



HOUSE BILL No. 5726

March 28, 1996, Introduced by Rep. Brackenridge and referred to the Committee on Local Government.

A bill to amend the title and sections 2, 3, 4, 5, and 10 of Act No. 442 of the Public Acts of 1976, entitled "Freedom of information act," section 2 as amended by Act No. 131 of the Public Acts of 1994 and section 4 as amended by Act No. 99 of the Public Acts of 1988, being sections 15.232, 15.233, 15.234, 15.235, and 15.240 of the Michigan Compiled Laws; to add sections 3a, 4a, and 4b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 3, 4, 5, and 10 of Act
2 No. 442 of the Public Acts of 1976, section 2 as amended by Act
3 No. 131 of the Public Acts of 1994 and section 4 as amended by
4 Act No. 99 of the Public Acts of 1988, being sections 15.232,
5 15.233, 15.234, 15.235, and 15.240 of the Michigan Compiled Laws,

1 are amended and sections 3a, 4a, and 4b are added to read as
2 follows:

3 TITLE

4 An act to provide for public access to certain public
5 records of public bodies; to permit certain fees; TO PROVIDE FOR
6 ENHANCED ACCESS TO CERTAIN PUBLIC RECORDS; TO AUTHORIZE THE
7 ESTABLISHMENT OF CERTAIN FUNDS AND PROVIDE FOR THE ADMINISTRATION
8 OF THOSE FUNDS; to prescribe the powers and duties of certain
9 public officers and public bodies; to provide remedies and penal-
10 ties; and to repeal ~~certain~~ acts and parts of acts.

11 Sec. 2. As used in this act:

12 (A) "ELECTRONIC MAP" MEANS COPYRIGHTED DATA PROVIDED BY A
13 PUBLIC BODY FROM AN ELECTRONIC GEOGRAPHICAL INFORMATION SYSTEM.

14 (B) "ENHANCED ACCESS" MEANS A PUBLIC RECORD'S AVAILABILITY
15 FOR INSPECTION AND COPYING BY A PERSON WHO IS NOT A GOVERNMENTAL
16 ENTITY UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

17 (i) THE INSPECTION OR COPYING IS AVAILABLE BY MEANS OF AN
18 ELECTRONIC DEVICE OTHER THAN AN ELECTRONIC DEVICE PROVIDED BY A
19 PUBLIC BODY IN THE OFFICE OF THE PUBLIC BODY.

20 (ii) THE INSPECTION OR COPYING REQUIRES THE COMPILATION OR
21 CREATION OF A LIST OR REPORT THAT DOES NOT RESULT IN THE PER-
22 MANENT ELECTRONIC STORAGE OF THE INFORMATION.

23 (C) "FACSIMILE MACHINE" MEANS A MACHINE THAT TRANSMITS AND
24 RECEIVES EXACT IMAGES TELEPHONICALLY.

25 (D) ~~(a)~~ "Person" means an individual, corporation, LIMITED
26 LIABILITY COMPANY, partnership, firm, organization, ~~or~~
27 association, OR GOVERNMENTAL ENTITY, except that person does not

1 include an individual serving a sentence of imprisonment in a
2 state or county correctional facility in this state or any other
3 state, or in a federal correctional facility.

4 (E) "POLITICAL SUBDIVISION" MEANS A COUNTY, TOWNSHIP, CITY,
5 OR VILLAGE.

6 (F) ~~(b)~~ "Public body" means:

7 (i) A state officer, employee, agency, department, division,
8 bureau, board, commission, council, authority, or other body in
9 the executive branch of the state government, but does not
10 include the governor or lieutenant governor, the executive office
11 of the governor or lieutenant governor, or employees thereof.

12 (ii) An agency, board, commission, or council in the legis-
13 lative branch of the state government.

14 (iii) A county, city, township, village, intercounty, inter-
15 city, or regional governing body, council, school district, spe-
16 cial district, or municipal corporation, or a board, department,
17 commission, council, or agency thereof.

18 (iv) Any other body which is created by state or local
19 authority or which is primarily funded by or through state or
20 local authority.

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

24 (G) ~~(c)~~ "Public record" means a writing prepared, owned,
25 used, in the possession of, or retained by a public body in the
26 performance of an official function, from the time it is
27 created. HOWEVER, PUBLIC RECORD DOES NOT INCLUDE A DOCUMENT THAT

1 IS IN THE POSSESSION OF A PUBLIC BODY SOLELY BECAUSE THAT PUBLIC
2 BODY IS ACTING AS CUSTODIAN OF THE RECORD FOR ANOTHER PUBLIC
3 BODY; IN SUCH CIRCUMSTANCES, THE DOCUMENT IS SUBJECT TO DISCLO-
4 SURE AS A PUBLIC RECORD UNDER THIS ACT ONLY BY A REQUEST TO THE
5 PUBLIC BODY FROM WHICH THE DOCUMENT ORIGINATED. This act sepa-
6 rates public records into 2 classes: (i) those which are exempt
7 from disclosure under section 13, and (ii) all others, which are
8 subject to disclosure under this act.

9 (H) ~~(d)~~ "Unusual circumstances" means any 1 or a combina-
10 tion of the following, but only to the extent necessary for the
11 proper processing of a request:

12 (i) The need to search for, collect, or appropriately
13 examine or review a voluminous amount of separate and distinct
14 public records pursuant to a single request.

15 (ii) The need to collect the requested public records from
16 numerous field offices, facilities, or other establishments which
17 are located apart from the particular office receiving or pro-
18 cessing the request.

19 (I) ~~(e)~~ "Writing" means handwriting, typewriting, print-
20 ing, photostating, photographing, photocopying, and every other
21 means of recording, and includes letters, words, pictures,
22 sounds, or symbols, or combinations thereof, and papers, maps,
23 magnetic or paper tapes, photographic films or prints, microfilm,
24 microfiche, magnetic or punched cards, discs, drums, or other
25 means of recording or retaining meaningful content.

26 Sec. 3. (1) Upon an oral or written request which describes
27 the public record sufficiently to enable the public body to find

1 the public record, a person has a right to inspect, copy, or
2 receive copies of a public record of a public body, except as
3 otherwise expressly provided by ~~section~~ SECTIONS 6 AND 13. A
4 person has a right to subscribe to future issuances of public
5 records which are created, issued, or disseminated on a regular
6 basis. A subscription shall be valid for up to 6 months, at the
7 request of the subscriber, and shall be renewable.

8 (2) A public body shall furnish a requesting person a rea-
9 sonable opportunity for inspection and examination of its public
10 records, and shall furnish reasonable facilities for making memo-
11 randa or abstracts from its public records during the usual busi-
12 ness hours. A public body ~~may make reasonable rules necessary~~
13 ~~to protect its public records and to prevent excessive and unrea-~~
14 ~~sonable interference with the discharge of its functions.~~ SHALL
15 PROTECT PUBLIC RECORDS FROM LOSS, ALTERATION, MUTILATION, OR
16 DESTRUCTION, AND SHALL REGULATE ANY MATERIAL INTERFERENCE WITH
17 THE REGULAR DISCHARGE OF THE FUNCTIONS OR DUTIES OF THE PUBLIC
18 BODY OR PUBLIC EMPLOYEES. A PUBLIC BODY SHALL TAKE PRECAUTIONS
19 THAT PROTECT PUBLIC RECORDS AND THE CONTENTS OF PUBLIC RECORDS
20 FROM UNAUTHORIZED ENHANCED ACCESS, UNAUTHORIZED ACCESS BY AN
21 ELECTRONIC DEVICE, OR ALTERATION.

22 (3) This act does not require a public body to make a compi-
23 lation, summary, or report of information, except as required in
24 section 11.

25 (4) This act does not require a public body to create a new
26 public record, except as required in sections 5 and 11, and to
27 the extent required by this act for the furnishing of copies, or

1 edited copies pursuant to section 14(1), of an already existing
2 public record.

3 (5) The custodian of a public record shall, upon request,
4 furnish a requesting person a certified copy of a public record.

5 (6) A PUBLIC BODY MAY DO THE FOLLOWING:

6 (A) IN ACCORDANCE WITH A NONDISCRIMINATORY POLICY OF THE
7 PUBLIC BODY, PERMIT A PERSON TO DUPLICATE OR OBTAIN A DUPLICATE
8 COPY OF A COMPUTER TAPE, COMPUTER DISK, MICROFILM, OR OTHER SIMI-
9 LAR OR ANALOGOUS RECORD SYSTEM THAT CONTAINS A PUBLIC RECORD OF
10 THE PUBLIC BODY.

11 (B) IN ACCORDANCE WITH A CONTRACT DESCRIBED IN SECTION 3A,
12 PROVIDE A PERSON WITH ENHANCED ACCESS TO A PUBLIC RECORD OF THE
13 PUBLIC BODY.

14 (C) PERMIT A GOVERNMENTAL ENTITY TO USE AN ELECTRONIC DEVICE
15 TO INSPECT AND COPY A PUBLIC RECORD OF THE PUBLIC BODY.

16 SEC. 3A. (1) A PUBLIC BODY MAY PROVIDE A PERSON WITH
17 ENHANCED ACCESS TO A PUBLIC RECORD OF THAT PUBLIC BODY ONLY IF
18 THE PUBLIC BODY HAS ENTERED INTO A CONTRACT WITH THE PERSON UNDER
19 THIS SECTION.

20 (2) THE CONTRACT REQUIRED BY THIS SECTION SHALL PROVIDE ALL
21 OF THE FOLLOWING:

22 (A) THAT THE PERSON WILL PAY TO THE PUBLIC BODY A FEE FOR
23 ENHANCED ACCESS TO THE PUBLIC RECORD.

24 (B) THAT THE PERSON SHALL NOT ENGAGE IN ANY OF THE
25 FOLLOWING:

26 (i) THE RECEIPT OF UNAUTHORIZED ENHANCED ACCESS TO A PUBLIC
27 RECORD.

(ii) THE ALTERATION OF PUBLIC RECORDS.

(iii) THE DISCLOSURE OF CONFIDENTIAL PUBLIC RECORDS.

Sec. 4. (1) A public body may charge a fee for providing a copy of a public record. Subject to ~~subsection~~ SUBSECTIONS (3) (5), (6), (7), AND (8), the fee shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. Copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because furnishing copies of the public record can be considered as primarily benefiting the general public. ~~Except as provided in section 30(3) of Act No. 232 of the Public Acts of 1953, being section 791.230 of the Michigan Compiled Laws, a~~ A copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request, to an individual who submits ~~an~~ UNDER PENALTY OF PERJURY A SWORN affidavit stating that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency.

(2) ~~At the time the request is made~~ EXCEPT AS OTHERWISE PROVIDED IN A CONTRACT FOR ENHANCED ACCESS DESCRIBED IN SECTION 3A, a public body may ~~request~~ REQUIRE AT THE TIME A REQUEST IS MADE a good faith deposit from the person requesting the public record or series of public records, if the fee

1 provided in subsection (1) exceeds \$50.00. The deposit shall not
2 exceed 1/2 of the total fee.

3 (3) In calculating the costs under subsection (1), a public
4 body MAY BILL A REQUESTING PERSON THE ACTUAL COST OF COMPUTER
5 PROGRAMMING REQUIRED TO PROVIDE A PUBLIC RECORD FOR INSPECTION OR
6 COPYING. A PUBLIC BODY may not attribute more than the hourly
7 wage of the lowest paid, full-time, permanent clerical employee
8 of the employing public body to the cost of labor incurred in
9 duplication and mailing and to the cost of examination, review,
10 separation, and deletion. A public body shall utilize the most
11 economical means available for providing copies of public
12 records. A fee ~~shall not~~ IS NOT REQUIRED TO be charged for the
13 cost of search, examination, review, and the deletion and separa-
14 tion of exempt from nonexempt information as provided in section
15 14 unless failure to charge a fee would result in unreasonably
16 high costs to the public body because of the nature of the
17 request in the particular instance, and the public body specifi-
18 cally identifies the nature of these unreasonably high costs. A
19 public body shall establish and publish procedures and guidelines
20 to implement this subsection.

21 (4) This section does not apply to public records prepared
22 under an act or statute specifically authorizing the sale of
23 those public records to the public, or where the amount of the
24 fee for providing a copy of the public record is otherwise spe-
25 cifically provided by an act or statute.

26 (5) ~~Three years after the effective date of this act a~~
27 ~~bipartisan joint committee of 3 members of each house shall~~

~~1 review the operation of this section and recommend appropriate~~
~~2 changes. The members of the house of representatives shall be~~
~~3 appointed by the speaker of the house of representatives. The~~
~~4 members of the senate shall be appointed by the majority leader~~
~~5 of the senate.~~ A PUBLIC BODY MAY CHARGE A REASONABLE FEE SPECI-
6 FIED IN A CONTRACT UNDER SECTION 3A FOR THE PROVISION OF ENHANCED
7 ACCESS TO A PUBLIC RECORD.

8 (6) A PUBLIC BODY MAY CHARGE A REASONABLE FEE FOR A GOVERN-
9 MENTAL ENTITY'S INSPECTION OF A PUBLIC RECORD BY MEANS OF AN
10 ELECTRONIC DEVICE. HOWEVER, THE PUBLIC BODY MAY WAIVE THAT FEE.

11 (7) A PUBLIC BODY MAY CHARGE A REASONABLE FEE, UNIFORM TO
12 ALL PURCHASERS, FOR PROVIDING AN ELECTRONIC MAP THAT IS BASED
13 UPON A REASONABLE PERCENTAGE OF THE PUBLIC BODY'S DIRECT COST OF
14 CREATING, MAINTAINING, UPGRADING, AND ENHANCING THE ELECTRONIC
15 MAP AND FOR THE DIRECT COST OF SUPPLYING THE ELECTRONIC MAP IN
16 THE FORM REQUESTED BY THE PURCHASER.

17 (8) AS USED IN THIS SECTION, "REASONABLE FEE" INCLUDES, BUT
18 IS NOT LIMITED TO, THE BODY'S COST IN CREATING, COMPILING, STOR-
19 ING, MAINTAINING, PROCESSING, UPGRADING, OR ENHANCING THE INFOR-
20 MATION OR DATA, INCLUDING THE COST OF EMPLOYEE TIME, THE ACTUAL
21 COST OF SUPPLYING THE INFORMATION OR RECORD IN THE FORM REQUESTED
22 BY THE PURCHASER, COMPUTER HARDWARE AND SOFTWARE, AND SYSTEM
23 DEVELOPMENT.

24 (9) A PUBLIC BODY MAY WAIVE THE FEE IT CHARGES UNDER
25 SUBSECTION (5), (6), OR (7) IF THE PUBLIC RECORD OR ELECTRONIC
26 MAP FOR WHICH THE FEE IS CHARGED IS FOR A NONCOMMERCIAL PURPOSE,
27 INCLUDING ANY OF THE FOLLOWING:

1 (A) A PUBLIC BODY PROGRAM SUPPORT.

2 (B) NONPROFIT ACTIVITIES.

3 (C) DISCLOSURE OF A MATTER OF PUBLIC INTEREST.

4 (D) ACADEMIC RESEARCH.

5 SEC. 4A. (1) A PUBLIC BODY THAT IS A POLITICAL SUBDIVISION
6 WHICH CHARGES A FEE UNDER SECTION 4(5) OR (6) OF THIS ACT SHALL
7 ESTABLISH AN ENHANCED ACCESS FUND. THE PUBLIC BODY SHALL SPECIFY
8 THAT THE FUND CONSISTS OF FEES COLLECTED UNDER SECTION 4(5) OR
9 (6) THE FUND SHALL BE ADMINISTERED BY A PUBLIC OFFICER DESIG-
10 NATED BY THE PUBLIC BODY. MONEY IN THE FUND SHALL BE APPROPRI-
11 ATED AND EXPENDED IN ACCORDANCE WITH THIS ACT.

12 (2) THE FUND IS A DEDICATED FUND WITH THE FOLLOWING
13 PURPOSES:

14 (A) THE REPLACEMENT, IMPROVEMENT, AND EXPANSION OF CAPITAL
15 EXPENDITURES.

16 (B) THE REIMBURSEMENT OF OPERATING EXPENSES INCURRED IN PRO-
17 VIDING ENHANCED ACCESS TO PUBLIC INFORMATION.

18 (3) AS USED IN THIS SECTION, "OPERATING EXPENSES" INCLUDES,
19 BUT IS NOT LIMITED TO, THE PUBLIC BODY'S COST IN CREATING, COM-
20 PILING, STORING, MAINTAINING, PROCESSING, UPGRADING, OR ENHANCING
21 THE INFORMATION OR DATA, INCLUDING THE COST OF LABOR, THE ACTUAL
22 COST OF SUPPLYING THE INFORMATION OR RECORD IN THE FORM REQUESTED
23 BY THE PURCHASER, COMPUTER HARDWARE, COMPUTER SOFTWARE, AND
24 SYSTEM DEVELOPMENT.

25 SEC. 4B. (1) A PUBLIC BODY THAT IS A POLITICAL SUBDIVISION
26 WHICH CHARGES A FEE UNDER SECTION 4(7) OF THIS ACT SHALL
27 ESTABLISH AN ELECTRONIC MAP GENERATION FUND. THE PUBLIC BODY

1 SHALL SPECIFY THAT THE FUND CONSISTS OF FEES COLLECTED UNDER
2 SECTION 4(7). THE FUND SHALL BE ADMINISTERED BY THE PUBLIC BODY
3 THAT COLLECTS THE FEES. MONEY IN THE FUND SHALL BE APPROPRIATED
4 AND EXPENDED IN ACCORDANCE WITH THIS ACT.

5 (2) THE ELECTRONIC MAP GENERATION FUND IS A DEDICATED FUND
6 WITH THE FOLLOWING PURPOSES:

7 (A) THE CREATION, MAINTENANCE, UPGRADING, AND ENHANCEMENT OF
8 THE ELECTRONIC MAP.

9 (B) THE REIMBURSEMENT OF EXPENSES INCURRED IN PROVIDING THE
10 ELECTRONIC MAP.

11 (3) AS USED IN THIS SECTION, "EXPENSES" INCLUDES, BUT IS NOT
12 LIMITED TO, THE PUBLIC BODY'S COST IN CREATING, COMPILING, STOR-
13 ING, MAINTAINING, PROCESSING, UPGRADING, OR ENHANCING THE MAP,
14 INCLUDING THE COST OF LABOR, THE ACTUAL COST OF SUPPLYING THE MAP
15 IN THE FORM REQUESTED BY THE PURCHASER, COMPUTER HARDWARE, COM-
16 PUTER SOFTWARE, AND SYSTEM DEVELOPMENT.

17 Sec. 5. (1) A person desiring to inspect or receive a copy
18 of a public record may make an oral or written request for the
19 public record to the public body.

20 (2) When a public body receives a request for a public
21 record it shall immediately, but not more than 5 business days
22 after the day the request is received unless otherwise agreed to
23 in writing by the person making the request, respond to the
24 request by 1 of the following:

25 (a) Grant the request.

26 (b) Issue a written notice to the requesting person denying
27 the request.

1 (c) Grant the request in part and issue a written notice to
2 the requesting person denying the request in part.

3 (d) Under unusual circumstances, issue a notice extending
4 for not more than 10 business days the period during which the
5 public body shall respond to the request. A public body shall
6 not issue more than 1 notice of extension for a particular
7 request.

8 (E) IF A PUBLIC BODY PROVIDES ENHANCED ACCESS SERVICE AND
9 THE REQUEST IS FOR ENHANCED ACCESS, SUBMIT TO THE REQUESTING
10 PERSON FOR HIS OR HER EXECUTION A CONTRACT COMPLYING WITH THIS
11 ACT. THE PUBLIC BODY IS NOT REQUIRED TO TAKE FURTHER ACTION WITH
12 RESPECT TO THAT REQUEST UNTIL THE REQUESTING PERSON EXECUTES THE
13 CONTRACT AND PROVIDES A COPY OF THE EXECUTED CONTRACT TO THE
14 PUBLIC BODY.

15 (3) Failure to respond to a request as provided in subsec-
16 tion (2) constitutes a final decision by the public body to deny
17 the request. If a circuit court, upon an action commenced pursu-
18 ant to section 10, finds that a public body has failed to respond
19 as provided in subsection (2), and if the court orders the public
20 body to disclose or provide copies of the public record or a por-
21 tion thereof, then the circuit court shall assess damages against
22 the public body as provided in section 10(5).

23 (4) A written notice denying a request for a public record
24 in whole or in part shall constitute a final determination by the
25 public body to deny the request or portion thereof and shall
26 contain:

1 (a) An explanation of the basis under this act or other
2 statute for the determination that the public record, or the
3 portion thereof, is exempt from disclosure, if that is the reason
4 for denying the request or a portion thereof.

5 (b) A certificate that the public record does not exist
6 under the name given by the requester or by another name reason-
7 ably known to the public body, if that is the reason for denying
8 the request or a portion thereof.

9 (c) A description of a public record or information on a
10 public record which is separated or deleted as provided in sec-
11 tion 14, if a separation or deletion is made.

12 (d) A full explanation of the requesting person's right to
13 seek judicial review under section 10. Notification of the right
14 to judicial review shall include notification of the right to
15 receive attorneys' fees and damages as provided in section 10.

16 (5) The individual designated in section 6 as responsible
17 for the denial of the request shall sign the written notice of
18 denial.

19 (6) If a public body issues a notice extending the period
20 for a response to the request, the notice shall set forth the
21 reasons for the extension and the date by which the public body
22 shall do 1 of the following:

23 (a) Grant the request.

24 (b) Issue a written notice to the requesting person denying
25 the request.

26 (c) Grant the request in part and issue a written notice to
27 the requesting person denying the request in part.

1 (7) If a public body makes a final determination to deny in
2 whole or in part a request to inspect or receive a copy of a
3 public record or portion thereof, the requesting person may com-
4 mence an action in circuit court, as provided in section 10.

5 Sec. 10. (1) If a public body makes a final determination
6 to deny a request or a portion thereof, the requesting person may
7 commence an action in the circuit court to compel disclosure of
8 the public records. If the court determines that the public
9 records are not exempt from disclosure, the court shall order the
10 public body to cease withholding or to produce a public record or
11 a portion thereof wrongfully withheld, regardless of the location
12 of the public record. The ~~circuit court for the county in which~~
13 ~~the complainant resides or has his principal place of business,~~
14 ~~or the~~ circuit court for the county in which the public record
15 or an office of the public body is located shall have jurisdic-
16 tion to issue the order. The court shall determine the matter de
17 novo and the burden is on the public body to sustain its denial.
18 The court, on its own motion, may view the public record in con-
19 troversy in private before reaching a decision. Failure to
20 comply with an order of the court may be punished as contempt of
21 court.

22 (2) An action under this section arising from the denial of
23 an oral request may not be commenced unless the requesting person
24 confirms the oral request in writing not less than 5 days before
25 commencement of the action.

26 (3) UPON APPLICATION OF A PUBLIC BODY, THE CIRCUIT COURT IN
27 THE COUNTY IN WHICH A RECORD OR THE PUBLIC BODY IS LOCATED MAY

1 ISSUE A PROTECTIVE ORDER TO PROHIBIT ABUSIVE REQUESTS UNDER THIS
2 ACT.

3 (4) ~~-(3)-~~ An action commenced pursuant to this section and
4 appeals therefrom shall be assigned for hearing and trial or for
5 argument at the earliest practicable date and expedited in every
6 way.

7 (5) ~~-(4)-~~ If a person asserting the right to inspect or to
8 receive a copy of a public record or a portion thereof prevails
9 in an action commenced pursuant to this section, the court shall
10 award reasonable attorneys' fees, costs, and disbursements. If
11 the person prevails in part, the court may in its discretion
12 award reasonable attorneys' fees, costs, and disbursements or an
13 appropriate portion thereof. The award shall be assessed against
14 the public body liable for damages under subsection ~~-(5)-~~ (6).

15 (6) ~~-(5)-~~ In an action commenced pursuant to this section,
16 if the circuit court finds that the public body has arbitrarily
17 and capriciously violated this act by refusal or delay in dis-
18 closing or providing copies of a public record, the court shall,
19 in addition to any actual or compensatory damages, award punitive
20 damages in the amount of \$500.00 to the person seeking the right
21 to inspect or receive a copy of a public record. The damages
22 shall not be assessed against an individual, but shall be
23 assessed against the next succeeding public body, not an individ-
24 ual, pursuant to whose public function the public record was kept
25 or maintained.