

HOUSE BILL No. 5025

August 13, 2003, Introduced by Reps. Ruth Johnson, Accavitti, Minore, Ehardt, Amos, Ward, Tobocman, Voorhees, Vagnozzi, Rocca, Drolet, Pappageorge and Huizenga 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
 2 record search, **for** 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)-~~ (5), the fee shall be limited to
 5 actual mailing costs ~~—~~ and to the actual incremental cost of
 6 duplication or publication, including labor, the cost of search,
 7 examination, review, and the deletion and separation of exempt
 8 from nonexempt information as provided in section 14. A search
 9 for a public record may be conducted or copies of public records
 10 may be furnished without charge or at a reduced charge if the
 11 public body determines that a waiver or reduction of the fee is

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

10 (2) A public body may require at the time a request is made a
11 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. **However,**
3 **regardless of the cost to the public body, a fee shall not be**
4 **charged for separating exempt from nonexempt information if it**
5 **was possible for the public body to keep the information**
6 **separated when the document was created or when an existing**
7 **document was modified.**

8 (4) A public body shall establish and publish procedures and
9 guidelines to implement ~~this~~ subsection (3).

10 (5) ~~(4)~~ This section does not apply to public records
11 prepared under an act or statute specifically authorizing the
12 sale of those public records to the public ~~—~~ or if the amount
13 of the fee for providing a copy of the public record is otherwise
14 specifically provided by an act or statute.