

CHAPTER 15. PUBLIC OFFICERS AND EMPLOYEES

BONDS OF STATE OFFICERS AND EMPLOYEES

Act 10 of 1969

AN ACT to provide uniform bond coverage for officers and employees of state departments and agencies; and to repeal certain acts and parts of acts.

History: 1969, Act 10, Imd. Eff. May 7, 1969.

The People of the State of Michigan enact:

15.1 Uniform bond coverage; state officers and employees; exceptions.

Sec. 1. Notwithstanding the provisions of any other law, officers and employees of all state departments and agencies that are required by statute or in the discretion of the director of the department covered, or otherwise to furnish bonds conditioned for their honesty or faithful discharge of their duties shall be covered by a blanket bond or bonds as a departmental group or as a state group by corporate surety companies as approved by the director of the department of administration. Treasurers and tax collectors by whatever title known may be covered by individual bonds.

History: 1969, Act 10, Imd. Eff. May 7, 1969.

15.2 Bonds; conditions, coverage; departmental problems.

Sec. 2. The director of the department of administration or his designated agent is authorized to determine, after consultation with the director of the department of commerce, the condition of each such bond and whether a single state bond for all state officers and employees or departmental bonds, shall best serve the state. In determining adequate coverage, the department of administration is authorized to obtain bond coverage with provisions relative to departmental problems of a unique nature, including loss deductible or coinsurance provisions.

History: 1969, Act 10, Imd. Eff. May 7, 1969.

15.3 Notice to all surety companies.

Sec. 3. In obtaining bond coverage under this act, the department of administration shall notify all surety companies authorized to do business in this state of the provisions of this act and shall contract for adequate coverage.

History: 1969, Act 10, Imd. Eff. May 7, 1969.

15.4 Time for completion; termination of other bonds; deposit of refunds.

Sec. 4. Within 1 year after the effective date of this act, the department of administration shall complete the bonding requirement as required by this act and shall negotiate for the termination of all honesty and faithful discharge of duty bonds otherwise in full force and effect under the provisions of any other law and secure all refunds provided by such terminations and deposit the refunds to the general fund of the state.

History: 1969, Act 10, Imd. Eff. May 7, 1969.

15.5 Statutes superseded.

Sec. 5. This act supersedes all statutes, or parts of statutes, relating to amounts, terms and conditions, execution, approval and filing of surety bonds required of officers and employees of state departments and agencies, which are inconsistent with this act.

History: 1969, Act 10, Imd. Eff. May 7, 1969.

15.6 Repeal.

Sec. 6. Act No. 20 of the Public Acts of 1968, being section 15.111 of the Compiled Laws of 1948, is repealed.

History: 1969, Act 10, Imd. Eff. May 7, 1969.

REVISED STATUTES OF 1846

CHAPTER 12

Chapter 12. Of Certain State Officers.

OFFICIAL OATHS AND BONDS OF STATE OFFICERS.

15.36 Oath of office; official bond; time; filing.

Sec. 36. The state officers named in this chapter, the lieutenant governor, deputy secretary of state, and deputy treasurer, shall each, before entering on the execution of his or her office, and within 20 days after receiving official notice of his or her election or appointment, or within 20 days after the commencement of the term of service for which he or she was elected or appointed, take and subscribe the oath of office prescribed in the state constitution of 1963, and deposit the oath of office, with his or her bond, if a bond is required by law, with the secretary of state, who shall file and preserve the oath of office and bond in his or her office.

History: R.S. 1846, Ch. 12;—CL 1857, 281;—CL 1871, 361;—How. 330;—CL 1897, 150;—CL 1915, 183;—CL 1929, 384;—CL 1948, 15.36;—Am. 2002, Act 365, Imd. Eff. May 24, 2002.

Compiler's note: Sections 36 to 39 were originally numbered as sections 35 to 38, but corrected in the margin of the Revised Statutes to read sections 36 to 39.

The office of acting commissioner of internal improvements and secretary of board of internal improvements were abolished. See Act 76 of 1847.

In this section, "the twelfth article of the constitution" refers to the Constitution of 1835. See now Const. 1963, Art. XI, § 1.

15.37 Oath; administration.

Sec. 37. Such oath may be taken and subscribed before any justice of the supreme court, a judge of any court of record, the secretary of state, the attorney general, any mayor of a city, or the clerk of any court of record.

History: R.S. 1846, Ch. 12;—CL 1857, 282;—CL 1871, 362;—How. 331;—CL 1897, 151;—CL 1915, 184;—CL 1929, 385;—CL 1948, 15.37.

Compiler's note: Sections 36 to 39 were originally numbered as sections 35 to 38, but corrected in the margin of the Revised Statutes to read sections 36 to 39.

15.38 Oath or bond; deposit, notice; penalty for neglect.

Sec. 38. If either of said officers shall neglect to deposit his oath or bond, according to the provisions of section 35 [36] of this chapter, and shall neglect to give the notice specified in the next section, or if he shall enter upon the execution of his office before he shall have so deposited his said oath or bond, he shall in either case, forfeit and pay to [the people of], this state, 150 dollars.

History: R.S. 1846, Ch. 12;—CL 1857, 283;—CL 1871, 363;—How. 332;—CL 1897, 152;—CL 1915, 185;—CL 1929, 386;—CL 1948, 15.38.

Compiler's note: Sections 36 to 39 were originally numbered as sections 35 to 38, but corrected in the margin of the Revised Statutes to read sections 36 to 39.

15.39 Notice of declination; effect.

Sec. 39. No penalty shall attach on account of any neglect to deposit such oath or bond as aforesaid, in case such officer, before entering upon the execution of his office, and within the time limited for filing such oath or bond, shall give notice in writing to the officer or officers having the power by law to order an election to fill such office, or to fill the same by appointment, or, in case of an appointment by the governor by and with the advice and consent of the senate, to the governor, stating therein that he declines accepting such office.

History: R.S. 1846, Ch. 12;—CL 1857, 284;—CL 1871, 364;—How. 333;—CL 1897, 153;—CL 1915, 186;—CL 1929, 387;—CL 1948, 15.39.

Compiler's note: Sections 36 to 39 were originally numbered as sections 35 to 38, but corrected in the margin of the Revised Statutes to read sections 36 to 39.

BOND OF AUDITOR GENERAL AND COMMISSIONER OF STATE LAND OFFICE Act 200 of 1879

15.41 Repealed. 2002, Act 368, Imd. Eff. May 24, 2002.

**BOND OF SECRETARY OF STATE, DEPUTY SECRETARY OF STATE, AND GOVERNOR'S
SECRETARY AND CLERK
Act 16 of 1895**

AN ACT requiring the secretary of state and the deputy secretary of state and the private secretary and executive clerk of the governor to give bonds for the faithful discharge of their official duties.

History: 1895, Act 16, Eff. Aug. 30, 1895.

The People of the State of Michigan enact:

15.51 Official bonds of certain state officers; amount; filing.

Sec. 1. The secretary of state and deputy secretary of state of this state, and the private secretary and executive clerk of the governor of this state, shall be required within 20 days after this act takes effect, and their successors in office shall be required within 20 days after entering upon the duties of their respective offices, to give bonds to the people of the state of Michigan with 3 or more sureties to be approved by the state treasurer and attorney general, conditioned for the faithful discharge of their official duties, and for the safe and lawful custody and disposition of the money and property of this state that may be entrusted to them or come within their control.

The bond of the secretary of state shall be in the sum of \$25,000.00, that of the deputy secretary of state shall be in the sum of \$20,000.00, and the bonds of the private secretary and the executive clerk of the governor shall be each in the sum of \$5,000.00. The bonds of the secretary of state and deputy secretary of state shall be filed and kept in the office of the state treasurer, and those of the private secretary and executive clerk shall be filed and kept in the office of the secretary of state.

History: 1895, Act 16, Eff. Aug. 30, 1895;—CL 1897, 155;—CL 1915, 188;—CL 1929, 389;—CL 1948, 15.51;—Am. 2002, Act 362, Imd. Eff. May 23, 2002.

COST AND FILING OF BONDS
Act 311 of 1905

AN ACT with respect to the furnishing of bonds by state officers, their deputies, and officers of state institutions; to provide for the payment of the cost of such bonds, and to prescribe the places of filing the same.

History: 1905, Act 311, Imd. Eff. June 17, 1905;—Am. 1915, Act 6, Eff. Aug. 24, 1915.

The People of the State of Michigan enact:

15.71 Procurement of bonds by certain state officers; cost.

Sec. 1. Whenever a bond is required by the laws of this state to be given by the secretary of state, state treasurer, director of the department of natural resources, attorney general, or superintendent of public instruction, the deputy or deputies of those officers, any other civil or military officer of this state, or any officer of any state institution, whether elected or appointed, who is charged with the duty of being the custodian of any state or institution funds, money, or property, that state or institution officer may procure the required bond from any surety company authorized by the laws of this state to execute the bond, and the cost of the bond, not exceeding 1/2 of 1% per year, shall be paid out of the treasury of this state.

History: 1905, Act 311, Imd. Eff. June 17, 1905;—Am. 1907, Act 143, Imd. Eff. June 12, 1907;—Am. 1913, Act 82, Eff. Aug. 14, 1913;—CL 1915, 189;—CL 1929, 390;—CL 1948, 15.71;—Am. 2002, Act 176, Imd. Eff. Apr. 23, 2002.

15.72 Bonds; filing; safekeeping.

Sec. 2. The various bonds referred to in section 1 shall be filed in the office of the secretary of state, any requirement in any other statute of this state to the contrary notwithstanding. However, the bond required to be furnished by the secretary of state, his or her deputy, or any employee connected with that office, required by law to file a bond, shall be filed with the state treasurer. The secretary of state and the state treasurer shall receive and make adequate provision for the safekeeping of the bonds described in this act.

History: Add. 1915, Act 6, Eff. Aug. 24, 1915;—CL 1915, 190;—CL 1929, 391;—CL 1948, 15.72;—Am. 2002, Act 176, Imd. Eff. Apr. 23, 2002.

BOND OF SUPERINTENDENT OF PUBLIC INSTRUCTION
Act 8 of 1927

15.81 Repealed. 1964, Act 287, Eff. Aug. 28, 1964.

FILING OF OATHS AND BONDS
Act 164 of 1848

AN ACT relative to the filing of oaths of office, and bonds of civil officers, etc.

History: 1848, Act 164, Eff. May 31, 1848.

Be it enacted by the Senate and House of Representatives of the State of Michigan:

15.91 Official bonds; certificate of filing.

Sec. 1. That when any civil officer appointed by the governor, or senate, or by the governor with the advice and consent of the senate of this state, is required by law to give bond and to file the same with any other officer than the secretary of state, he shall procure the certificate of such officer that such bond has been duly filed with him, and file the same with the secretary of state.

History: 1848, Act 164, Eff. May 31, 1848;—CL 1857, 285;—CL 1871, 365;—How. 335;—CL 1897, 156;—CL 1915, 192;—CL 1929, 394;—CL 1948, 15.91.

15.92 Official bonds; place for filing.

Sec. 2. When any such officer is required by law to give bond for the faithful performance of the duties of his office, and no provision is made by law, for filing the same with any particular officer, such bond shall be filed with the secretary of state.

History: 1848, Act 164, Eff. May 31, 1848;—CL 1857, 286;—CL 1871, 366;—How. 336;—CL 1897, 157;—CL 1915, 193;—CL 1929, 395;—CL 1948, 15.92.

15.93 Official oaths and certificates or bonds; time for filing.

Sec. 3. Every such officer, except where otherwise directed by law, shall file his oath of office and certificate or bond aforesaid, as the case may be, within 60 days from the receiving of his commission or appointment; and in default thereof, such commission or appointment shall be null and void: Provided, That officers appointed in and for the counties of Mackinac, Chippewa, Schoolcraft, Houghton, Ontonagon and Marquette, shall file their oaths, certificates and bonds as herein provided, within 90 days from their appointment or commission.

History: 1848, Act 164, Eff. May 31, 1848;—CL 1857, 287;—CL 1871, 367;—How. 337;—CL 1897, 158;—CL 1915, 194;—CL 1929, 396;—CL 1948, 15.93.

JUSTIFICATION OF SURETIES
Act 179 of 1885

AN ACT to provide that all sureties upon official bonds shall make justification under oath of their pecuniary responsibility.

History: 1885, Act 179, Eff. Sept. 19, 1885.

The People of the State of Michigan enact:

15.101 Official bonds; justification of sureties prerequisite to approval.

Sec. 1. That hereafter no bond required by law to be signed by surety or sureties shall hereafter be received and accepted or approved by any officer or other person or board whose duty it is or may be to accept or approve of any such bond unless the surety or sureties signing such bond shall first have justified their pecuniary responsibility under their signature, in writing, endorsed on said bond or attached thereto. And before any such bond shall be received and approved or accepted, the justification of the sureties thereof shall, in the aggregate, equal the penal sum of the bond, and show that the sureties thereof are worth in unencumbered property not exempt from execution under the laws of this state the penal sum thereof, after payment of all just debts, claims, and liabilities.

History: 1885, Act 179, Eff. Sept. 19, 1885;—How. 8234a;—CL 1897, 159;—CL 1915, 195;—CL 1929, 397;—CL 1948, 15.101.

15.102 Official bonds; oath of justification, penalty.

Sec. 2. Such oath of justification shall be administered by some officer authorized by law to administer oaths, and any person knowingly or willfully making any false statement of his pecuniary responsibility in such justification shall be guilty of perjury and liable, upon conviction thereof, to the penalty of perjury.

History: 1885, Act 179, Eff. Sept. 19, 1885;—How. 8234b;—CL 1897, 160;—CL 1915, 196;—CL 1929, 398;—CL 1948, 15.102.

15.103 Official bonds; acceptance without justification; penalty; liability.

Sec. 3. Any person or persons receiving and accepting or approving any such bond without such justification shall be guilty of a misdemeanor, and shall further be liable for all damages that may be sustained or incurred by any person by reason of such defective bond being accepted or approved.

History: 1885, Act 179, Eff. Sept. 19, 1885;—How. 8234c;—CL 1897, 161;—CL 1915, 197;—CL 1929, 399;—CL 1948, 15.103.

UNIFORM BOND COVERAGE FOR COMMERCE DEPARTMENT
Act 20 of 1968

15.111 Repealed. 1969, Act 10, Imd. Eff. May 7, 1969.

CONSTITUTIONAL OATH OF OFFICE
Act 22 of 1951

AN ACT to require employees and persons in the service of the state and its governmental agencies to take and subscribe to the constitutional oath of office.

History: 1951, Act 22, Imd. Eff. Apr. 5, 1951.

The People of the State of Michigan enact:

15.151 Constitutional oath of office; employees and persons in service of state.

Sec. 1. All persons now employed, or who may be employed by the state of Michigan or any governmental agency thereof, and all other persons in the service of the state or any governmental agency, shall, as a condition of their employment, take and subscribe to the oath or affirmation required of members of the legislature and other public officers by section 2 of article 16 of the constitution of 1908 of the state of Michigan.

History: 1951, Act 22, Imd. Eff. Apr. 5, 1951.

Compiler's note: For constitutional provision referred to in this section, see now Const. 1963, Art. XI, § 1.

CONFLICT OF INTEREST
Act 317 of 1966

15.161-15.172 Repealed. 1968, Act 317, Eff. Sept. 1, 1968.

INCOMPATIBLE PUBLIC OFFICES

Act 566 of 1978

AN ACT to encourage the faithful performance of official duties by certain public officers and public employees; to prescribe standards of conduct for certain public officers and public employees; to prohibit the holding of incompatible public offices; and to provide certain judicial remedies.

History: 1978, Act 566, Imd. Eff. Dec. 29, 1978.

The People of the State of Michigan enact:

15.181 Definitions.

Sec. 1. As used in this act:

(a) "Governing board" means a board of regents, board of trustees, board of governors, board of control, or other governing body of an institution of higher education.

(b) "Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

(i) The subordination of 1 public office to another.

(ii) The supervision of 1 public office by another.

(iii) A breach of duty of public office.

(c) "Institution of higher education" means a college, university, community college, or junior college described in section 4, 5, or 6 of article 8 of the state constitution of 1963 or established under section 7 of article 8 of the state constitution of 1963.

(d) "Public employee" means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(e) "Public officer" means a person who is elected or appointed to any of the following:

(i) An office established by the state constitution of 1963.

(ii) A public office of a city, village, township, or county in this state.

(iii) A department, board, agency, institution, commission, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

History: 1978, Act 566, Imd. Eff. Dec. 29, 1978.

15.182 Holding incompatible offices.

Sec. 2. (1) Except as provided in section 3, a public officer or public employee shall not hold 2 or more incompatible offices at the same time.

History: 1978, Act 566, Imd. Eff. Dec. 29, 1978.

15.183 Public employment or holding of public offices; scope of MCL 15.182.

Sec. 3. (1) Section 2 does not prohibit a public officer's or public employee's appointment or election to, or membership on, a governing board of an institution of higher education. However, a public officer or public employee shall not be a member of governing boards of more than 1 institution of higher education simultaneously, and a public officer or public employee shall not be an employee and member of a governing board of an institution of higher education simultaneously.

(2) Section 2 does not prohibit a member of a school board of 1 school district from being a superintendent of another school district.

(3) Section 2 does not prohibit a public officer or public employee of a city, village, township, school district, community college district, or county from being appointed to and serving as a member of the board of a tax increment finance authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830; a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681; a local development finance authority under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174; a brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670; a housing commission created under 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c; a neighborhood improvement authority under the neighborhood improvement authority act, 2007 PA 61, MCL 125.2911 to 125.2932; a water resource improvement tax increment finance

authority under the water resource improvement tax increment finance authority act, 2008 PA 94, MCL 125.1771 to 125.1793; a historical neighborhood tax increment finance authority under the historical neighborhood tax increment finance authority act, 2004 PA 530, MCL 125.2841 to 125.2866; a member of a board of a principal shopping district or a member of a board of directors of a business improvement zone under 1961 PA 120, MCL 125.981 to 125.990n; an officer of a metropolitan district under the metropolitan district act, 1929 PA 312, MCL 119.1 to 119.18; a member of a board of directors of a land bank fast track authority under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774; or a corridor improvement authority under the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.

(4) Section 2 does not do any of the following:

(a) Prohibit public officers or public employees of a city, village, township, or county having a population of less than 40,000 from serving, with or without compensation, as emergency medical services personnel as that term is defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(b) Prohibit public officers or public employees of a city, village, township, or county having a population of less than 40,000 from serving, with or without compensation, as a firefighter, police chief, fire chief, police officer, or public safety officer in that city, village, township, or county if that firefighter, police chief, fire chief, police officer, or public safety officer is not a person who negotiates a collective bargaining agreement with the city, village, township, or county on behalf of the firefighters, police chiefs, fire chiefs, police officers, or public safety officers.

(c) Limit the authority of the governing body of a city, village, township, or county having a population of less than 40,000 to authorize a public officer or public employee to perform, with or without compensation, other additional services for the unit of local government.

(5) This section does not relieve a person from otherwise meeting statutory or constitutional qualifications for eligibility to, or the continued holding of, a public office.

(6) This section does not allow or sanction activity constituting conflict of interest prohibited by the constitution or laws of this state.

(7) This section does not allow or sanction specific actions taken in the course of performance of duties as a public official or as a member of a governing body of an institution of higher education that would result in a breach of duty as a public officer or board member.

(8) Section 2 does not prohibit a public officer or public employee of a community mental health services program as that term is defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, from serving as a public officer or public employee of a separate legal or administrative entity created by 2 or more community mental health services programs under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, a joint board or commission created under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or a regional entity created under section 204b of the mental health code, 1974 PA 258, MCL 330.1204b, whether or not the separate legal or administrative entity, joint board or commission, or regional entity may enter into contracts or agreements with 1 or more of the community mental health services programs.

(9) Section 2 does not prohibit a member of a school board from being appointed to or serving as a volunteer coach or supervisor of a student extracurricular activity if all of the following conditions are present:

(a) The school board member receives no compensation for service as a volunteer coach or supervisor.

(b) During the period he or she serves as a volunteer, the school board member abstains from voting on issues before the school board concerning that program.

(c) There is no qualified applicant available to fill a vacant position if the school board member is excluded.

(d) The appointing authority has received the results of a criminal history check and a criminal records check from the department of state police or the Federal Bureau of Investigation for the school board member.

(10) Section 2 does not prohibit a superintendent of an intermediate school district from serving simultaneously as superintendent of a local school district, or prohibit an intermediate school district from contracting with another person to serve as superintendent of a local school district, even if the local school district is a constituent district of the intermediate school district. As used in this subsection, "constituent district" means that term as defined in section 3 of the revised school code, 1976 PA 451, MCL 380.3.

(11) Section 2 does not prohibit a public officer or public employee of an authority created under the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479, from serving as a public officer or public employee of another public transportation authority if each public transportation authority has members consisting of identical political subdivisions.

(12) Section 2 does not prohibit a township supervisor from being appointed as a member of a county

board of public works as provided in section 2(2)(c) of 1957 PA 185, MCL 123.732.

(13) Section 2 does not prohibit the mayor, the chief executive officer, or a member of the governing body of a qualified city, or the superintendent or chairperson of a qualified school district, from serving as a member of a financial review commission for that qualified city or qualified school district, or both, as established under the Michigan financial review commission act, 2014 PA 181, MCL 141.1631 to 141.1643. As used in this subsection, "qualified city" and "qualified school district" mean those terms as defined in section 3 of the Michigan financial review commission act, 2014 PA 181, MCL 141.1633.

(14) Section 2 does not prohibit an emergency manager appointed under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, from serving as a transition manager under section 12b or part 5b of the revised school code, 1976 PA 451, MCL 380.12b and 380.381 to 380.396.

(15) Section 2 does not apply to a member of the municipal stability board created under section 7 of the protecting local government retirement and benefits act.

History: 1978, Act 566, Imd. Eff. Dec. 29, 1978;—Am. 1984, Act 72, Imd. Eff. Apr. 18, 1984;—Am. 1992, Act 10, Imd. Eff. Mar. 10, 1992;—Am. 1994, Act 317, Imd. Eff. Oct. 6, 1994;—Am. 2000, Act 455, Imd. Eff. Jan. 9, 2001;—Am. 2004, Act 110, Imd. Eff. May 20, 2004;—Am. 2008, Act 22, Imd. Eff. Mar. 12, 2008;—Am. 2009, Act 210, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 104, Imd. Eff. July 19, 2011;—Am. 2011, Act 122, Imd. Eff. July 20, 2011;—Am. 2011, Act 196, Imd. Eff. Oct. 18, 2011;—Am. 2014, Act 190, Imd. Eff. June 20, 2014;—Am. 2015, Act 134, Eff. Dec. 29, 2015;—Am. 2016, Act 196, Imd. Eff. June 21, 2016;—Am. 2017, Act 208, Imd. Eff. Dec. 20, 2017.

15.184 Injunction or other judicial relief or remedy.

Sec. 4. The attorney general or a prosecuting attorney may apply to the circuit court for Ingham county or to the circuit court for the county in which the alleged act or practice in violation of this act is alleged to have occurred or in which a party to the alleged violative act or practice resides, for injunctive or other appropriate judicial relief or remedy. However, this act shall not create a private cause of action.

History: 1978, Act 566, Imd. Eff. Dec. 29, 1978.

15.185 Action of public officer or employee; validity; judicial relief or remedy.

Sec. 5. An action of a public officer or public employee shall not be absolutely void by reason of this act. An action of a public officer or public employee shall be voidable only by discretionary action of a court of competent jurisdiction, as prescribed in section 4. However, any judicial relief or judicial remedy shall operate prospectively only.

History: 1978, Act 566, Imd. Eff. Dec. 29, 1978.

COMPENSATION OF EXECUTIVE OFFICERS Act 1 of 1948 (2nd Ex. Sess.)

15.201-15.204 Repealed. 2002, Act 368, Imd. Eff. May 24, 2002.

Compiler's note: The repealed sections pertained to salaries and compensation of executive officers of state.

STATE OFFICERS' COMPENSATION COMMISSION
Act 357 of 1968

AN ACT to prescribe the powers, duties and functions of the state officers' compensation commission; and to prescribe the powers and duties of the legislature in relation to the commission.

History: 1968, Act 357, Eff. Sept. 20, 1968.

The People of the State of Michigan enact:

15.211 Commission; assignment to department of civil service; expiration of members' terms; appointment of members; reappointments prohibited; vacancies; ineligibility.

Sec. 1. The state officers' compensation commission created by section 12 of article 4 of the state constitution of 1963 is assigned to the department of civil service for the purposes of administration, budgeting, procurement, and related management functions. For members appointed to a new term after December 31, 2007, the members' terms shall expire on January 1 of the fourth year following appointment. For members appointed to a new term after December 31, 2007, the members shall be appointed prior to January 31 of the year of appointment. A member may not be reappointed. Vacancies shall be filled by the governor for the remainder of the unexpired term. A member or employee of the legislative, judicial, or executive branch of government shall not be eligible to be a member of the commission.

History: 1968, Act 357, Eff. Sept. 20, 1968;—Am. 1975, Act 213, Imd. Eff. Aug. 25, 1975;—Am. 2006, Act 629, Eff. Jan. 1, 2008.

Compiler's note: Const 1963, art IV, sec 12 provides that "the legislature shall implement this section by law."

15.212 Definitions.

Sec. 2. As used in the constitution "each 2 years" means periods ending on December 31 of each even numbered year. As used in this act, "session days" means any calendar day on which the commission meets and a quorum is present.

History: 1968, Act 357, Eff. Sept. 20, 1968;—Am. 1969, Act 125, Imd. Eff. July 29, 1969.

15.213 Commission; meetings; quorum; actions or determinations by concurrence of majority; chairperson; secretary; subcommittees.

Sec. 3. The commission shall meet for not more than 15 session days beginning after January 31 of every odd numbered year. Four members of the commission constitute a quorum for conducting the business of the commission. The commission shall not take action or make determinations without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairperson from among its members. The state personnel director shall act as the secretary to the commission. The commission may establish subcommittees.

History: 1968, Act 357, Eff. Sept. 20, 1968;—Am. 1969, Act 125, Imd. Eff. July 29, 1969;—Am. 1975, Act 213, Imd. Eff. Aug. 25, 1975;—Am. 2006, Act 629, Eff. Jan. 1, 2008.

15.214 Assistance from state agencies.

Sec. 4. The commission may call upon the services and personnel of any agency of the state for assistance.

History: 1968, Act 357, Eff. Sept. 20, 1968.

15.215 Compensation commission compensation, expenses.

Sec. 5. The members of the commission shall receive no compensation but shall be entitled to their actual and necessary expenses incurred in the performance of their duties to be paid from the appropriation made to the department of civil service.

History: 1968, Act 357, Eff. Sept. 20, 1968.

15.216 Commission; determination of salaries and expense allowances; filing determinations; copies.

Sec. 6. The commission shall determine the salaries and expense allowance of the governor, the lieutenant governor, the attorney general, the secretary of state, the justices of the supreme court, and the members of the legislature and file its determinations with the clerk of the house of representatives, the secretary of the senate, and the director of the department of management and budget on or before June 15 of each odd numbered year and shall furnish copies to the governor, the lieutenant governor, the attorney general, the secretary of state, the justices of the supreme court, and the members of the legislature. The report may be furnished in an electronic format.

History: 1968, Act 357, Eff. Sept. 20, 1968;—Am. 1975, Act 213, Imd. Eff. Aug. 25, 1975;—Am. 2006, Act 629, Eff. Jan. 1, 2008.

15.217 Salary and expense determinations; concurrent resolution adopted by legislature; approval or amendment.

Sec. 7. The determinations of the commission shall be the salaries and expense allowances only if the legislature by concurrent resolution adopted by a majority of the members elected to and serving in each house of the legislature approve them. The senate and house of representatives shall alternate on which house of the legislature shall originate the concurrent resolution, with the senate originating the first concurrent resolution in 2009. The concurrent resolution may amend the salary and expense determinations of the state officers compensation commission to reduce the salary and expense determinations by the same proportion for the members of the legislature, the governor, the lieutenant governor, the attorney general, the secretary of state, and the justices of the supreme court. The legislature shall not amend the salary and expense determinations to reduce them to below the salary and expense level that the members of the legislature, the governor, the lieutenant governor, the attorney general, the secretary of state, and the justices of the supreme court receive on the date the salary and expense determinations are made. If the salary and expense determinations are approved or amended as provided in this section, the salary and expense determinations shall become effective for the regular legislative session immediately following the next general election.

History: 1968, Act 357, Eff. Sept. 20, 1968;—Am. 2006, Act 628, Eff. Jan. 1, 2008.

15.218 Effective date.

Sec. 8. This act shall take effect September 20, 1968.

History: 1968, Act 357, Eff. Sept. 20, 1968.

FREEDOM OF INFORMATION ACT
Act 442 of 1976

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.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

The People of the State of Michigan enact:

15.231 Short title; public policy.

Sec. 1. (1) This act shall be known and may be cited as the “freedom of information act”.

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 1997, Act 6, Imd. Eff. May 16, 1997.

Popular name: Act 442

Popular name: FOIA

15.232 Definitions.

Sec. 2. As used in this act:

(a) "Cybersecurity assessment" means an investigation undertaken by a person, governmental body, or other entity to identify vulnerabilities in cybersecurity plans.

(b) "Cybersecurity incident" includes, but is not limited to, a computer network intrusion or attempted intrusion; a breach of primary computer network controls; unauthorized access to programs, data, or information contained in a computer system; or actions by a third party that materially affect component performance or, because of impact to component systems, prevent normal computer system activities.

(c) "Cybersecurity plan" includes, but is not limited to, information about a person's information systems, network security, encryption, network mapping, access control, passwords, authentication practices, computer hardware or software, or response to cybersecurity incidents.

(d) "Cybersecurity vulnerability" means a deficiency within computer hardware or software, or within a computer network or information system, that could be exploited by unauthorized parties for use against an individual computer user or a computer network or information system.

(e) "Field name" means the label or identification of an element of a computer database that contains a specific item of information, and includes but is not limited to a subject heading such as a column header, data dictionary, or record layout.

(f) "FOIA coordinator" means either of the following:

(i) An individual who is a public body.

(ii) An individual designated by a public body in accordance with section 6 to accept and process requests for public records under this act.

(g) "Person" means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

(h) "Public body" means any of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.

(ii) An agency, board, commission, or council in the legislative branch of the state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.

(iv) Any other body that is created by state or local authority or is primarily funded by or through state or

local authority, except that the judiciary, including the office of the county clerk and its employees when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

(i) "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software. This act separates public records into the following 2 classes:

(i) Those that are exempt from disclosure under section 13.

(ii) All public records that are not exempt from disclosure under section 13 and that are subject to disclosure under this act.

(j) "Software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result. Software does not include computer-stored information or data, or a field name if disclosure of that field name does not violate a software license.

(k) "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

(i) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.

(ii) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

(l) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, hard drives, solid state storage components, or other means of recording or retaining meaningful content.

(m) "Written request" means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2018, Act 68, Eff. June 17, 2018.

Popular name: Act 442

Popular name: FOIA

15.233 Public records; request requirements; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies.

Sec. 3. (1) Except as expressly provided in section 13, upon providing a public body's FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of the requested public record of the public body. A request from a person, other than an individual who qualifies as indigent under section 4(2)(a), must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription is valid for up to 6 months, at the request of the subscriber, and is renewable. An employee of a public body who receives a request for a public record shall promptly forward that request to the freedom of information act coordinator.

(2) A freedom of information act coordinator shall keep a copy of all written requests for public records on file for no less than 1 year.

(3) A public body shall furnish a requesting person a reasonable opportunity for inspection and examination of its public records, and shall furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours. A public body may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. A public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

(4) This act does not require a public body to make a compilation, summary, or report of information, except as required in section 11.

(5) This act does not require a public body to create a new public record, except as required in section 11,

and to the extent required by this act for the furnishing of copies, or edited copies pursuant to section 14(1), of an already existing public record.

(6) The custodian of a public record shall, upon written request, furnish a requesting person a certified copy of a public record.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2018, Act 523, Imd. Eff. Dec. 28, 2018.

Popular name: Act 442

Popular name: FOIA

15.234 Fee; limitation on total fee; labor costs; establishment of procedures and guidelines; creation of written public summary; detailed itemization; availability of information on website; notification to requester; deposit; failure to respond in timely manner; increased estimated fee deposit; deposit as fee; failure to pay or appeal deposit; request abandoned.

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 must 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 must 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 must not exceed an amount equal to 6 times the state minimum hourly wage rate determined under section 4 of the improved workforce opportunity wage act, 2018 PA 337, MCL 408.934. 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 must 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 must 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 must 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, must 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 must not exceed 1/2 of the total estimated fee, and a public body's request for a deposit must include a detailed itemization as required under subsection (4). The response must 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 (8).

(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.

(14) If a deposit that is required under subsection (8) or (11) is not received by the public body within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 10a, the request shall be considered abandoned by the requesting person and the public body is no longer required to fulfill the request. Notice of a deposit requirement under subsection (8) or (11) is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement under subsection (8) or (11) must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1988, Act 99, Imd. Eff. Apr. 11, 1988;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2018, Act 523, Imd. Eff. Dec. 28, 2018.

Constitutionality: The disclosure of public records under the freedom of information act impartially to the general public for the incremental cost of creating the record is not a granting of credit by the state in aid of private persons and does not justify nondisclosure on the theory that the information is proprietary information belonging to a public body. *Kestenbaum v Michigan State University*, 414 Mich 510; 417 NW2d 1102 (1982).

Popular name: Act 442

Popular name: FOIA

15.235 Request to inspect or receive copy of public record; response to request; failure to respond; damages; contents of notice denying request; signing notice of denial; notice extending period of response; action by requesting person; law enforcement records management system.

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 must 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 must 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.

(9) Notwithstanding any other provision of this act to the contrary, a public body that maintains a law enforcement records management system and stores public records for another public body that subscribes to the law enforcement records management system is not in possession of, retaining, or the custodian of, a public record stored on behalf of the subscribing public body. If the public body that maintains a law enforcement records management system receives a written request for a public record that is stored on behalf of a subscribing public body, the public body that maintains the law enforcement records management system shall, within 10 business days after receipt of the request, give written notice to the requesting person identifying the subscribing public body and stating that the requesting person shall submit the request to the subscribing public body. As used in this subsection, "law enforcement records management system" means a data storage system that may be used voluntarily by subscribers, including any subscribing public bodies, to share information and facilitate intergovernmental collaboration in the provision of law enforcement services.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2018, Act 105, Imd. Eff. Apr. 5, 2018.

Popular name: Act 442

Popular name: FOIA

15.236 FOIA coordinator.

Sec. 6. (1) A public body that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public body's FOIA coordinator. The FOIA coordinator shall be responsible for accepting and processing requests for the public body's public records under this act and shall be responsible for approving a denial under section 5(4) and (5). In a county not having an executive form of government, the chairperson of the county board of commissioners is designated the FOIA coordinator for that county.

(2) For all other public bodies, the chief administrative officer of the respective public body is designated the public body's FOIA coordinator.

(3) An FOIA coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial under section 5(4) and (5).

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Popular name: Act 442

Popular name: FOIA

15.240 Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

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.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.240a Fee in excess of amount permitted under procedures and guidelines or MCL 15.234.

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.

History: Add. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.240b Failure to comply with act; civil fine.

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.

History: Add. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.241 Matters required to be published and made available by state agency; form of publications; effect of matter not published and made available; exception; action to compel compliance by state agency; order; attorneys' fees, costs, and disbursements; jurisdiction; definitions.

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.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.243 Exemptions from disclosure; public body as school district, intermediate school district, or public school academy; withholding of information required by law or in possession of executive office.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(i) Interfere with law enforcement proceedings.

(ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(iii) Constitute an unwarranted invasion of personal privacy.

(iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(v) Disclose law enforcement investigative techniques or procedures.

(vi) Endanger the life or physical safety of law enforcement personnel.

(c) A public record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(i) The information is submitted upon a promise of confidentiality by the public body.

(ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until either of the following occurs:

(i) An agreement is entered into.

(ii) Three years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(l) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation, including protected health information, as defined in 45 CFR 160.103.

(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. This exemption does not apply unless the public body shows that 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 exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of natural resources may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(i) Identify or provide a means of identifying an informant.

(ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(iii) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(iv) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(v) Disclose operational instructions for law enforcement officers or agents.

(vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(ix) Disclose personnel records of law enforcement agencies.

(x) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(i) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(ii) The fact that an allegation was received by the department; the fact that the department did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the social security number of an individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for

the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, or the confidentiality, integrity, or availability of information systems, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and cybersecurity plans, assessments, or vulnerabilities, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(z) Information that would identify or provide a means of identifying a person that may, as a result of disclosure of the information, become a victim of a cybersecurity incident or that would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software.

(aa) Research data on road and attendant infrastructure collected, measured, recorded, processed, or disseminated by a public agency or private entity, or information about software or hardware created or used by the private entity for such purposes.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974. A public body that is a local or intermediate school district or a public school academy shall exempt from disclosure directory information, as defined by 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974, requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. A public body that is a local or intermediate school district or a public school academy may take steps to ensure that directory information disclosed under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation. Before disclosing the directory information, a public body that is a local or intermediate school district or a public school academy may require the requester to execute an affidavit stating that directory information provided under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

(3) This act does not authorize the withholding of information otherwise required by law to be made available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1993, Act 82, Eff. Apr. 1, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2000, Act 88, Imd. Eff. May 1, 2000;—Am. 2001, Act 74, Imd. Eff. July 24, 2001;—Am. 2002, Act 130, Eff. May 1, 2002;—Am. 2002, Act 437, Eff. Aug. 1, 2002;—Am. 2006, Act 482, Imd. Eff. Dec. 22, 2006;—Am. 2018, Act 68, Eff. June 17, 2018.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 442

Popular name: FOIA

15.243a Salary records of employee or other official of institution of higher education, school district, intermediate school district, or community college available to public on request.

Sec. 13a. Notwithstanding section 13, an institution of higher education established under section 5, 6, or 7 of article 8 of the state constitution of 1963; a school district as defined in section 6 of Act No. 451 of the Public Acts of 1976, being section 380.6 of the Michigan Compiled Laws; an intermediate school district as defined in section 4 of Act No. 451 of the Public Acts of 1976, being section 380.4 of the Michigan Compiled Laws; or a community college established under Act No. 331 of the Public Acts of 1966, as amended, being

sections 389.1 to 389.195 of the Michigan Compiled Laws shall upon request make available to the public the salary records of an employee or other official of the institution of higher education, school district, intermediate school district, or community college.

History: Add. 1979, Act 130, Imd. Eff. Oct. 26, 1979.

Popular name: Act 442

Popular name: FOIA

15.244 Separation of exempt and nonexempt material; design of public record; description of material exempted.

Sec. 14. (1) If a public record contains material which is not exempt under section 13, as well as material which is exempt from disclosure under section 13, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

(2) When designing a public record, a public body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.245 Repeal of MCL 24.221, 24.222, and 24.223.

Sec. 15. Sections 21, 22 and 23 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.221, 24.222 and 24.223 of the Michigan Compiled Laws, are repealed.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.246 Effective date.

Sec. 16. This act shall take effect 90 days after being signed by the governor.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

PUBLIC BOARD MEETINGS

Act 261 of 1968

15.251-15.253 Repealed. 1976, Act 267, Eff. Mar. 31, 1977.

OPEN MEETINGS ACT
Act 267 of 1976

AN ACT to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 267, Eff. Mar. 31, 1977.

The People of the State of Michigan enact:

15.261 Short title; effect of act on certain charter provisions, ordinances, or resolutions.

Sec. 1. (1) This act shall be known and may be cited as the “Open meetings act”.

(2) This act shall supersede all local charter provisions, ordinances, or resolutions which relate to requirements for meetings of local public bodies to be open to the public.

(3) After the effective date of this act, nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.262 Definitions.

Sec. 2. As used in this act:

(a) “Public body” means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(b) “Meeting” means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(c) “Closed session” means a meeting or part of a meeting of a public body that is closed to the public.

(d) “Decision” means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 2001, Act 38, Imd. Eff. July 11, 2001.

***** 15.263 THIS SECTION IS AMENDED EFFECTIVE MARCH 29, 2019: See 15.263.amended *****

15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules; exclusion from meeting; exemptions.

Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

(2) All decisions of a public body shall be made at a meeting open to the public.

(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person shall not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

(5) A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the

peace actually committed at the meeting.

(7) This act does not apply to the following public bodies, but only when deliberating the merits of a case:

(a) The Michigan compensation appellate commission operating as described in either of the following:

(i) Section 274 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.274.

(ii) Section 34 of the Michigan employment security act, 1936 (Ex Sess) PA 1, 421.34.

(b) The state tenure commission created in section 1 of article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a board of review from the decision of a controlling board.

(c) The employment relations commission or an arbitrator or arbitration panel created or appointed under 1939 PA 176, MCL 423.1 to 423.30.

(d) The Michigan public service commission created under 1939 PA 3, MCL 460.1 to 460.11.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or other association or facility formed under that act as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body that adopts a nonpolicymaking resolution of tribute or memorial, which resolution is not adopted at a meeting.

(10) This act does not apply to a meeting that is a social or chance gathering or conference not designed to avoid this act.

(11) This act does not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection shall be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation that the board of trustees, by rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate action.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981;—Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986;—Am. 1988, Act 158, Imd. Eff. June 14, 1988;—Am. 1988, Act 278, Imd. Eff. July 27, 1988;—Am. 2016, Act 504, Eff. Apr. 9, 2017.

Administrative rules: R 35.621 of the Michigan Administrative Code.

***** 15.263.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2019 *****

15.263.amended Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules; exclusion from meeting; exemptions.

Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

(2) All decisions of a public body shall be made at a meeting open to the public. For purposes of any meeting subject to this subsection, except a meeting of any state legislative body, the public body shall establish the following procedures to accommodate the absence of any member of the public body due to military duty:

(a) Procedures by which the absent member may participate in, and vote on, business before the public body, including, if feasible, procedures that ensure 2-way communication.

(b) Procedures by which the public is provided notice of the absence of the member and information about how to contact that member sufficiently in advance of a meeting of the public body to provide input on any business that will come before the public body.

(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person shall not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

(5) A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(7) This act does not apply to the following public bodies, but only when deliberating the merits of a case:

(a) The Michigan compensation appellate commission operating as described in either of the following:

(i) Section 274 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.274.

(ii) Section 34 of the Michigan employment security act, 1936 (Ex Sess) PA 1, 421.34.

(b) The state tenure commission created in section 1 of article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a board of review from the decision of a controlling board.

(c) The employment relations commission or an arbitrator or arbitration panel created or appointed under 1939 PA 176, MCL 423.1 to 423.30.

(d) The Michigan public service commission created under 1939 PA 3, MCL 460.1 to 460.11.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or other association or facility formed under that act as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body that adopts a nonpolicymaking resolution of tribute or memorial, if the resolution is not adopted at a meeting.

(10) This act does not apply to a meeting that is a social or chance gathering or conference not designed to avoid this act.

(11) This act does not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection shall be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation that the board of trustees, by rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate action.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981;—Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986;—Am. 1988, Act 158, Imd. Eff. June 14, 1988;—Am. 1988, Act 278, Imd. Eff. July 27, 1988;—Am. 2016, Act 504, Eff. Apr. 9, 2017;—Am. 2018, Act 485, Eff. Mar. 29, 2019.

Administrative rules: R 35.621 of the Michigan Administrative Code.

15.264 Public notice of meetings generally; contents; places of posting.

Sec. 4. The following provisions shall apply with respect to public notice of meetings:

(a) A public notice shall always contain the name of the public body to which the notice applies, its telephone number if one exists, and its address.

(b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body. Cable television may also be utilized for purposes of posting public notice.

(c) If a public body is a part of a state department, part of the legislative or judicial branch of state government, part of an institution of higher education, or part of a political subdivision or school district, a public notice shall also be posted in the respective principal office of the state department, the institution of higher education, clerk of the house of representatives, secretary of the state senate, clerk of the supreme court, or political subdivision or school district.

(d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 87, Imd. Eff. Apr. 19, 1984.

15.265 Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; posting; statement of date, time, and place; website; recess or adjournment; emergency sessions; emergency public meeting; meeting in residential dwelling; limitation; notice; duration requirement.

Sec. 5. (1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of

its regular meetings.

(4) Except as provided in this subsection or in subsection (6), for a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting in a prominent and conspicuous place at both the public body's principal office and, if the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public. The public notice on the website shall be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled public meetings and accessible via a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those nonregularly scheduled public meetings. The requirement of 18-hour notice does not apply to special meetings of subcommittees of a public body or conference committees of the state legislature. A conference committee shall give a 6-hour notice. A second conference committee shall give a 1-hour notice. Notice of a conference committee meeting shall include written notice to each member of the conference committee and the majority and minority leader of each house indicating time and place of the meeting.

(5) A meeting of a public body that is recessed for more than 36 hours shall be reconvened only after public notice that is equivalent to that required under subsection (4) has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section bars a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat. However, if a public body holds an emergency public meeting that does not comply with the 18-hour posted notice requirement, it shall make paper copies of the public notice for the emergency meeting available to the public at that meeting. The notice shall include an explanation of the reasons that the public body cannot comply with the 18-hour posted notice requirement. The explanation shall be specific to the circumstances that necessitated the emergency public meeting, and the use of generalized explanations such as "an imminent threat to the health of the public" or "a danger to public welfare and safety" does not meet the explanation requirements of this subsection. If the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, it shall post the public notice of the emergency meeting and its explanation on its website in the manner described for an internet posting in subsection (4). Within 48 hours after the emergency public meeting, the public body shall send official correspondence to the board of county commissioners of the county in which the public body is principally located, informing the commission that an emergency public meeting with less than 18 hours' public notice has taken place. The correspondence shall also include the public notice of the meeting with explanation and shall be sent by either the United States postal service or electronic mail. Compliance with the notice requirements for emergency meetings in this subsection does not create, and shall not be construed to create, a legal basis or defense for failure to comply with other provisions of this act and does not relieve the public body from the duty to comply with any provision of this act.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body that is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice shall be at the bottom of the display advertisement, set off in a conspicuous manner, and include the following language: "This meeting is open to all members of the public under Michigan's open meetings act".

(7) A durational requirement for posting a public notice of a meeting under this act is the time that the notice is required to be accessible to the public.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1978, Act 256, Imd. Eff. June 21, 1978;—Am. 1982, Act 134, Imd. Eff. Apr. 22, 1982;—Am. 1984, Act 167, Imd. Eff. June 29, 1984;—Am. 2012, Act 528, Imd. Eff. Dec. 28, 2012.

15.266 Providing copies of public notice on written request; fee.

Sec. 6. (1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party's payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and

to any radio and television station located in the state, free of charge.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.267 Closed sessions; roll call vote; separate set of minutes.

Sec. 7. (1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

***** 15.268 THIS SECTION IS AMENDED EFFECTIVE MARCH 27, 2019: See 15.268.amended *****

15.268 Closed sessions; permissible purposes.

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted by the department of commerce under section 16231 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16231 of the Michigan Compiled Laws, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number shall not constitute a quorum of the governing board. However, the search committee shall not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 202, Imd. Eff. July 3, 1984;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

***** 15.268.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

15.268.amended Closed sessions; permissible purposes.

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted under section 16231 of the public health code, 1978 PA 368, MCL 333.16231, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number shall not constitute a quorum of the governing board. However, the search committee shall not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

(k) For a school board to consider security planning to address existing threats or prevent potential threats to the safety of the students and staff. As used in this subdivision, "school board" means any of the following:

(i) That term as defined in section 3 of the revised school code, 1976 PA 451, MCL 380.3.

(ii) An intermediate school board as defined in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

(iii) A board of directors of a public school academy as described in section 502 of the revised school code, 1976 PA 451, MCL 380.502.

(iv) The local governing board of a public community or junior college as described in section 7 of article VIII of the state constitution of 1963.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 202, Imd. Eff. July 3, 1984;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996;—Am. 2018, Act 467, Eff. Mar. 27, 2019.

15.269 Minutes.

Sec. 9. (1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) Minutes are public records open to public inspection, and a public body shall make the minutes available at the address designated on posted public notices pursuant to section 4. The public body shall make copies of the minutes available to the public at the reasonable estimated cost for printing and copying.

(3) A public body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The public body shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.

(4) A public body shall not include in or with its minutes any personally identifiable information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1982, Act 130, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 305, Imd. Eff. Aug. 11, 2004.

15.270 Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.

Sec. 10. (1) Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

(2) A decision made by a public body may be invalidated if the public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

(a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).

(b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.

(4) Venue for an action under this section shall be any county in which a local public body serves or, if the decision of a state public body is at issue, in Ingham county.

(5) In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.

Sec. 11. (1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state

public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) An action for mandamus against a public body under this act shall be commenced in the court of appeals.

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.272 Violation as misdemeanor; penalty.

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than 1 year, or both.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.273 Violation; liability.

Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.273a Selection of president by governing board of higher education institution; violation; civil fine.

Sec. 13a. If the governing board of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963 violates this act with respect to the process of selecting a president of the institution at any time after the recommendation of final candidates to the governing board, as described in section 8(j), the institution is responsible for the payment of a civil fine of not more than \$500,000.00. This civil fine is in addition to any other remedy or penalty under this act. To the extent possible, any payment of fines imposed under this section shall be paid from funds allocated by the institution of higher education to pay for the travel and expenses of the members of the governing board.

History: Add. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

15.274 Repeal of MCL 15.251 to 15.253.

Sec. 14. Act No. 261 of the Public Acts of 1968, being sections 15.251 to 15.253 of the Compiled Laws of 1970, is repealed.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.275 Effective date.

Sec. 15. This act shall take effect January 1, 1977.

History: 1976, Act 267, Eff. Mar. 31, 1977.

CONFLICT OF INTEREST Act 318 of 1968

AN ACT to implement the provisions of section 10 of article 4 of the constitution relating to substantial conflicts of interest on the part of members of the legislature and state officers in respect to contracts with the state and the political subdivisions thereof; to provide for penalties for the violation thereof; to repeal all acts and parts of acts in conflict with this act; and to validate certain contracts.

History: 1968, Act 318, Eff. Sept. 1, 1968.

The People of the State of Michigan enact:

15.301 Conflict of interest; purpose.

Sec. 1. This statute is enacted for the purpose of implementing the provisions of section 10 of article 4 of the constitution. Therefore, this act shall be taken into consideration in determining the construction and effect to be given the constitutional section, insofar as the same is constitutionally possible.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.302 Direct or indirect interest in state contracts prohibited.

Sec. 2. No member of the legislature, herein referred to as a "legislator", nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.303 Definitions.

Sec. 3. As used in this act:

(a) The term "state officer" means only a person occupying one of the following offices established by the constitution: governor; lieutenant governor; secretary of state; state treasurer; attorney general; auditor general; superintendent of public instruction; member of the state board of education; regent of the university of Michigan; trustee of Michigan State University; governor of Wayne State University; member of a board of control of one of the other institutions of higher education named in section 4 of article 8 of the constitution or established by law as therein provided; president of each of the foregoing universities and institutions of higher learning; member of the state board for public community and junior colleges; member of the supreme court; member of the court of appeals; member of the state highway commission; director of the state highway commission; member of the liquor control commission; member of the board of state canvassers; member of the commission on legislative apportionment; member of the civil service commission; state personnel director; or member of the civil rights commission; together with his principal deputy who by law under specified circumstances, may exercise independently some or all of the sovereign powers of his principal whenever the deputy is actually exercising such powers.

(b) "Political subdivision" includes all public bodies corporate within but not including the state, including all agencies thereof or any non-incorporated body within the state of whatever nature, including all agencies thereof.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.304 Pecuniary interest; cases in which there is no substantial conflict of interest.

Sec. 4. (1) As used in section 2, "interested" means a pecuniary interest.

(2) If there is a conflict of interest on the part of a legislator or state officer in respect to a contract with the state or a political subdivision of the state, to be prohibited by this act his or her personal interest must be of such substance as to induce action on his or her part to promote the contract for his or her own personal

benefit.

(3) In the following cases, there is no substantial conflict of interest:

(a) A contract between the state or a political subdivision of the state and any of the following:

(i) A corporation in which a legislator or state officer is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(ii) A corporation in which a trust, where a legislator or state officer is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(iii) A professional limited liability company organized pursuant to the Michigan limited liability company act, Act No. 23 of the Public Acts of 1993, being sections 450.5101 to 450.6200 of the Michigan Compiled Laws, if a legislator or state officer is an employee but not a member of the company.

(b) A contract between the state or a political subdivision of the state and any of the following:

(i) A corporation in which a legislator or state officer is a stockholder owning more than 1% of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value in excess of \$25,000.00 if the stock is listed on a stock exchange or a director, officer, or employee.

(ii) A firm, partnership, or other unincorporated association, in which a legislator or state officer is a partner, member, or employee.

(iii) A corporation or firm that has an indebtedness owed to a legislator or state officer.

(iv) A trustee or trustees under a trust in which a legislator or state officer is a beneficiary or trustee or a corporation in whose stock the trust funds are invested, if the investment includes more than 1% of the total stock outstanding in any class if the stock is not listed on a stock exchange or if the stock has a present market value in excess of \$25,000.00 if the stock is listed on a stock exchange, if the legislator or state officer does not solicit the contract, takes no part in the negotiations for or in the approval of the contract or any amendment to the contract, and does not in any way represent either party in the transaction and the contract is not with or authorized by the department or agency of the state or a political subdivision with which the state officer is connected.

(c) A contract between the state and a political subdivision of the state or between political subdivisions of the state.

(d) A contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids provided the notice does not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. This subdivision does not apply to amendments or renegotiations of a contract or to additional payments under the contract which were not authorized by the contract at the time of award.

(e) A contract for public utility services where the rates for the services are regulated by the state or federal government.

History: 1968, Act 318, Eff. Sept. 1, 1968;—Am. 1994, Act 292, Imd. Eff. July 14, 1994.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.304a Contract arising from status of being both student and member of governing board.

Sec. 4a. In addition to the cases set forth in section 4, there shall not be deemed to be a conflict of interest with respect to a contract arising out of the status of being a student at an institution of higher education granting baccalaureate degrees or an institution established pursuant to section 7 of article 8 of the state constitution of 1963 where the student is elected or appointed to the governing board of the institution of higher education.

History: Add. 1974, Act 317, Imd. Eff. Dec. 15, 1974;—Am. 1976, Act 423, Imd. Eff. Jan. 11, 1977.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.305 Voidability of contracts; procedure; knowledge; limitation on actions; reimbursement; amicable settlement; evidences of indebtedness.

Sec. 5. (1) This act, following the evident intent of section 10 of article 4 of the constitution, is aimed to prevent legislators and state officers from engaging in certain activities under circumstances creating a substantial conflict of interest and is not intended to penalize innocent persons. Therefore, no contract shall be

absolutely void by reason of this act or the constitutional provision which it implements. Contracts involving a prohibited conflict of interest under this act and said constitutional provision shall be voidable only by decree of a court of proper jurisdiction in an action by the state or a political subdivision which is a party thereto, as to any person, firm, corporation or trust that entered into said contract or took any assignment thereof, with actual knowledge of such prohibited conflict. In the case of a corporation, the actual knowledge must be that of a person or body finally approving the contract for the corporation. All actions to avoid any contract hereunder shall be brought within 1 year after discovery of circumstances suggesting the existence of a violation of the constitutional provision as implemented by this act. In order to meet the ends of justice any such decree shall provide for the reimbursement of any person, firm, corporation or trust for the reasonable value of all moneys, goods, materials, labor or services furnished under the contract, to the extent that the state or political subdivision has benefited thereby. This provision shall not prohibit the parties from arriving at an amicable settlement.

(2) Negotiable and nonnegotiable bonds, notes or evidences of indebtedness, whether heretofore or hereafter issued, in the hands of purchasers for value, shall not be void or voidable by reason of this act or of the constitutional provision which it implements or of any previous statute, charter or rule of law.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.306 Existing contracts; validity.

Sec. 6. If the state or any political subdivision thereof has, prior to the effective date of this act, entered into any contract under which moneys, goods, materials, labor or services, have been actually received by the state or the political subdivision, which was void or voidable under any act, charter or rule of law because of conflict of interest on the part of a legislator or state officer at the time of the execution thereof, such contract shall be fully enforceable notwithstanding such conflict of interest, by any party thereto other than such legislator or state officer.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.307 Legislative committee on conflict of interest; appointment, duties and powers; prohibitions; violations.

Sec. 7. There is created a special committee of the legislature on conflict of interest (herein referred to as the committee) to consist of 3 members of the senate and 3 members of the house of representatives, at least 1 of whom from each house shall be a member of the minority party, to be appointed in the same manner as standing committees of the senate and the house. The committee shall have the following duties and powers:

(a) It shall establish, by majority vote, its rules and procedures;

(b) Its members shall serve without compensation, but shall be entitled to actual and necessary expenses while on the business of the committee;

(c) It may, upon the request of any member of the legislature, render advisory opinions to legislators as to whether under the facts and circumstances of a particular case a legislator is interested directly or indirectly in a contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest;

(d) It may insure that the identity of persons involved in any request for advisory opinions shall not be disclosed in the request, advisory opinion or otherwise.

Any member of the legislature who is licensed as an attorney is prohibited from appearing in any nonadversary or nonministerial proceeding before any state department, office, board or commission of the executive branch of government.

Any member of the legislature willfully violating the provisions of this act shall be subject to appropriate disciplinary action by the house of which he is a member.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.308 Conflicts of interest; state officers, violations.

Sec. 8. Any state officer willfully violating the provisions of this act shall be subject to appropriate disciplinary action by the governor if he is an administrative officer of the state or if he be a judicial officer of the state, then by the governor on a concurrent resolution adopted by 2/3 of the members elected to and serving in each house of the legislature.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.309 Conflicts of interest; controlling law.

Sec. 9. All acts and parts of acts in conflict herewith are hereby repealed, it being the intention hereof that the provisions of said section 10 of article 4 of the constitution as implemented by this act, shall constitute the sole law in respect to conflicts of interest involving legislators and state officers in contracts with the state or its political subdivisions.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.310 Effective date.

Section 10. This act shall take effect September 1, 1968.

History: 1968, Act 318, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

CONTRACTS OF PUBLIC SERVANTS WITH PUBLIC ENTITIES
Act 317 of 1968

AN ACT relating to the conduct of public servants in respect to governmental decisions and contracts with public entities; to provide penalties for the violation of this act; to repeal certain acts and parts of acts; and to validate certain contracts.

History: 1968, Act 317, Eff. Sept. 1, 1968;—Am. 1984, Act 81, Imd. Eff. Apr. 18, 1984.

The People of the State of Michigan enact:

15.321 Public servants, contracts with public entities; definitions.

Sec. 1. As used in this act:

(a) “Public servant” includes all persons serving any public entity, except members of the legislature and state officers who are within the provisions of section 10 of article 4 of the state constitution as implemented by legislative act.

(b) “Public entity” means the state including all agencies thereof, any public body corporate within the state, including all agencies thereof, or any non-incorporated public body within the state of whatever nature, including all agencies thereof.

History: 1968, Act 317, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.322 Public servant; soliciting, negotiating, renegotiating, approving, or representing a party to a contract with public entity prohibited.

Sec. 2. (1) Except as provided in sections 3 and 3a, a public servant shall not be a party, directly or indirectly, to any contract between himself or herself and the public entity of which he or she is an officer or employee.

(2) Except as provided in section 3, a public servant shall not directly or indirectly solicit any contract between the public entity of which he or she is an officer or employee and any of the following:

(a) Him or herself.

(b) Any firm, meaning a co-partnership or other unincorporated association, of which he or she is a partner, member, or employee.

(c) Any private corporation in which he or she is a stockholder owning more than 1% of the total outstanding stock of any class if the stock is not listed on a stock exchange, or stock with a present total market value in excess of \$25,000.00 if the stock is listed on a stock exchange or of which he or she is a director, officer, or employee.

(d) Any trust of which he or she is a beneficiary or trustee.

(3) In regard to a contract described in subsection (2), a public servant shall not do either of the following:

(a) Take any part in the negotiations for such a contract or the renegotiation or amendment of the contract, or in the approval of the contract.

(b) Represent either party in the transaction.

History: 1968, Act 317, Eff. Sept. 1, 1968;—Am. 1992, Act 9, Imd. Eff. Mar. 10, 1992.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.323 Applicability of MCL 15.322 to public servants; requirements of contract; making or participating in governmental decision; counting members for purposes of quorum; voting; affidavit; “governmental decision” defined.

Sec. 3. (1) Section 2 does not apply to either of the following:

(a) A public servant who is paid for working an average of 25 hours per week or less for a public entity.

(b) A public servant who is an employee of a public community college, junior college, or state college or university.

(2) A contract as defined in and limited by section 2 involving a public entity and a public servant described in subsection (1) shall meet all of the following requirements:

(a) The public servant promptly discloses any pecuniary interest in the contract to the official body that has

power to approve the contract, which disclosure shall be made a matter of record in its official proceedings. Unless the public servant making the disclosure will directly benefit from the contract in an amount less than \$250.00 and less than 5% of the public cost of the contract and the public servant files a sworn affidavit to that effect with the official body or the contract is for emergency repairs or services, the disclosure shall be made in either of the following manners:

(i) The public servant promptly discloses in writing to the presiding officer, or if the presiding officer is the public servant who is a party to the contract, to the clerk, the pecuniary interest in the contract at least 7 days prior to the meeting at which a vote will be taken. The disclosure shall be made public in the same manner as a public meeting notice.

(ii) The public servant discloses the pecuniary interest at a public meeting of the official body. The vote shall be taken at a meeting of the official body held at least 7 days after the meeting at which the disclosure is made. If the amount of the direct benefit to the public servant is more than \$5,000.00, disclosure must be made as provided under this subparagraph.

(b) The contract is approved by a vote of not less than 2/3 of the full membership of the approving body in open session without the vote of the public servant making the disclosure.

(c) The official body discloses the following summary information in its official minutes:

(i) The name of each party involved in the contract.

(ii) The terms of the contract, including duration, financial consideration between parties, facilities or services of the public entity included in the contract, and the nature and degree of assignment of employees of the public entity for fulfillment of the contract.

(iii) The nature of any pecuniary interest.

(3) This section and section 2 do not prevent a public servant from making or participating in making a governmental decision to the extent that the public servant's participation is required by law. If 2/3 of the members are not eligible under this act to vote on a contract or to constitute a quorum, a member may be counted for purposes of a quorum and may vote on the contract if the member will directly benefit from the contract in an amount less than \$250.00 and less than 5% of the public cost of the contract and the member files a sworn affidavit to that effect with the official body. The affidavit shall be made a part of the public record of the official proceedings. As used in this subsection, "governmental decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, ordinance, order, or measure on which a vote by members of a local legislative or governing body of a public entity is required and by which a public body effectuates or formulates public policy.

History: 1968, Act 317, Eff. Sept. 1, 1968;—Am. 1981, Act 100, Imd. Eff. July 15, 1981;—Am. 1982, Act 207, Imd. Eff. July 1, 1982;—Am. 1984, Act 81, Imd. Eff. Apr. 18, 1984;—Am. 1984, Act 184, Imd. Eff. July 3, 1984;—Am. 1997, Act 145, Eff. Mar. 2, 1998

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.323a Construction of MCL 15.322.

Sec. 3a. Section 2 shall not be construed to do any of the following:

(a) Prohibit public servants of a city, village, township, or county with a population of less than 25,000 from serving, with or without compensation, as emergency medical services personnel as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(b) Prohibit public servants of a city, village, township, or county with a population of less than 25,000 from serving, with or without compensation, as a firefighter in that city, village, township, or county if that firefighter is not any of the following:

(i) A full-time firefighter.

(ii) A fire chief.

(iii) A person who negotiates with the city, village, township, or county on behalf of the firefighters.

(c) Limit the authority of the governing body of a city, village, township, or county with a population of less than 25,000 to authorize a public servant to perform, with or without compensation, other additional services for the unit of local government.

(d) Prohibit public servants of this state from purchasing at a tax sale lands returned as delinquent for taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, unless otherwise prohibited by the rules of the Michigan civil service commission or the department or agency of which that public servant is an employee.

(e) Prohibit a superintendent of an intermediate school district from serving simultaneously as

superintendent of a local school district, or prohibit an intermediate school district from contracting with another person to serve as superintendent of a local school district, even if the local school district is a constituent district of the intermediate school district. As used in this subdivision, "constituent district" means that term as defined in section 3 of the revised school code, 1976 PA 451, MCL 380.3.

History: Add. 1992, Act 9, Imd. Eff. Mar. 10, 1992;—Am. 1996, Act 203, Imd. Eff. May 17, 1996;—Am. 2011, Act 106, Imd. Eff. July 19, 2011.

15.324 Public servants; contracts excepted; violation as felony.

Sec. 4. (1) The prohibitions of section 2 shall not apply to any of the following:

(a) Contracts between public entities.

(b) Contracts awarded to the lowest qualified bidder, other than a public servant, upon receipt of sealed bids pursuant to a published notice. Except as authorized by law, the notice shall not bar any qualified person, firm, corporation, or trust from bidding. This subsection shall not apply to amendments or renegotiations of a contract nor to additional payments made under a contract which were not authorized by the contract at the time of award.

(c) Contracts for public utility services where the rates are regulated by the state or federal government.

(d) Contracts to purchase residential property. A public servant of a city or village may purchase 1 to 4 parcels not less than 18 months between each purchase. This subdivision does not apply to public servants of a city or village who have been appointed or elected to their position or whose employment responsibilities include the purchase or selling of property for the city or village. This subdivision shall apply only to a city or village that has adopted an ethics ordinance which was in effect at the time the residential property was purchased.

(2) A person that violates subsection (1)(d) is guilty of a felony punishable by imprisonment for not more than 1 year or a fine of not less than \$1,000.00 or more than 3 times the value of the property purchased.

History: 1968, Act 317, Eff. Sept. 1, 1968;—Am. 2005, Act 198, Imd. Eff. Nov. 9, 2005.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.325 Public servants, voidability of contracts; procedure, knowledge, limitation, reimbursement, settlements, evidences of indebtedness.

Sec. 5. (1) This act is aimed to prevent public servants from engaging in certain activities and is not intended to penalize innocent persons. Therefore, no contract shall be absolutely void by reason of this act. Contracts involving prohibited activities on the part of public servants shall be voidable only by decree of a court of proper jurisdiction in an action by the public entity, which is a party thereto, as to any person, firm, corporation or trust that entered into the contract or took any assignment thereof, with actual knowledge of the prohibited activity. In the case of the corporation, the actual knowledge must be that of a person or body finally approving the contract for the corporation. All actions to avoid any contract hereunder shall be brought within 1 year after discovery of circumstances suggesting a violation of this act. In order to meet the ends of justice any such decree shall provide for the reimbursement of any person, firm, corporation or trust for the reasonable value of all moneys, goods, materials, labor or services furnished under the contract, to the extent that the public entity has benefited thereby. This provision shall not prohibit the parties from arriving at an amicable settlement.

(2) Negotiable and nonnegotiable bonds, notes or evidences of indebtedness, whether heretofore or hereafter issued, in the hands of purchasers for value, shall not be void or voidable by reason of this act or of any previous statute, charter or rule of law.

History: 1968, Act 317, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.326 Public servants, validity of existing contracts.

Sec. 6. If any public entity has, prior to the effective date of this act, entered into any contract under which moneys, goods, materials, labor or services have been actually received by the public entity, which was void or voidable under any act, charter or rule of law because of a conflict of interest on the part of a public servant at the time of the execution thereof, such contract shall be fully enforceable notwithstanding such conflict of interest, by any party thereto other than such public servant.

History: 1968, Act 317, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.327 Penalty for violation.

Sec. 7. Any person violating the provisions of this act is guilty of a misdemeanor.

History: 1968, Act 317, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.328 Other laws superseded; local ordinances.

Sec. 8. It is the intention that this act shall constitute the sole law in this state and shall supersede all other acts in respect to conflicts of interest relative to public contracts, involving public servants other than members of the legislature and state officers, including but not limited to section 30 of 1851 PA 156, MCL 46.30. This act does not prohibit a unit of local government from adopting an ordinance or enforcing an existing ordinance relating to conflict of interest in subjects other than public contracts involving public servants.

History: 1968, Act 317, Eff. Sept. 1, 1968;—Am. 1997, Act 145, Eff. Mar. 2, 1998.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.329 Repeal.

Sec. 9. The following acts and parts of acts are repealed:

Year of act	Public Act No.	Section numbers	Compiled Law sections (1948)
1895	3	6 of chapter 5	65.6
1895	215	16 of chapter 8	88.16
1931	328	122	750.122
1955	269	969	340.969
1966	317		15.161 to 15.172

History: 1968, Act 317, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.330 Effective date.

Sec. 10. This act shall take effect September 1, 1968.

History: 1968, Act 317, Eff. Sept. 1, 1968.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

STANDARDS OF CONDUCT FOR PUBLIC OFFICERS AND EMPLOYEES
Act 196 of 1973

AN ACT to prescribe standards of conduct for public officers and employees; to create a state board of ethics and prescribe its powers and duties; and to prescribe remedies and penalties.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974;—Am. 1980, Act 481, Eff. Mar. 31, 1981.

The People of the State of Michigan enact:

15.341 Definitions.

Sec. 1. As used in this act:

- (a) “Board” means the board of ethics.
- (b) “Employee” means an employee, classified or unclassified, of the executive branch of this state. For the purpose of section 2b, employee shall include an employee of this state or a political subdivision of this state.
- (c) “Public officer” means a person appointed by the governor or another executive department official. For the purpose of section 2b, public officer shall include an elected or appointed official of this state or a political subdivision of this state.
- (d) “Unethical conduct” means a violation of the standards in section 2.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974;—Am. 1980, Act 481, Eff. Mar. 31, 1981.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.342 Public officer or employee; prohibited conduct.

Sec. 2. (1) A public officer or employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public.

(2) A public officer or employee shall not represent his or her personal opinion as that of an agency.

(3) A public officer or employee shall use personnel resources, property, and funds under the officer or employer's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

(4) A public officer or employee shall not solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization, other than the state, which tends to influence the manner in which the public officer or employee or another public officer or employee performs official duties.

(5) A public officer or employee shall not engage in a business transaction in which the public officer or employee may profit from his or her official position or authority or benefit financially from confidential information which the public officer or employee has obtained or may obtain by reason of that position or authority. Instruction which is not done during regularly scheduled working hours except for annual leave or vacation time shall not be considered a business transaction pursuant to this subsection if the instructor does not have any direct dealing with or influence on the employing or contracting facility associated with his or her course of employment with this state.

(6) Except as provided in section 2a, a public officer or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties.

(7) Except as provided in section 2a, a public officer or employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity in which the public officer or employee has a financial or personal interest.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974;—Am. 1978, Act 352, Imd. Eff. July 12, 1978;—Am. 1984, Act 53, Imd. Eff. Apr. 12, 1984.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.342a MCL 15.301 to 15.310 and MCL 15.321 to 15.330 not amended or modified; purpose

of act; validity of contract in violation of act; voting on, making, or participating in governmental decisions; “governmental decision” defined.

Sec. 2a. (1) This act shall not in any manner amend or modify the terms of Act No. 317 of the Public Acts of 1968, being sections 15.321 to 15.330 of the Michigan Compiled Laws and Act No. 318 of the Public Acts of 1968, being sections 15.301 to 15.310 of the Michigan Compiled Laws.

(2) This act is intended as a code of ethics for public officers and employees and not as a rule of law for public contracts. A contract in respect to which a public officer or employee acts in violation of this act, shall not be considered to be void or voidable unless the contract is a violation of another statute which specifically provides for the remedy.

(3) Subject to subsection (4), section 2(6) and (7) shall not apply and a public officer shall be permitted to vote on, make, or participate in making a governmental decision if all of the following occur:

(a) The requisite quorum necessary for official action on the governmental decision by the public entity to which the public officer has been elected or appointed is not available because the participation of the public officer in the official action would otherwise violate section 2(6) or (7).

(b) The public officer is not paid for working more than 25 hours per week for this state or a political subdivision of this state.

(c) The public officer promptly discloses any personal, contractual, financial, business, or employment interest he or she may have in the governmental decision and the disclosure is made part of the public record of the official action on the governmental decision.

(4) If a governmental decision involves the awarding of a contract, section 2(6) and (7) shall not apply and a public officer shall be permitted to vote on, make, or participate in making the governmental decision if all of the following occur:

(a) All of the conditions of subsection (3) are fulfilled.

(b) The public officer will directly benefit from the contract in an amount less than \$250.00 or less than 5% of the public cost of the contract, whichever is less.

(c) The public officer files a sworn affidavit containing the information described in subdivision (b) with the legislative or governing body making the governmental decision.

(d) The affidavit required by subdivision (c) is made a part of the public record of the official action on the governmental decision.

(5) As used in this section, “governmental decision” means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, ordinance, or measure on which a vote by the members of a legislative or governing body of a public entity is required and by which a public entity formulates or effectuates public policy.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974;—Am. 1984, Act 53, Imd. Eff. Apr. 12, 1984.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.342b Report of violation; applicability of sanctions; civil fine.

Sec. 2b. (1) A public officer or employee who has knowledge that another public officer or employee has violated section 2 may report the existence of the violation to a supervisor, person, agency, or organization. A public officer or employee who reports or is about to report a violation of section 2 shall not be subject to any of the following sanctions because they reported or were about to report a violation of section 2.

(a) Dismissal from employment or office.

(b) Withholding of salary increases that are ordinarily forthcoming to the employee.

(c) Withholding of promotions that are ordinarily forthcoming to the employee.

(d) Demotion in employment status.

(e) Transfer of employment location.

(2) Whenever a public officer or employee who has reported or who intends to report a violation of section 2 may be subject to any of the sanctions under this section for reasons other than the public officer's or employee's actions in reporting or intending to report a violation of section 2, the appointing or supervisory authority before the imposition of a sanction shall establish by a preponderance of evidence that the sanction to be imposed is not imposed because the public officer or employee reported or intended to report a violation of section 2.

(3) A person who violates this section is liable for a civil fine of not more than \$500.00.

(4) A civil fine recovered under this section shall be submitted to the state treasurer for deposit in the general fund of this state.

History: Add. 1978, Act 352, Imd. Eff. July 12, 1978;—Am. 1980, Act 481, Eff. Mar. 31, 1981.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.342c Civil action; commencement of action; “damages” defined.

Sec. 2c. (1) A person who alleges a violation of section 2b may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation of this act.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides.

(3) As used in subsection (1), “damages” means damages for injury or loss caused by each violation of section 2b, including reasonable attorney fees.

History: Add. 1980, Act 481, Eff. Mar. 31, 1981.

15.342d Court order; costs.

Sec. 2d. A court, in rendering a judgment in an action brought pursuant to section 2b, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

History: Add. 1980, Act 481, Eff. Mar. 31, 1981.

15.342e Posting notices of protections and obligations.

Sec. 2e. An employer shall post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act.

History: Add. 1980, Act 481, Eff. Mar. 31, 1981.

15.343 Board of ethics; creation; function.

Sec. 3. (1) There is hereby created within the executive office of the governor a board of ethics.

(2) The function of the board shall be advisory and investigatory and the board is not empowered to take direct action against any person or agency.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.344 Board of ethics; appointment, qualifications, and terms of members; vacancies; ex officio members; quorum; action by board; compensation; executive secretary; clerical or administrative assistance.

Sec. 4. (1) The board of ethics shall consist of 7 members appointed by the governor, with the advice and consent of the senate, 1 of whom shall be designated as chairman and all of whom shall be residents of the state and not associated with public employment. Not more than 4 members of the board shall be members of the same political party. Initial appointments shall be made for terms commencing 30 days after the effective date of this act. Of those first appointed 2 shall serve for 1 year, 2 shall serve for 2 years, and 3 shall serve for 3 years. For the 1 year, 2 year and 3 year terms, at least 1 member for each such term shall be of the same political party. In the event of a vacancy, the governor shall fill the vacancy for the remainder of the term. Subsequent to the initial appointments, members shall be appointed for terms of 4 years.

(2) The attorney general and the state personnel director shall serve ex officio without the right to vote.

(3) Four members of the board shall constitute a quorum and the affirmative vote of 4 members shall be necessary for any action. Members of the board shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. With the consent of the civil service commission, the state personnel director shall designate an employee of the department of civil service, acceptable to the board, to act as executive secretary of the board and shall provide clerical or administrative assistance from the department of civil service as the board may, from time to time, request.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.345 Board of ethics; powers and duties.

Sec. 5. (1) The board shall:

(a) Receive complaints concerning alleged unethical conduct by a public officer or employee from any person or entity, inquire into the circumstances surrounding the alleged unethical conduct, and make recommendations concerning individual cases to the appointing authority with supervisory responsibility for the person whose activities have been investigated. All departments of state government shall cooperate with the board of ethics in the conduct of its investigations.

(b) Initiate investigations of practices that could affect ethical conduct of a public officer or employee.

(c) Hold public hearings.

(d) Administer oaths and receive sworn testimony.

(e) Issue and publish advisory opinions upon request from a public officer or employee or their appointing or supervisory authority relating to matters affecting ethical conduct of a public officer or employee.

(2) In the issuance of investigative reports and recommendations and advisory opinions, the board shall be advised as to legal matters by the attorney general.

(3) When a recommendation to an appointing authority is made by the board which affects a classified employee, the appointing authority shall initiate appropriate proceedings in accordance with such recommendation and pursuant to the rules of the civil service commission.

(4) When a recommendation to an appointing authority is made by the board concerning an unclassified employee or appointee, the appointing authority shall take appropriate disciplinary action which may include dismissal.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.346 Rules.

Sec. 6. The board may promulgate rules governing its own procedures pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. For a period of 1 year following the effective date of this act the board shall have full authority to exercise all of its functions in accordance with temporary rules of procedure promulgated by the board. Both the temporary and permanent rules of the board shall provide that:

(a) The board may request the attendance of any witness whose testimony, in the judgment of the board, will aid in the conduct of its investigations.

(b) A person appearing before the board shall submit either sworn or unsworn testimony as the board may decide and may at all times be represented and accompanied by counsel.

(c) A record of testimony taken before the board or a hearing officer designated by it shall be made in the manner prescribed by the board.

(d) The board may, when it appears necessary for the protection of individual rights, hold its meetings and hearings in private. All other meetings and hearings shall be open to the public.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

Administrative rules: R 15.1 et seq. of the Michigan Administrative Code.

15.347 Appropriation.

Sec. 7. There is appropriated from the general fund of the state an amount necessary to implement this act but not to exceed \$10,000.00 for the fiscal year ending June 30, 1974.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.348 Other acts not superseded; interpretation and administration of act.

Sec. 8. The provisions of this act shall not supersede the provisions of any other acts heretofore or hereinafter enacted and shall be interpreted and administered to the extent not inconsistent with other acts.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

THE WHISTLEBLOWERS' PROTECTION ACT
Act 469 of 1980

AN ACT to provide protection to employees who report a violation or suspected violation of state, local, or federal law; to provide protection to employees who participate in hearings, investigations, legislative inquiries, or court actions; and to prescribe remedies and penalties.

History: 1980, Act 469, Eff. Mar. 31, 1981.

The People of the State of Michigan enact:

15.361 Definitions.

Sec. 1. As used in this act:

(a) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied. Employee includes a person employed by the state or a political subdivision of the state except state classified civil service.

(b) "Employer" means a person who has 1 or more employees. Employer includes an agent of an employer and the state or a political subdivision of the state.

(c) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.

(d) "Public body" means all of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.

(ii) An agency, board, commission, council, member, or employee of the legislative branch of state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, a council, school district, special district, or municipal corporation, or a board, department, commission, council, agency, or any member or employee thereof.

(iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body.

(v) A law enforcement agency or any member or employee of a law enforcement agency.

(vi) The judiciary and any member or employee of the judiciary.

History: 1980, Act 469, Eff. Mar. 31, 1981.

15.362 Discharging, threatening, or otherwise discriminating against employee reporting violation of law, regulation, or rule prohibited; exceptions.

Sec. 2. An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action.

History: 1980, Act 469, Eff. Mar. 31, 1981.

15.363 Civil action in circuit court for injunctive relief or actual damages; "damages" defined; clear and convincing evidence required.

Sec. 3. (1) A person who alleges a violation of this act may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation of this act.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has his or her principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney fees.

(4) An employee shall show by clear and convincing evidence that he or she or a person acting on his or her behalf was about to report, verbally or in writing, a violation or a suspected violation of a law of this state, a political subdivision of this state, or the United States to a public body.

History: 1980, Act 469, Eff. Mar. 31, 1981;—Am. 1982, Act 146, Eff. Mar. 30, 1983.

15.364 Court judgment; order; remedies; awarding costs of litigation.

Sec. 4. A court, in rendering a judgment in an action brought pursuant to this act, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

History: 1980, Act 469, Eff. Mar. 31, 1981.

15.365 Violation; civil fine.

Sec. 5. (1) A person who violates this act shall be liable for a civil fine of not more than \$500.00.

(2) A civil fine which is ordered pursuant to this act shall be submitted to the state treasurer for deposit in the general fund.

History: 1980, Act 469, Eff. Mar. 31, 1981.

15.366 Diminishment or impairment of rights; collective bargaining agreement; protection of confidentiality of communications; disclosures.

Sec. 6. This act shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement, nor to permit disclosures which would diminish or impair the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection.

History: 1980, Act 469, Eff. Mar. 31, 1981;—Am. 1982, Act 146, Eff. Mar. 30, 1983.

15.367 Employer not required to compensate employee for participation in investigation, hearing, or inquiry.

Sec. 7. This act shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with section 2 of this act.

History: 1980, Act 469, Eff. Mar. 31, 1981.

15.368 Posting notices of protections and obligations required.

Sec. 8. An employer shall post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act.

History: 1980, Act 469, Eff. Mar. 31, 1981.

15.369 Short title.

Sec. 9. This act shall be known and may be cited as “the whistleblowers' protection act”.

History: 1980, Act 469, Eff. Mar. 31, 1981.

DISCLOSURES BY LAW ENFORCEMENT OFFICERS ACT
Act 563 of 2006

AN ACT to restrict the use and disclosure of certain statements made by law enforcement officers.

History: 2006, Act 563, Imd. Eff. Dec. 29, 2006.

The People of the State of Michigan enact:

15.391 Definitions.

Sec. 1. As used in this act:

(a) "Involuntary statement" means information provided by a law enforcement officer, if compelled under threat of dismissal from employment or any other employment sanction, by the law enforcement agency that employs the law enforcement officer.

(b) "Law enforcement agency" means the department of state police, the department of natural resources, or a law enforcement agency of a county, township, city, village, airport authority, community college, or university, that is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state.

(c) "Law enforcement officer" means all of the following:

(i) A person who is trained and licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(ii) A local corrections officer as defined in section 2 of the local corrections officers training act, 2003 PA 125, MCL 791.532.

(iii) An emergency dispatch worker employed by a law enforcement agency.

History: 2006, Act 563, Imd. Eff. Dec. 29, 2006;—Am. 2016, Act 302, Eff. Jan. 2, 2017.

15.393 Use of involuntary statement by law enforcement officer in criminal proceeding; prohibition.

Sec. 3. An involuntary statement made by a law enforcement officer, and any information derived from that involuntary statement, shall not be used against the law enforcement officer in a criminal proceeding.

History: 2006, Act 563, Imd. Eff. Dec. 29, 2006.

15.395 Confidential communication; exception.

Sec. 5. An involuntary statement made by a law enforcement officer is a confidential communication that is not open to public inspection. The statement may be disclosed by the law enforcement agency only under 1 or more of the following circumstances:

(a) With the written consent of the law enforcement officer who made the statement.

(b) To a prosecuting attorney or the attorney general pursuant to a search warrant, subpoena, or court order, including an investigative subpoena issued under chapter VIIA of the code of criminal procedure, 1927 PA 175, MCL 767a.1 to 767a.9. However, a prosecuting attorney or attorney general who obtains an involuntary statement under this subdivision shall not disclose the contents of the statement except to a law enforcement agency working with the prosecuting attorney or attorney general or as ordered by the court having jurisdiction over the criminal matter or, as constitutionally required, to the defendant in a criminal case.

(c) To officers of, or legal counsel for, the law enforcement agency or the collective bargaining representative of the law enforcement officer, or both, for use in an administrative or legal proceeding involving a law enforcement officer's employment status with the law enforcement agency or to defend the law enforcement agency or law enforcement officer in a criminal action. However, a person who receives an involuntary statement under this subdivision shall not disclose the statement for any reason not allowed under this subdivision, or make it available for public inspection, without the written consent of the law enforcement officer who made the statement.

(d) To legal counsel for an individual or employing agency for use in a civil action against the employing agency or the law enforcement officer. Until the close of discovery in that action, the court shall preserve by reasonable means the confidentiality of the involuntary statement, which may include granting protective orders in connection with discovery proceedings, holding in camera hearings, or ordering any person involved in the litigation not to disclose the involuntary statement without prior court approval.

History: 2006, Act 563, Imd. Eff. Dec. 29, 2006.

POLITICAL ACTIVITIES BY PUBLIC EMPLOYEES
Act 169 of 1976

AN ACT to regulate certain political activities by certain public employees; to prescribe the powers and duties of certain state agencies; and to provide penalties.

History: 1976, Act 169, Imd. Eff. June 25, 1976;—Am. 1979, Act 15, Imd. Eff. May 24, 1979.

The People of the State of Michigan enact:

15.401 “Public employee” defined.

Sec. 1. As used in this act, “public employee” means an employee of the state classified civil service, or an employee of a political subdivision of the state who is not an elected official.

History: 1976, Act 169, Imd. Eff. June 25, 1976.

Constitutionality: In *Council No 11, AFSCME v Civil Service Commission*, 408 Mich 385; 292 NW2d 442 (1980), the Michigan Supreme Court held that 1976 PA 169 offends no provision of the Michigan constitution.

15.402 Employee of state classified civil service; permissible political activities; leave of absence.

Sec. 2. An employee of the state classified civil service may:

(a) Become a member of a political party committee formed or authorized under the election laws of this state.

(b) Be a delegate to a state convention, or a district or county convention held by a political party in this state.

(c) Become a candidate for nomination and election to any district, county, city, village, township, school district, or other local elective office without first obtaining a leave of absence from his employment. If the person becomes a candidate for elective office in the executive or legislative branches of the state or for the supreme court or court of appeals, the person shall request and shall be granted a leave of absence without pay when he complies with the candidacy filing requirements, or 60 days before any election relating to that position, whichever date is closer to the election.

(d) Engage in other political activities on behalf of a candidate or issue in connection with partisan or nonpartisan elections.

History: 1976, Act 169, Imd. Eff. June 25, 1976.

15.403 Employee of political subdivision of state; permissible political activities; resignation; leave of absence.

Sec. 3. (1) An employee of a political subdivision of the state may:

(a) Become a member of a political party committee formed or authorized under the election laws of this state.

(b) Be a delegate to a state convention, or a district or county convention held by a political party in this state.

(c) Become a candidate for nomination and election to any state elective office, or any district, county, city, village, township, school district, or other local elective office without first obtaining a leave of absence from his employment. If the person becomes a candidate for elective office within the unit of government or school district in which he is employed, unless contrary to a collective bargaining agreement the employer may require the person to request and take a leave of absence without pay when he complies with the candidacy filing requirements, or 60 days before any election relating to that position, whichever date is closer to the election.

(d) Engage in other political activities on behalf of a candidate or issue in connection with partisan or nonpartisan elections.

(2) However, a public employee of a unit of local government or school district who is elected to an office within that unit of local government or school district shall resign or may be granted a leave of absence from his employment during his elected term.

History: 1976, Act 169, Imd. Eff. June 25, 1976.

15.404 Active engagement in permissible activities; certain hours prohibited.

Sec. 4. The activities permitted by sections 2 and 3 shall not be actively engaged in by a public employee during those hours when that person is being compensated for the performance of that person's duties as a public employee.

History: 1976, Act 169, Imd. Eff. June 25, 1976.

15.405 Coercion of payment, loan, or contribution prohibited.

Sec. 5. A public employer, public employee or an elected or appointed official may not personally, or through an agent, coerce, attempt to coerce, or command another public employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for the benefit of a person seeking or holding elected office, or for the purpose of furthering or defeating a proposed law, ballot question, or other measure that may be submitted to a vote of the electors.

History: 1976, Act 169, Imd. Eff. June 25, 1976.

15.406 Complaint; hearing; order; injunction; rules.

Sec. 6. (1) An employee of a political subdivision of this state whose rights under this act are violated or who is subjected to any of the actions prohibited by section 5 may make a complaint to that effect with the department of labor. The department shall hold a hearing to determine whether a violation has occurred. If a violation has occurred, the department shall so state on the record and may order any of the following:

(a) Issuance of back pay.

(b) Reinstatement as an employee.

(c) Attorney fees.

(d) Reinstatement of all work-related benefits, rights or privileges which, but for the violation by the employer, would have been accrued by the employee.

(2) Upon motion by the department to the circuit court, the court may issue an injunction to enforce the order of the department.

(3) The department of civil service shall promulgate rules for hearing alleged violations of this act by a state employee.

(4) The department of labor shall promulgate rules for hearing alleged violations of this act by an employee of a political subdivision of this state. The rules shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended.

History: 1976, Act 169, Imd. Eff. June 25, 1976;—Am. 1979, Act 15, Imd. Eff. May 24, 1979.

Administrative rules: R 408.22901 and R 408.22902 of the Michigan Administrative Code.

15.407 Compliance with federal laws or regulations; disciplinary actions.

Sec. 7. Public employees whose political activities are subject to restrictions imposed by laws or regulations of the United States shall comply with those restrictions notwithstanding any contrary provisions of this act. This act shall not be construed as prohibiting the state or a political subdivision thereof from instituting or implementing a disciplinary action against a public employee, in compliance with a determination of the United States civil service commission or a court of the United States pursuant to sections 1501 through 1508 of title 5 of the United States code.

History: 1976, Act 169, Imd. Eff. June 25, 1976.

GOOD GOVERNMENT FINANCIAL REPORT DISCLOSURE ACT
Act 427 of 1996

AN ACT to provide for the disclosure of certain state and local financial records.

History: 1996, Act 427, Imd. Eff. Nov. 25, 1996.

The People of the State of Michigan enact:

15.421 Short title.

Sec. 1. This act shall be known and may be cited as the “good government financial report disclosure act”.

History: 1996, Act 427, Imd. Eff. Nov. 25, 1996.

15.422 Definitions.

Sec. 2. As used in this act:

(a) “Derivative instrument or product” means either of the following:

(i) A contract or convertible security that changes in value in concert with a related or underlying security, future, or other instrument or index; or that obtains much of its value from price movements in a related or underlying security, future, or other instrument or index; or both.

(ii) A contract or security, such as an option, forward, swap, warrant, or a debt instrument with 1 or more options, forwards, swaps, or warrants embedded in it or attached to it, the value of which contract or security is determined in whole or in part by the price of 1 or more underlying instruments or markets.

(iii) “Derivative instrument or product” does not mean a fund created pursuant to the surplus funds investment pool act, Act No. 367 of the Public Acts of 1982, being sections 129.111 to 129.118 of the Michigan Compiled Laws, or section 1223 of the revised school code, Act No. 451 of the Public Acts of 1976, being section 380.1223 of the Michigan Compiled Laws.

(b) “Financial report” means any of the following:

(i) An audit report or other report for a local unit showing the cost and fiscal year end market value of derivative instruments or products in the local unit's pension or nonpension investment portfolio at fiscal year end reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product, including but not limited to an annual financial report under section 4 of the uniform budgeting and accounting act, Act No. 2 of the Public Acts of 1968, being section 141.424 of the Michigan Compiled Laws, or section 4 of Act No. 71 of the Public Acts of 1919, being section 21.44 of the Michigan Compiled Laws, even if the annual financial report states that there are no derivative instruments or products in the pension and nonpension investment portfolios.

(ii) An audit report or other report, including but not limited to an annual financial report under section 4 of Act No. 71 of the Public Acts of 1919, being section 21.44 of the Michigan Compiled Laws, for a department, institution, or office of state government showing, for each state pension system all of the following:

(A) The cost and fiscal year end market value for each item in each of the following categories of pension investments in the state pension system's investment portfolio at fiscal year end:

(I) United States government or agency obligations, itemized by type of security.

(II) Commercial paper, itemized by issuing bank.

(III) United States government or agency repurchase agreements, itemized by institution with type of security specified.

(IV) United States bank bankers' acceptances, itemized by issuing bank.

(V) Mutual funds, itemized by mutual fund name.

(VI) Common stock, itemized by issuing corporation.

(VII) Corporate bonds, itemized by issuing corporation and type of security.

(VIII) Real estate, itemized by separately described holding.

(IX) Mortgages, itemized by mortgagor.

(X) Derivative instruments or products, itemized by issuer and type.

(XI) Other pension investments not listed above in this subparagraph itemized by type of investment.

(B) The total cost and fiscal year end market value for each category of investments under sub-subparagraph (A) in the state pension system's investment portfolio at fiscal year end.

(C) The total cost and fiscal year end market value for all categories of investments under sub-subparagraph (A) in the state pension system's investment portfolio at fiscal year end, on an aggregate basis.

(iii) An audit report or other report for a department, institution, or office of state government showing the cost and fiscal year end market value of derivative instruments or products in the department's, institution's, or

office's nonpension investment portfolio at fiscal year end reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product, including but not limited to an annual financial report under section 4 of Act No. 71 of the Public Acts of 1919 , being section 21.44 of the Michigan Compiled Laws, even if the annual financial report states that there are no derivative instruments or products in the nonpension investment portfolio.

(c) "Local unit" means an entity required to make an annual financial report under section 4 of Act No. 2 of the Public Acts of 1968, being section 141.424 of the Michigan Compiled Laws, or a county.

History: 1996, Act 427, Imd. Eff. Nov. 25, 1996.

15.423 Availability of financial report pertaining to local unit or state department, institution, or office.

Sec. 3. A local unit or a state department, institution, or office shall obtain and retain a copy of any financial report pertaining to that local unit or state department, institution, or office. A local unit or state department, institution, or office, including but not limited to the state treasurer or auditor general shall make an annual financial report prepared, owned, used, in the possession of, or retained by the local unit or state department, institution, or office available for public inspection under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1996, Act 427, Imd. Eff. Nov. 25, 1996.

15.424 Unauthorized investments prohibited.

Sec. 4. This act does not authorize a local unit or this state to make investments not otherwise authorized by law.

History: 1996, Act 427, Imd. Eff. Nov. 25, 1996.

15.425 Exceptions.

Sec. 5. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall not be made available to the public under this act.

History: 1996, Act 427, Imd. Eff. Nov. 225, 1996.

ENHANCED ACCESS TO PUBLIC RECORDS ACT
Act 462 of 1996

AN ACT to authorize public bodies to provide enhanced access to certain public records and to impose certain fees for providing that enhanced access; to regulate enhanced access to certain public records; and to authorize public bodies to establish and impose fees for the use of geographical information systems.

History: 1996, Act 462, Imd. Eff. Dec. 26, 1996.

The People of the State of Michigan enact:

15.441 Short title.

Sec. 1. This act shall be known and may be cited as the “enhanced access to public records act”.

History: 1996, Act 462, Imd. Eff. Dec. 26, 1996.

15.442 Definitions.

Sec. 2. As used in this act:

(a) “Enhanced access” means a public record's immediate availability for public inspection, purchase, or copying by digital means. Enhanced access does not include the transfer of ownership of a public record.

(b) “Geographical information system” means an informational unit or network capable of producing customized maps based on a digital representation of geographical data.

(c) “Operating expenses” includes, but is not limited to, a public body's direct cost of creating, compiling, storing, maintaining, processing, upgrading, or enhancing information or data in a form available for enhanced access, including the cost of computer hardware and software, system development, employee time, and the actual cost of supplying the information or record in the form requested by the purchaser.

(d) “Person” means that term as defined in section 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

(e) “Public body” means that term as defined in section 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

(f) “Public record” means that term as defined in section 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

(g) “Reasonable fee” means a charge calculated to enable a public body to recover over time only those operating expenses directly related to the public body's provision of enhanced access.

(h) “Software” means a set of statements or instructions that when incorporated in a machine-usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result.

(i) “Third party” means a person who requests a geographical information system or output from a geographical information system under this act. However, third party does not include a person for whom a fee authorized under this act is waived in accordance with an intergovernmental agreement described in section 3.

History: 1996, Act 462, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 550, Imd. Eff. Jan. 22, 1999.

15.443 Enhanced access to public record; powers of public body; collection of fee from third party; sharing access among public bodies; availability of public record; adoption of policy; specific public record.

Sec. 3. (1) In accordance with this act, a public body may do all of the following:

(a) Upon authorization of the governing body of the public body, provide enhanced access for the inspection, copying, or purchasing of a public record that is not confidential or otherwise exempt by law from disclosure.

(b) Subject to subsections (2) and (3), charge a reasonable fee established by the public body's governing body for providing enhanced access.

(c) Charge a reasonable fee established by the public body's governing body for providing access to either of the following:

(i) A geographical information system.

(ii) The output from a geographical information system.

(d) Provide another public body with access to or output from its geographical information system for the official use of that other public body, without charging a fee to that other public body, if the access to or output from the system is provided in accordance with a written intergovernmental agreement that contains all of the following:

(i) A statement specifying that the public body receiving access to or output from the system without charge is prohibited from providing access to the system's output to a third party unless that public body does both of the following:

(A) Collects from the third party a fee described in subsection (2), or waives that fee in accordance with the written terms of the intergovernmental agreement.

(B) Conveys to the providing public body that portion of any fee collected under subsection (2) that is directly attributable to the operating expenses of the providing public body in furnishing the output from the system to the third party.

(ii) A statement specifying the public purpose for which access to or output from the system is being provided.

(iii) A statement specifying the portion of any fee collected under subsection (2) and collected from a third party that the receiving public body shall convey to the providing public body.

(2) A public body that receives access to or output from a system under an intergovernmental agreement described in subsection (1) may collect from a third party to whom it provides access to the output from the system under this act a reasonable fee that includes both of the following:

(a) An amount that enables the public body providing access to or output from its system to recover over time its operating expenses directly related to providing access to output from its system to a third party.

(b) An amount that enables the receiving public body to recover over time its operating expenses directly related to providing to a third party access to or output from its system.

(3) The language of this act relating to the sharing of access to or output from systems among public bodies shall be liberally construed to facilitate the sharing of access to and output from systems without financial detriment to the public bodies.

(4) Access to or output from a geographical information system shall be made available only in accordance with subsections (1), (2), and (3). Except as otherwise provided in subsections (1), (2), and (3), this act does not limit the inspection and copying of a public record pursuant to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. 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 where the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

(5) Before providing enhanced access to a member of the general public, a public body that elects to provide enhanced access shall adopt an enhanced access policy that complies with this act.

(6) This act does not require a public body to provide enhanced access to a specific public record if that public body has not established an enhanced access policy in accordance with subsection (5) with respect to that specific public record.

History: 1996, Act 462, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 550, Imd. Eff. Jan. 22, 1999.

15.444 Elected or appointed individual; ownership interest or compensation from sold information; prohibition.

Sec. 4. (1) An individual elected or appointed to a board or governing body of a city, village, township or county shall not have an ownership interest in, or accept compensation from, a person who sells information that is obtained from a public record of that city, village, township, or county.

(2) This section does not apply to compensation accepted from a public body.

History: 1996, Act 462, Imd. Eff. Dec. 26, 1996.

15.445 Repealed. 2006, Act 227, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to review of operations by bipartisan joint committee of legislative members of each house.

ELECTRONIC OPEN ACCESS TO GOVERNMENT ACT
Act 370 of 2016

AN ACT to provide for public electronic access to information through this state's website; to require webpage posting of information about state departments, departmental subunits, and supervisors; to require standardized formats for displaying information, including functions, contact information, and organizational charts; and to provide for the powers and duties of certain state governmental officers and entities.

History: 2016, Act 370, Eff. Mar. 29, 2017.

The People of the State of Michigan enact:

15.451 Short title; information to be included on state website.

Sec. 1. (1) This act shall be known and may be cited as the "electronic open access to government act".

(2) By January 1, 2018, the department of technology, management, and budget shall include links on this state's website to function and contact information for each executive branch department and each major division or subunit within the department. The information shall be accessible to the public at no cost. Each page created or maintained under this section shall meet all of the following criteria:

- (a) Provide for uniformity and standardization of information across departments.
- (b) Use methods that are intuitive for searching, navigating, and accessing information.
- (c) Be designed to serve the purpose of facilitating public access to government services.
- (3) The information required under this act includes all of the following for each department:

(a) A description of the primary functions of the department and the telephone number and electronic mail address for the public to contact the department.

(b) A description of the primary functions of each major division or subunit of the department and the telephone number and electronic mail address for the public to contact the division or subunit.

(c) A graphical organization chart that includes the major divisions or subunits of the department and the name, position title, classified or nonclassified civil service distinction, and contact information for the supervisor of each major division or subunit. The chart must indicate the reporting relationship of the supervisors.

(4) Each department shall cooperate with the department of technology, management, and budget in collecting and posting the information required under this act. The department of technology, management, and budget shall develop guidelines for the format and display of the charts and other information to ensure the greatest possible standardization. The department of technology, management, and budget shall provide technical services and assistance to the departments, as necessary, to create websites, coordinate links, and maintain electronic connections necessary to implement this act.

(5) Each department shall provide quarterly updates to the information required under this act.

History: 2016, Act 370, Eff. Mar. 29, 2017.

PUBLIC EMPLOYEE COMPENSATION DISCLOSURE ACT
Act 423 of 2012

AN ACT to require the civil service commission to report information concerning certain public employees; to require electronic posting of compensation and other information concerning certain public employees; and to require duties of certain state departments and agencies.

History: 2012, Act 423, Imd. Eff. Dec. 21, 2012.

The People of the State of Michigan enact:

15.461 Short title.

Sec. 1. This act shall be known and may be cited as the "public employee compensation disclosure act".

History: 2012, Act 423, Imd. Eff. Dec. 21, 2012.

15.462 Definitions.

Sec. 2. As used in this act:

- (a) "Commission" means the civil service commission.
- (b) "Public employee" means an individual who is employed in the classified state service.

History: 2012, Act 423, Imd. Eff. Dec. 21, 2012.

15.463 Information regarding classified state employees to be posted on commission's website.

Sec. 3. By January 31 of each year, the commission shall post on the commission's website all of the following information regarding classified state employees during the prior fiscal year:

- (a) For each state department or agency:
 - (i) The number of full-time equivalent employees.
 - (ii) The average pay rate for all employees.
 - (iii) The average years of service for all employees.
 - (iv) The number of new hires, returns, and separations.
 - (v) The turnover rate.
 - (vi) The percentage of employees eligible to retire over the next 1-, 3-, and 5-year periods.
 - (vii) The number of employees in each bargaining unit.
- (b) The average annual cost of the benefits for all employees.

History: 2012, Act 423, Imd. Eff. Dec. 21, 2012.

REGULATORY BOARDS AND COMMISSIONS ETHICS ACT
Act 96 of 2014

AN ACT to establish supplemental conflict of interest standards for members of regulatory bodies in the department of licensing and regulatory affairs; to require disclosure of certain interests; to provide grounds for removal of members of regulatory bodies; to provide a process for raising and determining possible conflicts of interest; and to provide for voiding certain actions taken in violation of this act.

History: 2014, Act 96, Eff. July 1, 2014.

The People of the State of Michigan enact:

15.481 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "regulatory boards and commissions ethics act".

(2) As used in this act:

(a) "Board" means a board, commission, committee, or subcommittee in the department that has authority in regulatory actions concerning private individuals or entities.

(b) "Department" means the department of licensing and regulatory affairs.

(c) "Immediate family member" means a grandparent, parent, parent-in-law, stepparent, sibling, spouse, child, or stepchild.

History: 2014, Act 96, Eff. July 1, 2014.

15.482 Standards in addition to other standard of conduct or disclosure requirement.

Sec. 2. In addition to any other standard of conduct or disclosure requirement that may apply to a member or designated alternate member of a board, each member or designated alternate shall comply with the standards set forth in this act.

History: 2014, Act 96, Eff. July 1, 2014.

15.483 Board member; duties; prohibited conduct.

Sec. 3. (1) A board member shall do all of the following:

(a) Disclose to the board and the director of the department any pecuniary, contractual, business, employment, or personal interest that the board member may have in a contract, grant, loan, or a regulatory, enforcement, or disciplinary matter before the board. Disclosure is also required if a spouse, child, or stepchild of a board member is a director, officer, direct or indirect shareholder, or employee of an entity under consideration for a contract, grant, or loan or is the subject of a regulatory, enforcement, or disciplinary action before the board. A board member shall make a written disclosure of the conflict to the board unless the board member verbally discloses the conflict at a meeting of the board and the disclosure is included in the official minutes of the meeting.

(b) Refrain from participating in any discussion, directly or indirectly, with other board members regarding a matter before the board if the board member has a direct or indirect interest described in subdivision (a).

(c) Abstain from voting on any motion or resolution relating to a matter in which the board member has a direct or indirect interest described in subdivision (a).

(d) Use state resources, property, and funds under the board member's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

(2) A board member shall refrain from all of the following:

(a) Divulging to an unauthorized person any confidential information acquired in the course of the member's service on the board before the time prescribed or authorized for release to the public.

(b) Representing his or her personal opinion as that of the board or the department.

(c) Soliciting or accepting a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization other than this state that could reasonably be expected to influence the manner in which the board member performs official duties.

(d) Engaging in a business transaction in which the board member may profit from his or her official position or authority as a board member or benefit financially from confidential information that the board member obtained or may obtain incident to the board membership.

(e) Rendering services for a private or public interest if that service is incompatible or in conflict with the discharge of the board member's official duties at the time the services are rendered.

(f) Participating in his or her official capacity as a board member in negotiating or executing contracts, making loans, granting subsidies, fixing rates, issuing permits or certificates, or other regulation or

supervision relating to a business entity in which the board member or an immediate family member of the board member has a pecuniary or personal interest, other than a 2% or smaller interest in a publicly traded company.

History: 2014, Act 96, Eff. July 1, 2014.

15.484 Board member or immediate family member with interest in matter; adoption in violation of conflict of interest; requirements.

Sec. 4. A contract, grant, or loan that a board enters into with or awards to a board member or an immediate family member of a board member with an interest in the matter is adopted in violation of conflict of interest standards and is voidable at the option of the department unless the affected board member complies with all of the following:

(a) Except as expressly permitted by applicable law, the affected board member has abstained from participating in the discussion or vote on the matter.

(b) The affected board member immediately upon knowledge or discovery discloses the pecuniary, contractual, business, employment, or personal interest in the contract, grant, or loan in the manner required by this act and other applicable law.

History: 2014, Act 96, Eff. July 1, 2014.

15.485 Undisclosed interest or conflict of interest; referral to board of ethics; review by director or designee; reconsideration of action.

Sec. 5. (1) A person who has reason to believe that a board member has failed to disclose an interest described in section 3(1)(a) or has an interest that is not required to be disclosed but that would have a tendency to affect the ability of the member to render an impartial decision on a matter may request, not later than 1 year after the board takes any action on the matter, that the director of the department or his or her designee consider the issue of a conflict of interest as to that matter. The director or his or her designee shall investigate the matter and decide the issue of whether or not the board member has an undisclosed interest described in section 3(1)(a) or has another conflict of interest sufficient to raise a reasonable doubt as to whether the board member could render an impartial decision. The director or his or her designee may refer the matter to the board of ethics created in section 3 of 1973 PA 196, MCL 15.343, at his or her discretion.

(2) If the director or his or her designee determines under subsection (1) that a board member has an undisclosed interest or a conflict of interest that is sufficient to raise a reasonable doubt as to whether the board member could render an impartial decision, the department shall review the action to determine if that board member cast a deciding vote in any action the board took regarding the matter in which there is a reasonable doubt of the board member's ability to have rendered an impartial decision. If the action did not depend on the vote of that board member, the action of the board stands. If that board member was the deciding vote in an action regarding the matter, the board shall reconsider the action without the participation of the board member who was found to have an interest that was sufficient to raise a reasonable doubt as to whether he or she could have rendered an impartial decision.

History: 2014, Act 96, Eff. July 1, 2014.

15.486 Conflict with existing ethics laws.

Sec. 6. This act is intended to supplement existing ethics laws, and if there is a conflict, the following laws prevail:

(a) Section 10 of article IV of the state constitution of 1963.

(b) 1978 PA 566, MCL 15.181 to 15.185.

(c) 1968 PA 318, MCL 15.301 to 15.310.

(d) 1968 PA 317, MCL 15.321 to 15.330.

(e) 1973 PA 196, MCL 15.341 to 15.348.

History: 2014, Act 96, Eff. July 1, 2014.

TEMPORARY ASSIGNMENT OF EMPLOYEES Act 199 of 1976

AN ACT to provide for the temporary assignment of employees; to regulate the contracts thereof; and to prescribe powers and duties of the department of civil service.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

The People of the State of Michigan enact:

15.501 Definitions.

Sec. 1. As used in this act:

(a) "Employee" means a person who is employed by or is an employee of a federal agency, an institution of higher education, a local unit of government, or a state agency.

(b) "Federal agency" means an agency, board, bureau, commission, department, division, office, or subdivision thereof of the federal government.

(c) "Institution of higher education" means a public or private institution of a state which offers a degree or course of study beyond the twelfth grade.

(d) "Local unit of government" means a city, county, township, village, school district, intermediate school district, or subdivision thereof of this state or any other state. A governmental subdivision of another state which is not the same as a local unit of government of this state is included if it is similar in organization or has similar powers and duties as a local unit of government of this state.

(e) "Receiving agency" means a federal agency, institution of higher education, local unit of government, or a state agency which receives an employee from a sending agency pursuant to this act.

(f) "Sending agency" means a federal agency, institution of higher education, local unit of government, or a state agency which sends an employee to a receiving agency pursuant to this act.

(g) "State agency" means an agency, board, bureau, commission, department, division, office, or subdivision thereof of this state or another state.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.502 Receiving agencies and sending agencies subject to act; conflict with federal law.

Sec. 2. (1) When an employee participates in a temporary assignment, the receiving agency, and the sending agency are subject to this act and a contract relative thereto is subject to and shall conform to this act.

(2) This act does not apply when the receiving agency is privately owned or operated, a federal agency, or located in another state, and the sending agency is privately owned or operated, a federal agency, or located in another state.

(3) If this act is in conflict with a federal law, the federal law shall control.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.503 Participation as sending or receiving agency.

Sec. 3. An institution of higher education of this state, a local unit of government of this state, or a state agency of this state may participate as a sending or receiving agency in a program involving a temporary assignment of an employee with a federal agency, institution of higher education, local unit of government, or state agency.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.504 Status of employee participating in temporary assignment; salary, benefits, and supervision of employee on detail; rights, benefits, and obligations of employee in status of leave of absence.

Sec. 4. (1) An employee who is participating in a temporary assignment shall be considered as being on detail to a regular work assignment of the sending agency or in a status of leave of absence from the sending agency.

(2) An employee who is on detail shall receive at least the same salary and benefits to which he would otherwise be entitled and which shall be paid by the sending agency except as otherwise agreed between the sending and the receiving agencies. A receiving agency shall supervise the duties of an employee who is on detail except as otherwise agreed to by the sending and receiving agencies.

(3) An employee who is on a status of leave of absence shall receive at least the same salary and benefits to which he would otherwise be entitled and which shall be paid by the receiving agency except as otherwise agreed between the sending and the receiving agencies. An employee who is on a status of leave of absence

may be granted annual leave or other time off with compensation to the extent authorized by law applicable to the sending agency. Except as otherwise provided in this act, an employee who is in a status of leave of absence has the same rights, benefits, and obligations as other employees of the sending agency who are on a leave of absence status for any other purpose. Notwithstanding any other law an employee may credit the period of the assignment toward any retirement benefit of the sending agency.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.505 Workmen's compensation coverage; other benefits and coverage.

Sec. 5. (1) Except as provided in subsection (2) a receiving agency shall provide workmen's compensation coverage pursuant to Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws, for an employee participating in a temporary assignment under this act. A sending agency by agreement may provide workmen's compensation coverage pursuant to Act No. 317 of the Public Acts of 1969, as amended, for an employee participating in a temporary assignment under this act in place of the receiving agency.

(2) If the sending agency was providing benefits and coverage for the employee before the temporary assignment under a different law and the benefits and coverage to the employee are greater than the benefits and coverage provided under Act No. 317 of the Public Acts of 1969, as amended, then the benefits and coverage provided by the sending agency shall apply regardless of any law or agreement to the contrary.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.506 Participant in temporary assignment as employee of sending agency.

Sec. 6. Except as otherwise provided in this act, an employee who participates in a temporary assignment pursuant to this act is and shall remain the employee of the sending agency during the time of the temporary assignment and for 24 hours thereafter.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.507 Duration of participation in temporary assignment; extension of contract.

Sec. 7. An employee may not be on detail or on a status of leave in a temporary assignment pursuant to this act for more than 2 years, except that the parties to the contract may agree to extend the contract for not more than 2 years. An extension of a contract does not require approval of the department of civil service.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.508 Provisions of contract; attachment of rules applying to reimbursement for expenses.

Sec. 8. (1) The contract under which the employee is to be temporarily assigned shall provide:

- (a) The terms and conditions of the employee's reimbursement for travel or other necessary expenses.
- (b) The name of the agency which is to pay the travel or other necessary expenses.

(2) A copy of any rule or regulation which applies to the employee's reimbursement for expenses shall be attached to each copy of the contract.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.509 Agreeing to and signing of contract; copies of contract.

Sec. 9. (1) The contract shall be agreed to and signed by the affected employee, the sending agency, and the receiving agency.

(2) The affected employee, the sending agency, the receiving agency, and the department of civil service shall receive a true copy of the contract.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.510 Approval of contract.

Sec. 10. Before a contract can be effective under this act, it shall be approved by the department of civil service.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.511 Participation by elected official prohibited.

Sec. 11. An elected official may not participate in a temporary assignment pursuant to this act.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

15.512 Duties of department of civil service.

Sec. 12. The department of civil service shall:

- (a) Assist any employee, receiving agency, or sending agency which is participating or attempting to

participate in a temporary assignment pursuant to this act.

(b) Make rules to implement this act.

(c) Take any action it deems necessary to implement this act.

(d) Make an annual report of its actions, operations, and recommendations to the governor and the legislature.

History: 1976, Act 199, Imd. Eff. July 23, 1976.

LEGAL DEFENSE FUND ACT
Act 288 of 2008

AN ACT to regulate and to require certain reports to be filed that document contributions for purposes of defending an elected official in a criminal, civil, or administrative action; to regulate contributions made for purposes of defending an elected official in a criminal, civil, or administrative action; to prescribe certain powers and duties of the secretary of state as to legal defense funds; and to prescribe criminal penalties and civil sanctions.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

The People of the State of Michigan enact:

15.521 Short title.

Sec. 1. This act shall be known and may be cited as the "legal defense fund act".

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

15.523 Definitions.

Sec. 3. As used in this act:

(a) "Contribution" means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for or allocated to the purpose of defending an elected official in a criminal, civil, or administrative action that arises directly out of the conduct of the elected official's governmental duties. Contribution includes an officer holder's own money or property, other than the officer holder's homestead, used on behalf of the officer holder's defense, the granting of discounts or rebates not available to the general public, and the endorsing or guaranteeing of a loan for the amount the endorser or guarantor is liable. Contribution does not include an offer or tender of a contribution if expressly and unconditionally rejected, returned, or refunded within 30 business days after receipt.

(b) "Elected official" means an individual who holds an elective office in state or local government in this state.

(c) "Elective office" means a public office filled by an election. A person who is appointed to fill a vacancy in a public office that is ordinarily elective holds an elective office. Elective office does not include the office of precinct delegate. Elective office does not include a school board member in a school district that has a pupil membership of 2,400 or less enrolled on the most recent pupil membership count day. Elective office does not include a federal office.

(d) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

(e) "Legal defense fund" means all contributions received, held, or expended for the legal defense of an elected official. For purposes of this act, a legal defense fund does not include a fund of a local government association that is an exempt organization under section 501(c)(4) of the internal revenue code of 1986, 26 USC 501, or of a local government organization, if money in the organization's fund is composed of money that is excluded from the definition of gross income under section 115 of the internal revenue code of 1986, 26 USC 115.

(f) "Person" means a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly.

(g) "Treasurer" means the individual designated as responsible for a legal defense fund's record keeping, report preparation, or report filing or, in the absence of such an individual, the elected official who is the beneficiary of the legal defense fund.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

15.525 Statement of organization; filing; information; amended statement; late filing fee; failure to file statement; dissolution.

Sec. 5. (1) An elected official who is the beneficiary of a legal defense fund shall file a statement of organization with the secretary of state within 10 days after the earlier of the date the legal defense fund first receives a contribution or first makes an expenditure of a contribution.

(2) A statement of organization required by this section shall include all of the following information:

(a) The name, street address, and telephone number of the legal defense fund. The name of the legal defense fund shall include the first and last names of the elected official who is the beneficiary of the legal defense fund and the words "legal defense fund".

(b) The name, street address, and telephone number of the individual designated as the treasurer of the legal defense fund.

(c) The name and address of the financial institution in which money of the legal defense fund is or is intended to be deposited.

(d) The full name of and office held by the elected official who is the beneficiary of the legal defense fund.

(e) A description of the criminal, civil, or administrative action arising directly out of the conduct of the elected official's duties for which a contribution to or expenditure from the legal defense fund was made.

(3) If any of the information required in a statement of organization under this section changes, the legal defense fund shall file an amended statement of organization when the next transaction report under section 7 is required to be filed.

(4) An elected official who fails to file a statement of organization as required by this section shall pay a late filing fee of \$10.00 for each business day the statement remains unfiled. A late filing fee shall not exceed \$300.00. An elected official who fails to file a statement of organization under this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(5) When a legal defense fund is dissolved, the elected official shall file a statement of dissolution with the secretary of state, in the form required by the secretary of state, and shall return any unexpended funds to the contributor of the funds or forward the unexpended funds to the state treasurer for deposit into the general fund of the state or to the state bar of Michigan for deposit into the state bar of Michigan client protection fund.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

15.527 Transaction report.

Sec. 7. (1) From the earlier of the date that a legal defense fund receives its first contribution or makes its first expenditure of a contribution until the date the elected official files a statement of dissolution under section 5, the treasurer of a legal defense fund shall file transaction reports according to the schedule in subsection (2). A transaction report shall disclose all of the following information:

(a) The legal defense fund's name, address, and telephone number and the full name, residential and business addresses, and telephone numbers of the legal defense fund's treasurer.

(b) The following information about each person from whom a contribution is received during the covered period:

(i) The person's full name.

(ii) The person's street address.

(iii) The amount contributed.

(iv) The date on which each contribution was received.

(v) The cumulative amount contributed by that person.

(vi) If the person is an individual whose cumulative contributions are more than \$100.00, the person's occupation, employer, and principal place of business.

(c) The following information itemized as to each expenditure from the legal defense fund that exceeds \$50.00 and as to expenditures made to 1 person that cumulatively total \$50.00 or more during a covered period:

(i) The amount of the expenditure.

(ii) The name and address of the person to whom the expenditure is made.

(iii) The purpose of the expenditure.

(iv) The date of the expenditure.

(2) Subject to subsections (3) and (4), the treasurer of a legal defense fund shall file a transaction report on or before each of the following dates covering the period beginning on the day after the closing date of the preceding transaction report and ending on the indicated closing date:

(a) January 25, with a closing date of December 31 of the previous year.

(b) April 25, with a closing date of March 31.

(c) July 25, with a closing date of June 30.

(d) October 25, with a closing date of September 30.

(3) The beginning date of the first transaction report required by this section shall be the date the first contribution is received by the legal defense fund.

(4) The treasurer of a legal defense fund shall file a final transaction report with its statement of dissolution

under section 5. The final transaction report shall cover the period beginning on the day after the closing date of the preceding transaction report and ending on the latest date that the legal defense fund received a contribution, made an expenditure, or transferred unexpended funds and dissolved.

(5) A transaction report required by this section shall include a verification statement, signed by the treasurer for the legal defense fund and the elected official, stating that he or she used all reasonable diligence in preparing the report and that to his or her knowledge the statement is true and complete.

(6) A treasurer or other individual designated on the statement of organization as responsible for the legal defense fund's record keeping, report preparation, or report filing shall keep detailed accounts, records, bills, and receipts as required to substantiate the information contained in a statement or report required under this act. The records of a legal defense fund shall be preserved for 5 years and shall be made available for inspection as authorized by the secretary of state. A treasurer who knowingly violates this subsection is subject to a civil fine of not more than \$1,000.00.

(7) A treasurer or elected official who knowingly submits false information under this section is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$5,000.00, or both.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

15.529 Transaction report; late filing fee; failure to file or filing incomplete transaction report as misdemeanor; penalty.

Sec. 9. (1) If a report required by section 7 is filed late, the legal defense fund or the elected official shall pay a late filing fee. If the legal defense fund has received contributions of \$10,000.00 or less during the previous 2 years, the late filing fee shall be \$25.00 for each business day the report remains unfiled, but not to exceed \$500.00. If the legal defense fund has received contributions of more than \$10,000.00 during the previous 2 years, the late filing fee shall be determined as follows, but shall not exceed \$1,000.00:

(a) Twenty-five dollars for each business day the report remains unfiled.

(b) An additional \$25.00 for each business day after the first 3 business days the report remains unfiled.

(c) An additional \$50.00 for each business day after the first 10 business days the report remains unfiled.

(2) A treasurer who fails to file 2 transaction reports required by section 7, if both of the reports remain unfiled for more than 30 days, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(3) A treasurer who knowingly files an incomplete transaction report is subject to a civil fine of not more than \$1,000.00.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

15.531 Statement or report; availability; reasonable charge; use for commercial purpose prohibited; preservation; filing fee; determination of compliance with filing requirements; notice of error or omission; corrections; report of uncorrected error or omission or failure to file; filing date.

Sec. 11. (1) The secretary of state shall make a statement or report required to be filed under this act available for public inspection and reproduction, as soon as practicable, but not later than the third business day following the day on which it is received, during regular business hours of the filing official. The secretary of state shall also make the report or all of the contents of the report available to the public on the internet, without charge, as soon as practicable, at a single website established and maintained by the secretary of state.

(2) A copy of a statement or part of a statement shall be provided by the secretary of state at a reasonable charge.

(3) A statement open to the public under this act shall not be used for any commercial purpose.

(4) Except as otherwise provided in this subsection, a statement of organization filed under this act with the secretary of state shall be preserved by the secretary of state for 15 years from the official date of the committee's dissolution. Any other statement or report filed under this act with the secretary of state shall be preserved by the secretary of state for 15 years from the date the filing occurred. Upon a determination that a violation of this act has occurred, all complaints, orders, decisions, or other documents related to that violation shall be preserved by the filing official who is not the secretary of state or the secretary of state for 15 years from the date of the court determination or the date the violation is corrected, whichever is later. Statements and reports filed under this act may be reproduced pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406. After the required preservation period, the statements and reports, or the reproductions of the statements and reports, may be disposed of in the manner prescribed in the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, and section 11 of the Michigan history center act,

2016 PA 470, MCL 399.811.

(5) A filing official shall not collect a charge for the filing of a required statement or report or for a form upon which the statement or report is to be prepared, except a late filing fee required by this act.

(6) The secretary of state shall determine whether a statement or report filed under this act complies, on its face, with the requirements of this act. The secretary of state shall determine whether a statement or report that is required to be filed under this act is in fact filed. Within 4 business days after the deadline for filing a statement or report under this act, the secretary of state shall give notice to the filer by registered mail of an error or omission in the statement or report and give notice to a person the secretary of state has reason to believe is a person required to and who failed to file a statement or report. A failure to give notice by the secretary of state under this subsection is not a defense to a criminal action against the person required to file.

(7) Within 9 business days after the report or statement is required to be filed, the filer shall make any corrections in the statement or report filed with the secretary of state. If the report or statement was not filed, then the report or statement shall be late filed within 9 business days after the time it was required to be filed and shall be subject to late filing fees.

(8) After 9 business days and before 12 business days have expired after the deadline for filing the statement or report, the secretary of state shall report errors or omissions that were not corrected and failures to file to the attorney general.

(9) A statement or report required to be filed under this act must be filed not later than 5 p.m. of the day in which it is required to be filed. A transaction report that is postmarked by registered or certified mail, or sent by express mail or other overnight delivery service, at least 2 days before the deadline for filing is filed within the prescribed time regardless of when it is actually delivered. Any other statement or report required to be filed under this act that is postmarked by registered or certified mail or sent by express mail or other overnight delivery service on or before the deadline for filing is filed within the prescribed time regardless of when it is actually delivered.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008;—Am. 2017, Act 183, Eff. Feb. 19, 2018.

15.533 Contributions.

Sec. 13. (1) An elected official, or a person on behalf of an elected official, shall not solicit or accept a contribution for the purpose of defending the elected official in a criminal, civil, or administrative action that arises directly out of the conduct of the elected official's governmental duties unless the contribution is included in a legal defense fund that complies with the requirements of this act.

(2) A person shall not make and the elected officer or treasurer of a legal defense fund shall not accept an anonymous contribution. An anonymous contribution to a legal defense fund shall not be deposited into the account the legal defense fund maintains with a financial institution, but shall be given to a person that is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 USC 501. The person receiving the contribution from the legal defense fund shall provide the legal defense fund with a receipt, which shall be retained by the legal defense fund's treasurer.

(3) A contribution shall not be made by a person to another person with the agreement or arrangement that the person receiving the contribution will then transfer that contribution to a particular legal defense fund.

(4) Contributions to a legal defense fund that are received as or converted to the form of money, checks, or other negotiable instruments shall be deposited in a single account in a financial institution for all contributions to the legal defense fund. The treasurer of the legal defense fund shall designate the financial institution that is the official depository of the legal defense fund. A contribution that is received and retained by a legal defense fund shall be maintained in a separate account at the official depository and shall not be deposited in or commingled with any other account of the elected official.

(5) A person who knowingly violates this section is guilty of a misdemeanor punishable as follows:

(a) If the person is an individual, by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(b) If the person is other than an individual, by a fine of not more than \$10,000.00.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

15.535 Expenditures; violation as misdemeanor; penalty.

Sec. 15. (1) Except for expenditures upon dissolution that are made as prescribed in section 5 or as provided for an anonymous contribution under section 13, a person shall make expenditures from a legal defense fund only for administration of the fund, attorney fees, or related legal costs, which shall not include direct or indirect payments for media purchases, media consulting, or mass mailings. An expenditure from a legal defense fund shall be made for the legal defense of only the 1 elected official for whom the fund was established.

(2) A person who knowingly violates this section is guilty of a misdemeanor punishable as follows:

(a) If the person is an individual, by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(b) If the person is other than an individual, by a fine of not more than \$10,000.00.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

15.537 Scope of act; applicability.

Sec. 17. This act applies to any contribution made, received, or expended after the effective date of this act and to any contribution received before the effective date of this act that has not been returned to the contributor within 90 days after the effective date of this act.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

15.539 Rules; declaratory rulings.

Sec. 19. The secretary of state may promulgate rules to implement this act and may issue declaratory rulings pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2008, Act 288, Imd. Eff. Oct. 6, 2008.

PUBLICLY FUNDED HEALTH INSURANCE CONTRIBUTION ACT
Act 152 of 2011

AN ACT to limit a public employer's expenditures for employee medical benefit plans; to provide the power and duties of certain state agencies and officials; to provide for exceptions; and to provide for sanctions.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011.

The People of the State of Michigan enact:

15.561 Short title.

Sec. 1. This act shall be known and may be cited as the "publicly funded health insurance contribution act".

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011.

15.562 Definitions.

Sec. 2. As used in this act:

(a) "Designated state official" means:

(i) For an election affecting employees and officers in the judicial branch of state government, the state court administrator.

(ii) For an election affecting senate employees and officers, the secretary of the senate.

(iii) For an election affecting house of representatives employees and officers, the clerk of the house.

(iv) For an election affecting legislative council employees, the legislative council.

(v) For an election affecting employees in the state classified service, the civil service commission.

(vi) For an election affecting executive branch employees who are not in the state classified service, the state employer.

(b) "Flexible spending account" means a medical expense flexible spending account in conjunction with a cafeteria plan as permitted under the federal internal revenue code of 1986.

(c) "Health savings account" means an account as permitted under section 223 of the internal revenue code of 1986, 26 USC 223.

(d) "Local unit of government" means a city, village, township, or county, a municipal electric utility system as defined in section 4 of the Michigan energy employment act of 1976, 1976 PA 448, MCL 460.804, an authority created under chapter VIA of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.108 to 259.125c, or an authority created under 1939 PA 147, MCL 119.51 to 119.62.

(e) "Medical benefit plan" means a plan established and maintained by a carrier, a voluntary employees' beneficiary association described in section 501(c)(9) of the internal revenue code of 1986, 26 USC 501, or by 1 or more public employers, that provides for the payment of medical benefits, including, but not limited to, hospital and physician services, prescription drugs, and related benefits, for public employees or elected public officials. Medical benefit plan does not include benefits provided to individuals retired from a public employer or a public employer's contributions to a fund used for the sole purpose of funding health care benefits that are available to a public employee or an elected public official only upon retirement or separation from service.

(f) "Medical benefit plan costs" does not include a payment by the public employer to an employee or elected public official in lieu of medical benefit plan coverage and, for a medical benefit plan coverage year beginning after the later of January 1, 2014 or the effective date of the amendatory act that added this subdivision, includes, but is not limited to, all of the following:

(i) Any amount that the public employer pays directly or indirectly for the assessment levied pursuant to the health insurance claims assessment act, 2011 PA 142, MCL 550.1731 to 550.1741.

(ii) Insurance agent or company commissions.

(iii) Any additional amount the public employer is required to pay as a fee or tax under the patient protection and affordable care act, Public Law 111-148, as amended by the federal health care and education reconciliation act of 2010, Public Law 111-152.

(g) "Medical benefit plan coverage year" means the 12-month period after the effective date of the contractual or self-insured medical coverage plan that a public employer provides to its employees or public officials.

(h) "Public employer" means this state; a local unit of government or other political subdivision of this state; any intergovernmental, metropolitan, or local department, agency, or authority, or other local political subdivision; a school district, a public school academy, or an intermediate school district, as those terms are

defined in sections 4 to 6 of the revised school code, 1976 PA 451, MCL 380.4 to 380.6; a community college or junior college described in section 7 of article VIII of the state constitution of 1963; or an institution of higher education described in section 4 of article VIII of the state constitution of 1963.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011;—Am. 2013, Act 269, Imd. Eff. Dec. 30, 2013.

Compiler's note: Enacting section 1 of Act 269 of 2013 provides:

"Enacting section 1. This amendatory act clarifies the original intent of the legislature and is curative and retroactive as to the exclusion of funding for health care benefits that are available only upon either retirement or separation from service from the definition of medical benefit plan and as to the exclusion of payments in lieu of medical benefit plan coverage from medical benefit plan costs."

15.563 Public employer contribution to medical benefit plan; limitation on amount; allocation of payments; adjustment of maximum payment.

Sec. 3. (1) Except as otherwise provided in this act, a public employer that offers or contributes to a medical benefit plan for its employees or elected public officials shall pay no more of the annual costs or illustrative rate and any payments for reimbursement of co-pays, deductibles, or payments into health savings accounts, flexible spending accounts, or similar accounts used for health care costs, than a total amount equal to \$5,500.00 times the number of employees and elected public officials with single-person coverage, \$11,000.00 times the number of employees and elected public officials with individual-and-spouse coverage or individual-plus-1-nonspouse-dependent coverage, plus \$15,000.00 times the number of employees and elected public officials with family coverage, for a medical benefit plan coverage year beginning on or after January 1, 2012. A public employer may allocate its payments for medical benefit plan costs among its employees and elected public officials as it sees fit. By October 1 of each year after 2011 and before 2019, the state treasurer shall adjust the maximum payment permitted under this subsection for each coverage category for medical benefit plan coverage years beginning the succeeding calendar year, based on the change in the medical care component of the United States Consumer Price Index for the most recent 12-month period for which data are available from the United States Department of Labor, Bureau of Labor Statistics. By April 1 of each year after 2018, the state treasurer shall adjust the maximum payment permitted under this subsection for each coverage category for medical benefit plan coverage years beginning the succeeding calendar year, based on the change in the medical care component of the United States Consumer Price Index for the most recent 12-month period for which data are available from the United States Department of Labor, Bureau of Labor Statistics.

(2) For a medical benefit plan coverage year beginning January 1, 2014 through December 31, 2014, the multiplier used to calculate the maximum public employer payment under subsection (1) is \$12,250.00 for employees and elected public officials with individual-and-spouse coverage or individual-plus-1-nonspouse-dependent coverage. The state treasurer shall adjust the multiplier each year as provided in subsection (1).

(3) For purposes of calculating a public employer's maximum total annual medical benefit plan costs under subsection (1), "employee or elected public official" does not include an employee or elected public official who declines the medical benefit plan offered or contributed to by the public employer.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011;—Am. 2013, Act 270, Imd. Eff. Dec. 30, 2013;—Am. 2018, Act 477, Imd. Eff. Dec. 27, 2018.

Compiler's note: Enacting section 1 of Act 270 of 2013 provides:

"Enacting section 1. Section 3(1) and (3) of the publicly funded health insurance contribution act, 2011 PA 152, MCL 15.563, as amended or added by this amendatory act, clarifies the original intent of the legislature that a public employee or elected official who declines the public employer's medical benefit plan coverage is not an employee or elected public official for purposes of calculating the public employer's maximum total annual medical benefit plan costs. These amendments are curative and apply retroactively."

15.564 Public employer contribution to medical benefit plan; limitation on percentage of annual costs; allocation of employees' share of total costs.

Sec. 4. (1) By a majority vote of its governing body each year, prior to the beginning of the medical benefit plan coverage year, a public employer, excluding this state, may elect to comply with this section for a medical benefit plan coverage year instead of the requirements in section 3. The designated state official may elect to comply with this section instead of section 3 as to medical benefit plans for state employees and state officers.

(2) For medical benefit plan coverage years beginning on or after January 1, 2012, a public employer shall pay not more than 80% of the total annual costs of all of the medical benefit plans it offers or contributes to for its employees and elected public officials. For purposes of this subsection, total annual costs includes the premium or illustrative rate of the medical benefit plan and all employer payments for reimbursement of co-pays, deductibles, and payments into health savings accounts, flexible spending accounts, or similar accounts used for health care but does not include beneficiary-paid copayments, coinsurance, deductibles,

other out-of-pocket expenses, other service-related fees that are assessed to the coverage beneficiary, or beneficiary payments into health savings accounts, flexible spending accounts, or similar accounts used for health care. For purposes of this section, each elected public official who participates in a medical benefit plan offered by a public employer shall be required to pay 20% or more of the total annual costs of that plan. The public employer may allocate the employees' share of total annual costs of the medical benefit plans among the employees of the public employer as it sees fit.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011;—Am. 2013, Act 271, Imd. Eff. Dec. 30, 2013.

15.565 Collective bargaining agreement or other contract in effect; inconsistent terms.

Sec. 5. (1) If a collective bargaining agreement or other contract that is inconsistent with sections 3 and 4 is in effect for 1 or more employees of a public employer on September 27, 2011, the requirements of section 3 or 4 do not apply to an employee covered by that contract until the contract expires. A public employer's expenditures for medical benefit plans under a collective bargaining agreement or other contract described in this subsection shall be excluded from calculation of the public employer's maximum payment under section 4. The requirements of sections 3 and 4 apply to any extension or renewal of the contract.

(2) A collective bargaining agreement or other contract that is executed on or after September 27, 2011 shall not include terms that are inconsistent with the requirements of sections 3 and 4.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011;—Am. 2013, Act 272, Imd. Eff. Dec. 30, 2013.

Compiler's note: Enacting section 1 of Act 272 of 2013 provides:

"Enacting section 1. This amendatory act clarifies the original intent of the legislature that September 27, 2011 is the date on and after which a new contract must comply with this act. This amendatory act is curative and applies retroactively."

15.566 Deduction by public employer.

Sec. 6. A public employer may deduct the covered employee's or elected public official's portion of the cost of a medical benefit plan from compensation due to the covered employee or elected public official. The employer may condition eligibility for the medical benefit plan on the employee's or elected public official's authorizing the public employer to make the deduction.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011.

15.567 Applicability of requirements to medical benefit plans of public employees and elected public officials; scope; effect of certain sections found to be invalid.

Sec. 7. (1) The requirements of this act apply to medical benefit plans of all public employees and elected public officials to the greatest extent consistent with constitutionally allocated powers, whether or not a public employee is a member of a collective bargaining unit.

(2) If a court finds the requirements of section 3 to be invalid, the expenditure limit in section 4 shall apply to a public employer that does not exempt itself under section 8, except that the requirement for a majority vote of the governing body of the public employer in section 4 shall not apply. If a court finds section 4 to be invalid, the expenditure limit in section 3 shall apply to each public employer that does not exempt itself under section 8.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011.

15.568 Exemption from act; extension; exceptions.

Sec. 8. (1) By a 2/3 vote of its governing body each year, prior to the beginning of the medical benefit plan coverage year, a local unit of government may exempt itself from the requirements of this act for the next succeeding medical benefit plan coverage year.

(2) A 2/3 vote of the governing body of the local unit of government prior to the beginning of each succeeding medical benefit plan coverage year is required to extend an exemption under this section.

(3) An exemption under this section is not effective for a city with a mayor who is both the chief executive and chief administrator, unless the mayor also approves the exemption.

(4) An exemption under this section is not effective for a county with a county executive who is both the chief executive and chief administrator, unless the county executive also approves the exemption.

(5) An exemption under this section is not effective for a city with a population greater than 600,000.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011;—Am. 2013, Act 273, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 184, Imd. Eff. June 20, 2014.

15.569 Noncompliance by public employer; penalty.

Sec. 9. If a public employer fails to comply with this act, the public employer shall permit the state treasurer to reduce by 10% each economic vitality incentive program payment received under 2011 PA 63 and the department of education shall assess the public employer a penalty equal to 10% of each payment of

any funds for which the public employer qualifies under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, during the period that the public employer fails to comply with this act. Any reduction setoff or penalty amounts recovered shall be returned to the fund from which the reduction is assessed or upon which the penalty is determined. The department of education may also refer the penalty collection to the department of treasury for collection consistent with section 13 of 1941 PA 122, MCL 205.13.

History: 2011, Act 152, Imd. Eff. Sept. 27, 2011.

PUBLIC EMPLOYEE DOMESTIC PARTNER BENEFIT RESTRICTION ACT
Act 297 of 2011

AN ACT to prohibit public employers from providing certain benefits to public employees.

History: 2011, Act 297, Imd. Eff. Dec. 22, 2011.

Constitutionality: The court in *Bassett v Snyder*, 59 F Supp 3d 837 (ED Mich, 2014), held that sections 3 and 4 of the public employee domestic partner benefit restriction act, 2011 PA 297, MCL 15.583 and 15.584, violated the Equal Protection Clause of the United States Constitution. The court granted a permanent injunction against enforcing the act.

The People of the State of Michigan enact:

15.581 Short title.

Sec. 1. This act shall be known and may be cited as the "public employee domestic partner benefit restriction act".

History: 2011, Act 297, Imd. Eff. Dec. 22, 2011.

Constitutionality: The court in *Bassett v Snyder*, 59 F Supp 3d 837 (ED Mich, 2014), held that sections 3 and 4 of the public employee domestic partner benefit restriction act, 2011 PA 297, MCL 15.583 and 15.584, violated the Equal Protection Clause of the United States Constitution. The court granted a permanent injunction against enforcing the act.

15.582 Definitions.

Sec. 2. As used in this act:

(a) "Medical benefits" means medical, optical, or dental benefits, including, but not limited to, hospital and physician services, prescription drugs, and related benefits.

(b) "Public employee" means a person holding a position by appointment or employment in the government of this state; in the government of 1 or more of the political subdivisions of this state; in the public school service; in a public or special district; in the service of an authority, commission, or board of this state or a political subdivision of this state; or in any other branch of the public service.

History: 2011, Act 297, Imd. Eff. Dec. 22, 2011.

Constitutionality: The court in *Bassett v Snyder*, 59 F Supp 3d 837 (ED Mich, 2014), held that sections 3 and 4 of the public employee domestic partner benefit restriction act, 2011 PA 297, MCL 15.583 and 15.584, violated the Equal Protection Clause of the United States Constitution. The court granted a permanent injunction against enforcing the act.

15.583 Medical or other fringe benefits; individual residing in same residence as public employee; prohibition.

Sec. 3. (1) A public employer shall not provide medical benefits or other fringe benefits for an individual currently residing in the same residence as a public employee, if the individual is not 1 or more of the following:

(a) Married to the employee.

(b) A dependent of the employee, as defined in the internal revenue code of 1986.

(c) Otherwise eligible to inherit from the employee under the laws of intestate succession in this state.

(2) A provision in a contract entered into after the effective date of this act that conflicts with the requirements of this act is void.

History: 2011, Act 297, Imd. Eff. Dec. 22, 2011.

Constitutionality: The court in *Bassett v Snyder*, 59 F Supp 3d 837 (ED Mich, 2014), held that sections 3 and 4 of the public employee domestic partner benefit restriction act, 2011 PA 297, MCL 15.583 and 15.584, violated the Equal Protection Clause of the United States Constitution. The court granted a permanent injunction against enforcing the act.

15.584 Collective bargaining agreement or other contract; effect.

Sec. 4. If a collective bargaining agreement or other contract that is inconsistent with section 3 is in effect for a public employee on the effective date of this act, section 3 does not apply to that group of employees until the collective bargaining agreement or other contract expires or is amended, extended, or renewed.

History: 2011, Act 297, Imd. Eff. Dec. 22, 2011.

Constitutionality: The court in *Bassett v Snyder*, 59 F Supp 3d 837 (ED Mich, 2014), held that sections 3 and 4 of the public employee domestic partner benefit restriction act, 2011 PA 297, MCL 15.583 and 15.584, violated the Equal Protection Clause of the United States Constitution. The court granted a permanent injunction against enforcing the act.

15.585 Applicability to public employees; extent.

Sec. 5. The requirements of section 3 apply to all public employees to the greatest extent consistent with constitutionally allocated powers.

History: 2011, Act 297, Imd. Eff. Dec. 22, 2011.

Constitutionality: The court in *Bassett v Snyder*, 59 F Supp 3d 837 (ED Mich, 2014), held that sections 3 and 4 of the public employee domestic partner benefit restriction act, 2011 PA 297, MCL 15.583 and 15.584, violated the Equal Protection Clause of the United States Constitution. The court granted a permanent injunction against enforcing the act.

RESIDENCY OF PUBLIC EMPLOYEES
Act 212 of 1999

AN ACT to restrict certain governmental entities from requiring individuals to reside within certain geographic areas or specified distances or travel times from their place of employment as a condition of employment or promotion.

History: 1999, Act 212, Eff. Mar. 10, 2000..

The People of the State of Michigan enact:

15.601 Definitions.

Sec. 1. As used in this act:

(a) "Public employer" means a county, township, village, city, authority, school district, or other political subdivision of this state and includes any entity jointly created by 2 or more public employers.

(b) "School district" means a school district, local act school district, or intermediate school district as those terms are defined in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a public school academy established under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

History: 1999, Act 212, Eff. Mar. 10, 2000.

15.602 Residency requirements of public employees.

Sec. 2. (1) Except as provided in subsection (2), a public employer shall not require, by collective bargaining agreement or otherwise, that a person reside within a specified geographic area or within a specified distance or travel time from his or her place of employment as a condition of employment or promotion by the public employer.

(2) Subsection (1) does not prohibit a public employer from requiring, by collective bargaining agreement or otherwise, that a person reside within a specified distance from the nearest boundary of the public employer. However, the specified distance shall be 20 miles or another specified distance greater than 20 miles.

(3) A requirement described in subsection (2) does not apply to a person if the person is married and both of the following conditions are met:

(a) The person's spouse is employed by another public employer.

(b) The person's spouse is subject to a condition of employment or promotion that, if not for this section, would require him or her to reside a distance of less than 20 miles from the nearest boundary of the public employer.

(4) Subsection (1) does not apply if the person is a volunteer or paid on-call firefighter, an elected official, or an unpaid appointed official.

History: 1999, Act 212, Eff. Mar. 10, 2000.

15.603 Applicability to certain employment contracts.

Sec. 3. This act applies only to employment contracts entered into, renewed, or renegotiated after the effective date of this act, in accordance with the prohibition against impairment of contracts provided by section 10 of article I of the state constitution of 1963.

History: 1999, Act 212, Eff. Mar. 10, 2000.

***** Act 427 of 2018 THIS NEW ACT IS EFFECTIVE MARCH 20, 2019 *****

PUBLIC EMPLOYEE FINGERPRINT-BASED CRIMINAL HISTORY CHECK ACT
Act 427 of 2018

AN ACT to require the fingerprinting of certain public employees for the purpose of receiving criminal history record information from the department of state police and the Federal Bureau of Investigation; to provide for the powers and duties of certain state and local governmental officers and entities; to provide for the collection of fees; and to prohibit the release of certain information and prescribe penalties.

History: 2018, Act 427, Eff. Mar. 20, 2019.

The People of the State of Michigan enact:

***** 15.651.new THIS NEW SECTION IS EFFECTIVE MARCH 20, 2019 *****

15.651.new Short title.

Sec. 1. This act shall be known and may be cited as the "public employee fingerprint-based criminal history check act".

History: 2018, Act 427, Eff. Mar. 20, 2019.

***** 15.652.new THIS NEW SECTION IS EFFECTIVE MARCH 20, 2019 *****

15.652.new Definitions.

Sec. 2. As used in this act:

(a) "Agency" means a department of this state or a local department or agency, including public departments or agencies in a county, city, village, or township that in the course of conducting its business has or maintains access to federal information databases.

(b) "Employee" means an individual employed by this state, an individual working for a private business entity under contract with this state, an individual working for a private business entity under contract with a county, city, village, or township, or an individual who is employed by a county, city, village, or township.

(c) "Federal information database" means a database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information.

(d) "Publication 1075" means Internal Revenue Service Regulation Publication 1075 of September 2016.

(e) "Federal tax information" means any information created by the recipient that is derived from federal return or return information received from the Internal Revenue Service or obtained through a secondary source such as the Social Security Administration, Federal Office of Child Support Enforcement, Bureau of the Fiscal Service, or Centers for Medicare and Medicaid Services, or another entity acting on behalf of the Internal Revenue Service pursuant to an agreement under section 6103 of the internal revenue code, 26 USC 6103.

(f) "Return" means any tax or information return, estimated tax declaration, or refund claim, and includes amendments, supplements, supporting schedules, attachments, or lists required by or permitted under the internal revenue code and filed with the Internal Revenue Service by, on behalf of, or with respect to any person or entity. Examples of returns include forms filed on paper or electronically, such as forms 1040, 941, and 1120, and other informational forms, such as 1099 or W-2. Forms include supporting schedules, attachments, or lists that are supplemental to or part of such a return.

(g) "Return information" means any information collected or generated by the Internal Revenue Service with regard to any person's liability or possible liability under the internal revenue code. Return information includes, but is not limited to, information that the Internal Revenue Service obtained from any source or developed through any means that relates to the potential liability of any person under the internal revenue code for any tax, penalty, interest, fine, forfeiture, or other imposition or offense, information extracted from a return, including names of dependents or the location of a business, the taxpayer's name, address, and identification number, information collected by the Internal Revenue Service about any person's tax affairs, even if identifiers, such as name, address, and identification numbers, are deleted, information regarding whether a return was filed or not, is under examination, or is subject to other investigation or processing, including collection activities, and information contained on transcripts of accounts.

History: 2018, Act 427, Eff. Mar. 20, 2019.

***** 15.653.new THIS NEW SECTION IS EFFECTIVE MARCH 20, 2019 *****

15.653.new Safeguards for protecting federal tax information; current and prospective employees; criminal history check; results exempt from disclosure; exceptions.

Sec. 3. (1) Each agency in this state that determines it must do so to comply with publication 1075 shall develop a written policy that ensures that its current and prospective employees who may have access to federal information databases in the course of his or her employment undergo the fingerprint-based criminal history check required by publication 1075.

(2) Except as otherwise provided in subsections (3), (4), and (5), the results of a criminal history check conducted under this act are confidential and are not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The results of a fingerprint-based criminal history check may be provided to the Internal Revenue Service or other federal governmental entity as required by federal regulation or law.

(4) The results of a fingerprint-based criminal history check conducted under this act may only be provided to an agency and must not be shared with a vendor or contractor providing employees to an agency under a contract between a vendor or contractor and an agency. However, the results may be shared between a requesting agency and another agency in this state.

(5) In circumstances in which the civil service manages human resource functions for an agency under an executive order, the results of a fingerprint-based criminal history check may be shared between the agency and the civil service staff providing human resource services to the agency.

History: 2018, Act 427, Eff. Mar. 20, 2019.

***** 15.654.new THIS NEW SECTION IS EFFECTIVE MARCH 20, 2019 *****

15.654.new Request for fingerprint-based criminal history check; offer of employment; department of state police; use of information; automated fingerprint identification system; Federal Bureau of Investigation.

Sec. 4. (1) Upon an offer of initial employment by an agency that is subject to publication 1075 to an individual for any full-time or part-time employment with the agency during which the individual may have access to federal information databases, the agency shall request from the department of state police a fingerprint-based criminal history check on the individual, including a criminal records check through the Federal Bureau of Investigation.

(2) Before assigning an individual to employment during which he or she may have access to federal information databases, the agency shall have received from the department of state police the report described in subsection (5). This subsection does not require an agency to delay hiring an individual until the completion of the fingerprint-based criminal history check required under this section.

(3) An agency shall ensure that an employee who may have access to federal information databases already employed by the agency on the effective date of this act completes the fingerprint-based criminal history check required under this section.

(4) An agency shall make a request to the department of state police for a fingerprint-based criminal history check required under this section on a form and in a manner prescribed by the department of state police.

(5) Within 30 days after receiving a proper request by an agency for a fingerprint-based criminal history check on an individual under this section, the department of state police shall conduct the criminal history check and initiate the criminal records check through the Federal Bureau of Investigation. After the completion of the fingerprint-based criminal history check required under this section, the department of state police shall provide a report of the results of the fingerprint-based criminal history check to the requesting agency. The report must contain any criminal history record information on the individual maintained by the criminal records division of the department of state police and any information obtained from the Federal Bureau of Investigation.

(6) Criminal history record information received from the department of state police under subsection (5) must be used by an agency only for the purpose of evaluating an individual's qualifications for employment. Except as required by federal regulation or rule, an agency or an employee of the agency shall not disclose the report or its contents received under this section to any person who is not directly involved in evaluating the applicant's or employee's qualifications to begin or maintain access to federal information databases. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

(7) If the fingerprint-based criminal history check required under this section has been completed for a particular employee and the results have been reported to an agency as provided under this section, then another fingerprint-based criminal history check is not required under this section for that employee as long as

the employee remains employed with no separation from service from the agency. For the purposes of this subsection, an employee is not considered to have a separation from service if the employee is laid off or placed on a leave of absence by the agency and returns to active employment with the agency within 1 year after being laid off or placed on the leave of absence.

(8) The department of state police shall store and retain fingerprints submitted under this section in an automated fingerprint identification system that provides for an automatic notification if subsequent criminal information matches fingerprints previously submitted under this section. Upon a notification under this subsection, the department of state police shall immediately notify the agency that requested the fingerprint-based criminal history check. The fingerprints retained under this act may be searched against future fingerprint submissions, and any relevant results will be shared with submitting and subscribing entities. The searches described under this subsection include latent fingerprint searches.

(9) The department of state police shall forward the fingerprints submitted under this section to the Federal Bureau of Investigation to be retained in the Federal Bureau of Investigation's automated fingerprint identification system that provides for automatic notification if criminal information matches fingerprints previously submitted to the Federal Bureau of Investigation under this subsection. If the department of state police receives a notification from the Federal Bureau of Investigation under this subsection, the department of state police shall immediately inform the agency that requested the fingerprint-based criminal history check. This subsection does not apply unless the department of state police is capable of participating in the Federal Bureau of Investigation's automated fingerprint notification system.

History: 2018, Act 427, Eff. Mar. 20, 2019.