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## **GEOGRAPHIC INFORMATION SYSTEMS (GIS) NETWORK ACCESS**

### **House Bill 6283 with committee amendments**

#### **First Analysis (12-1-98)**

**Sponsor: Rep. Raymond Basham**  
**Committee: Advanced Technology and  
Computer Development**

### ***THE APPARENT PROBLEM:***

In 1996, the legislature enacted Public Act 462, the Enhanced Access to Public Records Act. Since that time, local units of government have developed regional comprehensive databases, to be used with GIS (geographic information systems) software, in an effort to produce information and analyses that serve government's citizens and also its business customers. (See *BACKGROUND INFORMATION*, below.)

GIS is beginning to be used by regional governments across North America, to visually identify gaps in services--such as medical care, secondary schools, housing, child care, and parks--and to provide elected and appointed officials with customized maps of spacial autocorrelations or relationships, in order to see and to study resource needs and supply, as well as to identify patterns in the distribution of resources and their frequency of use. These analyses keep officials better informed as they make decisions about the equitable distribution of goods and services.

The development of regional databases is usually costly--typically, a multimillion dollar design and engineering task. The comprehensive regional database that makes GIS capable of rendering high quality information, images (graphs and maps), and analyses is pricey because it is very expensive to collect, to store, and daily to maintain and update in a systematic manner, the data from scores of sources in a particular region. It is expensive, too, to retain state-of-the-art technologic capacity and hardware.

Overall, any useful regional GIS system is one that allows easy retrieval of many sorts of information, and that ensures reliable reports or outputs. Access, scope, and reliability determine the project's cost. For example, according to committee testimony, the GIS that has been designed to serve southeastern Michigan (Wayne, Oakland, and Macomb counties, the City of Detroit, and SEMCOG) will likely cost

\$15 million, a development cost that will be repaid over twenty years. To recoup some of the development costs, county governments in some regions of the country sell customized data maps. In others, they also license the information, much like licensing software, and then charge licensing fees to cities and agencies in their region.

According to regional GIS advocates, the Enhanced Public Record Access Act, as currently written, does not allow the originators of geographic information systems to recover their development costs in the way that was intended by the passage of the law in 1996. GIS advocates in southeastern Michigan point out that a loophole allows a third party (say a developer) to circumvent the originators of the system by obtaining the information from a second party (another unit of government) which cannot charge for the cost of the information (or the system's development) when it is requested under the Freedom of Information Act (FOIA). The GIS advocates argue that if the originators of regional GIS systems are not able to recover their development costs, their ability to share the data from these systems with other governmental and quasi-governmental agencies will be significantly restricted. To that end, some have suggested that legislation is needed to allow a public governmental agency to provide access to its geographical information systems without necessarily charging a fee, but instead by entering into a regional intergovernmental agreement, and then abiding by the terms of that agreement.

### ***THE CONTENT OF THE BILL:***

House Bill 6283 would amend the Enhanced Access to Public Records Act, Public Act 462 of 1996, to enable governments within a region to share more easily the data in their comprehensive geographical information

systems. Under the act, a public body may provide enhanced access (inspection, purchase, or copying by digital means) to public records, charge a reasonable fee for the access, and charge a reasonable fee for providing access to a geographical information system (a database of regional data, usually rendered in images and maps), or to the output from such a system.

House Bill 6283 would allow a public governmental body to provide access to its map database to a second public body, without charging a fee. In order to receive access to or output from another public body's map database, the receiving public body would have to abide by a written intergovernmental agreement. That agreement would prohibit the transfer of the information to a third party, unless certain criteria specified in the bill were met. Those criteria would set the distribution of fees between the public entities (ensuring that the primary provider of the information received a fair and mutually agreeable portion of the fee that would be charged to the third party requesting the information), and require a statement that explains the public purpose for which the information will be used.

The bill also would permit the receiving public body to charge a third party a reasonable fee, to recover over time the operating expenses. The bill also would specify that these new provisions be liberally construed, in order to facilitate sharing between systems without financial detriment to the partners in the agreement. Finally, the bill would specify that access to or output from a geographical information system would be made available only in accordance with the provisions of the bill; however, those provisions would not limit the inspection and copying of a public record under the Freedom of Information Act (FOIA).

Under the bill, "third party" would be defined to mean a person who requests a geographical information system or output from a geographical information system under the act. However, third party would not include a person for whom a fee authorized under the act is waived in accordance with an intergovernmental agreement.

MCL 15.442 and 15.443

## ***BACKGROUND INFORMATION:***

Similar legislation. House Bill 6283 is similar to Senate Bill 1362. Senate Bill 1362 is on the Senate calendar, having been reported favorably from the Senate Committee on Government Operations.

Geographic Information Systems (GIS). Generally speaking, GIS is used by systems planners for regional record-keeping, and more innovatively, for spatial modeling. Specifically, GIS is a comprehensive inventory--a compilation of up-to-date and continually maintained datasets. GIS displays particular data, say, the supply of a particular service, often in a map, so that the frequency distribution of the service is easy to see. GIS can also display the demand for a service spatially in a map, so that the relationship of supply to demand also is easy to see. For example, GIS could be used to present a manufacturer with a customized map of all development sites in a region that had the particular characteristics the manufacturer needed in order to select from among the locations a site on which to build a new plant. Or, GIS could be used to plot the most efficient transportation routes from the addresses of working welfare clients who need bus rides to day care and jobs; or the speediest routes in fire and rescue service areas; or the most cost-effective routes for garbage collection. GIS could also map a region's drainage basins and help a planner figure out where runoff water should be contained.

GIS allows a planner to import data from a data base (for example, a census data base) and then to perform overlay functions and network analysis. In yet more innovative and interactive applications, GIS software used in conjunction with statistics software also affords government planners new ways to imagine, to reformulate, and to solve socioeconomic problems. When coupled with a statistical package, an analyst can map the distribution gaps of a resource--say, insufficient elderly housing, or inadequate clean water supplies, or uniformly low design standards--and to display that information on a map so that disparities in citizens' living standards are evident. For example, by examining service quality and inadequacy, GIS can help land-use planners and elected officials to see repetitious or excessive concentrations of particular services--say, a repeating wave of franchises in an edge city region. Having the GIS spatial analysis at

hand, officials are better able to take a first step toward containing unwanted growth, and to plan for more variety and interest in local economies. Using spatial data analysis in this manner, GIS can help planners to rethink and to redesign services so there is a more equitable distribution of high quality services available to citizens.

The Enhanced Access to Public Records Act---Public Act 462 of 1996. According to the House Legislative Analysis Section's analysis of Public Act 462 of 1996, dated 1-13-97, in 1996, at the urging of some governmental units including Oakland County, the legislature passed the Enhanced Access to Public Records Act, in order to allow governmental units to make aggressive use of web site and Internet opportunities. The hope was that the new act might provide the public with enhanced access to abundant information that is collected by a wide array of government agencies.

The act used the term "enhanced access" to describe access to government (or other) information systems through electronic means, often, but not always, at a distance. For example, if a governmental unit had a web site or could be found on the Internet, anyone with the proper computer equipment in the home or at the office could gain access to the information offered there.

The act envisioned that government information obtained electronically from these sources would be used by business and industry, land developers, schools, and general citizens. The act gave governments a specific grant of authority, in statute, to collect the information in central repositories or databases, and it also gave governments the authority to charge fees for access to information as a way of recovering the substantial investment involved in developing and maintaining enhanced access programs.

Under that act, a series of definitions began to define the GIS regional data networks that were envisioned. For example, under the law, "geographical information system" means an informational unit or network capable of producing customized maps based on a digital representation of geographical data. "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. "Reasonable fee" is defined to mean 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.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill has no fiscal implications for the state. It is estimated that costs to Wayne County for implementing its geographical information system will be \$15 million, which could eventually be recouped as fees were collected from third parties. (11-25-98)

### ***ARGUMENTS:***

#### ***For:***

The Enhanced Access to Public Records Act must be amended in order to give regional governments the statutory authority to create cooperative intergovernmental agreements that will enable them to share in the development costs and operational expenses of geographic information systems (GIS) networks. This bill would grant that authority, allowing the parties to such agreements to recoup a portion of their multi-million dollar development costs. The bill also would clarify that such agreements would not affect others' requests for information under the Freedom of Information Act.

#### ***For:***

GIS databases and spatial analyses can help governments to visualize both gaps in service, and also to detect over-concentrations of services in local economies. These kinds of analyses can, then, help elected and appointed officials to address matters of equity and quality in the distribution of services. For example, in the case of equity, GIS helps to identify under-served populations and to match services to their needs. In the case of quality, GIS can help to reverse uncontrolled urban sprawl, in which it is customary to find and to limit patterns of repeating franchises that unfold uniformly across so-called "edge city" or suburban landscapes.

#### ***Against:***

At the time the Enhanced Access to Public Records Act was passed in 1996, advocates of enhanced access worried about how such programs fit with the Freedom of Information Act (FOIA). For example, during committee deliberations they asked: If expensive and innovative programs are developed, will only the

technologically elite be able to gain access to public records? Will fees to recoup costs of multimillion information systems prevent access by poor users, or by individual citizens, generally? Will the programs be available at low cost, only to be re-packaged for commercial purposes, and sale? If so, the enhanced access advocates worried that there would be little incentive for governments to embark on enhanced access programs in partnership with private sector third party technology experts.

A question raised in 1996 and again in 1998 is this: How can enhanced access programs be protected from unfair exploitation under FOIA, while at the same time maintain the public's traditional right to information under that act without incurring great cost? This legislation has not answered that question. This legislation should protect access for the individual citizen who is not wealthy and cannot afford hefty access fees, and yet who desires and needs the information that is to be found in a centralized database in order to participate fully as a citizen in the democracy.

### ***POSITIONS:***

The Wayne County Executive Office supports the bill. (11-16-98)

The Oakland County Executive Office supports the bill. (11-13-98)

Macomb County supports the bill. (11-12-98)

The City of Detroit supports the bill. (11-12-98)

The Southeast Michigan Council of Governments (SEMCOG) supports the bill. (11-12-98)

Analyst: J. Hunault

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.