

ELEVENTH LEGISLATURE OF THE STATE OF YAP
Third Regular Session
2025

(GHW)

Bill No. 11-151

A Bill FOR AN ACT

To establish the Open Records Act, and for other purposes.

Be it enacted by the Legislature of the State of Yap.

1 Section 1. Short Title. This Act shall be cited as
2 "Yap State Open Records Act".

3 Section 2. Definitions. As used in this Act, unless
4 the content indicates otherwise, the following definitions
5 shall apply:

6 (a) "Action" means any transaction of official
7 business by a governing body.

8 (b) "Agency" or "Governing body" means any
9 government entity created under the Yap State
10 Constitution, by treaty, by law, by regulation, or
11 by executive order, including quasi-government
12 entities, such as for example Yap State Public
13 Service Corporation, and any subdivisions of a
14 government entity or quasi-government entity.

15 (c) "Director" means the highest authority of an

1 agency or governing body who is responsible for
2 overseeing the daily operations of the agency, or
3 the person serving in the acting capacity at the
4 time a request for public records is made.

5 (d) "Final action" means a collective positive or
6 negative decision by an agency or governing body on
7 a particular issue with substantive relevance to the
8 public or a vote by a majority of the members of a
9 governing body, when sitting as a body or entity and
10 making decisions or voting upon a bill, motion,
11 proposal, resolution, order, report, or ordinance.

12 (e) "Person" includes any natural person,
13 corporation, partnership, limited liability company,
14 firm, or association.

15 (f) "Public business" means any matter over which
16 the agency or governing body has supervision,
17 control, jurisdiction, or advisory power.

18 (g) "Public record" means any written or printed
19 document, report, book, paper, letter, map,
20 photograph, film, sound recording, or plan of a
21 governing body, which is the property thereof and in

1 or on which an entry has been made or is required to
2 be made by law, or which any public officer or
3 employee of a governing body has received or is
4 required to receive pursuant to law or in connection
5 with the transaction of official government business
6 whether stored electronically or in print, but shall
7 not include records that invade the right to privacy
8 of any person or business entity as defined in this
9 Act.

10 (h) "Resident" means an FSM citizen residing in the
11 State, a person who is Yapese by birth, or a non-
12 citizen who has a valid Yap State Foreign Investment
13 Permit and is currently doing business in Yap.

14 (i) "Writing" means a communication in writing,
15 including, but not limited to, letters, e-mails,
16 facsimiles; but does not include text messages or
17 messages sent to a telephone or through social
18 media.

19 Section 3. Open Records. Unless specified
20 confidentiality or privileged by law, any and all public
21 record information shall be accessible.

1 (a) Every resident has the right to inspect or
2 obtain a copy of any public document as provided in this
3 Act.

4 (b) Within ten (10) business days of a written
5 request, all public records maintained by a governing body
6 shall be made available to the resident who made the request
7 during regular business hours, unless:

8 (1) the production will take more time to produce
9 due to exceptional circumstances;

10 (2) the production will take more time to produce
11 due to the volume of information requested;

12 (3) the production is in violation of the
13 Constitutions of the State of Yap or the
14 Federated States of Micronesia, other law of
15 the State of Yap; or

16 (4) the production is exempted under this Act or
17 other applicable law.

18 (c) All requests for public records shall be
19 responded to in writing, identifying when the resident can
20 inspect the documents or if copies were requested, when the

1 copies will be available and the costs of the copies. If
2 production will take more than ten (10) business days, the
3 written response shall also identify the reason for the
4 delay. If the request for public documents is denied, the
5 written response shall identify the reason for denying the
6 request.

7 Section 4. Exceptions. The following information
8 shall not be made available to the public:

9 (a) Information properly classified as secret in the
10 interest of national defense or foreign policy where the
11 disclosure of the information would compromise the current
12 ability of the Federated States of Micronesia, the State of
13 Yap, or the United States to provide for the defense of the
14 Federated States of Micronesia or the State of Yap.

15 (b) information related solely to internal operational
16 procedures and practices of the agency or governing body the
17 release of which would potentially risk circumvention of law
18 or regulations;

19 (c) information specifically exempted by other
20 statutes;

1 (d) a trade secret or privileged or confidential
2 commercial or financial information obtained from a person
3 or legally established corporation or entity in the State of
4 Yap;

5 (e) a privileged inter- or intra-agency memorandum or
6 letter;

7 (f) a personnel, medical, or similar file the release
8 of which would constitute a clearly unwarranted invasion of
9 personal privacy; provided that disclosure of a government
10 employment contract or contract of an independent contractor
11 working for the government, including any contracts that are
12 performed as part of the execution of a foreign aid grant,
13 are deemed not to be an invasion of personal privacy;

14 (g) information compiled for law enforcement purposes,
15 the release of which:

16 (1) could reasonably be expected to interfere with
17 law enforcement proceedings;

18 (2) would deprive a person of a right to a fair
19 trial or an impartial adjudication;

20 (3) could reasonably be expected to constitute an

1 unwarranted invasion of personal privacy;

2 (4) could reasonably be expected to disclose the
3 identity of a confidential source;

4 (5) would disclose techniques, procedures, or
5 guidelines for investigations or prosecutions; or

6 (6) could reasonably be expected to endanger an
7 individual's life or physical safety.

8 (h) information contained in or related to
9 examination, operating, or condition reports about financial
10 institutions;

11 (i) attorney client privileged communications or
12 documents protected by the attorney work product doctrine;

13 (j) patient-doctor communications and medical records;

14 (k) judicial deliberations;

15 (l) information related to informal negotiations or
16 discussions that take place as part of the decision-making
17 process of a governing body prior to a meeting where a final
18 action is made; however, any final decision or agreement is
19 a public document;

20 (m) documents pertaining to pending litigation to

1 which an agency or governing body is a party; however, when
2 the pending litigation has been finally adjudicated or
3 otherwise settled the documents are public documents unless
4 another exception applies;

5 (n) documents of the Council of Pilung and Council of
6 Tamol, except for official communications between an
7 Executive Branch official or the Yap State Legislature and
8 the Councils; and

9 (o) information related to a declared and confirmed
10 State of Emergency in accordance with the Yap State
11 Constitution.

12 Section 5. Efficient Disclosure of Records.

13 (a) To ensure expedient disclosure of public records,
14 the Director of each agency and government body shall,
15 pursuant to the Yap State Administrative Procedure Act,
16 adopt regulations that identify the employee within the
17 agency or government body who is responsible for receiving
18 public records request and the contact information for that
19 employee, create a process by which public records requests
20 will be processed and public records produced, and identify
21 the employee within the agency or government body

1 responsible for communicating with the resident making the
2 request and the contact information for the responsible
3 employee.

4 (b) Each agency and government body shall organize
5 their documents and records in a manner that allows public
6 records to be easily retrieved so that the agency or
7 government body can maintain compliance with this Act.

8 Section 6. Costs.

9 (a) The resident requesting access to public
10 records shall bear the reasonable cost associated with the
11 production, including costs of copying documents.

12 (b) Reasonable cost associated with the
13 production of documents includes the cost of retrieving the
14 documents and if requested, the cost of making electronic
15 copies or of copying documents.

16 (c) Each agency and governing body shall publish
17 as part of their regulations the costs associated with
18 production of documents. A copy of the costs shall be
19 prominently displayed in the offices of the agency or
20 governing body.

1 (d) Upon written request, the agency or governing
2 body shall provide an estimate of the costs of a request for
3 documents prior to providing copies or making electronic
4 copies.

5 Section 7. Denial of access. This act does not allow
6 restricted access to a public record based on the purpose
7 for which the record is being requested, if the record is
8 otherwise subject to disclosure.

9 Section 8. Penalties; disputes and remedies.

10 (a) Any resident of Yap State who seeks disclosure of
11 public records and is wrongfully denied access may bring
12 an action in the Yap State Court for the purpose of
13 obtaining the documents requested.

14 (b) In all actions brought under this Act, the burden shall
15 be on the agency or governing body to demonstrate that
16 the record in dispute can be properly withheld from
17 public inspection under the terms of this Act.

18 (c) Any person who is responsible for the production of a
19 public record according to the procedures adopted
20 pursuant to Act and who fails to timely produce the

1 requested public record shall be jointly and severally
2 personally liable in the form of a penalty in the amount
3 of not less than fifty dollars (\$50.00) for the first
4 offense and not less than one hundred dollars (\$100.00)
5 for all subsequent offenses. The penalty shall be
6 assessed by a judge of the Yap State Court in a
7 successful action to enforce this Act. A violation of
8 this Act shall not constitute a criminal offense, and the
9 assessment of this civil penalty shall not give rise to
10 any disability or legal disadvantage based upon
11 conviction of a criminal offense.

12 (d) Penalties shall be paid one-half (1/2) to the Yap State
13 Treasury and one-half (1/2) to the person who brought the
14 successful action to enforce this Act.

15 (e) Any person who prevails against a governing body in any
16 action in the Yap State Court under this Act shall be
17 awarded all costs, including reasonable attorney fees,
18 incurred in connection with such legal action.

19 (f) Any agency or governing body that prevails in defense
20 of a civil action for a violation of this Act may be
21 awarded reasonable expenses and attorney fees if the Yap

1 State Court also finds that the commencement of such
2 civil action was frivolous and advanced without
3 reasonable cause. Reasonable attorney fees may be awarded
4 even if the agency or governing body is represented by
5 the Office of the Attorney General.

6 Section 9. Severability. If any provision of this Act
7 is found to be invalid or unconstitutional by a court of
8 competent jurisdiction, then the remaining parts or portions
9 shall continue in full force and effect.

10 Section 10. Effective Date. This Act shall take effect
11 upon approval by the Governor or upon its becoming law
12 without such approval.

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15 Date: 7/1/25

Introduced by: 
Anne-Marie Laamar