

HOUSE BILL No. 4210

February 10, 2009, Introduced by Rep. Opsommer and referred to the Committee on Education.

A bill to amend 1994 PA 55, entitled "Confidential research and investment information act," by amending section 4 (MCL 390.1554).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) Except as otherwise provided in this section, the
2 following information in which a public university or college holds
3 an interest, or that is owned, prepared, used, or retained by, or
4 in the possession of, a public university or college, is exempt
5 from disclosure as a public record under the freedom of information
6 act, ~~Act No. 442 of the Public Acts of 1976, being sections 15.231~~
7 ~~to 15.246 of the Michigan Compiled Laws 1976 PA 442, MCL 15.231 TO~~
8 15.246:

1 (a) ~~Intellectual~~ **SUBJECT TO SUBSECTION (3), INTELLECTUAL**
2 property created by a person employed by or under contract to a
3 public university or college for purposes that include research,
4 education, and related activities, ~~until a~~ **BUT ONLY UNTIL 1 OF THE**
5 **FOLLOWING OCCURS:**

6 (i) A reasonable opportunity is provided for the information to
7 be **PRESENTED OR** published in a timely manner in a forum intended to
8 convey the information to the academic community.

9 (ii) **THE PUBLIC UNIVERSITY OR COLLEGE PRESENTS THE INFORMATION**
10 **IN A PUBLIC FORUM.**

11 (iii) **THE PUBLIC UNIVERSITY OR COLLEGE PUBLISHES MORE THAN AN**
12 **INSIGNIFICANT AMOUNT OF THE INFORMATION IN ANY NEWSPAPER,**
13 **NEWSLETTER, OR NONACADEMIC MAGAZINE.**

14 (iv) **THE PUBLIC UNIVERSITY OR COLLEGE MAKES AVAILABLE TO THE**
15 **LEGISLATURE OR THE GENERAL PUBLIC THE FINDINGS, THE RESULTS, OR A**
16 **SUMMARY OF THE INFORMATION.**

17 (b) Original works of authorship fixed in any tangible medium
18 of expression created by a person employed by or under contract to
19 a public university or college for purposes that include research,
20 education, or related activities, until a reasonable opportunity is
21 provided for the author to secure copyright registration, not to
22 exceed 12 months from the date the work is first fixed in a
23 tangible medium of expression.

24 (c) Records regarding a process, a machine, an item of
25 manufacture, or a composition of matter, or any new and useful
26 improvement of a process, a machine, an item of manufacture, or a
27 composition of matter, until a reasonable opportunity is provided

1 for the inventor to secure patent protection, not to exceed 5 years
2 from the date the records are first made.

3 (d) Trade secrets or other proprietary information in which a
4 public university or college holds an interest or that a public
5 university or college owns that is determined by the public
6 university or college to have potential commercial value, if a
7 general description of the nature of the information and a
8 description of the extent of the interest held by the public
9 university or college in the information is made available to a
10 person upon request.

11 (2) To the extent that the information and its commercial
12 value are capable of being adequately protected by copyright,
13 patent, or trademark protection and are not encompassed by a
14 pending, unissued patent application, subsection (1) does not apply
15 to information regarding a product or process if the public
16 university or college is selling or marketing the product or
17 process to the general public.

18 **(3) THE EXEMPTION DESCRIBED IN SUBSECTION (1) (A) APPLIES ONLY**
19 **TO THE INTELLECTUAL PROPERTY CREATED BY THE PERSON EMPLOYED BY OR**
20 **UNDER CONTRACT TO THE PUBLIC UNIVERSITY OR COLLEGE AND DOES NOT**
21 **EXEMPT INFORMATION RELATING TO THE TERMS OF EMPLOYMENT OR**
22 **ENGAGEMENT OF THAT PERSON TO CREATE THE INTELLECTUAL PROPERTY, THE**
23 **COSTS AND SOURCES OF FUNDING FOR CREATING THAT INTELLECTUAL**
24 **PROPERTY, OR ANY OTHER FINANCIAL INFORMATION RELATING TO THE**
25 **CREATION OF THE INTELLECTUAL PROPERTY, FROM THE FREEDOM OF**
26 **INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.**

27 (4) ~~(3)~~—Section 3(3) applies to information described in this

1 section that is provided by a private external source.