HOUSE BILL No. 4150

February 2, 2017, Introduced by Reps. VanderWall, Howell, Allor, Griffin, Alexander, Kahle, Bellino, Moss, Hoitenga, Yaroch, Hauck, Schor, Faris, Elder, Camilleri, Chatfield, Lasinski, Lucido, Hammoud, Banks, Bizon, Yanez, Sabo, Greig, Green, Marino, Brinks, Jones, Barrett, Cox, Tedder, Geiss, Byrd, Wittenberg, Liberati, LaGrand, Cochran, Hertel, Chang, Rabhi, Zemke, Howrylak, Singh, Hoadley, Hornberger, Glenn, Lower, Wentworth, Sowerby, Miller, Sneller, Ellison, Iden, Guerra, Sheppard, Theis, Gay-Dagnogo, Hughes, Inman, Rendon, Farrington, Greimel and Frederick and referred to the Committee on Michigan Competitveness.

A bill to amend 1976 PA 442, entitled

"Freedom of information act,"

(MCL 15.231 to 15.246) by adding part 2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   PART 2

2   SEC. 51. (1) THIS PART SHALL BE KNOWN AND MAY BE CITED AS THE

3 "LEGISLATIVE OPEN RECORDS ACT".

4   (2) IT IS THE PUBLIC POLICY OF THIS STATE THAT ALL PERSONS,

5 EXCEPT THOSE PERSONS INCARCERATED IN STATE OR LOCAL CORRECTIONAL

6 FACILITIES, ARE ENTITLED TO FULL AND COMPLETE INFORMATION REGARDING

7 THE AFFAIRS OF GOVERNMENT AND THE OFFICIAL ACTS OF THOSE WHO

8 REPRESENT THEM AS PUBLIC OFFICIALS AND PUBLIC EMPLOYEES, CONSISTENT

9 WITH THIS PART. THE PEOPLE SHALL BE INFORMED SO THAT THEY MAY FULLY

10 PARTICIPATE IN THE DEMOCRATIC PROCESS.

11   SEC. 52. AS USED IN THIS PART:

1   (A) "COUNCIL ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE

2   LEGISLATIVE COUNCIL APPOINTED UNDER SECTION 104A OF THE LEGISLATIVE

3   COUNCIL ACT, 1986 PA 268, MCL 4.1104A.

4   (B) "LEGISLATOR" MEANS A MEMBER OF THE SENATE OR THE HOUSE OF

5   REPRESENTATIVES OF THIS STATE.

6   (C) "LORA" MEANS THE LEGISLATIVE OPEN RECORDS ACT.

7   (D) "LORA COORDINATOR" MEANS EITHER OF THE FOLLOWING:

8   (*i*) AN INDIVIDUAL WHO IS A PUBLIC BODY.

9   (*ii*) AN INDIVIDUAL DESIGNATED BY A PUBLIC BODY TO ACCEPT AND

10   PROCESS REQUESTS FOR PUBLIC RECORDS UNDER THIS PART.

11   (E) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED

12   LIABILITY COMPANY, PARTNERSHIP, FIRM, ORGANIZATION, ASSOCIATION,

13   GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY. PERSON DOES NOT INCLUDE

14   AN INDIVIDUAL SERVING A SENTENCE OF IMPRISONMENT IN A STATE OR

15   COUNTY CORRECTIONAL FACILITY IN THIS STATE OR ANY OTHER STATE OR IN

16   A FEDERAL CORRECTIONAL FACILITY.

17   (F) "PUBLIC BODY" MEANS A STATE OFFICER, LEGISLATOR, EMPLOYEE,

18   AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COMMITTEE,

19   COUNCIL, AUTHORITY, OR OTHER BODY IN THE LEGISLATIVE BRANCH OF THE

20   STATE GOVERNMENT. PUBLIC BODY DOES NOT INCLUDE THE OFFICE OF THE

21   AUDITOR GENERAL.

22   (G) "PUBLIC RECORD" MEANS A WRITING PREPARED, OWNED, USED, IN

23   THE POSSESSION OF, OR RETAINED BY A PUBLIC BODY IN THE PERFORMANCE

24   OF AN OFFICIAL FUNCTION THAT HAS BEEN IN THE POSSESSION OF THE

25   PUBLIC BODY FOR 15 DAYS OR MORE. PUBLIC RECORD DOES NOT INCLUDE

26   COMPUTER SOFTWARE. THIS PART SEPARATES PUBLIC RECORDS INTO THE

27   FOLLOWING 2 CLASSES:

1   (*i*) THOSE THAT ARE EXEMPT FROM DISCLOSURE UNDER SECTION 59D.

2   (*ii*) THOSE THAT ARE NOT EXEMPT FROM DISCLOSURE UNDER SECTION

3 59D AND ARE SUBJECT TO DISCLOSURE UNDER THIS PART.

4   (H) "SESSION DAY" MEANS A DAY IN WHICH EITHER THE HOUSE OF

5 REPRESENTATIVES OR THE SENATE CONVENES IN SESSION AND A QUORUM OF

6 THE BODY IS RECORDED.

7   (I) "SOFTWARE" MEANS A SET OF STATEMENTS OR INSTRUCTIONS THAT,

8 WHEN INCORPORATED IN A MACHINE-USABLE MEDIUM, IS CAPABLE OF CAUSING

9 A MACHINE OR DEVICE HAVING INFORMATION-PROCESSING CAPABILITIES TO

10 INDICATE, PERFORM, OR ACHIEVE A PARTICULAR FUNCTION, TASK, OR

11 RESULT. SOFTWARE DOES NOT INCLUDE COMPUTER-STORED INFORMATION OR

12 DATA OR A FIELD NAME IF DISCLOSURE OF THAT FIELD NAME WOULD NOT

13 VIOLATE A SOFTWARE LICENSE.

14   (J) "UNUSUAL CIRCUMSTANCES" MEANS ANY 1 OR A COMBINATION OF

15 THE FOLLOWING, BUT ONLY TO THE EXTENT NECESSARY FOR THE PROPER

16 PROCESSING OF A REQUEST:

17   (*i*) THE NEED TO SEARCH FOR, COLLECT, OR APPROPRIATELY EXAMINE

18 OR REVIEW A VOLUMINOUS AMOUNT OF SEPARATE AND DISTINCT PUBLIC

19 RECORDS PURSUANT TO A SINGLE REQUEST.

20   (*ii*) THE NEED TO COLLECT THE REQUESTED PUBLIC RECORDS FROM

21 NUMEROUS OFFICES, FACILITIES, OR OTHER ESTABLISHMENTS.

22   (K) "WRITING" MEANS HANDWRITING, TYPEWRITING, PRINTING,

23 PHOTOSTATING, PHOTOGRAPHING, PHOTOCOPYING, AND EVERY OTHER MEANS OF

24 RECORDING, AND INCLUDES LETTERS, WORDS, PICTURES, SOUNDS, OR

25 SYMBOLS, OR COMBINATIONS THEREOF, AND PAPERS, MAPS, MAGNETIC OR

26 PAPER TAPES, PHOTOGRAPHIC FILMS OR PRINTS, MICROFILM, MICROFICHE,

27 MAGNETIC OR PUNCHED CARDS, DISCS, DRUMS, OR OTHER MEANS OF

1 RECORDING OR RETAINING MEANINGFUL CONTENT.

2   (*l*) "WRITTEN REQUEST" MEANS A WRITING THAT ASKS FOR

3 INFORMATION AND INCLUDES A WRITING TRANSMITTED BY FACSIMILE,

4 ELECTRONIC MAIL, OR OTHER ELECTRONIC MEANS.

5   SEC. 53. (1) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 59D, UPON

6 PROVIDING A PUBLIC BODY'S LORA COORDINATOR WITH A WRITTEN REQUEST

7 THAT DESCRIBES A PUBLIC RECORD SUFFICIENTLY TO ENABLE THE PUBLIC

8 BODY TO FIND THE PUBLIC RECORD, A PERSON HAS A RIGHT TO INSPECT,

9 COPY, OR RECEIVE COPIES OF THE REQUESTED PUBLIC RECORD OF THE

10 PUBLIC BODY. A PERSON HAS A RIGHT TO SUBSCRIBE TO FUTURE ISSUANCES

11 OF PUBLIC RECORDS THAT ARE CREATED, ISSUED, OR DISSEMINATED ON A

12 REGULAR BASIS. A SUBSCRIPTION SHALL BE VALID FOR UP TO 6 MONTHS, AT

13 THE REQUEST OF THE SUBSCRIBER, AND IS RENEWABLE. AN EMPLOYEE OF A

14 PUBLIC BODY WHO RECEIVES A REQUEST FOR A PUBLIC RECORD SHALL

15 FORWARD THAT REQUEST TO THE LORA COORDINATOR WITHIN 3 BUSINESS

16 DAYS.

17   (2) A LORA COORDINATOR SHALL KEEP A COPY OF ALL WRITTEN

18 REQUESTS FOR PUBLIC RECORDS ON FILE FOR NOT LESS THAN 1 YEAR.

19   (3) A PUBLIC BODY SHALL FURNISH A REQUESTING PERSON A

20 REASONABLE OPPORTUNITY FOR INSPECTION AND EXAMINATION OF ITS PUBLIC

21 RECORDS AND SHALL FURNISH REASONABLE FACILITIES FOR MAKING

22 MEMORANDA OR ABSTRACTS FROM ITS PUBLIC RECORDS DURING THE USUAL

23 BUSINESS HOURS. A PUBLIC BODY MAY MAKE REASONABLE RULES NECESSARY

24 TO PROTECT ITS PUBLIC RECORDS AND TO PREVENT EXCESSIVE AND

25 UNREASONABLE INTERFERENCE WITH THE DISCHARGE OF ITS FUNCTIONS. A

26 PUBLIC BODY SHALL PROTECT PUBLIC RECORDS FROM LOSS, UNAUTHORIZED

27 ALTERATION, MUTILATION, OR DESTRUCTION.

1 **(4) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO MAKE A**

2 **COMPILATION, SUMMARY, OR REPORT OF INFORMATION.**

3 **(5) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO CREATE A NEW**

4 **PUBLIC RECORD, EXCEPT TO THE EXTENT REQUIRED BY THIS PART FOR THE**

5 **FURNISHING OF COPIES, OR EDITED COPIES OF AN EXISTING PUBLIC RECORD**

6 **UNDER THIS PART.**

7 **(6) THE CUSTODIAN OF A PUBLIC RECORD SHALL, UPON WRITTEN**

8 **REQUEST, FURNISH A REQUESTING PERSON A CERTIFIED COPY OF A PUBLIC**

9 **RECORD.**

10 **(7) A PUBLIC BODY SHALL NOT DESTROY OR ALTER A RECORD BEFORE**

11 **THE RECORD HAS BEEN IN ITS POSSESSION FOR 15 DAYS IF THE RECORD**

12 **WOULD BECOME A PUBLIC RECORD AFTER IT HAS BEEN IN THE POSSESSION OF**

13 **THE PUBLIC BODY FOR 15 DAYS.**

14 Enacting section 1. This amendatory act takes effect January

15 1, 2019.

16 Enacting section 2. This amendatory act does not take effect

17 unless all of the following bills of the 99th Legislature are

18 enacted into law:

19 (a) Senate Bill No. ____ or House Bill No. 4149 (request no.

20 00034'17 *).

21 (b) Senate Bill No. ____ or House Bill No. 4148 (request no.

22 00035'17 *).

23 (c) Senate Bill No. ____ or House Bill No. 4151 (request no.

24 00090'17 *).

25 (d) Senate Bill No. ____ or House Bill No. 4152 (request no.

26 00252'17 *).

27 (e) Senate Bill No. ____ or House Bill No. 4153 (request no.

1 00253'17 *).

2   (f) Senate Bill No. ____ or House Bill No. 4154 (request no.

3 00254'17 *).

4   (g) Senate Bill No. ____ or House Bill No. 4155 (request no.

5 00275'17 **).

6   (h) Senate Bill No. ____ or House Bill No. 4156 (request no.

7 00276'17 *).

8   (i) Senate Bill No. ____ or House Bill No. 4157 (request no.

9 00277'17 *).