



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4849 (Substitute H-2 as passed by the House)

Sponsor: Representative Greg Kaza

House Committee: Judiciary and Civil Rights

Senate Committee: Government Operations

Date Completed: 11-12-96

CONTENT

The bill would amend the Freedom of Information Act to allow a person who had been denied a request for information by a public body to appeal the denial to the head of the public body. The bill also specifies that the Act's exemption for the Governor's office would not apply to a document that originated in or was possessed by a public body.

Currently, under the Act, if a public body denies the request of a person (an individual, corporation, firm, association, partnership, or organization) to inspect or receive a copy of a public record, the person must either accept the denial or pursue the matter in circuit court. The bill provides that if a public body denied a request for a public record, the person who made the request could commence action in the circuit court (as is currently allowed) or submit a written appeal to the head of the public body. The written appeal would have to state specifically the word "appeal" and identify the reason or reasons for the reversal of the denial. The head of a public body would be required to respond to a written appeal within 10 days after receiving it, by reversing the denial; sending a written notice to the requesting person that the denial would be upheld; reversing the denial in part and issuing a written statement upholding part of the denial; or, under unusual circumstances, extending the time to respond for up to 10 business days. A written appeal submitted to a public body whose head was a board or commission would not be considered to have received the appeal until the first regularly scheduled meeting of that board after the appeal was submitted. If the head of the public body failed to respond to a written appeal, or upheld all or part of the denial, the person requesting the record or information could seek judicial review of the denial in circuit court.

Currently, a public body's failure to respond to a request for information is considered a final decision to deny the request. If the public body issues a written notice denying the request, it must include in the notice certain information as specified in the Act. The bill would require that the notice also include a full explanation of the requesting person's right to submit to the head of the public body a written appeal that specifically stated the word "appeal", and identified the reason or reasons for reversal of the denial.

Currently, the Act excludes from the definition of "public body" the Governor, the Lieutenant Governor, the executive office of the Governor or Lieutenant Governor, and employees of the office. The bill provides that the exemption would not apply to any writing or public document that originated in or was possessed by a public body. ("Public body" includes a State officer, employee, agency, or other body in the executive branch of State government; a State legislative agency,

board, commission, or council; a county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board or agency of such an entity; any other body that is created by or primarily funded by or through a State or local authority; and the judiciary.)

MCL 15.232 et al.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Ortiz