Township Council
1 Municipal Plaza
Bloomfield, NJ 07003

Louise M. Palagano
Municipal Clerk

http://www.bloomfieldtwpnj.com

Meeting: 05/07/12 07:00 PM

2012 RESOLUTION OPPOSING RESOLUTION

OPPOSING SENATE BILL 1452

WHEREAS, legislation has been introduced to reform and modernize the Open Public Records Act (S-1452); and

WHEREAS, the governing body of the Township of Bloomfield agrees that government records should be readily accessible and transparent but there must be an appropriate balance between the need for openness and transparency in government and citizens' reasonable expectation of privacy; and

WHEREAS, among the costly unfunded mandates and impractical new requirements of S-1452 are the following:

- The expansion of the definition of government record to include records that are required by law to be made, maintained or kept on file by any public agency that will lead to a records custodians to be in violation of OPRA for the non-existence of a government records created before their tenure with the public body; and

- The creation of a definition for "advisory, consultative or deliberative" material that may be contrary to the well established definition in case law leading to costly litigation; and

- The expanding of the definition of government record to include electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting that is unworkable and unmanageable as the technology does not always exist to make "hard copies" or digital copies of text messages, the records custodian does not always have access to the electronic communications and certain cell phone carriers will not provide this information without a subpoena; and

- The inclusion of a subjective definition for "reasonable" that may be contrary to the well established definition in case law leading to costly litigation; and

- A new requirement that any video or audio recordings or public meetings should be available in unedited form will be in direct violation of the Open Public Meetings Act requirement that requires the redacting of discussions in closed session until the matter can legally be released; and

APPROVED AS TO FORM AND PROCEDURE
ON BASIS OF FACTS SET FORTH

Director of Law – Township Attorney

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- A new requirement on how to handle redactions and special services fees is time consuming and costly, especially considering that the Government Records Council has already addressed these procedures in their Custodians' Toolkit, which should be codified; and

- A provision that permits the records custodian to advise a requestor that a government record is readily available on the public agency's website; however, the bill requires the records custodian to directly provide the records to the requestor if they do not have access to a computer but does not define what is meant by "access to a computer"; and

- A new costly requirement that when there is a special service charge the requestor must be provided, at no cost, an index generally describing the responsive government records to be provided and to the greatest extent possible the index shall include the name of each record or brief description of the record or general categories of records, a detailed breakdown of how the special charges were assessed and if records are exempt or redacted, the records custodian must provide a description of those records; and

- A provision that prohibits the assessment of a special service charge for requests for budgets, bills, vouchers, contracts and public employee salaries and overtime unless the request is deemed voluminous, which is undefined and subjective; and

WHEREAS, the provisions of S-1452 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-1452 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, while the governing body of the Township of Bloomfield strives for and agrees that open and transparent government is essential to the democratic process, the provisions of S-1452 will make government inefficient.

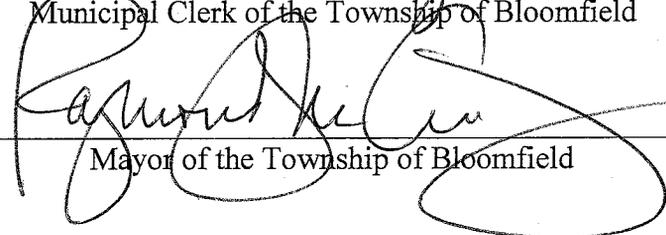**NOW, THEREFORE, BE IT RESOLVED**, that the governing body of the Township

of Bloomfield, County of Essex, and State of New Jersey for reasons stated above, does hereby

oppose S-1452, as currently drafted, and strongly urges the State Senate and Assembly to oppose

these bills; and

BE IT FURTHER RESOLVED, that a copy of this duly adopted resolution be

forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Senator Barbara

Buono, Senator Shirley Turner, Assembly Speaker Shelia Oliver, Assemblyman Gordon

Johnson, the legislators of the 28th State Legislative District State Legislative District, Governor

Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks'

Association of New Jersey.

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I hereby certify that the above resolution was duly adopted by the Mayor and Council of
the Township of Bloomfield at a meeting of said Township Council held on May 07, 2012.

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Municipal Clerk of the Township of Bloomfield

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Mayor of the Township of Bloomfield

✓ Vote Record – Resolution 1682		Yes/Aye	No/Nay	Abstain	Absent
☑ Adopted					
☐ Adopted as Amended					
☐ Defeated	Elias Chalet	☑	☐	☐	☐
☐ Withdrawn	Nicholas Joanow	☑	☐	☐	☐
☐ Tabled	Carlos Bernard	☑	☐	☐	☐
☐ Approved	Michael Venezia	☑	☐	☐	☐
☐ Approved by Consensus	Peggy O'Boyle Dunigan	☑	☐	☐	☐
☐ Not Discussed	Bernard Hamilton	☑	☐	☐	☐
☐ Tabled with No Vote	Raymond McCarthy	☑	☐	☐	☐
☐ Discussed					
☐ Veto by Mayor					