

Legislative Analysis



WAIVE FOIA FEES FOR ELECTED OFFICIALS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5599

Sponsor: Rep. Ellen Cogen Lipton

Committee: Oversight

Complete to 12-1-14

A SUMMARY OF HOUSE BILL 5599 AS INTRODUCED 5-22-14

House Bill 5599 would amend the Freedom of Information Act (MCL 15.234) to require that a public body waive fees if a request is made under the act by an elected public official "in furtherance of his or her duties as an elected public official."

Currently under the law a public body¹ may charge a fee for a public record search, for the necessary copying of a public record for inspection, or for providing a copy of the public record. The fee is limited to actual costs for mailing, duplication, or publication (to include the labor costs for the search, examination, and review of the documents, as well as the cost of deleting and separating exempt from nonexempt information).

Now under the law, a search for a public record may be conducted or copies may be furnished without charge or at a reduced charge if the public body determines that a waiver or fee reduction is in the public interest. Further, the first \$20 of any fee is waived for low-income individuals.

House Bill 5599 would retain all of these provisions but, as noted above, require the waiver of fees for an elected official.

FISCAL IMPACT:

There would be an indeterminate negative fiscal impact on state and local governments as a result of the bill. The number of FOIA requests by elected public officials and fee amounts to complete the requests would vary by an unknown amount per year. The costs

¹ Under the act, "public body" is defined to mean any of the following:

- (i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.
- (ii) An agency, board, commission, or council in the legislative branch of the state government.
- (iii) A county, city, township, village, inter-county, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.
- (iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority.
- (v) The judiciary, including the office of the county clerk and employees thereof when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

to fulfill the FOIA requests made by elected public officials could not be recouped by state and local government entities, resulting in a loss for every request completed.

Legislative Analyst: J. Hunault
Fiscal Analyst: Perry Zielak

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.