

BCDWS: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

Bay County Department of Water and Sewer (BCDWS)  
 3933 Patterson Road  
 Bay City, MI 48706  
 Phone: (989) 684-3883

**Request Form**  
*Note: Requestors are not required to use this form. The BCDWS may complete one for recordkeeping if not used.*

**FOIA Request for Public Records**  
**Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.**

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Check if received via:  Email  Fax  Other Electronic Method  
 Date delivered to junk/spam folder: \_\_\_\_\_  
 Date discovered in junk/spam folder: \_\_\_\_\_  
*(Please Print or Type)*

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for:  Copy  Certified copy  Record inspection  Subscription to record issued on regular basis

Delivery Method:  Will pick up  Will make own copies onsite  Mail to address above  Email to address above  
 Deliver on digital media provided by the BCDWS: \_\_\_\_\_

**Note:** *The BCDWS is not required to provide records in a digital format or on digital media if the BCDWS does not already have the technological capability to do so.*

Describe the public record(s) as specifically as possible. You may use this form or attach additional sheets:


**Consent to Non-Statutory Extension of BCDWS' Response Time**

I have requested a copy of records or a subscription to records or the opportunity to inspect records, pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq. I understand that the BCDWS must respond to this request within five (5) business days after receiving it, and that response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the BCDWS' response time for this request until: \_\_\_\_\_ (month, day, year).

Requestor's Signature	Date
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*(Complete both sides)*

**Records Located on Website**

If the BCDWS directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any labor charges to redact (*separate exempt information from non-exempt information*).

If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the BCDWS must notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed cost itemization form, the BCDWS must separate the requested public records that are available on its website from those that are not available on the website and must inform the requestor of the additional charge to receive copies of the public records that are available on its website.

If the BCDWS has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form, including digital media, the BCDWS must provide the public records in the specified format (if the BCDWS has the technological capability) but may use a fringe benefit multiplier greater than the 50%, not to exceed the actual costs of providing the information in the specified format.

**Request for Copies/Duplication of Records on BCDWS Website**

I hereby stipulate that, even if some or all of the records are located on a BCDWS website, I am requesting that the BCDWS make copies of those records on the website and deliver them to me in the format I have requested above. I understand that some FOIA fees may apply.

Requestor's Signature

Date

**Overtime Labor Costs**

Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.

**Consent to Overtime Labor Costs**

I hereby agree and stipulate to the BCDWS using overtime wages in calculating the following labor costs as itemized in the following categories:

- 1.  Labor to copy/duplicate
- 2.  Labor to locate
- 3a.  Labor to redact
- 3b.  Contract labor to redact
- 6b.  Labor to copy/duplicate records already on BCDWS' website

Requestor's Signature

Date

**Request for Discount: Indigence**

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by an individual who is entitled to information under this act and who:

- 1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, **OR**
- 2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if **ANY** of the following apply:

- (i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year,
- (ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

**Office Use:**  Affidavit Received  Eligible for Discount  Ineligible for Discount

I am submitting an affidavit and requesting that I receive the discount for indigence for this FOIA request:

Date:

Requestor's Signature:

**Request for Discount: Nonprofit Organization**

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act, if the request meets **ALL** of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
- (ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
- (iii) Is accompanied by documentation of its designation by the state, if requested by the BCDWS.

**Office Use:**  Documentation of State Designation Received  Eligible for Discount  Ineligible for Discount

I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its clients and is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931:

Date:

Requestor's Signature:

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Bay County Department of Water and Sewer (BCDWS)  
3933 Patterson Road  
Bay City, MI 48706  
Phone: (989) 684-3883

Extension Form

**Notice to Extend Response Time for FOIA Request**  
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Check if received via:  Email  Fax  Other Electronic Method  
Date of This Notice: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_  
(Please Print or Type) Date discovered in junk/spam folder: \_\_\_\_\_

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for:  Copy  Certified copy  Record inspection  Subscription to record issued on regular basis  
Delivery Method:  Will pick up  Will make own copies onsite  Mail to address above  Email to address above  
 Deliver on digital media provided by the BCDWS: \_\_\_\_\_

Record(s) You Requested: (Listed here or see attached copy of original request) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We are extending the date to respond to your FOIA request for no more than 10 business days, until \_\_\_\_\_ (month, day, year).  
Only one extension may be taken per FOIA request. If you have any questions regarding this extension, contact \_\_\_\_\_ at \_\_\_\_\_

Estimated Time Frame to Provide Records: \_\_\_\_\_ (days or date)  
The time frame estimate is nonbinding upon the BCDWS, but the BCDWS is providing the estimate in good faith. Providing an estimated time frame does not relieve a public body from any of the other requirements of this act.

**Reason for Extension:**

1. The BCDWS needs to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to your request. Specifically, the BCDWS must:  
\_\_\_\_\_  
\_\_\_\_\_

2. The BCDWS needs to collect the requested public records from numerous field offices, facilities, or other establishments that are located apart from the BCDWS office. Specifically, the BCDWS must coordinate documents from the following locations:  
\_\_\_\_\_  
\_\_\_\_\_

3. Other (describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of FOIA Coordinator:	Date:
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Bay County Department of Water and Sewer (BCDWS)  
3933 Patterson Road  
Bay City, MI 48706  
Phone: (989) 684-3883

Denial Form

### Notice of Denial of FOIA Request

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Check if received via:  Email  Fax  Other Electronic Method  
Date of This Notice: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_  
(Please Print or Type) Date discovered in junk/spam folder: \_\_\_\_\_

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

Request for:  Copy  Certified copy  Record inspection  Subscription to record issued on regular basis

Delivery Method:  Will pick up  Will make own copies onsite  Mail to address above  Email to address above  
 Deliver on digital media provided by the BCDWS: \_\_\_\_\_

Record(s) You Requested: (Listed here or see attached copy of original request) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All OR  Part of your request for records has been denied. Please refer to this form for an explanation. If you have any questions regarding this denial, contact \_\_\_\_\_ at \_\_\_\_\_

#### Reason for Denial:

1. Exempt from Disclosure: This item is exempt from disclosure under FOIA Section 13, Subsection \_\_\_\_\_ (insert number), because: \_\_\_\_\_  
\_\_\_\_\_

2. Record Does Not Exist: This item does not exist under the name provided in your request or by another name reasonably known to the BCDWS. A certificate that the public record does not exist under the name given is attached. If you believe this record does exist, provide a description that will enable us to locate the record: \_\_\_\_\_  
\_\_\_\_\_

3. Redaction: A portion of the requested record had to be separated or deleted (redacted) as it is exempt under FOIA Section 13, Subsection \_\_\_\_\_ (insert number), because: \_\_\_\_\_  
\_\_\_\_\_

A brief description of the information that had to be separated or deleted: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the Board of County Road Commissioners, County of Bay, or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the BCDWS has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: \_\_\_\_\_

Date: \_\_\_\_\_

## FREEDOM OF INFORMATION ACT (EXCERPT)

Act 442 of 1976

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

**History:** 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015

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3933 Patterson Road  
Bay City, MI 48706  
Phone: (989) 684-3883

Denial Appeal Form

**FOIA Appeal Form—To Appeal a Denial of Records**  
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Check if received via:  Email  Fax  Other Electronic Method  
Date of This Notice: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_  
(Please Print or Type) Date discovered in junk/spam folder: \_\_\_\_\_

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for:  Copy  Certified copy  Record inspection  Subscription to record issued on regular basis  
Delivery Method:  Will pick up  Will make own copies onsite  Mail to address above  Email to address above  
 Deliver on digital media provided by the BCDWS: \_\_\_\_\_

Record(s) You Requested: (Listed here or see attached copy of original request) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Reason(s) for Appeal:**

The appeal must identify the reason(s) for the denial. You may use this form or attach additional sheets:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Requestor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**BCDWS Response:**

The BCDWS must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

**BCDWS Extension:** We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until \_\_\_\_\_  
(month, day, year). Only one extension may be taken per FOIA appeal.

Unusual circumstances warranting extension: \_\_\_\_\_  
\_\_\_\_\_

If you have any questions regarding this extension, contact: \_\_\_\_\_

**BCDWS Determination:**

Denial Reversed  Denial Upheld  Denial Reversed in Part and Upheld in Part

The following previously denied records will be released: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Notice of Requestor's Right to Seek Judicial Review**

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the Board of County Road Commissioners, County of Bay, or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the BCDWS has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: \_\_\_\_\_

Date: \_\_\_\_\_

## FREEDOM OF INFORMATION ACT (EXCERPT)

Act 442 of 1976

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

**History:** 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015.



BCDWS: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

Bay County Department of Water and Sewer (BCDWS)  
3933 Patterson Road  
Bay City, MI 48706  
Phone: (989) 684-3883

Fee Appeal Form

**FOIA Appeal Form—To Appeal an Excess Fee**  
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Check if received via:  Email  Fax  Other Electronic Method  
Date of This Notice: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_  
(Please Print or Type) Date discovered in junk/spam folder: \_\_\_\_\_

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for:  Copy  Certified copy  Record inspection  Subscription to record issued on regular basis  
Delivery Method:  Will pick up  Will make own copies onsite  Mail to address above  Email to address above  
 Deliver on digital media provided by the BCDWS: \_\_\_\_\_

Record(s) You Requested: (Listed here or see attached copy of original request) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Reason(s) for Appeal:**

The appeal must specifically identify how the required fee(s) exceed the amount permitted. You may use this form or attach additional sheets:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Requestor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**BCDWS Response:**

The BCDWS must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

BCDWS Extension: We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until \_\_\_\_\_  
(month, day, year). Only one extension may be taken per FOIA appeal.

Unusual circumstances warranting extension: \_\_\_\_\_  
\_\_\_\_\_

If you have any questions regarding this extension, contact: \_\_\_\_\_

BCDWS Determination:  Fee Waived  Fee Reduced  Fee Upheld

Written basis for BCDWS determination: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Notice of Requestor's Right to Seek Judicial Review**

You are entitled under Section 10a of the Michigan Freedom of Information Act, MCL 15.240a, to appeal a FOIA fee that you believe exceeds the amount permitted under the BCDWS's written Procedures and Guidelines to the Board of County Road Commissioners, County of Bay, or to commence an action in the Circuit Court for a fee reduction within 45 days after receiving the notice of the required fee or a determination of an appeal to the Board of County Road Commissioners, County of Bay. If a civil action is commenced in court, the BCDWS is not obligated to compete processing the request until the court resolves the fee dispute. If the court determines that the BCDWS required a fee that exceeded the permitted amount, the court shall reduce the fee to a permissible amount. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: \_\_\_\_\_ Date: \_\_\_\_\_

FREEDOM OF INFORMATION ACT (EXCERPT)  
Act 442 of 1976

**15.240a.added Fee in excess of amount permitted under procedures and guidelines or MCL 15.234.**  
Sec. 10a.

(1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

**History:** Add. 2014, Act 563, Eff. July 1, 2015