

October 10, 2013

3125 Tecumseh River Rd
Lansing, MI 48906

John E. Nixon, Director
Department of Technology, Management & Budget
George W. Romney Building
111 South Capitol Avenue
Lansing, MI 48933

Dear Mr. Nixon,

I am appealing the denial of a Freedom of Information Act request. My request, which you received October 1, 2013 was as follows:

Section 38.20g of the State Employees' Retirement Act, Act 240 of 1943 directs the department of management and budget to calculate and distribute a yearly supplemental payment to state pension recipients. Section 38.1404a of the Public School Employees Retirement Act of 1979, Act 300 of 1980 does the same for retired public school employees.

For the years 1982 to the present, I would like the following information for each system (SERS and MPSERS) regarding the calculation of the supplemental payment:

1. The rate of investment return earned on retirement system assets during the past fiscal year.
2. The actuarially determined present value of retirement allowances to be paid after the end of the fiscal year to retirants and retirement allowance beneficiaries in receipt of retirement allowances at the end of the fiscal period.
3. The costs of post retirement adjustments paid during the fiscal year.
4. The distribution income at the end of each state fiscal year.

Gary Buckberry, your FOIA coordinator, denied my request in a letter dated October 8. His reason:

Your request does not describe records sufficiently to enable the department to determine what records you are seeking. It is hereby certified that, to the best of the undersigned's knowledge, information, and belief, records do not exist within the department under the description you provided or under another name reasonably known to the department.

The laws cited in my request make it clear that it is the responsibility of the Department of Management and Budget to calculate and distribute the supplemental payment, and the four figures I requested are elements of that calculation. It is difficult for me to believe that in the process of these *legislatively mandated* calculations, the figures were not written down and kept on file to justify either the distributions or the determination that no distribution was needed. And I know that at one time, some of those figures were available. They were provided to me in response to a FOIA request I submitted to the Office of Retirement Systems in 2007. You can see the story I wrote about it at this web address:

steveharrypublicpolicy.com/pension_fund_giveaway.htm

As director of the Department of Technology, Management and Budget, you should share my interest in these supplemental payments to state and public school retirees. They have the potential to be a drain on the state pension funds. One of the findings in *How Detroit Went Broke*, a September 15, 2013 story in the Detroit Free Press, was that

Pension officials handed out about \$1 billion in bonuses from the city's two pension funds to retirees and active city workers from 1985 to 2008. That money — mostly in the form of so-called 13th checks — could have shored up the funds and possibly prevented the city from filing for bankruptcy. If that money had been saved, it would have been worth more than \$1.9 billion today to the city and pension funds, by one expert's estimate.

If you have any questions, you may reach me by phone at 517-505-2696 or by email at stevenrharry@gmail.com.

Very truly yours,

Steven R. Harry