

HOUSE BILL No. 5599

May 27, 2014, Introduced by Reps. Lipton, Geiss, Heise, Barnett, Tlaib, Driskell, Cochran, Abed, Segal, Brown, Stanley, Slavens, Kandrevas, Hovey-Wright, Roberts, McMillin, Cavanagh, Howrylak, Shirkey, Genetski, Goike, Faris and Oakes and referred to the Committee on Government Operations.

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

1 charge if the public body determines that a waiver or reduction of
2 the fee is in the public interest because searching for or
3 furnishing copies of the public record can be considered as
4 primarily benefiting the general public. **A PUBLIC BODY SHALL WAIVE**
5 **THE FEE IF THE REQUEST IS MADE BY AN ELECTED PUBLIC OFFICIAL IN**
6 **FURTHERANCE OF HIS OR HER DUTIES AS AN ELECTED PUBLIC OFFICIAL.** A
7 public record search shall be made and a copy of a public record
8 shall be furnished without charge for the first \$20.00 of the fee
9 for each request to an individual who is entitled to information
10 under this act and who submits an affidavit stating that the
11 individual is then receiving public assistance or, if not receiving
12 public assistance, stating facts showing inability to pay the cost
13 because of indigency.

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

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

1 nonexempt information as provided in section 14 unless failure to
2 charge a fee would result in unreasonably high costs to the public
3 body because of the nature of the request in the particular
4 instance, and the public body specifically identifies the nature of
5 these unreasonably high costs. A public body shall establish and
6 publish procedures and guidelines to implement this subsection.

7 (4) This section does not apply to public records prepared
8 under an act or statute specifically authorizing the sale of those
9 public records to the public, or if the amount of the fee for
10 providing a copy of the public record is otherwise specifically
11 provided by an act or statute.