

HOUSE BILL No. 4794

June 11, 1999, Introduced by Rep. Birkholz and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1976 PA 442, entitled
"Freedom of information act,"
by amending section 4 (MCL 15.234), as amended by 1996 PA 553.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A public body may charge a fee for a public
2 record search, the necessary copying of a public record for
3 inspection, or for providing a copy of a public record. Subject
4 to subsections (3) and (4), the fee shall be limited to actual
5 mailing costs, and to the actual incremental cost of duplication
6 or publication including labor, the cost of search, examination,
7 review, and the deletion and separation of exempt from nonexempt
8 information as provided in section 14. A search for a public
9 record may be conducted or copies of public records may be
10 furnished without charge or at a reduced charge if the public
11 body determines that a waiver or reduction of the fee is in the

1 public interest because searching for or furnishing copies of the
2 public record can be considered as primarily benefiting the gen-
3 eral public. A public record search shall be made and a copy of
4 a public record shall be furnished without charge for the first
5 \$20.00 of the fee for each request to an individual who is enti-
6 tled to information under this act and who submits an affidavit
7 stating that the individual is then receiving public assistance
8 or, if not receiving public assistance, stating facts showing
9 inability to pay the cost because of indigency.

10 (2) A public body may require at the time a request is made
11 a good faith deposit from the person requesting the public record
12 or series of public records, if the fee authorized under this
13 section exceeds \$50.00. The deposit shall not exceed 1/2 of the
14 total fee.

15 (3) In calculating the cost of labor incurred in duplication
16 and mailing and the cost of examination, review, separation, and
17 deletion under subsection (1), a public body may not charge more
18 than the hourly wage of the lowest paid public body employee
19 capable of retrieving the information necessary to comply with a
20 request under this act. Fees shall be uniform and not dependent
21 upon the identity of the requesting person. A public body shall
22 utilize the most economical means available for making copies of
23 public records. A fee shall not be charged for the cost of
24 search, examination, review, and the deletion and separation of
25 exempt from nonexempt information as provided in section 14
26 unless failure to charge a fee would result in unreasonably high
27 costs to the public body because of the nature of the request in

1 the particular instance, and the public body specifically
2 identifies the nature of these unreasonably high costs. A public
3 body shall establish and publish procedures and guidelines to
4 implement this subsection.

5 (4) This section does not apply to public records prepared
6 under an act or statute specifically authorizing the sale of
7 those public records to the public, or if the amount of the fee
8 for providing a copy of the public record is otherwise specifi-
9 cally provided by an act or statute. THE EXCEPTION PROVIDED BY
10 THIS SUBSECTION EXTENDS TO THE TRANSFER OF A COMPUTER TAPE OR
11 DISC CONTAINING INFORMATION SUBSTANTIALLY EQUIVALENT TO THE
12 PUBLIC RECORDS, IF THE TRANSFER IS MADE TO A FOR-PROFIT ENTITY
13 OTHER THAN A NEWSPAPER OR PERIODICAL DESCRIBED IN SECTION 54A OF
14 THE GENERAL SALES TAX ACT, 1933 PA 167, MCL 205.54A.