

SUBSTITUTE FOR  
HOUSE BILL NO. 4013

A bill to amend 1976 PA 442, entitled  
"Freedom of information act,"  
(MCL 15.231 to 15.246) by adding section 24.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 24. (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 IF IT HAS  
4 ESTABLISHED, MAKES PUBLICLY AVAILABLE, AND FOLLOWS PROCEDURES AND  
5 GUIDELINES TO IMPLEMENT THIS SECTION AS DESCRIBED IN SUBSECTION  
6 (4). SUBJECT TO SUBSECTIONS (2), (3), (4), (5), AND (9), THE FEE  
7 MUST BE LIMITED TO ACTUAL MAILING COSTS AND TO THE ACTUAL  
8 INCREMENTAL COST OF DUPLICATION OR PUBLICATION, INCLUDING LABOR,  
9 THE COST OF SEARCH, EXAMINATION, REVIEW, AND THE DELETION AND  
10 SEPARATION OF EXEMPT FROM NONEXEMPT INFORMATION AS PROVIDED IN

1 SECTION 29E. EXCEPT AS OTHERWISE PROVIDED IN THIS PART, IF THE  
2 PUBLIC BODY ESTIMATES OR CHARGES A FEE IN ACCORDANCE WITH THIS  
3 PART, THE TOTAL FEE MUST NOT EXCEED THE SUM OF THE FOLLOWING:

4 (A) THAT PORTION OF LABOR COSTS DIRECTLY ASSOCIATED WITH THE  
5 NECESSARY SEARCHING FOR, LOCATING, AND EXAMINING OF PUBLIC RECORDS  
6 IN CONJUNCTION WITH RECEIVING AND FULFILLING A GRANTED WRITTEN  
7 REQUEST. THE PUBLIC BODY SHALL NOT CHARGE MORE THAN THE HOURLY WAGE  
8 OF ITS LOWEST-PAID EMPLOYEE CAPABLE OF SEARCHING FOR, LOCATING, AND  
9 EXAMINING THE PUBLIC RECORDS IN THE PARTICULAR INSTANCE REGARDLESS  
10 OF WHETHER THAT PERSON IS AVAILABLE OR WHO ACTUALLY PERFORMS THE  
11 LABOR. LABOR COSTS UNDER THIS SUBDIVISION SHALL BE ESTIMATED AND  
12 CHARGED IN INCREMENTS OF 15 MINUTES OR MORE, WITH ALL PARTIAL TIME  
13 INCREMENTS ROUNDED DOWN.

14 (B) THAT PORTION OF LABOR COSTS, INCLUDING NECESSARY REVIEW,  
15 IF ANY, DIRECTLY ASSOCIATED WITH THE SEPARATING AND DELETING OF  
16 EXEMPT INFORMATION FROM NONEXEMPT INFORMATION AS PROVIDED IN  
17 SECTION 29E. FOR SERVICES PERFORMED BY AN EMPLOYEE OF THE PUBLIC  
18 BODY, THE PUBLIC BODY SHALL NOT CHARGE MORE THAN THE HOURLY WAGE OF  
19 ITS LOWEST-PAID EMPLOYEE CAPABLE OF SEPARATING AND DELETING EXEMPT  
20 INFORMATION FROM NONEXEMPT INFORMATION IN THE PARTICULAR INSTANCE  
21 AS PROVIDED IN SECTION 29E, REGARDLESS OF WHETHER THAT PERSON IS  
22 AVAILABLE OR WHO ACTUALLY PERFORMS THE LABOR. LABOR COSTS UNDER  
23 THIS SUBDIVISION SHALL BE ESTIMATED AND CHARGED IN INCREMENTS OF 15  
24 MINUTES OR MORE, WITH ALL PARTIAL TIME INCREMENTS ROUNDED DOWN. A  
25 PUBLIC BODY SHALL NOT CHARGE FOR LABOR DIRECTLY ASSOCIATED WITH  
26 REDACTION UNDER SECTION 29E IF IT KNOWS OR HAS REASON TO KNOW THAT  
27 IT PREVIOUSLY REDACTED THE PUBLIC RECORD IN QUESTION AND THE

1 REDACTED VERSION IS STILL IN THE PUBLIC BODY'S POSSESSION.

2 (C) FOR PUBLIC RECORDS PROVIDED TO THE REQUESTOR ON NONPAPER  
3 PHYSICAL MEDIA, THE ACTUAL AND MOST REASONABLY ECONOMICAL COST OF  
4 THE COMPUTER DISCS, COMPUTER TAPES, OR OTHER DIGITAL OR SIMILAR  
5 MEDIA. THE REQUESTOR MAY STIPULATE THAT THE PUBLIC RECORDS BE  
6 PROVIDED ON NONPAPER PHYSICAL MEDIA, ELECTRONICALLY MAILED, OR  
7 OTHERWISE ELECTRONICALLY PROVIDED TO HIM OR HER IN LIEU OF PAPER  
8 COPIES. THIS SUBDIVISION DOES NOT APPLY IF A PUBLIC BODY LACKS THE  
9 TECHNOLOGICAL CAPABILITY NECESSARY TO PROVIDE RECORDS ON THE  
10 PARTICULAR NONPAPER PHYSICAL MEDIA STIPULATED IN THE PARTICULAR  
11 INSTANCE.

12 (D) FOR PAPER COPIES OF PUBLIC RECORDS PROVIDED TO THE  
13 REQUESTOR, THE ACTUAL TOTAL INCREMENTAL COST OF NECESSARY  
14 DUPLICATION OR PUBLICATION, NOT INCLUDING LABOR. THE COST OF PAPER  
15 COPIES SHALL BE CALCULATED AS A TOTAL COST PER SHEET OF PAPER AND  
16 SHALL BE ITEMIZED AND NOTED IN A MANNER THAT EXPRESSES BOTH THE  
17 COST PER SHEET AND THE NUMBER OF SHEETS PROVIDED. THE FEE MUST NOT  
18 EXCEED 10 CENTS PER SHEET OF PAPER FOR COPIES OF PUBLIC RECORDS  
19 MADE ON 8-1/2- BY 11-INCH PAPER OR 8-1/2- BY 14-INCH PAPER. A  
20 PUBLIC BODY SHALL UTILIZE THE MOST ECONOMICAL MEANS AVAILABLE FOR  
21 MAKING COPIES OF PUBLIC RECORDS, INCLUDING USING DOUBLE-SIDED  
22 PRINTING, IF COST SAVING AND AVAILABLE.

23 (E) THE COST OF LABOR DIRECTLY ASSOCIATED WITH DUPLICATION OR  
24 PUBLICATION, INCLUDING MAKING PAPER COPIES, MAKING DIGITAL COPIES,  
25 OR TRANSFERRING DIGITAL PUBLIC RECORDS TO BE GIVEN TO THE REQUESTOR  
26 ON NONPAPER PHYSICAL MEDIA OR THROUGH THE INTERNET OR OTHER  
27 ELECTRONIC MEANS AS STIPULATED BY THE REQUESTOR. THE PUBLIC BODY

1 SHALL NOT CHARGE MORE THAN THE HOURLY WAGE OF ITS LOWEST-PAID  
2 EMPLOYEE CAPABLE OF NECESSARY DUPLICATION OR PUBLICATION IN THE  
3 PARTICULAR INSTANCE, REGARDLESS OF WHETHER THAT PERSON IS AVAILABLE  
4 OR WHO ACTUALLY PERFORMS THE LABOR. LABOR COSTS UNDER THIS  
5 SUBDIVISION MAY BE ESTIMATED AND CHARGED IN TIME INCREMENTS OF THE  
6 PUBLIC BODY'S CHOOSING. HOWEVER, ALL PARTIAL TIME INCREMENTS SHALL  
7 BE ROUNDED DOWN.

8 (F) THE ACTUAL COST OF MAILING, IF ANY, FOR SENDING THE PUBLIC  
9 RECORDS IN A REASONABLY ECONOMICAL AND JUSTIFIABLE MANNER. THE  
10 PUBLIC BODY SHALL NOT CHARGE MORE FOR EXPEDITED SHIPPING OR  
11 INSURANCE UNLESS SPECIFICALLY STIPULATED BY THE REQUESTOR, BUT MAY  
12 OTHERWISE CHARGE FOR THE LEAST EXPENSIVE FORM OF POSTAL DELIVERY  
13 CONFIRMATION WHEN MAILING PUBLIC RECORDS.

14 (2) WHEN CALCULATING LABOR COSTS UNDER SUBSECTION (1) (A), (B),  
15 OR (E), FEE COMPONENTS SHALL BE ITEMIZED IN A MANNER THAT EXPRESSES  
16 BOTH THE HOURLY WAGE AND THE NUMBER OF HOURS CHARGED. THE PUBLIC  
17 BODY MAY ALSO ADD UP TO 50% TO THE APPLICABLE LABOR CHARGE AMOUNT  
18 TO COVER OR PARTIALLY COVER THE COST OF FRINGE BENEFITS IF IT  
19 CLEARLY NOTES THE PERCENTAGE MULTIPLIER USED TO ACCOUNT FOR  
20 BENEFITS IN THE DETAILED ITEMIZATION DESCRIBED IN SUBSECTION (4).  
21 SUBJECT TO THE 50% LIMITATION, THE PUBLIC BODY SHALL NOT CHARGE  
22 MORE THAN THE ACTUAL COST OF FRINGE BENEFITS, AND OVERTIME WAGES  
23 SHALL NOT BE USED IN CALCULATING THE COST OF FRINGE BENEFITS.  
24 OVERTIME WAGES SHALL NOT BE INCLUDED IN THE CALCULATION OF LABOR  
25 COSTS UNLESS OVERTIME IS SPECIFICALLY STIPULATED BY THE REQUESTOR  
26 AND CLEARLY NOTED ON THE DETAILED ITEMIZATION DESCRIBED IN  
27 SUBSECTION (4). A SEARCH FOR A PUBLIC RECORD MAY BE CONDUCTED OR

1 COPIES OF PUBLIC RECORDS MAY BE FURNISHED WITHOUT CHARGE OR AT A  
2 REDUCED CHARGE IF THE PUBLIC BODY DETERMINES THAT A WAIVER OR  
3 REDUCTION OF THE FEE IS IN THE PUBLIC INTEREST BECAUSE SEARCHING  
4 FOR OR FURNISHING COPIES OF THE PUBLIC RECORD CAN BE CONSIDERED AS  
5 PRIMARILY BENEFITING THE GENERAL PUBLIC. A PUBLIC RECORD SEARCH  
6 SHALL BE MADE AND A COPY OF A PUBLIC RECORD SHALL BE FURNISHED  
7 WITHOUT CHARGE FOR THE FIRST \$20.00 OF THE FEE FOR EACH REQUEST BY  
8 EITHER OF THE FOLLOWING:

9 (A) AN INDIVIDUAL WHO IS ENTITLED TO INFORMATION UNDER THIS  
10 PART AND WHO SUBMITS AN AFFIDAVIT STATING THAT THE INDIVIDUAL IS  
11 INDIGENT AND RECEIVING SPECIFIC PUBLIC ASSISTANCE OR, IF NOT  
12 RECEIVING PUBLIC ASSISTANCE, STATING FACTS SHOWING INABILITY TO PAY  
13 THE COST BECAUSE OF INDIGENCY. IF THE REQUESTOR IS ELIGIBLE FOR A  
14 REQUESTED DISCOUNT, THE PUBLIC BODY SHALL FULLY NOTE THE DISCOUNT  
15 ON THE DETAILED ITEMIZATION DESCRIBED UNDER SUBSECTION (4). IF A  
16 REQUESTOR IS INELIGIBLE FOR THE DISCOUNT, THE PUBLIC BODY SHALL  
17 INFORM THE REQUESTOR SPECIFICALLY OF THE REASON FOR INELIGIBILITY  
18 IN THE PUBLIC BODY'S WRITTEN RESPONSE. AN INDIVIDUAL IS INELIGIBLE  
19 FOR THIS FEE REDUCTION IF ANY OF THE FOLLOWING APPLY:

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

23 (ii) THE INDIVIDUAL REQUESTS THE INFORMATION IN CONJUNCTION  
24 WITH OUTSIDE PARTIES WHO ARE OFFERING OR PROVIDING PAYMENT OR OTHER  
25 REMUNERATION TO THE INDIVIDUAL TO MAKE THE REQUEST. A PUBLIC BODY  
26 MAY REQUIRE A STATEMENT BY THE REQUESTOR IN THE AFFIDAVIT THAT THE  
27 REQUEST IS NOT BEING MADE IN CONJUNCTION WITH OUTSIDE PARTIES IN

1 EXCHANGE FOR PAYMENT OR OTHER REMUNERATION.

2 (B) A NONPROFIT ORGANIZATION FORMALLY DESIGNATED BY THE STATE  
3 TO CARRY OUT ACTIVITIES UNDER SUBTITLE C OF THE DEVELOPMENTAL  
4 DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000, PUBLIC LAW  
5 106-402, AND THE PROTECTION AND ADVOCACY FOR MENTALLY ILL  
6 INDIVIDUALS ACT OF 1986, PUBLIC LAW 99-319, OR THEIR SUCCESSORS, IF  
7 THE REQUEST MEETS ALL OF THE FOLLOWING REQUIREMENTS:

8 (i) IS MADE DIRECTLY ON BEHALF OF THE ORGANIZATION OR ITS  
9 CLIENTS.

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

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

15 (3) A FEE AS DESCRIBED IN SUBSECTION (1) SHALL NOT BE CHARGED  
16 FOR THE COST OF SEARCH, EXAMINATION, REVIEW, AND THE DELETION AND  
17 SEPARATION OF EXEMPT FROM NONEXEMPT INFORMATION AS PROVIDED IN  
18 SECTION 29E UNLESS FAILURE TO CHARGE A FEE WOULD RESULT IN  
19 UNREASONABLY HIGH COSTS TO THE PUBLIC BODY BECAUSE OF THE NATURE OF  
20 THE REQUEST IN THE PARTICULAR INSTANCE AND THE PUBLIC BODY  
21 SPECIFICALLY IDENTIFIES THE NATURE OF THESE UNREASONABLY HIGH  
22 COSTS.

23 (4) A PUBLIC BODY SHALL ESTABLISH PROCEDURES AND GUIDELINES TO  
24 IMPLEMENT THIS PART AND SHALL CREATE A WRITTEN PUBLIC SUMMARY OF  
25 THE SPECIFIC PROCEDURES AND GUIDELINES RELEVANT TO THE GENERAL  
26 PUBLIC REGARDING HOW TO SUBMIT WRITTEN REQUESTS TO THE PUBLIC BODY  
27 AND EXPLAINING HOW TO UNDERSTAND A PUBLIC BODY'S WRITTEN RESPONSES,

1 DEPOSIT REQUIREMENTS, FEE CALCULATIONS, AND AVENUES FOR CHALLENGE  
2 AND APPEAL. THE WRITTEN PUBLIC SUMMARY SHALL BE WRITTEN IN A MANNER  
3 SO AS TO BE EASILY UNDERSTOOD BY THE GENERAL PUBLIC. A PUBLIC BODY  
4 SHALL POST AND MAINTAIN THE PROCEDURES AND GUIDELINES AND ITS  
5 WRITTEN PUBLIC SUMMARY ON ITS WEBSITE. A PUBLIC BODY SHALL MAKE THE  
6 PROCEDURES AND GUIDELINES PUBLICLY AVAILABLE BY PROVIDING FREE  
7 COPIES OF THE PROCEDURES AND GUIDELINES AND ITS WRITTEN PUBLIC  
8 SUMMARY BOTH IN THE PUBLIC BODY'S RESPONSE TO A WRITTEN REQUEST AND  
9 UPON REQUEST BY VISITORS AT THE PUBLIC BODY'S OFFICE. A PUBLIC BODY  
10 MAY INCLUDE THE WEBSITE LINK TO THE DOCUMENTS IN LIEU OF PROVIDING  
11 PAPER COPIES IN ITS RESPONSE TO A WRITTEN REQUEST. A PUBLIC BODY'S  
12 PROCEDURES AND GUIDELINES MUST INCLUDE THE USE OF A STANDARD FORM  
13 FOR DETAILED ITEMIZATION OF ANY FEE AMOUNT IN ITS RESPONSES TO  
14 WRITTEN REQUESTS UNDER THIS PART. THE DETAILED ITEMIZATION MUST  
15 CLEARLY LIST AND EXPLAIN THE ALLOWABLE CHARGES FOR EACH OF THE 6  
16 FEE COMPONENTS LISTED UNDER SUBSECTION (1) THAT COMPOSE THE TOTAL  
17 FEE USED FOR ESTIMATING OR CHARGING PURPOSES. A PUBLIC BODY THAT  
18 HAS NOT ESTABLISHED PROCEDURES AND GUIDELINES, HAS NOT CREATED A  
19 WRITTEN PUBLIC SUMMARY, OR HAS NOT MADE THOSE ITEMS PUBLICLY  
20 AVAILABLE WITHOUT CHARGE AS REQUIRED IN THIS SUBSECTION IS NOT  
21 RELIEVED OF ITS DUTY TO COMPLY WITH ANY REQUIREMENT OF THIS PART  
22 AND SHALL NOT REQUIRE DEPOSITS OR CHARGE FEES OTHERWISE PERMITTED  
23 UNDER THIS PART UNTIL IT IS IN COMPLIANCE WITH THIS SUBSECTION.  
24 NOTWITHSTANDING THIS SUBSECTION AND DESPITE ANY LAW TO THE  
25 CONTRARY, A PUBLIC BODY'S PROCEDURES AND GUIDELINES UNDER THIS PART  
26 ARE NOT EXEMPT PUBLIC RECORDS UNDER SECTION 29D.

27 (5) ANY PUBLIC RECORDS AVAILABLE TO THE GENERAL PUBLIC ON A

1 PUBLIC BODY'S INTERNET SITE AT THE TIME THE REQUEST IS MADE ARE  
2 EXEMPT FROM CHARGE UNDER SUBSECTION (1) (B). IF THE LORA COORDINATOR  
3 KNOWS OR HAS REASON TO KNOW THAT ALL OR A PORTION OF THE REQUESTED  
4 INFORMATION IS AVAILABLE ON ITS WEBSITE, THE PUBLIC BODY SHALL  
5 NOTIFY THE REQUESTOR IN ITS WRITTEN RESPONSE THAT ALL OR A PORTION  
6 OF THE REQUESTED INFORMATION IS AVAILABLE ON ITS WEBSITE. THE  
7 WRITTEN RESPONSE, TO THE DEGREE PRACTICABLE IN THE SPECIFIC  
8 INSTANCE, MUST INCLUDE A SPECIFIC WEBPAGE ADDRESS WHERE THE  
9 REQUESTED INFORMATION IS AVAILABLE. ON THE DETAILED ITEMIZATION  
10 DESCRIBED IN SUBSECTION (4), THE PUBLIC BODY SHALL SEPARATE THE  
11 REQUESTED PUBLIC RECORDS THAT ARE AVAILABLE ON ITS WEBSITE FROM  
12 THOSE THAT ARE NOT AVAILABLE ON THE WEBSITE AND SHALL INFORM THE  
13 REQUESTOR OF THE ADDITIONAL CHARGE TO RECEIVE COPIES OF THE PUBLIC  
14 RECORDS THAT ARE AVAILABLE ON ITS WEBSITE. IF THE PUBLIC BODY HAS  
15 INCLUDED THE WEBSITE ADDRESS FOR A RECORD IN ITS WRITTEN RESPONSE  
16 TO THE REQUESTOR AND THE REQUESTOR THEREAFTER STIPULATES THAT THE  
17 PUBLIC RECORD BE PROVIDED TO HIM OR HER IN A PAPER FORMAT OR OTHER  
18 FORM AS DESCRIBED UNDER SUBSECTION (1) (C), THE PUBLIC BODY SHALL  
19 PROVIDE THE PUBLIC RECORDS IN THE SPECIFIED FORMAT BUT MAY USE A  
20 FRINGE BENEFIT MULTIPLIER GREATER THAN THE 50% LIMITATION IN  
21 SUBSECTION (2), NOT TO EXCEED THE ACTUAL COSTS OF PROVIDING THE  
22 INFORMATION IN THE SPECIFIED FORMAT.

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

25 (7) IF A VERBAL REQUEST FOR INFORMATION IS FOR INFORMATION  
26 THAT A PUBLIC BODY BELIEVES IS AVAILABLE ON THE PUBLIC BODY'S  
27 WEBSITE, A PUBLIC EMPLOYEE SHALL, IF PRACTICABLE AND TO THE BEST OF



1 THE PUBLIC EMPLOYEE'S KNOWLEDGE, INFORM THE REQUESTOR ABOUT THE  
2 PUBLIC BODY'S PERTINENT WEBSITE ADDRESS.

3 (8) IN EITHER THE PUBLIC BODY'S INITIAL RESPONSE OR SUBSEQUENT  
4 RESPONSE AS DESCRIBED UNDER SECTION 25(2)(D), THE PUBLIC BODY MAY  
5 REQUIRE A GOOD-FAITH DEPOSIT FROM THE PERSON REQUESTING INFORMATION  
6 BEFORE PROVIDING THE PUBLIC RECORDS TO THE REQUESTOR IF THE ENTIRE  
7 FEE ESTIMATE OR CHARGE AUTHORIZED UNDER THIS SECTION EXCEEDS  
8 \$50.00, BASED ON A GOOD-FAITH CALCULATION OF THE TOTAL FEE  
9 DESCRIBED IN SUBSECTION (4). SUBJECT TO SUBSECTION (10), THE  
10 DEPOSIT MUST NOT EXCEED 1/2 OF THE TOTAL ESTIMATED FEE, AND A  
11 PUBLIC BODY'S REQUEST FOR A DEPOSIT MUST INCLUDE A DETAILED  
12 ITEMIZATION AS REQUIRED UNDER SUBSECTION (4). THE RESPONSE MUST  
13 ALSO CONTAIN A BEST EFFORTS ESTIMATE BY THE PUBLIC BODY REGARDING  
14 THE TIME FRAME IT WILL TAKE THE PUBLIC BODY TO COMPLY WITH THE LAW  
15 IN PROVIDING THE PUBLIC RECORDS TO THE REQUESTOR. THE TIME FRAME  
16 ESTIMATE IS NONBINDING UPON THE PUBLIC BODY, BUT THE PUBLIC BODY  
17 SHALL PROVIDE THE ESTIMATE IN GOOD FAITH AND STRIVE TO BE  
18 REASONABLY ACCURATE AND TO PROVIDE THE PUBLIC RECORDS IN A MANNER  
19 BASED ON THIS STATE'S PUBLIC POLICY UNDER SECTION 21 AND THE NATURE  
20 OF THE REQUEST IN THE PARTICULAR INSTANCE. IF A PUBLIC BODY DOES  
21 NOT RESPOND IN A TIMELY MANNER AS DESCRIBED UNDER SECTION 25(2), IT  
22 IS NOT RELIEVED FROM ITS REQUIREMENTS TO PROVIDE PROPER FEE  
23 CALCULATIONS AND TIME FRAME ESTIMATES IN ANY TARDY RESPONSES.  
24 PROVIDING AN ESTIMATED TIME FRAME DOES NOT RELIEVE A PUBLIC BODY  
25 FROM ANY OF THE OTHER REQUIREMENTS OF THIS PART.

26 (9) IF A PUBLIC BODY DOES NOT RESPOND TO A WRITTEN REQUEST IN  
27 A TIMELY MANNER AS REQUIRED UNDER SECTION 25(2), THE PUBLIC BODY

1 SHALL DO THE FOLLOWING:

2 (A) REDUCE THE CHARGES FOR LABOR COSTS OTHERWISE PERMITTED  
3 UNDER THIS SECTION BY 5% FOR EACH DAY THE PUBLIC BODY EXCEEDS THE  
4 TIME PERMITTED UNDER SECTION 25(2) FOR A RESPONSE TO THE REQUEST,  
5 WITH A MAXIMUM 50% REDUCTION, IF EITHER OF THE FOLLOWING APPLIES:

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

7 (ii) THE WRITTEN REQUEST INCLUDED LANGUAGE THAT CONVEYED A  
8 REQUEST FOR INFORMATION WITHIN THE FIRST 250 WORDS OF THE BODY OF A  
9 LETTER, FACSIMILE, ELECTRONIC MAIL, OR ELECTRONIC MAIL ATTACHMENT,  
10 OR SPECIFICALLY INCLUDED THE WORDS, CHARACTERS, OR ABBREVIATIONS  
11 FOR "FREEDOM OF INFORMATION", "OPEN RECORDS", "INFORMATION",  
12 "LORA", "COPY", OR A RECOGNIZABLE MISSPELLING OF SUCH, OR  
13 APPROPRIATE LEGAL CODE REFERENCE FOR THIS PART, ON THE FRONT OF AN  
14 ENVELOPE OR IN THE SUBJECT LINE OF AN ELECTRONIC MAIL, A LETTER, OR  
15 A FACSIMILE COVER PAGE.

16 (B) IF A CHARGE REDUCTION IS REQUIRED UNDER SUBDIVISION (A),  
17 FULLY NOTE THE CHARGE REDUCTION ON THE DETAILED ITEMIZATION  
18 DESCRIBED UNDER SUBSECTION (4).

19 (10) THIS SECTION DOES NOT APPLY TO PUBLIC RECORDS PREPARED  
20 UNDER AN ACT OR STATUTE SPECIFICALLY AUTHORIZING THE SALE OF THOSE  
21 PUBLIC RECORDS TO THE PUBLIC, OR IF THE AMOUNT OF THE FEE FOR  
22 PROVIDING A COPY OF THE PUBLIC RECORD IS OTHERWISE SPECIFICALLY  
23 PROVIDED BY AN ACT OR STATUTE.

24 (11) SUBJECT TO SUBSECTION (12), AFTER A PUBLIC BODY HAS  
25 GRANTED AND FULFILLED A WRITTEN REQUEST FROM AN INDIVIDUAL UNDER  
26 THIS PART, IF THE PUBLIC BODY HAS NOT BEEN PAID IN FULL THE TOTAL  
27 AMOUNT UNDER SUBSECTION (1) FOR THE COPIES OF PUBLIC RECORDS THAT

1 THE PUBLIC BODY MADE AVAILABLE TO THE INDIVIDUAL AS A RESULT OF  
2 THAT WRITTEN REQUEST, THE PUBLIC BODY MAY REQUIRE A DEPOSIT OF UP  
3 TO 100% OF THE ESTIMATED FEE BEFORE IT BEGINS A FULL PUBLIC RECORD  
4 SEARCH FOR ANY SUBSEQUENT WRITTEN REQUEST FROM THAT INDIVIDUAL IF  
5 ALL OF THE FOLLOWING APPLY:

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

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

11 (C) THE PUBLIC RECORDS WERE MADE AVAILABLE TO THE INDIVIDUAL,  
12 SUBJECT TO PAYMENT, WITHIN THE TIME FRAME ESTIMATE DESCRIBED UNDER  
13 SUBSECTION (8).

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

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

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

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

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

27 (B) THE PUBLIC BODY RECEIVES PAYMENT IN FULL FOR THE

1 APPLICABLE PRIOR WRITTEN REQUEST.

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

5 (13) A DEPOSIT REQUIRED BY A PUBLIC BODY UNDER THIS PART IS A  
6 FEE.

7 (14) IF A DEPOSIT THAT IS REQUIRED UNDER SUBSECTION (8) OR  
8 (11) IS NOT RECEIVED BY THE PUBLIC BODY WITHIN 45 DAYS FROM RECEIPT  
9 BY THE REQUESTING PERSON OF THE NOTICE THAT A DEPOSIT IS REQUIRED,  
10 AND IF THE REQUESTING PERSON HAS NOT FILED AN APPEAL OF THE DEPOSIT  
11 AMOUNT PURSUANT TO SECTION 29B, THE REQUEST SHALL BE CONSIDERED  
12 ABANDONED BY THE REQUESTING PERSON AND THE PUBLIC BODY IS NO LONGER  
13 REQUIRED TO FULFILL THE REQUEST. NOTICE OF A DEPOSIT REQUIREMENT  
14 UNDER SUBSECTION (8) OR (11) IS CONSIDERED RECEIVED 3 DAYS AFTER IT  
15 IS SENT, REGARDLESS OF THE MEANS OF TRANSMISSION. NOTICE OF A  
16 DEPOSIT REQUIREMENT UNDER SUBSECTION (8) OR (11) MUST INCLUDE  
17 NOTICE OF THE DATE BY WHICH THE DEPOSIT MUST BE RECEIVED, WHICH  
18 DATE IS 48 DAYS AFTER THE DATE THE NOTICE IS SENT.

19 Enacting section 1. This amendatory act takes effect January  
20 1, 2020.

21 Enacting section 2. This amendatory act does not take effect  
22 unless House Bill No. 4011 of the 100th Legislature is enacted into  
23 law.