

LANSING BOARD OF WATER & LIGHT

Written Public Summary of FOIA Procedures and Guidelines

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is the Written Public Summary of the Board of Water & Light's FOIA Procedures and Guidelines relevant to the general public.

As used herein, "BWL" includes all departments and boards of the Lansing Board of Water & Light.

This is only a summary of the BWL's FOIA Procedures and Guidelines. For more details and information, copies of the BWL's FOIA Procedures and Guidelines are available at no charge at the BWL REO town office, the BWL Haco Drive customer service center and on the BWL's website at: www.LBWL.com.

1. How do I submit a FOIA request to the BWL?

A request to inspect or obtain copies of public records prepared, owned, used, possessed, or retained by the BWL must be submitted in writing and may be delivered to the below addresses in person, by mail, or by email. Please include the term "FOIA" or "FOIA Request" on all communications to ensure a prompt response. A request must sufficiently describe a public record so as to enable the BWL to find it.

Direct all requests for Lansing Board of Water & Light records to:

VIA U.S. Mail:

Lansing Board of Water & Light
FOIA Coordinator
1201 S. Washington Ave.
P.O. Box 13007
Lansing, Michigan 48910-1650

VIA Electronic Mail:

Email: foiarequests@lbwl.com

2. What kind of response can I expect to my request?

Within 5 business days after receiving a FOIA request the BWL will issue a response. If a request is received by U.S. mail, or email, the request is deemed to have been received on the following business day. The BWL will respond to your request in one of the following ways:

- Grant the request, or
- Issue a written notice denying the request, or
- Grant the request in part and issue a written notice denying in part the request, or
- Issue a notice indicating that due to the nature of the request the BWL needs an additional 10 business days to respond, or
- Issue a written notice indicating that the public record requested is available at no charge on the BWL's website.

If the request is granted, or granted in part, the BWL will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.

If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the BWL will require a deposit before processing the request.

3. What are the BWL's deposit requirements?

If the BWL has made a good faith calculation that the total fee for processing the request will exceed \$50.00, the BWL will require that you provide a deposit in the amount of 50% of the total estimated fee. When the BWL requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.

If the BWL receives a request from a person who has not paid the BWL for copies of public records made in fulfillment of a previously granted written request, the BWL will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when all of the following conditions exist:

- The final fee for the prior written request is not more than 105% of the estimated fee;

- The public records made available contained the information sought in the prior written request and remain in the BWL's possession;
- The public records were made available to the individual, subject to payment, within the best effort time frame estimated by the BWL to provide the records;
- Ninety (90) days have passed since the BWL notified the individual in writing that the public records were available for pickup or mailing;
- The individual is unable to show proof of prior payment to the BWL; and
- The BWL has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.

The BWL will not require the 100% estimated fee deposit if any of the following apply:

- The person making the request is able to show proof of prior payment in full to the BWL;
- The BWL is subsequently paid in full for all applicable prior written requests; or
- Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to the BWL.

4. How does the BWL calculate FOIA processing fees?

The Michigan FOIA statute permits the BWL to charge for the following costs associated with processing a request:

- Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the BWL.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the BWL.
- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- The cost of copying or duplication, not including labor, of paper copies of public records.

- The cost of computer discs, computer tapes or other digital or similar media when the requestor asks for records in non-paper physical media. This may include the cost for copies of records already on the BWL's website if you ask for the BWL to make copies.
- The cost to mail or send a copy of the public record to a requestor

Labor Costs

A labor cost will not be charged for the search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the BWL. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the BWL's usual FOIA requests, because of the nature of the request in the particular instance. The BWL must specifically identify the nature of the unreasonably high costs in writing.

- All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down.
- Labor costs will be charged at the hourly wage of the lowest-paid BWL employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits

Copying and Duplication

The BWL must use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the BWL has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Paper Copies

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets will paper will reflect the actual cost of reproduction.

Mailing Costs

- The cost to mail public records will use a reasonably economical and justified means.
- The BWL may charge for the least expensive form of postal delivery confirmation.
- No extra cost will be charged for expedited shipping or insurance unless you request it.

5. How do I qualify for an indigence discount on the fee?

The BWL will discount the first \$20.00 of fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

You are **not** eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the BWL twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is a sworn statement.

6. May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is formally designated by the state to carry out activities under subtitle C of the federal

developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, may receive a \$20.00 discount if the request meets all of the following requirements in the Act:

- Is made directly on behalf of the organization or its clients.
- 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.
- Is accompanied by documentation of its designation by the state, if requested by the public body.

7. How may I challenge the denial of a public record or an excessive fee?

Appeal of a Denial of a Public Record

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the BWL Chair of the Board of Commissioners (the “Chair”) by filing a written appeal of the denial with the office of the FOIA Coordinator.

The appeal must be in writing, specifically state the word “appeal,” and identify the reason or reasons you are seeking a reversal of the denial.

Within 10 business days of receiving the appeal the BWL Chair will respond in writing by:

- Reversing the disclosure denial; or
- Upholding the disclosure denial; or
- Reverse the disclosure denial in part and uphold the disclosure denial in part.

Whether or not you submitted an appeal of a denial to the BWL Chair, you may file a civil action in Ingham County Circuit Court within 180 days after the BWL's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys’ fees, costs and disbursements. If the court determines that the BWL acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.

Appeal of an Excessive FOIA Processing Fee

If you believe that the fee charged by the BWL to process your FOIA request exceeds the amount permitted by state law, you must first appeal to the BWL Chair by filing a written appeal for a fee reduction to the Chair.

The appeal must specifically state the word “appeal” and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the BWL Chair will respond in writing by:

- Waiving the fee; or
- Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee; or
- Upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the BWL Chair will respond to the written appeal.

Within 45 days after receiving notice of the BWL Chair determination of the processing fee appeal, you may commence a civil action in Ingham County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys’ fees, costs and disbursements. If the court determines that the BWL acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.00.