



# Detroit Water and Sewerage Department

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## Legislation Text

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**File #:** 17-0161, **Version:** 1

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Upon the request of Chief General Counsel Debra N. Pospiech, Esq., the Board of Water Commissioners for the City of Detroit, Water and Sewerage Department vote to **approve a meeting with legal counsel in closed session pursuant to Section 8(h) of the Michigan Open Meetings Act to discuss matters exempt from public disclosure under the Freedom of Information Act.**

Agenda of October 18, 2017  
Item No. 17-0161  
Closed Session Request

**TO:** The Honorable  
Board of Water Commissioners  
City of Detroit, Michigan

**FROM:** Debra N. Pospiech, Esq., Chief General Counsel, Detroit Water and Sewerage Department

**RE:** **Discussion of Matters Exempt from Public Disclosure under the Freedom of Information Act**

### MOTION

Upon the request of Chief General Counsel Debra N. Pospiech, Esq., the Board of Water Commissioners for the City of Detroit Water and Sewerage Department, by an affirmative roll call vote of 2/3 of the Board Members appointed and serving, hereby resolves to **meet with legal counsel in closed session pursuant to Section 8(h) of the Michigan Open Meetings Act to discuss certain matters exempt from disclosure under Section 13 of the Freedom of Information Act, MCL 15.231 et seq.**

### BACKGROUND

Section 8(h) of the Michigan Open Meetings Act allows a public body to meet in closed session: "To consider material exempt from discussion or disclosure by state or federal statute." Section 13 of the Freedom of Information Act exempts certain documents from disclosure including:

- (a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
- (g) Information or records subject to the attorney-client privilege.
- (m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action if in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

This Honorable Body seeks information about specific customers who are designated as “do not shut” in Detroit Water and Sewerage’s (DWSD) billing system. This information is exempt from disclosure under the Freedom of Information Act for the following reasons:

- (a) The identity of the customers, whether there is a balance due on the account and the reason the customer is on the “do not shut” list is information that, if disclosed, would be an unwarranted invasion of the customer’s privacy;
- (b) The Board has requested legal advice regarding collection of delinquent accounts designated as “do not shut” and the General Counsel’s advice regarding legal action against the customers is expressed in a written legal opinion for the Board’s consideration; and
- (c) The communications between DWSD’s General Counsel and the Board are advisory in nature and are preliminary to a final determination of policies and or actions that may be taken with regard to customers on the “do not shut” list and a frank discussion between General Counsel and the Board outweighs the public interest in disclosure of the information.

Section 7 of the Open Meetings Act requires an affirmative roll call vote of 2/3 of the Board Members appointed and serving to approve a closed session.

Respectfully Submitted,

**Debra N. Pospiech**

Debra N. Pospiech, Esq.

Chief General Counsel

Detroit Water and Sewerage Department