
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 4339 (as reported without amendment)
Sponsor: Representative Greg Kaza
House Committee: Oversight and Ethics
Senate Committee: Government Operations

Date Completed: 4-29-97

RATIONALE

Public Act 553 of 1996 amended the Freedom of Information Act (FOIA) to alter, among other things, the public policy statement at the beginning of the Act, regarding information persons are allowed to obtain from government sources. Prior to the passage of Public Act 553, the FOIA stated that it was the public policy of this State that all persons, except those incarcerated in State or local correctional facilities, were entitled to full and complete information regarding "the affairs of government and the official acts of those who represent them as public officials and public employees". Public Act 553 removed the quoted language from the statement and replaced it with "governmental decision-making".

It has been pointed out that the change to the public policy statement in the FOIA was included in a bill, passed near the end of the 1995-96 session, that made several other significant changes to the Act. Reportedly, the change to the statement has raised widespread concerns that, under the new language, public bodies may be able to reduce the kinds and amounts of information that they provide to the public. Some people feel that the original public policy statement, which had been in the Act for 20 years, should be restored.

CONTENT

The bill would amend the Freedom of Information Act to provide that it would be the public policy of the State that all persons, except those persons incarcerated in State or local correctional facilities, would be entitled to full and complete information regarding "the affairs of government and the official acts of those who represent them as public officials and public employees"; and remove from the phrase "governmental decision-making".

MCL 15.231

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The FOIA is a powerful, vital tool that allows the citizens prompt access to public documents, thus ensuring that concerned members of the public can see what their State and local governments, and the employees who work for those governments, are doing. Since the passage of the FOIA in 1976, advocates and interested citizens from all walks of life have relied on the FOIA to obtain information about government activity. Public Act 533 of 1996, among several other provisions, changed the policy statement of the Freedom of Information Act from allowing FOIA requests for information regarding "the affairs of government and the official acts of public officials and public employees" to allowing information regarding "governmental decision-making". Some people believe that this particular amendment to the FOIA might be interpreted to restrict significantly the amount of information to which the people have access, and may be used as the basis for a claim that certain records do not relate to governmental decision-making and therefore are not subject to disclosure. If such a situation develops, it will in the long run benefit neither the public, which will have less information, nor the government, which may come to be viewed as having something to hide. Though some have argued that the change in the language was merely stylistic, the bill, by restoring the original language, would remove any encouragement that Public Act 533 may have given anyone to attempt to restrict access to public records. The bill also would

restore the public's confidence in the openness of government documents.

Legislative Analyst: G. Towne

FISCAL IMPACT

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

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.