



GRAND VALLEY METROPOLITAN COUNCIL

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HASTINGS • HUDSONVILLE • IONIA • JAMESTOWN TOWNSHIP • KENT COUNTY • KENTWOOD • LOWELL • MIDDLEVILLE • OTTAWA COUNTY • PLAINFIELD TOWNSHIP • ROCKFORD
SAND LAKE • TALLMADGE TOWNSHIP • WALKER • WAYLAND • WYOMING

AGENDA

GVMC BOARD MEETING

February 5, 2015

8:30 a.m.

Kent County Commission Chambers

300 Monroe, Grand Rapids, MI

- 1) Approval of Minutes – Attached**

- 2) Public Comment**

- 3) Swearing in of New Representatives – Diane Jones, Kent County & Matt McConnon, Courtland Twp.**

- 4) Presentation on Ballot Initiative – Jeff Cranson**
 - Resolution - Attached**

- 5) Resolution in Support of The Rapid’s Application to Enter the Federal Transit Administration’s Small Starts Program for the Laker Line Bus Rapid Transit (BRT) Alignment Study - Attached**

- 6) Board Meeting Presentation by Tom Butcher on HB4001 Changes to the Freedom of Information Act**

- 7) Adjourn**

GRAND VALLEY METRO COUNCIL

Board Meeting

November 6, 2014

8:30 a.m.

City of Wyoming Offices

MINUTES

1. Call to Order

The meeting was called to order at 8:30 a.m. by Al Vanderberg.

Members Present:

Alex Arends	Alpine Township
Rick Baker	At-Large
Rob Beahan	Cascade Township
Jim Buck	Secretary
Dan Carlton	Georgetown Township
Mike DeVries	Grand Rapids Township
George Haga	Ada Township
Jerry Hale	Lowell Township
Doyle Hayes	At-Large Member
George Heartwell	City of Grand Rapids
Don Hilton, Sr.	Gaines Township
Denny Hoemke	Algoma Township
John Hoppough	City of Greenville
Mark Huizenga	City of Walker
Steve Kepley	City of Kentwood
Mark Lemoine	At-Large Member
Steve Maas	City of Grandville
Brenda McNabb-Stange	City of Hastings
Cy Moore	Treasurer
Jack Poll	City of Wyoming
Milt Rohwer	City of Grand Rapids
Jay Spencer	Plainfield Township
Roger Towsley	Village of Sand Lake
Al Vanderberg	Ottawa County
Bill VerHulst	City of Wyoming
Patrick Waterman	City of Hudsonville
Michael Young	City of Rockford

Members Absent:

Jerry Alkema	Allendale Township
Ken Bergwerff	Jamestown Township
Brent Boncher	Courtland Township
Tom Butcher	Grand Valley State University
Daryl Delabbio	Kent County
Brian Donovan	City of East Grand Rapids
Jason Eppler	City of Ionia
Rebecca Fleury	Village of Middleville
Steve Grimm	Cannon Township
Brian Harrison	Caledonia Township
Carol Hennessey	Kent County
Jim Holtrop	Ottawa County
Mark Howe	City of Lowell
Elias Lumpkins, Jr.	City of Grand Rapids
Mick McGraw	At-large Member
Megan Mullendore	City of Belding
Audrey Nevins-Weiss	Byron Township
Steven Patrick	City of Coopersville
Jim Saalfeld	Kent County
Michael Selden	City of Wayland
Thad Taylor	City of Cedar Springs
Toby VanEss	Tallmadge Township

Others Present:

Chris Brown	Grand Valley Metro Council
Abed Itani	Grand Valley Metro Council
Dharmesh Jain	GVMC / REGIS
Dennis Kent	MDOT
Dal McBurrows	MDOT
Gayle McCrath	Grand Valley Metro Council
Wendy Ogilvie	Grand Valley Metro Council
Peter Varga	The Rapid
John Weiss	Grand Valley Metro Council

2. Public Comment

None

3. West Michigan Strategic Alliance

Greg Northrup and Jim Brooks formally turned over the intellectual property of WMSA to GVMC. They reviewed the history, strengths, and progress of the West Michigan Strategic Alliance. They stressed the importance of being inclusive and giving everyone a voice; bringing in partners; continued evaluation; and earning trust through mutual respect.

4. New and Renewed Membership Discussion

John Weiss discussed the renewed membership policy recommended by the Executive Committee. There is significant cost and administrative burden to GVMC and the legislative bodies of its members when an entity joins the council, leaves, and then requests to rejoin. The recommendation is that an entity with this request would be required to pay \$2,000 for the administrative costs, back dues, and a \$1,000 penalty in order to rejoin.

MOTION – To Approve the Resolution on Withdrawal and Readmission of Members. MOVE – Heartwell. SUPPORT – Hayes. MOTION CARRIED.

5. Executive Committee & Officer Recommendations

Michael Young reported the recommendation of the Human Resources Committee was to reappoint the same slate of Executive Committee and Officers as are currently serving. This would include:

- Al Vanderberg – Chair
- Mike DeVries – Vice Chair
- Jim Buck – Secretary
- Cy Moore – Treasurer
- Don Hilton
- George Heartwell
- Daryl Delabbio
- Alex Arends
- Michael Young
- Brian Donovan

MOTION – To Approve the Recommended Slate of GVMC Officers and Executive Committee Members. MOVE – Young. SUPPORT – Poll. MOTION CARRIED.

6. Regional Prosperity Initiative Update

John Weiss updated the group on the activities of the West Michigan Regional Prosperity Alliance. On October 10, over 125 people met at GVSU to vote on the top 5 Regional Projects of Significance. Originally 31 proposals were submitted, which were narrowed down to 6 according to the selection criteria established at the General Session at the Governors Economic Summit. Presentations were made by all 6 contenders. By vote of all those attending, the top 5 were determined. The RPI Steering Committee met immediately after the General Session and voted unanimously to approve the priorities and 5-Year plan.

GVMC has submitted for Phase II of the Prosperity Initiative. The request is for \$250,000 (with \$195,000 carryover from 2014). These funds will be used to continue collaboration and cooperation as well as supply seed and leveraging funding for the 5 projects.

Al Vanderberg congratulated John Weiss on his leadership and work on the Regional Prosperity Initiative.

7. December 4 Meeting – Will be held at the Wyoming City Offices

8. Adjournment – 9:30 a.m.

MOTION - To Adjourn – Heartwell. SUPPORT – Poll. MOTION CARRIED

RESOLUTION

Resolution in Support of the 2015 Tax Ballot Initiative

February 5, 2015

WHEREAS, as the Metropolitan Planning Organization and Transportation Management Area for the Grand Rapids metropolitan region, the Grand Valley Metropolitan Council (GVMC) plays a pivotal role in ensuring that the region's transportation infrastructure is adequately maintained; and

WHEREAS, GVMC has determined that the region's transportation infrastructure, including freeways, major and local streets, bridges and transit systems, directly contributes to the economic health and vitality of the West Michigan region; and

WHEREAS, GVMC has further determined that prudent public investment in the periodic maintenance and reconstruction of the region's transportation infrastructure yields lasting benefit for the people of West Michigan by supporting employment in the transportation industry and by providing cost effective networks of freeways, roads and transit systems that help job providers efficiently move people and goods; and

WHEREAS, The expected benefits of the proposed ballot initiative include an additional \$1.2 billion annually for road construction and maintenance, providing much needed rehabilitation to Michigan's crumbling roadways, as well as \$94 million annually to local governments in revenue sharing and \$100 million for transit;

THEREFORE BE IT RESOLVED, that the Grand Valley Metropolitan Council does hereby support the 2015 Tax Ballot Initiative.

This Resolution declared adopted by the Grand Valley Metropolitan Council February 5, 2015.

John W. Weiss
Executive Director
Grand Valley Metropolitan Council

Al Vanderberg
Chairperson
Grand Valley Metropolitan Council

League Board Unanimously Supports Michigan Road Funding Ballot Proposal on May 5

Posted on **January 26, 2015** by **Matt Bach**



League Vice President Nathan Triplett and President Dick Bolen listen to Governor Snyder discuss the state's road funding ballot initiative. The board voted to support the effort going before voters May 5.

The Michigan Municipal League Board of Trustees met with Governor Snyder on Friday, January 23, and following that discussion unanimously agreed to support the May 5 ballot proposal. The Board of Trustee believes that this proposal to support Michigan's roads, schools and cities, is in the best interest of Michigan's communities. The League will be taking an active role as an organization to help ensure its passage.

Support for the May 5th ballot proposal was based on the following factors:

- The proposal provides for a sustainable long-term investment in Michigan's infrastructure that includes \$1.2 billion for roads and bridges, and more than \$100 million for transit on an annual basis.
- The proposal would also increase constitutional revenue sharing by more than \$100 million annually.
- Combined, this investment in Michigan's transportation network and communities represents a significant step forward in building attractive and vibrant places.



- Members of the Michigan Municipal League Board of Trustees listen to Governor Snyder discuss the state's road funding ballot initiative. The board voted to unanimously support the effort going before voters May 5.

In the coming weeks the League will be working with other supporters help develop and implement a "Yes" campaign for Proposal 1.

Stay tuned for specifics ways your community can get involved and for information on the specific fiscal impact to each municipality.

[Go here](#) for additional photos from Friday's board meeting featuring Governor Snyder.

John LaMacchia is a Legislative Associate for the League handling transportation and infrastructure issues. He can be reached at jlamacchia@mml.org or 517-908-0303.

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This entry was posted in **Elections, Infrastructure, Municipal Services, Public Policy, Transportation, Transit** and tagged **Dick Bolen, governor snyder, michigan municipal league, Road Funding Ballot** by **Matt Bach**. Bookmark the **permalink** [<http://blogs.mml.org/wp/inside208/2015/01/26/league-board-unanimously-supports-michigan-road-funding-ballot-proposal/>].

**Distribution Schedule for Michigan Transportation Funding by City/Village
Draft 12/19/2014 - Estimated Fuel Tax Change - \$1.2 Billion MTF Increase
Assumes May 2015 Ballot Proposal Passes**

County	Existing Revenue Actual Fiscal Year 2014	Estimated Year One Fiscal Year 2016	Estimated Year Two Fiscal Year 2017	Estimated Year Three & Beyond Fiscal Year 2018
Barry	4,723,807	5,788,642	6,853,476	7,918,311
Ionia	4,725,264	5,790,427	6,855,590	7,920,753
Kent	30,607,021	37,506,416	44,405,811	51,305,206
Montcalm	5,607,355	6,871,357	8,135,360	9,399,363
Ottawa	17,228,064	21,111,592	24,995,120	28,878,648
City/Village				
Belding	445,523	543,550	641,577	739,604
Caledonia	100,079	122,099	144,119	166,139
Cedar Springs	218,116	266,108	314,099	362,090
Coopersville	289,783	353,544	417,304	481,064
East Grand Rapids	754,167	920,104	1,086,041	1,251,977
Grand Rapids	13,665,119	16,671,808	19,678,497	22,685,186
Grandville	1,066,552	1,301,222	1,535,892	1,770,562
Greenville	635,777	775,664	915,552	1,055,440
Hastings	529,751	646,310	762,870	879,429
Hudsonville	488,367	595,821	703,275	810,728
Ionia	610,372	744,670	878,968	1,013,266
Kentwood	3,102,097	3,784,641	4,467,185	5,149,729
Lowell	257,587	314,263	370,939	427,615
Middleville	227,316	277,332	327,347	377,363
Rockford	331,355	404,262	477,169	550,076
Sand Lake	52,962	64,615	76,269	87,922
Walker	1,674,929	2,043,458	2,411,987	2,780,516
Wayland	278,631	339,937	401,243	462,549
Wyoming	4,973,135	6,067,357	7,161,579	8,255,800
	92,593,129	113,305,199	134,017,269	154,729,336

RESOLUTION

A Resolution in Support of The Rapid's Application to Enter the Federal Transit Administration's Small Starts Program for the Laker Line Bus Rapid Transit (BRT) Alignment Study

February 5, 2015

WHEREAS, as the Metropolitan Planning Organization and Transportation Management Area for the Grand Rapids metropolitan region, the Grand Valley Metropolitan Council (GVMC) plays a pivotal role in the region's transportation and transit planning; and

WHEREAS, the Laker Line Bus Rapid Transit (BRT) corridor has a strong foundation of population, employment and activities, providing numerous benefits to the community; and

WHEREAS, the Laker Line has the highest transit ridership of any corridor in the six-city Rapid service area, serving a daily average of more than 12,000 riders per day when GVSU is in session; and

WHEREAS, investment in BRT would increase capacity and efficiency along the corridor as the BTR travel times are faster and more reliable utilizing technologies including transit signal priority, level boarding, and off board fare payment; and

WHEREAS, the BRT stations would encourage nearby redevelopment providing reliable, first-class public transit which is essential for stimulating excellent, reliable, and first-class places to live, work and play; and

WHEREAS, the use of compressed natural gas BRT vehicles will reduce toxic emissions while improving the region's air quality which is a priority of GVMC's transportation planning activities; and

WHEREAS, GVMC recognizes the value the Laker Line BRT will bring to the community while providing enhanced quality of life for residents and businesses in the corridor; and

THEREFORE BE IT RESOLVED, that the Grand Valley Metropolitan Council does hereby support The Rapid's application to enter the Laker Line BRT project into the FTA's Small Starts Project Development Program and the environmental review process.

This Resolution declared adopted by the Grand Valley Metropolitan Council February 5, 2015.

John W. Weiss
Executive Director
Grand Valley Metropolitan Council

Al Vanderberg
Chairperson
Grand Valley Metropolitan Council

Act No. 563
Public Acts of 2014
Approved by the Governor
January 11, 2015
Filed with the Secretary of State
January 15, 2015
EFFECTIVE DATE: July 1, 2015

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Rep. Shirkey

ENROLLED HOUSE BILL No. 4001

AN ACT to amend 1976 PA 442, entitled "An act to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending sections 4, 5, 10, and 11 (MCL 15.234, 15.235, 15.240, and 15.241), sections 4, 5, and 10 as amended by 1996 PA 553, and by adding sections 10a and 10b.

The People of the State of Michigan enact:

Sec. 4. (1) A public body may charge a fee for a public record search, for the necessary copying of a public record for inspection, or for providing a copy of a public record if it has established, makes publicly available, and follows procedures and guidelines to implement this section as described in subsection (4). Subject to subsections (2), (3), (4), (5), and (9), the fee shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. Except as otherwise provided in this act, if the public body estimates or charges a fee in accordance with this act, the total fee shall not exceed the sum of the following components:

(a) That portion of labor costs directly associated with the necessary searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in the particular instance regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.

(b) That portion of labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information as provided in section 14. For services performed by an employee of the public body, the public body shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14, regardless of whether that person is available or who actually performs the labor. If a public body does not employ a person capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14 as determined by the public body's FOIA coordinator on a case-by-case basis, it may treat necessary contracted labor costs used for the separating and deleting of exempt information from nonexempt information in the same manner as employee labor costs when calculating charges under this subdivision if it clearly notes the name of the contracted person or firm on the detailed itemization described under subsection (4). Total labor costs calculated under this subdivision for contracted labor costs shall not exceed an amount equal to 6 times the state minimum hourly wage rate determined under section 4 of the workforce opportunity wage act, 2014 PA 138, MCL 408.411 to 408.424. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. A public body shall not charge for labor directly associated with redaction under section 14 if it knows or has reason to know that it previously redacted the public record in question and the redacted version is still in the public body's possession.

(c) For public records provided to the requestor on nonpaper physical media, the actual and most reasonably economical cost of the computer discs, computer tapes, or other digital or similar media. The requestor may stipulate that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies. This subdivision does not apply if a public body lacks the technological capability necessary to provide records on the particular nonpaper physical media stipulated in the particular instance.

(d) For paper copies of public records provided to the requestor, the actual total incremental cost of necessary duplication or publication, not including labor. The cost of paper copies shall be calculated as a total cost per sheet of paper and shall be itemized and noted in a manner that expresses both the cost per sheet and the number of sheets provided. The fee shall not exceed 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. A public body shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

(e) The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision may be estimated and charged in time increments of the public body's choosing; however, all partial time increments shall be rounded down.

(f) The actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner. The public body shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor, but may otherwise charge for the least expensive form of postal delivery confirmation when mailing public records.

(2) When calculating labor costs under subsection (1)(a), (b), or (e), fee components shall be itemized in a manner that expresses both the hourly wage and the number of hours charged. The public body may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used to account for benefits in the detailed itemization described in subsection (4). Subject to the 50% limitation, the public body shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed itemization described in subsection (4). A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request by either of the following:

(a) An individual who is entitled to information under this act and who submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. If the requestor is eligible for a requested discount, the public body shall fully note the discount on the detailed itemization described under subsection (4). If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if any of the following apply:

(i) The individual has previously received discounted copies of public records under this subsection from the same public body twice during that calendar year.

(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

(b) A nonprofit organization formally designated by the state to carry out activities under subtitle C of the developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors, if the request meets all of the following requirements:

(i) Is made directly on behalf of the organization or its clients.

(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.

(iii) Is accompanied by documentation of its designation by the state, if requested by the public body.

(3) A fee as described in subsection (1) shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

(4) A public body shall establish procedures and guidelines to implement this act and shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary shall be written in a manner so as to be easily understood by the general public. If the public body directly or indirectly administers or maintains an official internet presence, it shall post and maintain the procedures and guidelines and its written public summary on its website. A public body shall make the procedures and guidelines publicly available by providing free copies of the procedures and guidelines and its written public summary both in the public body's response to a written request and upon request by visitors at the public body's office. A public body that posts and maintains procedures and guidelines and its written public summary on its website may include the website link to the documents in lieu of providing paper copies in its response to a written request. A public body's procedures and guidelines shall include the use of a standard form for detailed itemization of any fee amount in its responses to written requests under this act. The detailed itemization shall clearly list and explain the allowable charges for each of the 6 fee components listed under subsection (1) that compose the total fee used for estimating or charging purposes. Other public bodies may use a form created by the department of technology, management, and budget or create a form of their own that complies with this subsection. A public body that has not established procedures and guidelines, has not created a written public summary, or has not made those items publicly available without charge as required in this subsection is not relieved of its duty to comply with any requirement of this act and shall not require deposits or charge fees otherwise permitted under this act until it is in compliance with this subsection. Notwithstanding this subsection and despite any law to the contrary, a public body's procedures and guidelines under this act are not exempt public records under section 13.

(5) If the public body directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any charges under subsection (1)(b). If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the public body shall notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, shall include a specific webpage address where the requested information is available. On the detailed itemization described in subsection (4), the public body shall separate the requested public records that are available on its website from those that are not available on the website and shall inform the requestor of the additional charge to receive copies of the public records that are available on its website. If the public body has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form as described under subsection (1)(c), the public body shall provide the public records in the specified format but may use a fringe benefit multiplier greater than the 50% limitation in subsection (2), not to exceed the actual costs of providing the information in the specified format.

(6) A public body may provide requested information available in public records without receipt of a written request.

(7) If a verbal request for information is for information that a public body believes is available on the public body's website, the public employee shall, where practicable and to the best of the public employee's knowledge, inform the requestor about the public body's pertinent website address.

(8) In either the public body's initial response or subsequent response as described under section 5(2)(d), the public body may require a good-faith deposit from the person requesting information before providing the public records to the requestor if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee described in subsection (4). Subject to subsection (10), the deposit shall not exceed 1/2 of the total estimated fee, and a public body's request for a deposit shall include a detailed itemization as required under subsection (4). The response shall also contain a best efforts estimate by the public body regarding the time frame it will take the public body to comply with the law in providing the public records to the requestor. The time frame estimate is nonbinding upon the public body, but the public body shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this state's public policy under section 1 and the nature of the request in the particular instance. If a public body does not respond in a timely manner as described under section 5(2), it is not relieved from its requirements to provide proper fee calculations and time frame estimates in any tardy responses. Providing an estimated time frame does not relieve a public body from any of the other requirements of this act.

(9) If a public body does not respond to a written request in a timely manner as required under section 5(2), the public body shall do the following:

(a) Reduce the charges for labor costs otherwise permitted under this section by 5% for each day the public body exceeds the time permitted under section 5(2) for a response to the request, with a maximum 50% reduction, if either of the following applies:

(i) The late response was willful and intentional.

(ii) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.

(b) If a charge reduction is required under subdivision (a), fully note the charge reduction on the detailed itemization described under subsection (4).

(10) This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

(11) Subject to subsection (12), after a public body has granted and fulfilled a written request from an individual under this act, if the public body has not been paid in full the total amount under subsection (1) for the copies of public records that the public body made available to the individual as a result of that written request, the public body may require a deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual if all of the following apply:

(a) The final fee for the prior written request was not more than 105% of the estimated fee.

(b) The public records made available contained the information being sought in the prior written request and are still in the public body's possession.

(c) The public records were made available to the individual, subject to payment, within the time frame estimate described under subsection (7).

(d) Ninety days have passed since the public body notified the individual in writing that the public records were available for pickup or mailing.

(e) The individual is unable to show proof of prior payment to the public body.

(f) The public body calculates a detailed itemization, as required under subsection (4), that is the basis for the current written request's increased estimated fee deposit.

(12) A public body shall no longer require an increased estimated fee deposit from an individual as described under subsection (11) if any of the following apply:

(a) The individual is able to show proof of prior payment in full to the public body.

(b) The public body is subsequently paid in full for the applicable prior written request.

(c) Three hundred sixty-five days have passed since the individual made the written request for which full payment was not remitted to the public body.

(13) A deposit required by a public body under this act is a fee.

Sec. 5. (1) Except as provided in section 3, a person desiring to inspect or receive a copy of a public record shall make a written request for the public record to the FOIA coordinator of a public body. A written request made by facsimile, electronic mail, or other electronic transmission is not received by a public body's FOIA coordinator until 1 business day after the electronic transmission is made. However, if a written request is sent by electronic mail and delivered to the public body's spam or junk-mail folder, the request is not received until 1 day after the public body first becomes aware of the written request. The public body shall note in its records both the time a written request is delivered to its spam or junk-mail folder and the time the public body first becomes aware of that request.

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following:

(a) Granting the request.

(b) Issuing a written notice to the requesting person denying the request.

(c) Granting the request in part and issuing a written notice to the requesting person denying the request in part.

(d) Issuing a notice extending for not more than 10 business days the period during which the public body shall respond to the request. A public body shall not issue more than 1 notice of extension for a particular request.

(3) Failure to respond to a request pursuant to subsection (2) constitutes a public body's final determination to deny the request if either of the following applies:

(a) The failure was willful and intentional.

(b) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference to this act, on the front of an envelope or in the subject line of an electronic mail, letter, or facsimile cover page.

(4) In a civil action to compel a public body's disclosure of a public record under section 10, the court shall assess damages against the public body pursuant to section 10(7) if the court has done both of the following:

(a) Determined that the public body has not complied with subsection (2).

(b) Ordered the public body to disclose or provide copies of all or a portion of the public record.

(5) A written notice denying a request for a public record in whole or in part is a public body's final determination to deny the request or portion of that request. The written notice shall contain:

(a) An explanation of the basis under this act or other statute for the determination that the public record, or portion of that public record, is exempt from disclosure, if that is the reason for denying all or a portion of the request.

(b) A certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the public body, if that is the reason for denying the request or a portion of the request.

(c) A description of a public record or information on a public record that is separated or deleted pursuant to section 14, if a separation or deletion is made.

(d) A full explanation of the requesting person's right to do either of the following:

(i) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial.

(ii) Seek judicial review of the denial under section 10.

(e) Notice of the right to receive attorneys' fees and damages as provided in section 10 if, after judicial review, the court determines that the public body has not complied with this section and orders disclosure of all or a portion of a public record.

(6) The individual designated in section 6 as responsible for the denial of the request shall sign the written notice of denial.

(7) If a public body issues a notice extending the period for a response to the request, the notice shall specify the reasons for the extension and the date by which the public body will do 1 of the following:

(a) Grant the request.

(b) Issue a written notice to the requesting person denying the request.

(c) Grant the request in part and issue a written notice to the requesting person denying the request in part.

(8) If a public body makes a final determination to deny in whole or in part a request to inspect or receive a copy of a public record or portion of that public record, the requesting person may do either of the following:

(a) Appeal the denial to the head of the public body pursuant to section 10.

(b) Commence a civil action, pursuant to section 10.

Sec. 10. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

Sec. 10a. (1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

Sec. 10b. If the court determines, in an action commenced under this act, that a public body willfully and intentionally failed to comply with this act or otherwise acted in bad faith, the court shall order the public body to pay, in addition to any other award or sanction, a civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence. In determining the amount of the civil fine, the court shall consider the budget of the public body and whether the public body has previously been assessed penalties for violations of this act. The civil fine shall be deposited in the general fund of the state treasury.

Sec. 11. (1) A state agency shall publish and make available to the public all of the following:

(a) Final orders or decisions in contested cases and the records on which they were made.

(b) Promulgated rules.

(c) Other written statements that implement or interpret laws, rules, or policy, including but not limited to guidelines, manuals, and forms with instructions, adopted or used by the agency in the discharge of its functions.

(2) Publications may be in pamphlet, loose-leaf, or other appropriate form in printed, mimeographed, or other written matter.

(3) Except to the extent that a person has actual and timely notice of the terms thereof, a person is not required to resort to, and shall not be adversely affected by, a matter required to be published and made available, if the matter is not so published and made available.

(4) This section does not apply to public records that are exempt from disclosure under section 13.

(5) A person may commence an action in the court of claims to compel a state agency to comply with this section. If the court determines that the state agency has failed to comply, the court shall order the state agency to comply and shall award reasonable attorneys' fees, costs, and disbursements to the person commencing the action. The court of claims has exclusive jurisdiction to issue the order.

(6) As used in this section, "state agency", "contested case", and "rule" mean "agency", "contested case", and "rule" as those terms are defined in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Enacting section 1. This amendatory act takes effect July 1, 2015.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor