODY'S FINAL DETERMINATION TO DENY A
12 REQUEST. A REQUEST SHALL NOT BE SUBMITTED UNDER THIS SUBDIVISION
13 UNLESS 1 OF THE FOLLOWING APPLIES:

14 (i) THE PUBLIC BODY'S LORA COORDINATOR FAILED TO RESPOND TO A
15 WRITTEN REQUEST FOR RECONSIDERATION AS REQUIRED UNDER SUBSECTION
16 (2).

17 (ii) THE PUBLIC BODY'S LORA COORDINATOR ISSUED A DETERMINATION
18 TO A WRITTEN REQUEST FOR RECONSIDERATION AS REQUIRED UNDER
19 SUBSECTION (2).

20 (2) WITHIN 10 BUSINESS DAYS AFTER RECEIVING A WRITTEN REQUEST
21 FOR RECONSIDERATION PURSUANT TO SUBSECTION (1) (A), THE PUBLIC
22 BODY'S LORA COORDINATOR SHALL DO 1 OF THE FOLLOWING:

23 (A) REVERSE THE DISCLOSURE DENIAL.

24 (B) ISSUE A WRITTEN NOTICE TO THE REQUESTING PERSON UPHOLDING
25 THE DISCLOSURE DENIAL.

26 (C) REVERSE THE DISCLOSURE DENIAL IN PART AND ISSUE A WRITTEN
27 NOTICE TO THE REQUESTING PERSON UPHOLDING THE DISCLOSURE DENIAL IN

1 PART.

2 (D) UNDER UNUSUAL CIRCUMSTANCES, ISSUE A NOTICE EXTENDING FOR
3 NOT MORE THAN 10 BUSINESS DAYS THE PERIOD DURING WHICH THE PUBLIC
4 BODY'S LORA COORDINATOR SHALL RESPOND TO THE WRITTEN REQUEST FOR
5 RECONSIDERATION. THE PUBLIC BODY'S LORA COORDINATOR SHALL NOT ISSUE
6 MORE THAN 1 NOTICE OF EXTENSION FOR A PARTICULAR WRITTEN REQUEST
7 FOR RECONSIDERATION.

8 (3) THE PUBLIC BODY'S LORA COORDINATOR IS NOT CONSIDERED TO
9 HAVE RECEIVED A WRITTEN REQUEST FOR RECONSIDERATION UNDER
10 SUBSECTION (2) UNTIL THE FIRST SCHEDULED SESSION DAY FOLLOWING
11 SUBMISSION OF THE WRITTEN REQUEST UNDER SUBSECTION (1) (A). IF THE
12 PUBLIC BODY'S LORA COORDINATOR FAILS TO RESPOND TO A WRITTEN
13 REQUEST FOR RECONSIDERATION PURSUANT TO SUBSECTION (2), OR IF
14 PUBLIC BODY'S LORA COORDINATOR UPHOLDS ALL OR A PORTION OF THE
15 DISCLOSURE DENIAL THAT IS THE SUBJECT OF THE WRITTEN REQUEST, THE
16 REQUESTING PERSON MAY SEEK FINAL REVIEW OF THE NONDISCLOSURE BY
17 SUBMITTING AN APPEAL TO THE COUNCIL ADMINISTRATOR UNDER SUBSECTION
18 (1) (B).

19 (4) IN AN APPEAL COMMENCED UNDER SUBSECTION (1) (B), IF THE
20 COUNCIL ADMINISTRATOR DETERMINES THAT A PUBLIC RECORD IS NOT EXEMPT
21 FROM DISCLOSURE, THE PUBLIC BODY MUST CEASE WITHHOLDING OR PRODUCE
22 ALL OR A PORTION OF A PUBLIC RECORD WRONGFULLY WITHHELD, REGARDLESS
23 OF THE LOCATION OF THE PUBLIC RECORD.

24 (5) AN APPEAL COMMENCED UNDER SUBSECTION (1) (B) SHALL BE
25 REVIEWED AND DECIDED BY THE COUNCIL ADMINISTRATOR AT THE EARLIEST
26 PRACTICABLE DATE AND EXPEDITED IN EVERY WAY.

27 (6) THE COUNCIL ADMINISTRATOR MAY REQUIRE A REASONABLE FEE,

1 NOT TO EXCEED \$75.00, FOR AN APPEAL COMMENCED UNDER SUBSECTION
2 (1) (B) UNLESS THE REQUESTING PERSON IS ELIGIBLE FOR A FEE WAIVER OR
3 REDUCTION UNDER SECTION 54 BECAUSE OF INDIGENCE.

4 (7) IF THE COUNCIL ADMINISTRATOR DETERMINES IN AN APPEAL
5 COMMENCED UNDER THIS SECTION THAT THE PUBLIC BODY HAS ARBITRARILY
6 AND CAPRICIOUSLY VIOLATED THIS PART BY REFUSAL OF A PUBLIC RECORD
7 OR DELAY IN DISCLOSING OR PROVIDING COPIES, THE COUNCIL
8 ADMINISTRATOR SHALL RECOMMEND APPROPRIATE DISCIPLINARY ACTION TO
9 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE SENATE MAJORITY
10 LEADER, AS APPLICABLE. THE COUNCIL ADMINISTRATOR SHALL MAKE ANY
11 RECOMMENDATION FOR DISCIPLINARY ACTION UNDER THIS SUBSECTION
12 PUBLICLY AVAILABLE ON THE INTERNET NOT LATER THAN 5 DAYS AFTER THE
13 RECOMMENDATION IS ISSUED.

14 SEC. 59B. (1) IF A PUBLIC BODY REQUIRES A FEE THAT EXCEEDS THE
15 AMOUNT PERMITTED UNDER ITS PUBLICLY AVAILABLE PROCEDURES AND
16 GUIDELINES OR SECTION 54, THE REQUESTING PERSON MAY DO ANY OF THE
17 FOLLOWING:

18 (A) SUBMIT TO THE PUBLIC BODY'S LORA COORDINATOR A WRITTEN
19 REQUEST FOR A FEE REDUCTION THAT SPECIFICALLY STATES THE WORD
20 "RECONSIDERATION", "APPEAL", "REDETERMINATION", OR "REVERSE", AND
21 IDENTIFIES HOW THE REQUIRED FEE EXCEEDS THE AMOUNT PERMITTED UNDER
22 THE PUBLIC BODY'S AVAILABLE PROCEDURES AND GUIDELINES OR SECTION
23 54.

24 (B) SUBMIT TO THE COUNCIL ADMINISTRATOR A WRITTEN REQUEST FOR
25 A FEE REDUCTION WITHIN 45 DAYS AFTER RECEIVING EITHER A NOTICE OF
26 THE REQUIRED FEE OR A DETERMINATION OF A REQUEST FOR
27 RECONSIDERATION. A REQUEST SHALL NOT BE SUBMITTED UNDER THIS

1 SUBDIVISION UNLESS 1 OF THE FOLLOWING APPLIES:

2 (i) THE PUBLIC BODY'S LORA COORDINATOR FAILED TO RESPOND TO A
3 WRITTEN REQUEST FOR A FEE REDUCTION AS REQUIRED UNDER SUBSECTION
4 (2).

5 (ii) THE PUBLIC BODY'S LORA COORDINATOR ISSUED A DETERMINATION
6 UPON A WRITTEN REQUEST FOR A FEE REDUCTION AS REQUIRED UNDER
7 SUBSECTION (2).

8 (2) WITHIN 10 BUSINESS DAYS AFTER RECEIVING A WRITTEN REQUEST
9 FOR A FEE REDUCTION PURSUANT TO SUBSECTION (1) (A), THE PUBLIC
10 BODY'S LORA COORDINATOR SHALL DO 1 OF THE FOLLOWING:

11 (A) WAIVE THE FEE.

12 (B) REDUCE THE FEE AND ISSUE A WRITTEN DETERMINATION TO THE
13 REQUESTING PERSON INDICATING THE SPECIFIC BASIS UNDER SECTION 54
14 THAT SUPPORTS THE REMAINING FEE. THE DETERMINATION SHALL INCLUDE A
15 CERTIFICATION FROM THE PUBLIC BODY'S LORA COORDINATOR THAT THE
16 STATEMENTS IN THE DETERMINATION ARE ACCURATE AND THAT THE REDUCED
17 FEE AMOUNT COMPLIES WITH ITS PUBLICLY AVAILABLE PROCEDURES AND
18 GUIDELINES AND SECTION 54.

19 (C) UPHOLD THE FEE AND ISSUE A WRITTEN DETERMINATION TO THE
20 REQUESTING PERSON INDICATING THE SPECIFIC BASIS UNDER SECTION 54
21 THAT SUPPORTS THE REQUIRED FEE. THE DETERMINATION SHALL INCLUDE A
22 CERTIFICATION FROM THE PUBLIC BODY'S LORA COORDINATOR THAT THE
23 STATEMENTS IN THE DETERMINATION ARE ACCURATE AND THAT THE FEE
24 AMOUNT COMPLIES WITH THE PUBLIC BODY'S PUBLICLY AVAILABLE
25 PROCEDURES AND GUIDELINES AND SECTION 54.

26 (D) ISSUE A NOTICE EXTENDING FOR NOT MORE THAN 10 BUSINESS
27 DAYS THE PERIOD DURING WHICH THE PUBLIC BODY'S LORA COORDINATOR

1 MUST RESPOND TO THE WRITTEN REQUEST FOR A FEE REDUCTION. THE PUBLIC
2 BODY'S LORA COORDINATOR SHALL NOT ISSUE MORE THAN 1 NOTICE OF
3 EXTENSION FOR A PARTICULAR WRITTEN REQUEST FOR A FEE REDUCTION.

4 (3) THE PUBLIC BODY'S LORA COORDINATOR IS NOT CONSIDERED TO
5 HAVE RECEIVED A WRITTEN REQUEST FOR RECONSIDERATION UNDER
6 SUBSECTION (2) UNTIL THE FIRST SCHEDULED SESSION DAY FOLLOWING
7 SUBMISSION OF THE WRITTEN REQUEST UNDER SUBSECTION (1) (A).

8 (4) IF, IN AN APPEAL COMMENCED UNDER SUBSECTION (1) (B), THE
9 COUNCIL ADMINISTRATOR DETERMINES THAT THE PUBLIC BODY REQUIRED A
10 FEE THAT EXCEEDS THE AMOUNT PERMITTED UNDER ITS PUBLICLY AVAILABLE
11 PROCEDURES AND GUIDELINES OR SECTION 54, THE PUBLIC BODY SHALL
12 REDUCE THE FEE TO A PERMISSIBLE AMOUNT.

13 (5) AN APPEAL COMMENCED UNDER SUBSECTION (1) (B) SHALL BE
14 REVIEWED AND DECIDED BY THE COUNCIL ADMINISTRATOR AT THE EARLIEST
15 PRACTICABLE DATE AND EXPEDITED IN EVERY WAY.

16 (6) THE COUNCIL ADMINISTRATOR MAY REQUIRE A REASONABLE FEE,
17 NOT TO EXCEED \$50.00, FOR AN APPEAL COMMENCED UNDER SUBSECTION
18 (1) (B) UNLESS THE REQUESTING PERSON IS ELIGIBLE FOR A FEE WAIVER OR
19 REDUCTION UNDER SECTION 54 BECAUSE OF INDIGENCE. IF THE REQUESTING
20 PERSON PREVAILS IN AN APPEAL COMMENCED UNDER SUBSECTION (1) (B) BY
21 RECEIVING A REDUCTION OF 50% OR MORE OF THE TOTAL FEE, THE COUNCIL
22 ADMINISTRATOR SHALL WAIVE THE FEE REQUIRED UNDER THIS SUBSECTION.

23 (7) IF THE COUNCIL ADMINISTRATOR DETERMINES IN AN APPEAL
24 COMMENCED UNDER THIS SECTION THAT THE PUBLIC BODY HAS ARBITRARILY
25 AND CAPRICIOUSLY VIOLATED THIS PART BY CHARGING AN EXCESSIVE FEE,
26 THE COUNCIL ADMINISTRATOR SHALL RECOMMEND APPROPRIATE DISCIPLINARY
27 ACTION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE

1 MAJORITY LEADER OF THE SENATE, AS APPLICABLE. THE COUNCIL
2 ADMINISTRATOR SHALL MAKE ANY RECOMMENDATION FOR DISCIPLINARY ACTION
3 UNDER THIS SUBSECTION PUBLICLY AVAILABLE ON THE INTERNET NOT LATER
4 THAN 5 DAYS AFTER THE RECOMMENDATION IS ISSUED.

5 (8) AS USED IN THIS SECTION, "FEE" MEANS THE TOTAL FEE OR ANY
6 COMPONENT OF THE TOTAL FEE CALCULATED UNDER SECTION 54, INCLUDING
7 ANY DEPOSIT.

8 SEC. 59C. (1) THIS PART SHALL NOT BE CONSTRUED TO LIMIT,
9 MODIFY, WAIVE, OR OTHERWISE AFFECT THE PRIVILEGES AND IMMUNITIES
10 GUARANTEED UNDER SECTION 11 OF ARTICLE IV OF THE STATE CONSTITUTION
11 OF 1963.

12 (2) THIS PART DOES NOT CREATE OR IMPLY A PRIVATE CAUSE OF
13 ACTION FOR A VIOLATION OF THIS PART.

14 SEC. 59D. (1) A PUBLIC BODY MAY EXEMPT FROM DISCLOSURE AS A
15 PUBLIC RECORD UNDER THIS PART ANY OF THE FOLLOWING:

16 (A) RECORDS OR INFORMATION OF A PERSONAL NATURE IF PUBLIC
17 DISCLOSURE OF THE INFORMATION WOULD CONSTITUTE A CLEARLY
18 UNWARRANTED INVASION OF AN INDIVIDUAL'S PRIVACY. THAT INFORMATION
19 INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

20 (i) AN INDIVIDUAL'S SOCIAL SECURITY NUMBER, FINANCIAL
21 INSTITUTION RECORD, ELECTRONIC FUND NUMBER, DEFERRED COMPENSATION,
22 SAVINGS BONDS, W-2 AND W-4 FORMS, AND ANY COURT-ENFORCED JUDGMENTS.

23 (ii) AN EMPLOYEE'S HEALTH CARE BENEFIT SELECTION.

24 (iii) UNEMPLOYMENT COMPENSATION AND WORKER'S DISABILITY
25 COMPENSATION RECORDS.

26 (iv) INTERNET-USE RECORDS.

27 (B) MEDICAL, COUNSELING, OR PSYCHOLOGICAL FACTS OR EVALUATIONS

1 CONCERNING AN INDIVIDUAL IF THE INDIVIDUAL'S IDENTITY WOULD BE
2 REVEALED BY A DISCLOSURE OF THOSE FACTS OR EVALUATION, INCLUDING
3 PROTECTED HEALTH INFORMATION, AS DEFINED IN 45 CFR 160.103.

4 (C) COMMUNICATIONS, INCLUDING ANY RELATED RECORDS OR
5 INFORMATION, BETWEEN A LEGISLATOR OR A LEGISLATOR'S OFFICE AND A
6 CONSTITUENT, OTHER THAN A PERSON REQUIRED TO BE REGISTERED AS A
7 LOBBYIST UNDER 1978 PA 472, MCL 4.411 TO 4.431. FOR PURPOSES OF
8 THIS SUBDIVISION, "CONSTITUENT" MEANS ANY OF THE FOLLOWING:

9 (i) AN INDIVIDUAL WHO IS REGISTERED TO VOTE IN THE DISTRICT
10 THE LEGISLATOR IS ELECTED TO REPRESENT.

11 (ii) AN INDIVIDUAL WHO IS A RESIDENT OF THE DISTRICT THE
12 LEGISLATOR IS ELECTED TO REPRESENT AND WHO IS NOT REGISTERED TO
13 VOTE OUTSIDE OF THAT DISTRICT.

14 (D) COMMUNICATIONS AND NOTES WITHIN A PUBLIC BODY OR BETWEEN
15 PUBLIC BODIES OF AN ADVISORY NATURE TO THE EXTENT THAT THEY COVER
16 OTHER THAN PURELY FACTUAL MATERIALS AND ARE PRELIMINARY TO A FINAL
17 DETERMINATION OF POLICY OR ACTION. FOR PURPOSES OF THIS
18 SUBDIVISION, "PUBLIC BODY" INCLUDES A PUBLIC BODY AS DEFINED IN
19 PART 1.

20 (E) RECORDS OR INFORMATION PERTAINING TO AN ONGOING INTERNAL
21 OR LEGISLATIVE INVESTIGATION.

22 (F) TRADE SECRETS OR COMMERCIAL OR FINANCIAL RECORDS OR
23 INFORMATION VOLUNTARILY PROVIDED IN CONFIDENCE FOR USE IN
24 DEVELOPING GOVERNMENTAL POLICY.

25 (G) RECORDS OR INFORMATION SUBJECT TO THE ATTORNEY-CLIENT
26 PRIVILEGE OR ANY OTHER PRIVILEGE RECOGNIZED BY THE CONSTITUTION,
27 STATUTE, COURT RULE, OR RULES ADOPTED BY A HOUSE OF THE

1 LEGISLATURE.

2 (H) RECORDS OR INFORMATION RELATING TO A CIVIL ACTION IN WHICH
3 THE PUBLIC BODY IS A PARTY UNTIL SUCH LITIGATION OR CLAIM HAS BEEN
4 FINALLY ADJUDICATED OR OTHERWISE SETTLED.

5 (I) RECORDS OR INFORMATION SPECIFICALLY DESCRIBED AND EXEMPTED
6 FROM DISCLOSURE BY STATUTE AND INCLUDING THE RECORDS AND
7 INFORMATION SUBJECT TO CONFIDENTIALITY REQUIREMENTS IN SECTIONS
8 109, 501, AND 601 OF THE LEGISLATIVE COUNCIL ACT, 1986 PA 268, MCL
9 4.1109, 4.1501, AND 4.1601, AND IN SECTION 9 OF 1975 PA 46, MCL
10 4.359.

11 (J) A PUBLIC RECORD OR INFORMATION DESCRIBED IN THIS SECTION,
12 THAT IS FURNISHED BY THE PUBLIC BODY ORIGINALLY COMPILING,
13 PREPARING, OR RECEIVING THE RECORD OR INFORMATION TO A PUBLIC
14 OFFICER OR PUBLIC BODY IN CONNECTION WITH THE PERFORMANCE OF THE
15 DUTIES OF THAT PUBLIC OFFICER OR PUBLIC BODY, IF THE CONSIDERATIONS
16 ORIGINALLY GIVING RISE TO THE EXEMPT NATURE OF THE PUBLIC RECORD
17 REMAIN APPLICABLE.

18 (K) RECORDS OF THE OFFICE OF SERGEANT AT ARMS.

19 (L) RECORDS OF A PUBLIC BODY'S SECURITY MEASURES, INCLUDING
20 SECURITY PLANS, CAPABILITIES, PROCEDURES, MEASURES, PASSWORDS,
21 PASSES, KEYS, AND CODES AND COMBINATIONS.

22 (M) A BID OR PROPOSAL BY A PERSON TO ENTER INTO A CONTRACT OR
23 AGREEMENT, UNTIL THE TIME FOR THE PUBLIC OPENING OF BIDS OR
24 PROPOSALS, OR IF A PUBLIC OPENING IS NOT TO BE CONDUCTED, UNTIL THE
25 DEADLINE FOR SUBMISSION OF BIDS OR PROPOSALS HAS EXPIRED.

26 (N) RECORDS THAT WOULD DO ANY OF THE FOLLOWING IF DISCLOSED:

27 (i) INTERFERE WITH LAW ENFORCEMENT PROCEEDINGS.

1 (ii) DEPRIVE A PERSON OF THE RIGHT TO A FAIR TRIAL OR
2 IMPARTIAL ADMINISTRATIVE ADJUDICATION.

3 (iii) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE OR
4 INFORMATION FURNISHED BY A CONFIDENTIAL SOURCE IN THE COURSE OF A
5 LEGISLATIVE INVESTIGATION.

6 (iv) ENDANGER THE LIFE OR PHYSICAL SAFETY OF ANY INDIVIDUAL.

7 (v) PREJUDICE A PUBLIC BODY'S ABILITY TO MAINTAIN THE SECURITY
8 OR INTEGRITY OF ITS PROPERTIES OR INFORMATION TECHNOLOGY SYSTEMS.

9 (o) RECORDS CREATED, PREPARED, OWNED, USED, IN THE POSSESSION
10 OF, OR RETAINED BY A PUBLIC BODY PRIOR TO JANUARY 1, 2019.

11 (p) RECORDS IN THE SOLE CUSTODY OF, OR EXCLUSIVELY MAINTAINED
12 BY, THE MAJORITY AND MINORITY CAUCUSES OF EACH HOUSE OF THE
13 LEGISLATURE.

14 (2) THIS PART DOES NOT AUTHORIZE THE EXEMPTION FROM DISCLOSURE
15 OF ANY SALARY RECORD OF AN EMPLOYEE OR OFFICIAL OF A PUBLIC BODY.

16 (3) THIS PART DOES NOT AUTHORIZE THE EXEMPTION FROM DISCLOSURE
17 OF A RECORD OTHERWISE REQUIRED BY LAW TO BE MADE AVAILABLE TO THE
18 PUBLIC.

19 SEC. 59E. (1) IF A PUBLIC RECORD CONTAINS MATERIAL THAT IS NOT
20 EXEMPT UNDER SECTION 59D, AS WELL AS MATERIAL THAT IS EXEMPT FROM
21 DISCLOSURE UNDER SECTION 59D, THE PUBLIC BODY SHALL SEPARATE THE
22 EXEMPT AND NONEXEMPT MATERIAL AND MAKE THE NONEXEMPT MATERIAL
23 AVAILABLE FOR EXAMINATION AND COPYING.

24 (2) WHEN DESIGNING A PUBLIC RECORD, A PUBLIC BODY SHALL, TO
25 THE EXTENT PRACTICABLE, FACILITATE A SEPARATION OF EXEMPT FROM
26 NONEXEMPT INFORMATION. IF THE SEPARATION IS READILY APPARENT TO A
27 PERSON REQUESTING TO INSPECT OR RECEIVE COPIES OF THE FORM, THE

1 PUBLIC BODY SHALL GENERALLY DESCRIBE THE MATERIAL EXEMPTED UNLESS
2 THAT DESCRIPTION WOULD REVEAL THE CONTENTS OF THE EXEMPT
3 INFORMATION AND THUS DEFEAT THE PURPOSE OF THE EXEMPTION.

4 SEC. 59F. THE ATTORNEY GENERAL SHALL COUNSEL AND ADVISE A
5 PUBLIC BODY ON THE ADMINISTRATION OF THIS PART UPON REQUEST.

6 Enacting section 1. This amendatory act takes effect January
7 1, 2019.

8 Enacting section 2. This amendatory act does not take effect
9 unless Senate Bill No. 247

10 of the 99th Legislature is enacted into law.