

SENATE BILL No. 763

October 8, 2003, Introduced by Senator BASHAM and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 1976 PA 442, entitled
"Freedom of information act,"
by amending section 2 (MCL 15.232), as amended by 1996 PA 553;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) As used in this act:

2 (a) "Field name" means the label or identification of an
3 element of a computer data base that contains a specific item of
4 information, and includes but is not limited to a subject heading
5 such as a column header, data dictionary, or record layout.

6 (b) "FOIA coordinator" means either of the following:

7 (i) An individual who is a public body.

8 (ii) An individual designated by a public body in accordance
9 with section 6 to accept and process requests for public records
10 under this act.

1 (c) "Person" means an individual, corporation, limited
2 liability company, partnership, firm, organization, association,
3 governmental entity, or other legal entity. Person does not
4 include an individual serving a sentence of imprisonment in a
5 state or county correctional facility in this state or any other
6 state ~~—~~ or in a federal correctional facility.

7 (d) ~~"Public~~ **Subject to subsection (2), "public** body" means
8 any of the following:

9 (i) A state officer, employee, agency, department, division,
10 bureau, board, commission, council, authority, or other body in
11 the executive branch of the state government, but does not
12 include the governor, ~~or~~ lieutenant governor, **their employees,**
13 **or** the executive office of the governor or lieutenant governor
14 ~~—~~ or employees ~~thereof~~ **of those offices.**

15 (ii) An agency, board, commission, or council in the
16 legislative branch of the state government.

17 (iii) A county, city, township, village, intercounty,
18 intercity, or regional governing body, council, school district,
19 special district, or municipal corporation, or a board,
20 department, commission, council, or agency ~~thereof~~ **of any of**
21 **those entities.**

22 (iv) Any other body ~~which~~ **that** is created by state or local
23 authority or ~~which~~ **that** is primarily funded by or through state
24 or local authority.

25 ~~(v) The judiciary, including the office of the county clerk~~
26 ~~and employees thereof when acting in the capacity of clerk to the~~
27 ~~circuit court, is not included in the definition of public body.~~

1 (v) The governing board, or other decision-making body
 2 responsible for implementation and supervision, of a public
 3 employee retirement system created or established by this state
 4 or any political subdivision of this state.

5 (e) "Public record" means a writing prepared, owned, used, in
 6 the possession of, or retained by a public body in the
 7 performance of an official function, from the time it is
 8 created. Public record does not include computer software. This
 9 act separates public records into the following 2 classes:

10 (i) ~~These~~ **Public records** that are exempt from disclosure
 11 under section 13.

12 (ii) ~~All public~~ **Public** records that are not exempt from
 13 disclosure under section 13 and ~~which~~ are subject to disclosure
 14 under this act.

15 (f) "Software" means a set of statements or instructions that
 16 when incorporated in a machine usable medium is capable of
 17 causing a machine or device having information processing
 18 capabilities to indicate, perform, or achieve a particular
 19 function, task, or result. Software does not include
 20 computer-stored information or data, or a field name if
 21 disclosure of that field name does not violate a software
 22 license.

23 (g) "Unusual circumstances" means any 1 or ~~a combination~~
 24 **more** of the following, but only to the extent necessary for the
 25 proper processing of a request:

26 (i) The need to search for, collect, or appropriately examine
 27 or review a voluminous amount of separate and distinct public

1 records pursuant to a single request.

2 (ii) The need to collect the requested public records from
3 numerous field offices, facilities, or other establishments
4 ~~which~~ **that** are located apart from the particular office
5 receiving or processing the request.

6 (h) "Writing" means handwriting, typewriting, printing,
7 photostating, photographing, photocopying, and every other means
8 of recording. ~~—, and~~ **The term** includes letters, words, pictures,
9 sounds, or symbols, or combinations ~~thereof, and~~ **of them. The**
10 **term includes** papers, maps, magnetic or paper tapes, photographic
11 films or prints, microfilm, microfiche, magnetic or punched
12 cards, discs, drums, or other means of recording or retaining
13 meaningful content.

14 (i) "Written request" means a writing that asks for
15 information, and includes a writing transmitted by facsimile,
16 electronic mail, or other electronic means.

17 **(2) The judiciary, including the office and employees of the**
18 **county clerk when acting in the capacity of clerk to the circuit**
19 **court, is not a public body.**

20 Enacting section 1. Section 20/ of the public employee
21 retirement system investment act, 1965 PA 314, MCL 38.1140/, is
22 repealed.