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CC: Adm.

**RESOLUTION
SUPPORTING AN AMENDMENT TO THE OPEN PUBLIC RECORDS ACT**

WHEREAS, the Township of Jefferson has consistently and reasonably fulfilled its responsibilities pursuant to the Open Public Records Act (N.J.S.A. 47:1A-1, et seq.); and

WHEREAS, notwithstanding the legitimate public interest which the Open Public Records Act is intended to protect, the broad scope of the Act allows for its abuse by individuals for an improper purpose, including, but not limited to, harassment of State, County, or Local Government, or governmental officials and employees; and

WHEREAS, there is a legitimate and pressing need to amend the Open Public Records Act to prevent improper use of the Act; and

WHEREAS, the Legislature of the State of California has recently introduced legislation to amend its Public Records Act to permit governmental entities to petition a Court of competent jurisdiction to issue a protective order limiting the number and scope of requests a requestor may make and/or eliminating a governmental entity's duty to respond to public record requests from the requestor in the future when said relief is appropriate given a demonstration by the governmental entity that the requestor has sought or is seeking governmental records for an improper purpose, including, but not limited to, the harassment of State, County, or Local Government, including officials and employees; and

WHEREAS, an amendment to the Open Public Records Act similar or equivalent to the pending California Legislation is necessary and appropriate.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Jefferson calls upon the State's Assembly and Senate to immediately enact an amendment to the Open Public Records Act equivalent to California Bill AB 520 (copy attached); and

BE IT FURTHER RESOLVED that a copy of this Resolution shall be distributed to Governor Jon S. Corzine, all representatives of the 25th Legislative District and all Morris County Municipalities.

I, Lydia Magnotti, Clerk of the Township of Jefferson, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by Jefferson Township Governing Body at a regular meeting of said governing body held on August 12, 2009.

Lydia Magnotti

Lydia Magnotti, RMC
Town Clerk

ASSEMBLY BILL

No. 520

Introduced by Assembly Member Carter

February 25, 2009

An act to add Section 6256 to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 520, as introduced, Carter. Public records.

The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of any person, to provide a copy of any public record unless the record is exempt from disclosure.

This bill would, whenever it is made to appear by verified petition, authorize a superior court to issue a protective order limiting the number and scope of requests a requestor may make under the act. The bill would require the court, in issuing the order, to determine that the requestor has sought records under the act for an improper purpose, including, but not limited to, the harassment of a public agency or its employees.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6256 is added to the Government Code,
- 2 to read:
- 3 6256. (a) Notwithstanding Section 6257.5, whenever it is made
- 4 to appear by verified petition to the superior court of the county

1 in which a requestor for public records under this chapter resides
2 or has a primary place of business, the court may issue a protective
3 order limiting the number and scope of requests a requestor may
4 make. The court may issue the protective order if it determines
5 that the requestor has sought records under this chapter for an
6 improper purpose, which includes, but is not limited to, the
7 harassment of a public agency or its employees. The petition shall
8 be accompanied by a declaration of facts by the public agency
9 withholding the records demonstrating that it has complied with
10 Section 6253.1 and has made a good faith effort to reach an
11 informal resolution of the issues relating to the records request.

12 (b) The order specified in subdivision (a) may limit, or in
13 appropriate circumstances, eliminate, the public agency's duty to
14 respond to public records requests from the requester in the future.

15 (c) In an action filed on or after January 1, 2010, an order of
16 the court, either limiting the number or scope of disclosure requests
17 or eliminating the public agency's duty to respond to records
18 requests from the requester in the future, is not a final judgment
19 or order within the meaning of Section 904.1 of the Code of Civil
20 Procedure from which an appeal may be taken, but shall be
21 immediately reviewable by petition to the appellate court for the
22 issuance of an extraordinary writ. Upon entry of any order pursuant
23 to this section, a party shall, in order to obtain review of the order,
24 file a petition within 20 days after service upon him or her of a
25 written notice of entry of the order, or within further time not
26 exceeding an additional 20 days as the trial court may for good
27 cause allow. If the notice is served by mail, the period within which
28 to file the petition shall be increased by five days. A stay of an
29 order or judgment shall not be granted unless the petitioning party
30 demonstrates that it will otherwise sustain irreparable damage and
31 probable success on the merits. Any person who fails to obey the
32 order of the court shall be cited to show cause why he or she is not
33 in contempt of court.

34 (d) For the purposes of this section, the county of residence
35 shall include any return address listed on the original letter
36 requesting the public records.