

County Administrator's Digest

May 2, 2014

Alan G. Vanderberg, County Administrator



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IMPORTANT DETOUR INFORMATION THAT AFFECTS TRAVEL TO THE FILLMORE STREET COMPLEX (Mark Knudsen)

If you will be traveling to the Fillmore Street Complex between April 30, 2014 and mid-June, 2014, please note that construction will be occurring on 120th Avenue between M-45 and Fillmore Street. Therefore, 120th Avenue will be closed to thru-traffic during this time. [Click here](#) for the map that provides the location of the road closure as well as the detour routes that can be used to get to the Fillmore Street Complex.

QUARTERLY MEETING OF ROAD COMMISSION AND COUNTY (Keith Van Beek)

Members of the boards and staff of Ottawa County and the Road Commission held their quarterly meeting on Wednesday, April 16. These meetings continue to maintain good communication between the two entities and discuss projects and items of mutual interest. Specific items of conversation included:

- Managing Director Brett Laughlin shared a set of pictures from MDOT highlighting progress on the M-231 project. A collection of those photos can be viewed by [clicking here](#).
- Laughlin reviewed the attached handout highlighting the salt budget for 2013/2014 ([click here](#)). The overall winter budget is \$2.6 million, but the hard winter resulted in overall expenditures of \$4.6 million. The State of Michigan provided roughly \$1 million in assistance to cover shortfalls, so \$1 million was left in our local budget. Road Commission staff will need to balance the budget by holding off on other road maintenance activities and projects for the remainder of the budget year.
- Laughlin reviewed the attached handout showing revenues from the Michigan Transportation Fund ([click here](#)). This revenue is coming in as expected. Any additional state assistance or specific funding for special projects would be accounted for separately.
- Laughlin reviewed the attached programming plan for 2014, specifically for



primary roads, bridges, local roads, township programs and drainage ([click here](#)). This plan does reflect smaller programming because of the winter budget cost, specifically no gravel road program and less crack sealing work.

- The group also discussed various points of progress being made by both entities on the Memorandum of Understanding reached as a result of the task force report.
- While not part of this meeting, it was also noted that per the task force report on Public Utilities, that is a function performed by the Road Commission, staff from the county and road commission also continue to meet quarterly to provide updates and discuss matters of mutual interest. Those meetings continue to progress very well.

OTTAWA COUNTY PARKS AND RECREATION UPDATES (Shannon Felgner)



INVASIVE SPECIES IN THE PARKS

Beginning in May of 2014, the Ottawa County Parks is piloting an eco-friendly alternative to killing off invasive shrubs and plants: Goats grazing to their hearts' content. Unlike other livestock, goats grazing on property prefer to eat woody, shrub-like plants. Some parks have had woody invasive species take root. Hungry goats will help the park's battle to eradicate them from the land. Utilizing this innovative yet simple method reduces the need for herbicide application, is cost effective and allows access to locations where mowers or machinery could otherwise not reach. Goats grazing simulate mowing. Initially, mowing stimulates growth. However, repeat "applications" of grazing goats has shown to eliminate 90% of invasive, woody plants over three years. An herbicide follow-up treatment may be needed, but the application would be much lighter.

Invasive plants being targeted include bush honeysuckle, autumn olive, Oriental bittersweet, poison ivy and buckthorn. Three county parks have been chosen for the treatment: Eastmanville Bayou, Bur Oak and Riverside Park. Following the summer of 2014, staff will assess the program to identify any unanticipated issues, and then continue using the goats for two additional years for maximum impact. Initially, the Parks Commission intended to invest \$3000 for goat rental and agricultural needs, along with a \$2500 donation to cover fencing and supplies from the Friends of the Ottawa County Parks. Since then, Commissioner Phil Kuyers has stepped forward to contribute the goats and agricultural services for the project. Both gifts are very much appreciated!

In some cases, however, the best way to manage a particular invasive plant is with good-old-fashioned sweat and manual labor. As part of an Earth Day observation, students from White Pines Middle School kicked off the spring invasive species removal at several Ottawa County Parks. The primary plant targets: Garlic mustard and Spotted knapweed. The week's Earth Day events were supported by Light Corp, Meijer and the Grand Haven Area Community Foundation's Youth Advisory Committee. According to Michigan State University, **Garlic mustard** is an exotic invasive plant from Europe that invades woodland habitats in North America. Dense stands of garlic mustard threaten not only small plants like native wildflowers, but can also threaten many timber species. Many land managers consider it to be one of the most potentially harmful and difficult to control invasive

plants in the region. Spotted knapweed generates quickly in roadsides and right-of-ways, old fields, pastures, undisturbed dry prairies and oak and pine barrens. Most problematic for Ottawa County Parks is Spotted knapweed's presence on dunes and beaches, where it crowds out native species.

Along with students, many local businesses and clubs have "adopted parks" and will be heading out to pull and bag the plants throughout April and May. These include: Padnos, JCI, United Way, Alpha Theta Chi, Automatic Spring, GHSP, Harbor Industries, Cub Scouts, Eagle Scouts, Allendale Christian School, Home Depot, Friends of Ottawa County Parks, Jenison Public Schools, UA-174, Hillshire Brands, Black River Schools, and the Tri-Cities Garden Club.

The public can also help combat invasive species in several ways. One way is to participate in a workday. There is no need to register. Everyone is welcome, however, youth should come with adult supervision. Events are cancelled if raining. Grab your gardening gloves and show up to help on:

- ◇ May 3, 10am, Hager Park
- ◇ May 8, 6pm, Historic Ottawa Beach Parks
- ◇ May 10, 10am, Tunnel Park
- ◇ May 31, 10am, Rosy Mound Natural Area
- ◇ June 5, 6pm, Rosy Mound Natural Area

Ottawa County Parks will be sharing more information on invasive species management throughout the spring. Below are the links to the full press releases:

[Invasive Species-Goats](#)

[Invasive Species-Volunteers](#)

OTTAWA COUNTY PARKS SUMMER CAMPS

Would you like your child to turn off Minecraft and learn some real outdoor survival skills? Do your children need to be exposed to feathered friends and not Angry Birds? Ottawa County Parks is here to help. **Registration is now open for summer day camps.** Programs for preschool through eighth grade are available. Space is limited so register today by calling 616-786-4847. Fees vary and payment is accepted by credit card or check. View the schedule: <http://bit.ly/PwnKKv>

GRAND LADY CRUISE & WEAVER HOUSE TOURS

Don't miss this fantastic opportunity to see Ottawa County and the many parks on the Grand River Greenway

by riverboat. The Friends of the Ottawa County Parks are hosting the annual Grand Lady Cruise on May 15 at 1:30 or 4pm. Guest speakers will guide you through the trip ensuring it is both entertaining and educational. Learn more & register at www.friendsofocp.org. The Friends group is also hosting open houses at the Weaver House and recently renovated grounds on the third Sunday of each month from May through August from 1-4PM.

OTTAWA COUNTY DEPARTMENT OF PUBLIC HEALTH UPDATES (Kristina Wieghmink)

HEALTHY MICHIGAN PLAN: NEW HEALTH INSURANCE FOR MICHIGAN RESIDENTS



miOttawa Department of
Public Health



Healthy Michigan Plan Open Enrollment began April 1, 2014

The Healthy Michigan Plan is a new, low-cost health plan designed for low-income Michigan residents. Nearly half a million Michigan adults between the ages of 19-64 are now eligible for coverage beginning April 1, 2014. Available through the state of Michigan, the Healthy Michigan Plan covers those who make up to 133 percent of the federal poverty level. That works out to roughly \$16,000 a year for one person or \$33,000 for a family of four.

The Healthy Michigan Plan covers everything from doctor visits to hospitalizations to prescriptions at a low cost. To apply, there are three options for Ottawa County residents:

- Apply online at www.michigan.gov/mibridges
- Apply by phone at (855)789-5610
- Visit the Department of Human Services Office at 12185 James Street, Holland, MI 49423



The Healthy Michigan Plan includes most benefits associated with traditional health insurance plans at a more affordable cost, based on household income. Those who make between 100 and 133 percent of the federal poverty level will contribute up to 2 percent of their income to a health savings account, which can be used to pay for out-of-pocket medical expenses. The plan offers incentives for healthy behaviors, such as losing weight, quitting smoking, and preventive measures, such as getting a flu shot.

The 10 Essential Health Benefits covered in the Healthy Michigan Plan are: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder treatment services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventative and wellness services and chronic disease management, and pediatric services, including oral and vision care. The Healthy Michigan Plan will cover other medically necessary services as appropriate.

For more information regarding:

- For more information about what the Healthy Michigan Plan covers, who is eligible, and to apply, visit www.HealthyMichiganPlan.org.
- The Application process, please contact Ottawa County Department of Human Services at (616) 394-7200
 - Apply online at <https://www.michigan.gov/mibridges> or
 - Print the call (855) 789-5610
- General questions about either the program or assistance with the application process, please contact Community Mental, Health of Ottawa County Customer Services at (616) 494-5545 or visit <http://www.miottawa.org/CMH>

CHALLENGE OF CHILDREN FREE ONE DAY CONFERENCE

Registration is open for the *Challenge of Children* conference. The free one day conference is dedicated to informing, motivating, offering support and networking opportunities on child development, child guidance and other challenges related to parenting for parents and caregivers. The conference will run from 8:00 a.m. to 3:00 p.m. on Thursday, May 15, 2014 at the Hope College Haworth Center in Holland (on 10th Street between College and Columbia Avenue).

This year's *Challenge of Children* conference keynote speaker, Dr. Ray Guarendi, will present "Standing Strong as a Parent". **Registration is required before May 9**, to reserve your spot in the AM & PM Workshop Sessions www.challengeofchildren.org. Due to campus construction this year, lunch will not be provided. Please feel free to bring your own lunch or visit <http://ow.ly/uyD9c> for the Downtown Holland Dining Guide.



Conference

Thursday, May 15, 2014- 8:00 a.m. to 3:00 p.m.- Hope College Haworth Center

Registration - www.challengeofchildren.org

Keynote



Dr. Ray Guarendi is the father of 10, clinical psychologist, author, public speaker and nationally syndicated radio host. Dr. Ray's experience includes school districts, Head Start programs, mental health centers, substance abuse programs, inpatient psychiatric centers, juvenile courts and a private practice. Dr. Ray is also a published author with eight books released to date. Learn, laugh and let Dr. Ray coach you to stand strong and become a more confident parent.

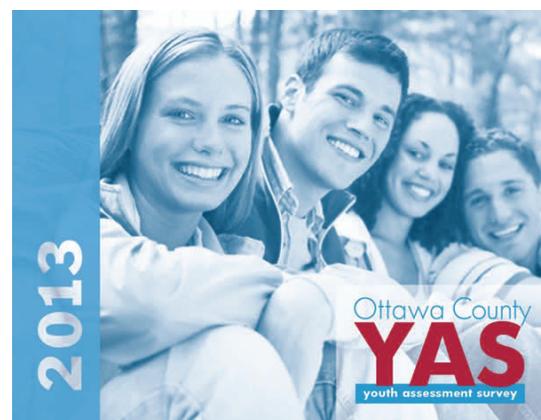
OTTAWA COUNTY YOUTH ASSESSMENT SURVEY RESULTS ARE IN!

193 Questions • 4,876 Teens

The 2013 Ottawa County Youth Assessment Survey (YAS) is a locally developed teen survey that measures how many teens are engaged in a wide variety of both risky and beneficial behaviors that affect their health and well-being. The survey monitors how these behaviors increase, decrease or stay the same over time. It has been conducted every two years (2005, 2007, 2009, 2011 and 2013) at grades 8, 10 and 12 in participating Ottawa County schools. Full report available at www.miOttawa.org/2013YAS.

Importance of the YAS

- Provides evidence-based information about what the biggest needs are (and aren't) among Ottawa County teens going back to 2005.
- Gives parents information they can use to guide their teens in becoming physically, emotionally and mentally healthy adults.
- Helps churches, local agencies, schools and parents focus their efforts on the most pressing and prevalent issues teens say they face.
- Over time, YAS results can help evaluate the effectiveness of interventions developed to address pressing and prevalent teen issues.



“It’s too easy to look at statistics, numbers and charts and forget that they represent people - in this case, our youth. Each percentage is made up of actual students in Ottawa County schools that have faces and families and friends. That’s why I value being able to present the results from the YAS to students.” - Marcia Knol, M.Sc., Epidemiologist, Ottawa County Department of Public Health

HEARTBLEED (Dave Hulst)

If you do online banking, you have probably seen information about this topic. The Heartbleed Bug is a serious vulnerability in popular cryptographic software. This weakness allows the stealing of information protected, under normal conditions, by the encryption used to secure information sent over the Internet. This compromises the secret keys used to identify the service providers and to encrypt the traffic, the names and passwords of the users and the actual content. This allows attackers to eavesdrop on communications, steal data directly from the services and users and to impersonate services and users. Fortunately, the visibility of this security bug has made organizations respond quickly and with significant effort to eliminate this threat and inform their users. Operating system vendors, appliance vendors, independent software vendors have been delivering. These sites are the one where the initial characters in the site address are “**https**” versus the “**http**” of unencrypted sites.

What should you do? If you access information through an online service that requires a login ID and password, change your password. If the vulnerability was exploited before the fix was applied, your password could have been stolen and still be in the hands of cyber criminals. Monitor your financial accounts for any unexpected activity. There are online sites that allow you to determine if a site is vulnerable. One of these sites is <http://filippo.io/Heartbleed/>. You can contact your bank/credit union/ etc, or search the internet to find information on who is protected, not affected and if they recommend a password change:

<u>Site</u>	<u>Test</u>	<u>Confirmation from site</u>
Google	Pass	Vulnerability patched. Password change recommended
Facebook	Pass	Vulnerability patched. Password change recommended
YouTube	Pass	Vulnerability patched. Password change recommended
Yahoo!	Pass	Vulnerability patched. Password change recommended
Amazon	Pass	Was not vulnerable
Wikipedia	Pass	Vulnerability patched. Password change recommended
LinkedIn	Pass	Was not vulnerable
eBay	Pass	Was not vulnerable
Twitter	Pass	Was not vulnerable
Craigslist	Pass	Awaiting response
Bing	Pass	Vulnerability patched. Password change recommended
Pinterest	Pass	Vulnerability patched. Password change recommended

OTTAWA COUNTY IN THE NEWS

[Police stung by prank 'swatting' call in Zeeland Caller said men with masks, guns were shooting in house](#)

[Boat patrol school](#)

SENATE LOCAL GOVERNMENT & ELECTIONS COMMITTEE

I testified before the State Senate Local Government & Elections Committee on Wednesday on Senate Bills 495-498 which would finally enact major change in the area of State unfunded mandates. In summary, the legislation would:

- be prospective, not seek to capture State revenue for current unfunded mandates but stem the flow from here on out
- change the legal status from local governments having no recourse but civil disobedience, breaking the law, simply accepting illegally handed down additional expense, or suing the State under Headlee to allowing a local government to not implement a mandate for which funding is not provided. The State would then have

the legal recourse of suing local governments who did not comply.

- require fiscal notes on any and all legislation that could increase local government cost. We have heard that the Governor's Office supports this provision as it would relate to legislation that could increase the cost of state departments to provide service.

[Click here](#) for the PowerPoint that I used or go to miOttawa.org.

We have heard that another hearing will be held by the same committee on this topic in two weeks. It would be great to have support from other local governments on this issue.

OTTAWA COUNTY CLERK, DAN KRUEGER TO RETIRE (Honorable Edward R. Post, Chief Judge, 20th Circuit Court)

Ottawa County Clerk, Dan Krueger will retire on June 27, 2014 prior to the expiration of his elected term. Under Michigan law, the Ottawa County Circuit Court judges must appoint an interim County Clerk to serve until the next general election in 2016. Any person interested in being considered for the position of interim Ottawa County Clerk, should send a letter and resume to:

Edward R. Post

Chief Judge

Ottawa County Circuit Court

414 Washington Ave

Grand Haven, Michigan

All materials must be received by May 15, 2014.

OCCDA APRIL CENTRAL DISPATCH MEASURES (Tim Smith)

The call volume and incident numbers handled through Central Dispatch for April 2014 were:

Total Incidents – 8,612 down 6.3% over April 2013 and up 1.8% YTD over 2013

Fire Incidents – 1,063 down 7.6% over April 2013 and up 5.3% YTD over 2013

Law Incidents – 7,549 down 6.1% over April 2013 and up 1.9% YTD over 2013

911 Calls – 7,500 down 7.1% over April 2013 and up 1.2% YTD over 2013

911 Hang Up calls - 734 down 9% over April 2013 and down 2.6% YTD over 2013

Wireless 911 calls – 90.2% of 911 calls for April 2014 and 90.4% of 911 calls YTD for 2014

911 calls answered in 10 seconds or less - 90.2% for April 2014 and 93.8% YTD 2014 (NENA recommended standard is 90% within 10 seconds)

LEGISLATIVE FORUM

We hosted another well attended Legislative Forum with over 60 present and received very positive feedback on the session. Rep. Amanda Price, Rep. Roger Victory, Jeff Cobb - Sen. Arlen Meekhof's Office, Greg Van Woerkum - Congressman Bill Huizenga's Office and Jim Miller - GCSI were on the panel.

One of the issues we covered is the proposed changes to the Michigan Freedom of Information laws and Greg Rappleye eloquently gave the County position. His memo on this topic is can be read by [clicking here](#).



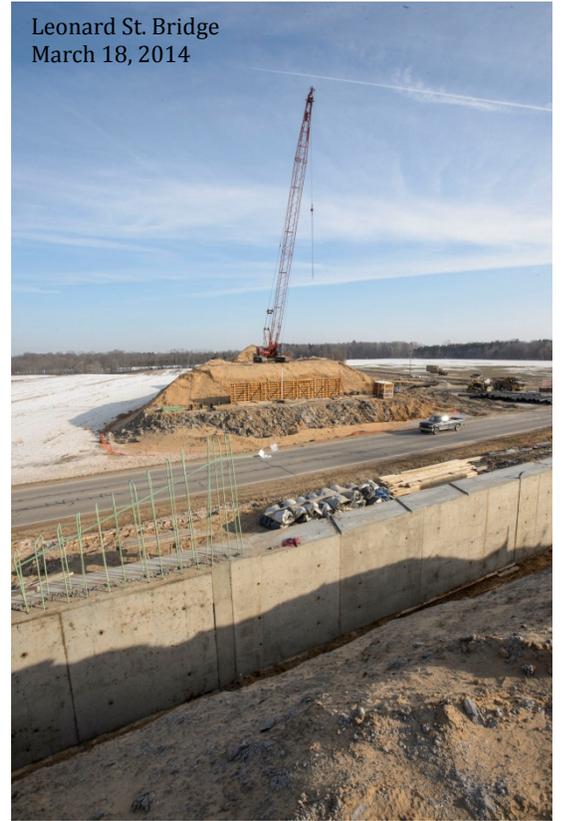
*Pier #8 M-231
01/02/14
Michael Eastman*



Leonard St. Bridge
March 18, 2014



Leonard St. Bridge
March 18, 2014



Leonard St. Bridge
March 18, 2014

Rich St.
March 18, 2014



Grand River Bridge
March 18, 2014

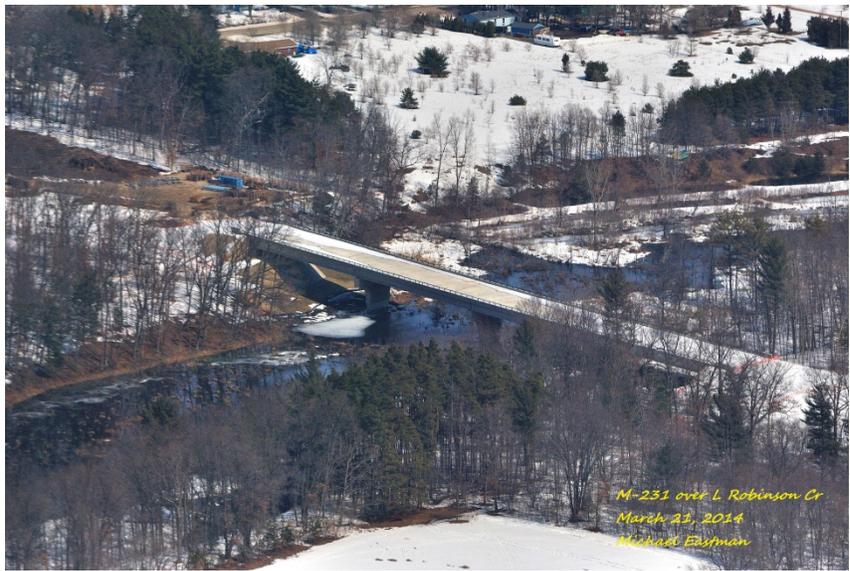


Grand River Bridge
March 18, 2014



Grand River Bridge
March 18, 2014

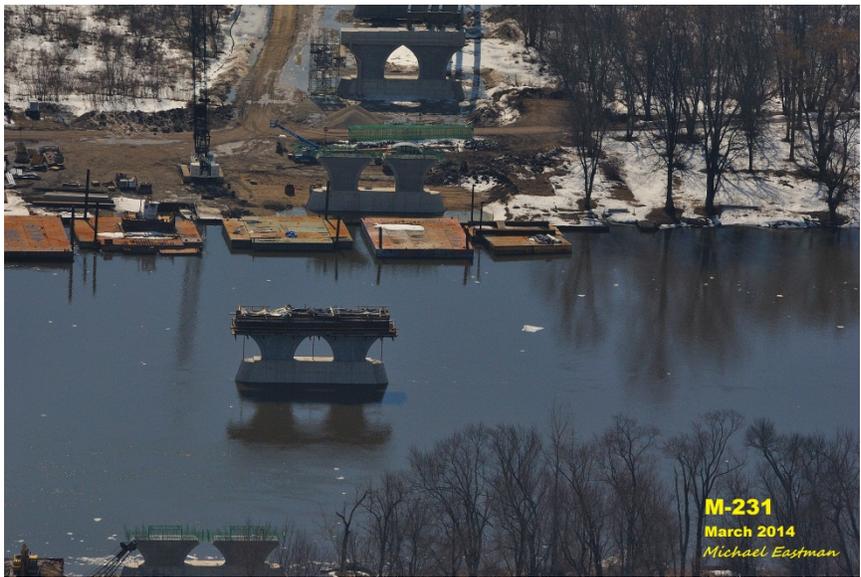




M-231 over L. Robinson Cr
March 23, 2014
Michael Eastman



M-231
3/23/14
Michael Eastman



M-231
March 2014
Michael Eastman

**OTTAWA COUNTY ROAD COMMISSION
SALT PURCHASES
2013/14**

MORTON SALT BID PRICE \$48.28 / TON ALLOCATION 22,500 TONS

CHECK DATE	KENT COUNTY ROAD COMMISSION @ \$67.45229 / TON	MORTON SALT @ \$48.28 / TON	TONNAGE	LOCATION			
				GRAND HAVEN	COOPERSVILLE /SCHARL'S	NORTH HOLLAND	HUDSONVILLE
11/14/13	- 0 -	\$23,758.11	492.09	0.00	271.45	0.00	220.64
11/27/13	- 0 -	\$31,248.75	647.24	0.00	0.00	0.00	647.24
12/12/13	- 0 -	\$132,019.25	2,734.45	0.00	602.47	1,361.76	770.22
12/26/13	- 0 -	\$187,422.98	3,882.00	717.51	698.59	1,364.08	1,101.82
01/09/14	- 0 -	\$264,833.69	5,485.37	762.06	828.12	1,932.09	1,963.10
01/23/14	- 0 -	\$252,293.90	5,225.64	652.15	755.03	1,848.55	1,969.91
02/06/14	- 0 -	\$205,748.59	4,261.57	1,041.95	385.13	1,312.03	1,522.46
02/20/14	- 0 -	\$237,143.66	4,911.84	481.14	750.99	1,878.56	1,801.15
03/06/14	- 0 -	\$116,235.04	2,407.52	465.05	309.79	362.35	1,270.33
03/20/14	- 0 -	\$88,374.61	1,830.46	552.27	395.44	488.85	393.90
03/20/14	\$65,605.45	\$46,958.09	972.62	327.24	270.79	268.73	105.86
04/03/14		\$0.00	0.00				
UNPAID TICKETS		\$14,174.04	293.58	145.50		148.08	
OPEN ORDERS		\$0.00	0.00	0.00	0.00	0.00	0.00

TOTAL: \$65,605.45 \$1,600,210.70 33,144.38 5,144.87 5,267.80 10,965.08 11,766.63

2013/14 ALLOCATION (TONS): 22,500.00 3,800.00 2,500.00 9,300.00 6,900.00

BALANCE (TONS): (10,644.38) (1,344.87) (2,767.80) (1,665.08) (4,866.63)

PRIOR YEAR TONNAGES:

	\$ / TON	TONNAGE	GRAND HAVEN	COOPERSVILLE /SCHARL'S	NORTH HOLLAND	HUDSONVILLE
2012/13	61.04 / \$59.50	25,169	4,227	4,056	8,534	8,352
2011/12	\$61.04	14,302	1,756	2,587	4,890	5,069
2010/11	\$61.00 / \$61.10	28,458	5,214	3,735	11,023	8,486
2009/10	\$51.30 / \$61.00	21,494	3,957	3,703	7,113	6,721
2008/09	\$34.20 / \$51.30	22,330	3,651	3,117	9,604	5,958
2007/08	\$34.20	30,227	4,283	4,309	13,635	8,000
2006/07	\$34.20	24,489	4,319	3,350	8,840	7,980
2005/06	\$29.79	22,116	4,467	2,213	8,183	7,254
2004/05	\$26.87	20,146	3,700	2,345	6,034	8,066
2003/04	\$25.59	29,012	5,498	2,612	11,476	9,427
2002/03	\$25.85	35,993	6,928	3,208	13,344	12,513
2001/02	\$35.56	20,994	3,143	2,595	8,133	7,123
2000/01	\$27.21 / \$30.13	40,804	7,470	4,460	15,609	13,265
1999/2000	\$29.54	22,035	4,537	2,574	7,743	7,181
1998/99	\$30.13	16,731	3,374	2,095	5,568	5,694
1997/98	\$29.54	15,578	3,011	2,192	5,603	4,772
1996/97	\$28.04	19,137	4,466	3,543	5,899	5,229
1995/96	\$29.55	18,476	4,803	3,007	5,881	4,785
1994/95	\$29.59	10,007	2,519	1,265	3,290	2,933
1993/94	\$27.39	14,241	3,776	2,713	3,953	3,799

23,090 4,297 3,093 8,349 7,351
18.6% 13.4% 36.2% 31.8%

OTTAWA COUNTY ROAD COMMISSION

04/17/2014

2014 Primary Road Program

	Primary Road	Project Limits	Township	Bid Date	Miles	Estimate	Engineering	STP	OCRC	Comments
459-494	Bauer Road	24th Avenue to Cottonwood Resurface 24' + 3' Paved Shoulder	Georgetown	August	1.50	\$617,600	\$30,880	\$369,600	\$278,880	
459-495	Lincoln Street	152nd Avenue to 144th Avenue Resurface 24' + 3' Paved Shoulder	Grand Haven	May	1.00	\$382,300	\$22,500	\$289,815	\$114,985	
459-496	Cleveland Street	96th Avenue to 48th Avenue Resurface Existing	Polkton	July	6.10	\$1,500,000	\$50,000	\$924,201	\$625,799	
459-497	96th Avenue	County Line to south of Perry St Resurface Existing	Holland/Zeeland	September	1.85	\$730,400	\$36,520	\$382,146	\$384,774	
459-499	Ottawa Beach Road	at 144th Avenue Intersection Improvements	Holland/Park	July	0.10	\$450,000	\$20,000	\$275,000	\$195,000	Safety Funds
459-500	Riley Street	at 136th Avenue West bound Right Turn lane	Holland	September	0.10	\$119,300	\$10,000	\$73,758	\$55,542	
459-498	Ottawa Beach Road	160th Avenue to 144th Avenue Resurface 44'	Park	July	2.10	\$937,500	\$46,875	\$0	\$984,375	AC2017 \$750,000
459-489	96th Avenue	Riley Street Intersection Right Turn Lane Improvements	Holland/Zeeland	2013	0.10	\$578,889	\$50,000	\$297,000	\$195,173	Gentex \$136,716
	2014 Cape Seal Program	Various Locations							\$600,000	See Cape Seal Program for Details
	ROW & Other								\$300,000	
Total					12.85	\$5,315,989	\$266,775	\$2,611,520	\$3,734,528	\$3,526,204 - 2014 Budget

2014 Bridge Program

	Bridge Location	Project Limits	Township	Bid Date	Miles	Estimate	Engineering	STP	OCRC	Comments
452-252	Luce Street	over Sand Creek Reconstruct (Replacement)	Tallmadge	November	0.10	\$1,657,000	\$125,000	\$1,574,150	\$0	Move to FY2014 Budget (\$207,850)
	Various Locations	Preventative Maintenance	Various		0.10	\$100,000	\$5,000	\$0	\$105,000	
Total					0.20	\$1,757,000	\$130,000	\$1,574,150	\$105,000	\$312,850 - 2014 Budget

2014 Local Road Programs

	Location	Project Limits	Township	Bid Date	Miles	Estimate	Engineering	TWN	OCRC	Comments
Local Paved	Quincy Street	40th Avenue to 24th Avenue	Jamestown		2.00	\$600,000	\$30,000		\$630,000	
	Quincy Street	144th Avenue to 136th Avenue	Holland		1.00	\$213,395	\$23,711	\$237,105		Tentative
	Felch Street	Butternut Drive to 136th Avenue	Holland		0.52	\$52,210	\$5,801	\$58,011		Tentative
	106th Avenue	Perry Street to Paw Paw Drive	Holland		0.24	\$27,374	\$3,042	\$30,415		Tentative
	Perry Street	106th Avenue to 104th Avenue	Holland		0.38	\$51,035	\$5,671	\$56,705		Tentative
	144th Avenue	end north to North Shore Drive	Holland		0.08	\$9,702	\$1,078	\$10,780		Tentative
	Mason Street	112th Avenue to 104th Avenue	Holland		1.00	\$114,840	\$12,760	\$127,600		Tentative
	112th Avenue	Ottogan Street to Mason Street	Holland		0.50	\$84,299	\$9,367	\$93,665		Tentative
	100th Avenue	RR Tracks norht to Riley Street	Holland		0.86	\$229,500	\$25,500	\$255,000		Tentative
	Van Buren Street	Hudsonville City to 22nd Ave	Georgetown		0.76	\$75,587	8398.5	\$83,985		
	New Holland Street	104th Avenue to 96th Avenue	Holland/Olive		1.00	\$203,400	\$22,600	\$191,000	\$35,000	Tentative - Holland/Olive Split Cost
Cape Seal	Fillmore Street	US-31 to 120th Avenue Cape Seal Surface 24'	GH/Robinson		4.07	\$270,000	\$4,070		\$274,070	
	Fillmore Street	120th Avenue to 72nd Avenue Cape Seal Surface 24'	GH/Robinson Allendale/Blendon		6.00	\$420,000	\$6,000		\$426,000	
	112th Avenue	Lakewood Blvd to New Holland Cape Seal Surface 24'	Holland		3.54	\$235,000	\$3,540		\$238,540	
	64th Avenue	Byron Road to Chicago Drive Cape Seal Surface 30'	Zeeland		1.89	\$155,000	\$1,890		\$156,890	
									-\$600,000	Primary Program
Seal Coat (Chip Seal)	Pierce Street	78th Avenue to 60th Avenue	Allendale		2.31	\$80,850	\$2,310		\$83,160	
	Pingree Street	68th Avenue west	Allendale		0.75	\$26,250	\$750		\$27,000	
	78th Avenue	M-45 to Buchanan	Allendale		1.01	\$35,350	\$1,010		\$36,360	
	84th Avenue	M-45 to Buchanan	Allendale		1.01	\$35,350	\$1,010		\$36,360	
	Polk Street	120th Avenue to 96th Avenue	Olive		3.02	\$105,700	\$3,020		\$108,720	
	Stanton Street	120th Avenue to 96th Avenue	Olive		3.00	\$105,000	\$3,000		\$108,000	
		New Holland Street	120th Avenue to 104th Avenue	Holland/Olive		2.00	\$70,000	\$2,000		\$72,000
Crack Seal	Crack Seal Program	Primary Road	Various Townships		10.58	\$68,770	\$2,116		\$70,886	
	Crack Seal Program	Local Road	Various Townships		33.43	\$211,135	\$6,686		\$217,821	
Total					80.95	\$3,479,744	\$185,329	\$1,144,266	\$1,920,807	\$1,927,307 - 2014 Budget

2014 Local Township Programs

	Location	Project Limits	Township	Start Date	Miles	Estimate	Engineering	TWN	OCRC	Comments
2013 Reconstruct	Buchanan Street 481-5278&5279	120th Avenue to 104th Avenue Construct to Gravel Grade	Robinson	2013	2.00	\$370,164		\$370,164		Gravel Grade Complete Pave after Labor Day
2014 Reconstruct	Quincy Street 481-5299	64th Ave to 1900' west Reconstruct and Pave	Zeeland		0.36	\$343,000	\$25,000	\$368,000		
	12th Avenue 481-5266	North of Quincy Street Construct Gravel Turnaround	Jamestown		0.10	\$71,000	\$10,000	\$81,000		
	Park Court 481-5301	152nd Avenue east 360' Reconstruct and Pave	Grand Haven		0.07	\$18,630	\$1,500	\$20,130		
	68th Avenue 481-5300	Taft Street to Wilson Street Construct to Gravel Grade	Polkton		1.00	\$365,000	\$35,000	\$400,000		Pave in 2015
	172nd Ave/Johnson St 481-5301	Hayes Street to 168th Avenue Reconstruct with concrete curb	Grand Haven		0.07	\$1,500,000	\$60,000	\$1,500,000	\$60,000	
	Georgetown Township	Subdivision - 481-	Georgetown		6.31	\$1,070,760	\$118,973	\$1,189,733		
	Grand Haven Township	Subdivision - 481-	Grand Haven		2.73	\$374,608	\$41,000	\$415,608		
	Holland Township	Subdivision - 481-	Holland		6.04	\$859,296	\$95,477	\$954,773		Tentative List
	Park Township	Subdivision - 481-	Park							
	Tallmadge Township	Sudvidision - 481-	Tallmadge							
	Zeeland Township	Subdivision - 481-	Zeeland							
Sidewalk	Macatawa Greenway	Adams Street to Byron Road	Zeeland			\$695,223		\$695,223		Ottawa County Parks \$695,223
Total					18.68	\$5,667,681	\$386,950	\$5,994,631	\$60,000	

2014 Drainage Program

Location	Project Limits	Township	Work	Estimate	Engineering	OCRC	Comments
Port Sheldon Street	140 feet South of Main Street	Georgetown	Replace with 14'x8' Box Culvert	\$125,000	\$6,250	\$131,250	
Lakeshore Drive	north of Pierce Street	Grand Haven	Replace with 84" Alum. CMP	\$75,000	\$5,000	\$80,000	
Total				\$200,000	\$11,250	\$211,250	\$315,250 2014 Budget

MEMORANDUM

TO: Alan Vanderberg, Ottawa County Administrator

FROM: Gregory Rappleye, Ottawa County Corporation Counsel 

DATE: March 25, 2014

RE: Substitute 6 for HB-4001 –
Proposed Freedom of Information Act Revisions

My preliminary and summary concerns about the content of the H-6 Substitute for HB 4001 are as follows:

1. The proposed method of calculating the fee that may be charged for a Freedom of Information Act request [Section 4(1)] is in excess of 2000 words in length and is substantially incomprehensible. Section 4(1), as revised in Substitute 6 for HB 4001, is a bunny warren of exceptions, variances, references to the Urban (Detroit) Consumer Price Index, references the Minimum Wage Law, and other complexities that will make it difficult if not impossible for local governments to interpret and apply. The remarkable thing about proposed Section 4(1) is that, having failed to write a comprehensible section on cost setting and billing under the Freedom of Information Act, the draftsman of that proposed legislation then requires that a public body draft a comprehensive policy to explain (whatever it is) that is contained in proposed Section 4(1), so that the section is “easily understood by the general public.”

Not only is the text of what a local public body is required to do to “explain” the complexities of proposed Section 4(1) itself substantially incomprehensible, as a matter of public policy, it is the legislature’s obligation to write statutes that can be

“easily understood by the general public.” The notion that the legislature may delegate this fundamental expectation of the legislative process to hundreds of public bodies, and then put all those public bodies at litigation risk and financial disadvantage for not doing (or not sufficiently doing) the work of the legislature itself, is objectionable per se.

2. Proposed Section 4(8) requires that chargeable costs under the Freedom of Information Act be reduced by 10% “for each day the public body exceeds the time permitted under Section 5(2) for a response to the request...” In a public body with a substantial and complex organization structure, operating a variety of computer software systems in a multiplicity of locations, it is often virtually impossible to immediately “know” how long it will take to process and respond to a Freedom of Information Act request. Although every effort is made to meet the mandatory “5 day” deadline set forth in the Act, it is sometimes discovered, at the last minute, that materials will not be available until the sixth or seventh business day following a request. Why should a local government, acting in good faith, be put at financial risk when it makes every reasonable effort to comply with the already rigorous deadline requirements of the Freedom of Information Act? Please note: these concerns are not resolved by the “good faith” exemptions in Section 4(8)(A)(i), since the proposed revision makes a “non-issue” under the current FOIA statute a litigable risk under the proposed revision, with no clear and evident public policy problem (nor any substantial public benefit), justifying the proposed revision.
3. The proposed statutory revision contains not less than three opportunities for the imposition of “punitive damages” on a public body. The increased “punitive

damages” of \$2,000 [proposed Section 5(7)] are unduly harsh and unnecessary, as are the “punitive damages” of \$1,000 [proposed Section 10A(7)] and the “willful and intentional punitive damage” provisions of \$2,500-\$7,500 punitive damages per occurrence [proposed Section 10B]. All of these provisions are confusing, punitive measures that will unnecessarily increase costs and litigation risks to financially overburdened local governments, without measurable benefit to the general public.

These are only a summary of the issues that should concern local governments about this proposed legislation. If you have any questions, please let me know.

SUBSTITUTE FOR
HOUSE BILL NO. 4001

A bill to amend 1976 PA 442, entitled
"Freedom of information act,"
by amending sections 4, 5, 10, and 11 (MCL 15.234, 15.235, 15.240,
and 15.241), sections 4, 5, and 10 as amended by 1996 PA 553, and
by adding sections 10a and 10b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A public body may charge a fee for a public record
2 search, **FOR** the necessary copying of a public record for
3 inspection, or for providing a copy of a public record **IF IT HAS**
4 **ESTABLISHED, MAKES PUBLICLY AVAILABLE, AND FOLLOWS PROCEDURES AND**
5 **GUIDELINES TO IMPLEMENT THIS SECTION AS DESCRIBED IN SUBSECTION**
6 (4). Subject to ~~subsections (3) and (4),~~ **SUBDIVISIONS (A) TO (F),**
7 the fee shall be limited to actual mailing costs, and to the actual
8 incremental cost of duplication or publication including labor, the

1 cost of search, examination, review, and the deletion and
2 separation of exempt from nonexempt information as provided in
3 section 14. EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, IF THE PUBLIC
4 BODY ESTIMATES OR CHARGES A FEE IN ACCORDANCE WITH THIS ACT, THE
5 TOTAL FEE SHALL NOT EXCEED THE SUM OF THE FOLLOWING COMPONENTS:

6 (A) THAT PORTION OF LABOR COSTS DIRECTLY ASSOCIATED WITH THE
7 NECESSARY SEARCHING FOR, LOCATING, AND EXAMINING OF PUBLIC RECORDS
8 IN CONJUNCTION WITH RECEIVING AND FULFILLING A GRANTED WRITTEN
9 REQUEST. THE PUBLIC BODY SHALL NOT CHARGE MORE THAN THE HOURLY
10 WAGE, WHICH DOES NOT INCLUDE THE COST OF BENEFITS, OF ITS LOWEST-
11 PAID EMPLOYEE CAPABLE OF SEARCHING FOR, LOCATING, AND EXAMINING THE
12 PUBLIC RECORDS IN THE PARTICULAR INSTANCE REGARDLESS OF WHETHER
13 THAT PERSON IS AVAILABLE OR WHO ACTUALLY PERFORMS THE LABOR. LABOR
14 COSTS SHALL BE ITEMIZED AND NOTED IN A MANNER THAT EXPRESSES BOTH
15 THE HOURLY WAGE RATE USED AND THE NUMBER OF HOURS CHARGED. OVERTIME
16 WAGES SHALL NOT BE INCLUDED IN THE CALCULATION OF THE LABOR COSTS
17 UNDER THIS SUBDIVISION UNLESS OVERTIME IS SPECIFICALLY STIPULATED
18 BY THE REQUESTOR AND THEREAFTER FULLY NOTED ON THE DETAILED
19 ITEMIZATION DESCRIBED UNDER SUBSECTION (4). LABOR COSTS UNDER THIS
20 SUBDIVISION SHALL BE ESTIMATED AND CHARGED IN INCREMENTS OF 15
21 MINUTES OR MORE, WITH ALL PARTIAL TIME INCREMENTS ROUNDED DOWN.

22 (B) THAT PORTION OF LABOR COSTS, INCLUDING NECESSARY REVIEW,
23 IF ANY, DIRECTLY ASSOCIATED WITH THE SEPARATING AND DELETING OF
24 EXEMPT INFORMATION FROM NONEXEMPT INFORMATION AS PROVIDED IN
25 SECTION 14. THE PUBLIC BODY SHALL NOT CHARGE MORE THAN THE HOURLY
26 WAGE, WHICH DOES NOT INCLUDE THE COST OF BENEFITS, OF ITS LOWEST-
27 PAID EMPLOYEE CAPABLE OF SEPARATING AND DELETING EXEMPT INFORMATION

1 FROM NONEXEMPT INFORMATION IN THE PARTICULAR INSTANCE AS PROVIDED
2 IN SECTION 14, REGARDLESS OF WHETHER THE PERSON IS AVAILABLE OR WHO
3 ACTUALLY PERFORMS THE LABOR. LABOR COSTS SHALL BE ITEMIZED AND
4 NOTED IN A MANNER THAT EXPRESSES BOTH THE HOURLY WAGE RATE USED AND
5 THE NUMBER OF HOURS CHARGED. OVERTIME WAGES SHALL NOT BE INCLUDED
6 IN THE CALCULATION OF THE LABOR COSTS UNDER THIS SUBDIVISION UNLESS
7 OVERTIME IS SPECIFICALLY STIPULATED BY THE REQUESTOR AND THEREAFTER
8 FULLY NOTED ON THE DETAILED ITEMIZATION DESCRIBED UNDER SUBSECTION
9 (4). LABOR COSTS UNDER THIS SUBDIVISION SHALL BE ESTIMATED AND
10 CHARGED IN INCREMENTS OF 15 MINUTES OR MORE, WITH ALL PARTIAL TIME
11 INCREMENTS ROUNDED DOWN. IF A PUBLIC BODY DOES NOT EMPLOY A PERSON
12 CAPABLE OF SEPARATING AND DELETING EXEMPT INFORMATION FROM
13 NONEXEMPT INFORMATION IN THE PARTICULAR INSTANCE AS PROVIDED IN
14 SECTION 14, IT MAY TREAT NECESSARY CONTRACTED LABOR COSTS USED FOR
15 THE SEPARATING AND DELETING OF EXEMPT INFORMATION FROM NONEXEMPT
16 INFORMATION IN THE SAME MANNER AS EMPLOYEE LABOR COSTS WHEN
17 CALCULATING CHARGES UNDER THIS SUBDIVISION IF IT CLEARLY NOTES THE
18 NAME AND ADDRESS OF THE CONTRACTED PERSON OR FIRM ON THE DETAILED
19 ITEMIZATION DESCRIBED UNDER SUBSECTION (4). TOTAL LABOR COSTS
20 CALCULATED UNDER THIS SUBDIVISION FOR CONTRACTED LABOR COSTS SHALL
21 NOT EXCEED AN AMOUNT EQUAL TO 6 TIMES THE STATE MINIMUM HOURLY WAGE
22 RATE DETERMINED UNDER SECTION 4 OF THE MINIMUM WAGE LAW OF 1964,
23 1964 PA 154, MCL 408.384. A PUBLIC BODY SHALL NOT CHARGE FOR
24 EMPLOYEE OR CONTRACT LABOR DIRECTLY ASSOCIATED WITH REDACTION UNDER
25 SECTION 14 IF IT KNOWS OR HAS REASON TO KNOW THAT IT PREVIOUSLY
26 REDACTED THE PUBLIC RECORD IN QUESTION AND THE REDACTED VERSION IS
27 STILL IN THE PUBLIC BODY'S POSSESSION.

1 (C) FOR PUBLIC RECORDS PROVIDED TO THE REQUESTOR ON NONPAPER
2 PHYSICAL MEDIA, THE ACTUAL AND MOST REASONABLY ECONOMICAL COST OF
3 THE COMPUTER DISCS, COMPUTER TAPES, OR OTHER DIGITAL OR SIMILAR
4 MEDIA. THE PUBLIC BODY MAY CHOOSE TO ACCEPT NONPAPER PHYSICAL MEDIA
5 PROVIDED BY THE REQUESTOR TO BE USED IN CONJUNCTION WITH FULFILLING
6 A REQUEST IN LIEU OF CHARGING THE REQUESTOR FOR THAT MEDIA. THE
7 REQUESTOR MAY STIPULATE THAT THE PUBLIC RECORDS BE PROVIDED ON
8 NONPAPER PHYSICAL MEDIA, ELECTRONICALLY MAILED, OR OTHERWISE
9 ELECTRONICALLY PROVIDED TO HIM OR HER IN LIEU OF PAPER COPIES.

10 (D) FOR PAPER COPIES OF PUBLIC RECORDS PROVIDED TO THE
11 REQUESTOR, THE ACTUAL TOTAL INCREMENTAL COST OF NECESSARY
12 DUPLICATION OR PUBLICATION, NOT INCLUDING LABOR. THE COST OF PAPER
13 COPIES SHALL BE CALCULATED AS A TOTAL COST PER SHEET OF PAPER AND
14 SHALL BE ITEMIZED AND NOTED IN A MANNER THAT EXPRESSES BOTH THE
15 COST PER SHEET AND THE NUMBER OF SHEETS PROVIDED. THE FEE SHALL NOT
16 EXCEED 10 CENTS PER SHEET OF PAPER FOR COPIES OF PUBLIC RECORDS
17 MADE ON 8-1/2- BY 11-INCH PAPER OR 8-1/2- BY 14-INCH PAPER. THE
18 STATE TREASURER SHALL ADJUST THE MAXIMUM PER-SHEET CHARGE FOR
19 INFLATION BASED ON THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES
20 AVAILABLE FOR THE DETROIT AREA FROM THE UNITED STATES DEPARTMENT OF
21 LABOR, BUREAU OF LABOR STATISTICS. THE ADJUSTMENT SHALL BE MADE IN
22 JANUARY OF 2020 AND IN JANUARY OF EVERY TENTH YEAR THEREAFTER. A
23 PUBLIC BODY SHALL UTILIZE THE MOST ECONOMICAL MEANS AVAILABLE FOR
24 MAKING COPIES OF PUBLIC RECORDS, INCLUDING USING DOUBLE-SIDED
25 COPYING, WHERE AVAILABLE.

26 (E) THE COST OF LABOR DIRECTLY ASSOCIATED WITH DUPLICATION OR
27 PUBLICATION, INCLUDING MAKING PAPER COPIES, MAKING DIGITAL COPIES,

1 OR TRANSFERRING DIGITAL PUBLIC RECORDS TO BE GIVEN TO THE REQUESTOR
2 ON NONPAPER PHYSICAL MEDIA OR THROUGH THE INTERNET OR OTHER
3 ELECTRONIC MEANS AS STIPULATED BY THE REQUESTOR. THE PUBLIC BODY
4 SHALL NOT CHARGE MORE THAN THE HOURLY WAGE, WHICH DOES NOT INCLUDE
5 THE COST OF BENEFITS, OF ITS LOWEST-PAID EMPLOYEE CAPABLE OF
6 NECESSARY DUPLICATION OR PUBLICATION IN THE PARTICULAR INSTANCE,
7 REGARDLESS OF WHETHER THAT PERSON IS AVAILABLE OR WHO ACTUALLY
8 PERFORMS THE LABOR. LABOR COSTS SHALL BE ITEMIZED AND NOTED IN A
9 MANNER THAT EXPRESSES BOTH THE HOURLY WAGE RATE USED AND THE NUMBER
10 OF HOURS CHARGED. HOWEVER, TOTAL LABOR COSTS CALCULATED UNDER THIS
11 SUBDIVISION SHALL NOT EXCEED AN AMOUNT EQUAL TO 3 TIMES THE STATE
12 MINIMUM HOURLY WAGE RATE DETERMINED UNDER SECTION 4 OF THE MINIMUM
13 WAGE LAW OF 1964, 1964 PA 154, MCL 408.384. OVERTIME WAGES SHALL
14 NOT BE INCLUDED IN THE CALCULATION OF LABOR COSTS UNLESS
15 SPECIFICALLY STIPULATED BY THE REQUESTOR AND FULLY NOTED ON THE
16 DETAILED ITEMIZATION DESCRIBED UNDER SUBSECTION (4). LABOR COSTS
17 UNDER THIS SUBDIVISION MAY BE ESTIMATED AND CHARGED IN TIME
18 INCREMENTS OF THE PUBLIC BODY'S CHOOSING; HOWEVER, ALL PARTIAL TIME
19 INCREMENTS SHALL BE ROUNDED DOWN.

20 (F) THE ACTUAL COST OF POSTAGE, IF ANY, FOR SENDING THE PUBLIC
21 RECORDS IN A REASONABLY ECONOMICAL AND JUSTIFIABLE MANNER. THE
22 PUBLIC BODY SHALL NOT USE OR CHARGE FOR EXPEDITED SHIPPING UNLESS
23 SPECIFICALLY STIPULATED BY THE REQUESTOR, BUT MAY OTHERWISE CHARGE
24 FOR THE LEAST EXPENSIVE FORM OF POSTAL DELIVERY CONFIRMATION WHEN
25 MAILING PUBLIC RECORDS.

26 (2) A search for A public record may be conducted or copies of
27 public records may be furnished without charge or at a reduced

1 charge if the public body determines that a waiver or reduction of
2 the fee is in the public interest because searching for or
3 furnishing copies of the public record can be considered as
4 primarily benefiting the general public. THE PUBLIC BODY SHALL ALSO
5 GIVE DUE CONSIDERATION AS TO WHETHER OR NOT TO FULFILL THE WRITTEN
6 REQUEST WITHOUT CHARGE OR AT A LOWER AMOUNT THAN IT WOULD
7 ORDINARILY CHARGE, PARTICULARLY IN A SITUATION DEALING WITH PUBLIC
8 SAFETY AND PHYSICAL WELFARE. A public record search shall be made
9 and a copy of a public record shall be furnished without charge for
10 the first ~~\$20.00~~ \$50.00 of the fee for each request ~~to an~~ BY EITHER
11 OF THE FOLLOWING:

12 (A) AN individual who is entitled to information under this
13 act and who submits an affidavit stating that the individual is
14 ~~then receiving~~ INDIGENT AND RECEIVING SPECIFIC public assistance
15 or, if not receiving public assistance, stating facts showing
16 inability to pay the cost because of indigency. IF THE REQUESTOR IS
17 ELIGIBLE FOR A REQUESTED DISCOUNT, THE PUBLIC BODY SHALL FULLY NOTE
18 THE DISCOUNT ON THE DETAILED ITEMIZATION DESCRIBED UNDER SUBSECTION
19 (4). IF A REQUEST IS INELIGIBLE FOR THE DISCOUNT, THE PUBLIC BODY
20 WILL INFORM THE REQUESTOR SPECIFICALLY OF THE REASON FOR
21 INELIGIBILITY IN THE PUBLIC BODY'S WRITTEN RESPONSE. AN INDIVIDUAL
22 IS INELIGIBLE FOR THIS FEE REDUCTION IF ANY OF THE FOLLOWING APPLY:

23 (i) THE INDIVIDUAL HAS PREVIOUSLY RECEIVED DISCOUNTED COPIES OF
24 PUBLIC RECORDS UNDER THIS SUBSECTION FROM THE SAME PUBLIC BODY
25 TWICE DURING THAT CALENDAR YEAR.

26 (ii) THE INDIVIDUAL REQUESTS THE INFORMATION IN CONJUNCTION
27 WITH OUTSIDE PARTIES WHO ARE OFFERING OR PROVIDING PAYMENT OR OTHER

1 REMUNERATION TO THE INDIVIDUAL TO MAKE THE REQUEST. A PUBLIC BODY
2 MAY REQUIRE A STATEMENT BY THE REQUESTOR IN THE AFFIDAVIT THAT THE
3 REQUEST IS NOT BEING MADE IN CONJUNCTION WITH OUTSIDE PARTIES IN
4 EXCHANGE FOR PAYMENT OR OTHER REMUNERATION.

5 (B) A NONPROFIT ORGANIZATION FORMALLY DESIGNATED BY THE STATE
6 TO CARRY OUT ACTIVITIES UNDER SUBTITLE C OF THE DEVELOPMENTAL
7 DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000, PUBLIC LAW
8 106-402, AND THE PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH
9 MENTAL ILLNESS ACT, PUBLIC LAW 99-319, OR THEIR SUCCESSORS, IF THE
10 REQUEST MEETS ALL OF THE FOLLOWING REQUIREMENTS:

11 (i) IS MADE DIRECTLY ON BEHALF OF THE ORGANIZATION OR ITS
12 CLIENTS.

13 (ii) IS MADE FOR A REASON WHOLLY CONSISTENT WITH THE MISSION
14 AND PROVISIONS OF THOSE LAWS UNDER SECTION 931 OF THE MENTAL HEALTH
15 CODE, 1974 PA 258, MCL 330.1931.

16 (iii) IS ACCOMPANIED BY DOCUMENTATION OF ITS DESIGNATION BY THE
17 STATE, IF REQUESTED BY THE PUBLIC BODY.

18 ~~(2) A public body may require at the time a request is made a~~
19 ~~good faith deposit from the person requesting the public record or~~
20 ~~series of public records, if the fee authorized under this section~~
21 ~~exceeds \$50.00. The deposit shall not exceed 1/2 of the total fee.~~

22 ~~(3) In calculating the cost of labor incurred in duplication~~
23 ~~and mailing and the cost of examination, review, separation, and~~
24 ~~deletion under subsection (1), a public body may not charge more~~
25 ~~than the hourly wage of the lowest paid public body employee~~
26 ~~capable of retrieving the information necessary to comply with a~~
27 ~~request under this act. Fees shall be uniform and not dependent~~

1 ~~upon the identity of the requesting person. A public body shall~~
2 ~~utilize the most economical means available for making copies of~~
3 ~~public records. A fee AS DESCRIBED IN SUBSECTION (1) shall not be~~
4 ~~charged for the cost of search, examination, review, and the~~
5 ~~deletion and separation of exempt from nonexempt information as~~
6 ~~provided in section 14 unless failure to charge a fee would result~~
7 ~~in unreasonably high costs to the public body because of the nature~~
8 ~~of the request in the particular instance, and the public body~~
9 ~~specifically identifies the nature of these unreasonably high~~
10 ~~costs. A public body shall establish and publish procedures and~~
11 ~~guidelines to implement this subsection.~~

12 (4) A PUBLIC BODY SHALL ESTABLISH PROCEDURES AND GUIDELINES TO
13 IMPLEMENT THIS ACT AND SHALL CREATE A WRITTEN PUBLIC SUMMARY OF THE
14 SPECIFIC PROCEDURES AND GUIDELINES RELEVANT TO THE GENERAL PUBLIC
15 REGARDING HOW TO SUBMIT WRITTEN REQUESTS TO THE PUBLIC BODY AND
16 EXPLAINING HOW TO UNDERSTAND PUBLIC BODY RESPONSES, FEE
17 CALCULATIONS, AND AVENUES FOR CHALLENGE AND APPEAL. THE WRITTEN
18 PUBLIC SUMMARY SHALL BE WRITTEN IN A MANNER SO AS TO BE EASILY
19 UNDERSTOOD BY THE GENERAL PUBLIC. IF THE PUBLIC BODY DIRECTLY OR
20 INDIRECTLY ADMINISTERS OR MAINTAINS AN OFFICIAL INTERNET PRESENCE,
21 IT SHALL POST AND MAINTAIN THE PROCEDURES AND GUIDELINES AND ITS
22 WRITTEN PUBLIC SUMMARY ON ITS WEBSITE. A PUBLIC BODY SHALL MAKE THE
23 PROCEDURES AND GUIDELINES PUBLICLY AVAILABLE BY PROVIDING FREE
24 COPIES OF THE PROCEDURES AND GUIDELINES AND ITS WRITTEN PUBLIC
25 SUMMARY BOTH IN THE PUBLIC BODY'S RESPONSE TO A WRITTEN REQUEST AND
26 UPON REQUEST BY VISITORS AT THE PUBLIC BODY'S OFFICE. A PUBLIC BODY
27 THAT POSTS AND MAINTAINS PROCEDURES AND GUIDELINES AND ITS WRITTEN

1 PUBLIC SUMMARY ON ITS WEBSITE MAY INCLUDE THE WEBSITE LINK TO THE
2 DOCUMENTS IN LIEU OF PROVIDING PAPER COPIES IN ITS RESPONSE TO A
3 WRITTEN REQUEST. A PUBLIC BODY'S PROCEDURES AND GUIDELINES SHALL
4 INCLUDE THE USE OF A STANDARD FORM FOR DETAILED ITEMIZATION OF ANY
5 FEE AMOUNT IN ITS RESPONSES TO WRITTEN REQUESTS UNDER THIS ACT. THE
6 DETAILED ITEMIZATION SHALL CLEARLY LIST AND EXPLAIN THE ALLOWABLE
7 CHARGES FOR EACH OF THE 6 FEE COMPONENTS LISTED UNDER SUBSECTION
8 (1) THAT COMPOSE THE TOTAL FEE USED FOR ESTIMATING OR CHARGING
9 PURPOSES. A PUBLIC BODY THAT HAS NOT ESTABLISHED PROCEDURES AND
10 GUIDELINES, HAS NOT CREATED A WRITTEN PUBLIC SUMMARY, OR HAS NOT
11 MADE THEM PUBLICLY AVAILABLE WITHOUT CHARGE AS REQUIRED IN THIS
12 SUBSECTION IS NOT RELIEVED OF ITS DUTY TO COMPLY WITH ANY
13 REQUIREMENT OF THIS ACT AND SHALL NOT REQUIRE DEPOSITS OR CHARGE
14 FEES OTHERWISE PERMITTED UNDER THIS ACT UNTIL IT IS IN COMPLIANCE
15 WITH THIS SUBSECTION. NOTWITHSTANDING THIS SUBSECTION AND DESPITE
16 ANY LAW TO THE CONTRARY, A PUBLIC BODY'S PROCEDURES AND GUIDELINES
17 UNDER THIS ACT ARE NOT EXEMPT PUBLIC RECORDS UNDER SECTION 13.

18 (5) IF THE PUBLIC BODY DIRECTLY OR INDIRECTLY ADMINISTERS OR
19 MAINTAINS AN OFFICIAL INTERNET PRESENCE, ANY PUBLIC RECORDS
20 AVAILABLE TO THE GENERAL PUBLIC ON THAT INTERNET SITE AT THE TIME
21 THE REQUEST IS MADE ARE EXEMPT FROM ANY CHARGES UNDER SUBSECTION
22 (1) (B). IF THE FOIA COORDINATOR KNOWS OR HAS REASON TO KNOW THAT
23 ALL OR A PORTION OF THE REQUESTED INFORMATION IS AVAILABLE ON ITS
24 WEBSITE, THE PUBLIC BODY SHALL NOTIFY THE REQUESTOR IN ITS WRITTEN
25 RESPONSE THAT ALL OR A PORTION OF THE REQUESTED INFORMATION IS
26 AVAILABLE ON ITS WEBSITE. THE WRITTEN RESPONSE, TO THE DEGREE
27 PRACTICABLE IN THE SPECIFIC INSTANCE, SHALL INCLUDE A SPECIFIC

1 WEBPAGE ADDRESS WHERE THE REQUESTED INFORMATION IS AVAILABLE. ON
2 THE DETAILED ITEMIZATION DESCRIBED IN SUBSECTION (4), THE PUBLIC
3 BODY SHALL SEPARATE THE REQUESTED PUBLIC RECORDS THAT ARE AVAILABLE
4 ON ITS WEBSITE FROM THOSE THAT ARE NOT AVAILABLE ON THE WEBSITE AND
5 SHALL INFORM THE REQUESTOR OF THE ADDITIONAL CHARGE TO RECEIVE
6 COPIES OF THE PUBLIC RECORDS THAT ARE AVAILABLE ON ITS WEBSITE. IF
7 THE PUBLIC BODY HAS INCLUDED THE WEBSITE ADDRESS FOR A RECORD IN
8 ITS WRITTEN RESPONSE TO THE REQUESTOR AND THE REQUESTOR THEREAFTER
9 STIPULATES THAT THE PUBLIC RECORD BE PROVIDED TO HIM OR HER IN A
10 PAPER FORMAT OR OTHER FORM AS DESCRIBED UNDER SUBSECTION (1)(C),
11 THE PUBLIC BODY SHALL PROVIDE THE PUBLIC RECORDS IN THE SPECIFIED
12 FORMAT BUT MAY CHARGE FOR FULL LABOR COSTS AND BENEFITS UNDER
13 SUBSECTION (1)(E).

14 (6) A PUBLIC BODY MAY PROVIDE REQUESTED INFORMATION AVAILABLE
15 IN PUBLIC RECORDS WITHOUT RECEIPT OF A WRITTEN REQUEST. IF A VERBAL
16 REQUEST IS FOR INFORMATION THAT A PUBLIC EMPLOYEE BELIEVES IS
17 AVAILABLE ON THE PUBLIC BODY'S PUBLIC WEBSITE, THE PUBLIC EMPLOYEE
18 SHALL, WHERE PRACTICABLE AND TO THE BEST OF THE PUBLIC EMPLOYEE'S
19 GENERAL ABILITY, INFORM THE REQUESTOR ABOUT THE PUBLIC BODY'S
20 PERTINENT WEBSITE ADDRESSES.

21 (7) IN EITHER THE PUBLIC BODY'S INITIAL RESPONSE OR SUBSEQUENT
22 RESPONSE AS DESCRIBED UNDER SECTION 5(2)(D), THE PUBLIC BODY MAY
23 REQUIRE A GOOD-FAITH DEPOSIT FROM THE PERSON REQUESTING INFORMATION
24 BEFORE PROVIDING THE PUBLIC RECORDS TO THE REQUESTOR IF THE ENTIRE
25 FEE ESTIMATE OR CHARGE AUTHORIZED UNDER THIS SECTION EXCEEDS
26 \$100.00, BASED ON A GOOD-FAITH CALCULATION OF THE TOTAL FEE
27 DESCRIBED IN SUBSECTION (4). SUBJECT TO SUBSECTION (10), THE

1 DEPOSIT SHALL NOT EXCEED 1/2 OF THE TOTAL ESTIMATED FEE, AND A
2 PUBLIC BODY'S REQUEST FOR A DEPOSIT SHALL INCLUDE A DETAILED
3 ITEMIZATION AS REQUIRED UNDER SUBSECTION (4). THE RESPONSE SHALL
4 ALSO CONTAIN A BEST EFFORTS ESTIMATE BY THE PUBLIC BODY REGARDING
5 THE TIME FRAME IT WILL TAKE THE PUBLIC BODY TO COMPLY WITH THE LAW
6 IN PROVIDING THE PUBLIC RECORDS TO THE REQUESTOR. THE TIME FRAME
7 ESTIMATE IS NONBINDING UPON THE PUBLIC BODY, BUT THE PUBLIC BODY
8 SHALL PROVIDE THE ESTIMATE IN GOOD FAITH AND STRIVE TO BE
9 REASONABLY ACCURATE AND TO PROVIDE THE PUBLIC RECORDS IN A MANNER
10 BASED ON THIS STATE'S PUBLIC POLICY UNDER SECTION 1 AND THE NATURE
11 OF THE REQUEST IN THE PARTICULAR INSTANCE. IF A PUBLIC BODY DOES
12 NOT RESPOND IN A TIMELY MANNER AS DESCRIBED UNDER SECTION 5(2), IT
13 IS NOT RELIEVED FROM ITS REQUIREMENTS TO PROVIDE PROPER FEE
14 CALCULATIONS AND TIME FRAME ESTIMATES IN ANY TARDY RESPONSES.
15 PROVIDING AN ESTIMATED TIME FRAME DOES NOT RELIEVE A PUBLIC BODY
16 FROM ANY OF THE OTHER REQUIREMENTS OF THIS ACT.

17 (8) IF A PUBLIC BODY DOES NOT RESPOND TO A WRITTEN REQUEST IN
18 A TIMELY MANNER AS REQUIRED UNDER SECTION 5(2), THE PUBLIC BODY
19 SHALL DO THE FOLLOWING:

20 (A) REDUCE THE CHARGES FOR LABOR COSTS OTHERWISE PERMITTED
21 UNDER SECTION 4 BY 10% FOR EACH DAY THE PUBLIC BODY EXCEEDS THE
22 TIME PERMITTED UNDER SECTION 5(2) FOR A RESPONSE TO THE REQUEST,
23 WITH A MAXIMUM 50% REDUCTION, IF EITHER OF THE FOLLOWING APPLIES:

24 (i) THE LATE RESPONSE WAS WILLFUL AND INTENTIONAL.

25 (ii) THE WRITTEN REQUEST INCLUDED LANGUAGE THAT CONVEYED A
26 REQUEST FOR INFORMATION WITHIN THE FIRST 500 WORDS OF THE BODY OF A
27 LETTER, FACSIMILE, ELECTRONIC MAIL, OR ELECTRONIC MAIL ATTACHMENT,

1 OR SPECIFICALLY INCLUDED THE WORDS, CHARACTERS, OR ABBREVIATIONS
2 FOR "FREEDOM OF INFORMATION", "INFORMATION", "FOIA", "COPY", OR A
3 RECOGNIZABLE MISPELLING OF SUCH, OR APPROPRIATE LEGAL CODE
4 REFERENCE FOR THIS ACT, ON THE FRONT OF AN ENVELOPE, OR IN THE
5 SUBJECT LINE OF AN ELECTRONIC MAIL, LETTER, OR FACSIMILE COVER
6 PAGE.

7 (B) IF A CHARGE REDUCTION IS REQUIRED UNDER SUBDIVISION (A),
8 FULLY NOTE THE CHARGE REDUCTION ON THE DETAILED ITEMIZATION
9 DESCRIBED UNDER SUBSECTION (4).

10 (9) ~~(4)~~—This section does not apply to public records prepared
11 under an act or statute specifically authorizing the sale of those
12 public records to the public, or if the amount of the fee for
13 providing a copy of the public record is otherwise specifically
14 provided by an act or statute.

15 (10) SUBJECT TO SUBSECTION (11), AFTER A PUBLIC BODY HAS
16 GRANTED AND FULFILLED A WRITTEN REQUEST FROM AN INDIVIDUAL UNDER
17 THIS ACT, IF THE PUBLIC BODY HAS NOT BEEN PAID IN FULL THE TOTAL
18 AMOUNT UNDER SUBSECTION (1) (A) TO (F) FOR THE COPIES OF PUBLIC
19 RECORDS THAT THE PUBLIC BODY MADE AVAILABLE TO THE INDIVIDUAL AS A
20 RESULT OF THAT WRITTEN REQUEST, THE PUBLIC BODY MAY REQUIRE A
21 DEPOSIT OF UP TO 100% OF THE ESTIMATED FEE BEFORE IT BEGINS A FULL
22 PUBLIC RECORD SEARCH FOR ANY SUBSEQUENT WRITTEN REQUEST FROM THAT
23 INDIVIDUAL IF ALL OF THE FOLLOWING APPLY:

24 (A) THE INDIVIDUAL HAD AGREED IN WRITING TO PAY THE FEE AFTER
25 HE OR SHE WAS PRESENTED WITH A DETAILED ITEMIZATION OF THE TOTAL
26 ESTIMATED FEE IN THE PUBLIC BODY'S PRIOR RESPONSE AS REQUIRED UNDER
27 SUBSECTION (4).

1 (B) THE FINAL FEE FOR THE PRIOR WRITTEN REQUEST WAS NOT MORE
2 THAN 105% OF THE ESTIMATED FEE.

3 (C) THE PUBLIC RECORDS MADE AVAILABLE CONTAINED THE
4 INFORMATION BEING SOUGHT IN THE PRIOR WRITTEN REQUEST AND ARE STILL
5 IN THE PUBLIC BODY'S POSSESSION.

6 (D) THE PUBLIC RECORDS WERE MADE AVAILABLE TO THE INDIVIDUAL,
7 SUBJECT TO PAYMENT, WITHIN THE TIME FRAME ESTIMATE DESCRIBED UNDER
8 SUBSECTION (7).

9 (E) NINETY DAYS HAVE PASSED SINCE THE PUBLIC BODY NOTIFIED THE
10 INDIVIDUAL IN WRITING THAT THE PUBLIC RECORDS WERE AVAILABLE FOR
11 PICKUP OR MAILING.

12 (F) THE INDIVIDUAL IS UNABLE TO SHOW PROOF OF PRIOR PAYMENT TO
13 THE PUBLIC BODY.

14 (G) THE PUBLIC BODY CALCULATES A DETAILED ITEMIZATION, AS
15 REQUIRED UNDER SUBSECTION (4), THAT IS THE BASIS FOR THE CURRENT
16 WRITTEN REQUEST'S INCREASED ESTIMATED FEE DEPOSIT.

17 (11) A PUBLIC BODY SHALL NO LONGER REQUIRE AN INCREASED
18 ESTIMATED FEE DEPOSIT FROM AN INDIVIDUAL AS DESCRIBED UNDER
19 SUBSECTION (10) IF ANY OF THE FOLLOWING APPLY:

20 (A) THE INDIVIDUAL IS ABLE TO SHOW PROOF OF PRIOR PAYMENT IN
21 FULL TO THE PUBLIC BODY.

22 (B) THE PUBLIC BODY IS SUBSEQUENTLY PAID IN FULL FOR THE
23 APPLICABLE PRIOR WRITTEN REQUEST.

24 (C) THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED SINCE THE
25 INDIVIDUAL MADE THE WRITTEN REQUEST FOR WHICH FULL PAYMENT WAS NOT
26 REMITTED TO THE PUBLIC BODY.

27 (12) A DEPOSIT REQUIRED BY A PUBLIC BODY UNDER THIS ACT IS A

1 FEE.

2 Sec. 5. (1) Except as provided in section 3, a person desiring
3 to inspect or receive a copy of a public record shall make a
4 written request for the public record to the FOIA coordinator of a
5 public body. A written request made by facsimile, electronic mail,
6 or other electronic transmission is not received by a public body's
7 FOIA coordinator until 1 business day after the electronic
8 transmission is made. HOWEVER, IF A WRITTEN REQUEST IS SENT BY
9 ELECTRONIC MAIL AND DELIVERED TO THE PUBLIC BODY'S SPAM OR JUNK-
10 MAIL FOLDER, THE REQUEST IS NOT RECEIVED UNTIL 1 DAY AFTER THE
11 PUBLIC BODY FIRST BECOMES AWARE OF THE WRITTEN REQUEST. THE PUBLIC
12 BODY SHALL NOTE IN ITS RECORDS BOTH THE TIME A WRITTEN REQUEST IS
13 DELIVERED TO ITS SPAM OR JUNK-MAIL FOLDER AND THE TIME THE PUBLIC
14 BODY FIRST BECOMES AWARE OF THAT REQUEST.

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

19 (a) Granting the request.

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

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

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

1 (3) Failure to respond to a request pursuant to subsection (2)
2 constitutes a public body's final determination to deny the request
3 ~~IF EITHER OF THE FOLLOWING APPLIES:~~

4 (A) THE FAILURE WAS WILLFUL AND INTENTIONAL.

5 (B) THE WRITTEN REQUEST INCLUDED LANGUAGE THAT CONVEYED A
6 REQUEST FOR INFORMATION WITHIN THE FIRST 500 WORDS OF THE BODY OF A
7 LETTER, FACSIMILE, ELECTRONIC MAIL, OR ELECTRONIC MAIL ATTACHMENT,
8 OR SPECIFICALLY INCLUDED THE WORDS, CHARACTERS, OR ABBREVIATIONS
9 FOR "FREEDOM OF INFORMATION", "INFORMATION", "FOIA", "COPY", OR A
10 RECOGNIZABLE MISSPELLING OF SUCH, OR APPROPRIATE LEGAL CODE
11 REFERENCE TO THIS ACT, ON THE FRONT OF AN ENVELOPE OR IN THE
12 SUBJECT LINE OF AN ELECTRONIC MAIL, LETTER, OR FACSIMILE COVER
13 PAGE.

14 (4) In a ~~circuit court~~ CIVIL action to compel a public body's
15 disclosure of a public record under section 10, the ~~circuit court~~
16 shall assess damages against the public body pursuant to section
17 ~~10(8)~~ 10(7) if the ~~circuit court~~ has done both of the following:

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

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

22 (5) ~~(4)~~ A written notice denying a request for a public record
23 in whole or in part is a public body's final determination to deny
24 the request or portion of that request. The written notice shall
25 contain:

26 (a) An explanation of the basis under this act or other
27 statute for the determination that the public record, or portion of

1 that public record, is exempt from disclosure, if that is the
2 reason for denying all or a portion of the request.

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

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

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

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

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

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

21 (6) ~~(5)~~—The individual designated in section 6 as responsible
22 for the denial of the request shall sign the written notice of
23 denial.

24 (7) ~~(6)~~—If a public body issues a notice extending the period
25 for a response to the request, the notice shall specify the reasons
26 for the extension and the date by which the public body will do 1
27 of the following:

1 (a) Grant the request.

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

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

6 (8) ~~(7)~~ If a public body makes a final determination to deny
7 in whole or in part a request to inspect or receive a copy of a
8 public record or portion of that public record, the requesting
9 person may do either of the following:

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

12 (b) Commence ~~an action in circuit court,~~ **A CIVIL ACTION,**
13 pursuant to section 10.

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

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

20 (b) Commence ~~an~~ **A CIVIL** action in the circuit court, **OR IF THE**
21 **DECISION OF A STATE PUBLIC BODY IS AT ISSUE, THE COURT OF CLAIMS,**
22 to compel the public body's disclosure of the public records within
23 180 days after a public body's final determination to deny a
24 request.

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

1 (a) Reverse the disclosure denial.

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

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

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

12 (3) A board or commission that is the head of a public body is
13 not considered to have received a written appeal under subsection
14 (2) until the first regularly scheduled meeting of that board or
15 commission following submission of the written appeal under
16 subsection (1)(a). If the head of the public body fails to respond
17 to a written appeal pursuant to subsection (2), or if the head of
18 the public body upholds all or a portion of the disclosure denial
19 that is the subject of the written appeal, the requesting person
20 may seek judicial review of the nondisclosure by commencing ~~an~~
21 ~~action in circuit court~~ **A CIVIL ACTION** under subsection (1)(b).

22 (4) In an action commenced under subsection (1)(b), a court
23 that determines a public record is not exempt from disclosure shall
24 order the public body to cease withholding or to produce all or a
25 portion of a public record wrongfully withheld, regardless of the
26 location of the public record. ~~The~~ **IN AN ACTION AGAINST A LOCAL**
27 **PUBLIC BODY, THE** circuit court for the county in which the

1 complainant resides or has his or her principal place of business,
2 or the circuit court for the county in which the public record or
3 an office of the public body is located has venue over the action.
4 UNLESS IT CAN SHOW GOOD CAUSE, THE PUBLIC BODY SHALL NOT ASSERT AN
5 EXEMPTION UNDER SECTION 13 THAT IT DID NOT ASSERT IN EITHER A
6 WRITTEN DENIAL OF THE REQUEST UNDER SECTION 5 OR AN APPEAL UNDER
7 SUBSECTION (1) (A). IF THE COURT FINDS THAT THE LEGAL BASIS FOR A
8 NEWLY ASSERTED EXEMPTION IS CLEARLY ERRONEOUS, THE COURT SHALL
9 REQUIRE THE PUBLIC BODY TO REDUCE ANY FEE OTHERWISE PERMITTED UNDER
10 SECTION 4 FOR PROVIDING THE PUBLIC RECORD BY 50%. The court shall
11 determine the matter de novo and the burden is on the public body
12 to sustain its denial. The court, on its own motion, may view the
13 public record in controversy in private before reaching a decision.
14 Failure to comply with an order of the court may be punished as
15 contempt of court.

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

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

1 (7) If the ~~circuit~~ court determines in an action commenced
 2 under this section that the public body has arbitrarily and
 3 capriciously violated this act by refusal or delay in disclosing or
 4 providing copies of a public record, the court shall award, in
 5 addition to any actual or compensatory damages, punitive damages in
 6 the amount of ~~\$500.00~~ \$2,000.00 to the person seeking the right to
 7 inspect or receive a copy of a public record. The damages shall not
 8 be assessed against an individual, but shall be assessed against
 9 the next succeeding public body that is not an individual and that
 10 kept or maintained the public record as part of its public
 11 function.

12 SEC. 10A. (1) IF THE REQUESTING PERSON HAS A GOOD-FAITH BELIEF
 13 THAT THE FEE THE PUBLIC BODY REQUIRES FOR THE PUBLIC RECORDS IS AN
 14 UNREASONABLE FEE, THE REQUESTING PERSON MAY DO ANY OF THE
 15 FOLLOWING:

16 (A) IF THE PUBLIC BODY PROVIDES FOR FEE APPEALS TO THE HEAD OF
 17 THE PUBLIC BODY IN ITS PUBLICLY AVAILABLE PROCEDURES AND
 18 GUIDELINES, SUBMIT TO THE HEAD OF THE PUBLIC BODY A WRITTEN APPEAL
 19 THAT SPECIFICALLY STATES THE WORD "APPEAL" AND IDENTIFIES THE
 20 REASON OR REASONS THAT THE REQUIRED FEE IS AN UNREASONABLE FEE.

21 (B) COMMENCE A CIVIL ACTION IN THE CIRCUIT COURT, OR IF THE
 22 DECISION OF A STATE PUBLIC BODY IS AT ISSUE, THE COURT OF CLAIMS,
 23 FOR A FEE REDUCTION NOT LATER THAN 180 DAYS AFTER RECEIVING THE
 24 NOTICE OF THE REQUIRED FEE OR A DETERMINATION OF AN APPEAL TO THE
 25 HEAD OF THE PUBLIC BODY, BUT ONLY IF 1 OF THE FOLLOWING APPLIES:

26 (i) THE PUBLIC BODY DOES NOT PROVIDE FOR APPEALS UNDER
 27 SUBDIVISION (A).

1 (ii) THE HEAD OF THE PUBLIC BODY FAILED TO RESPOND TO A WRITTEN
2 APPEAL AS REQUIRED UNDER SUBSECTION (2).

3 (iii) AFTER PURSUING AN APPEAL UNDER SUBDIVISION (A), THE
4 REQUESTING PERSON HAS A GOOD-FAITH BELIEF THAT THE REQUIRED FEE
5 REMAINS AN UNREASONABLE FEE.

6 (2) WITHIN 10 DAYS AFTER RECEIVING A WRITTEN APPEAL UNDER
7 SUBSECTION (1) (A), THE HEAD OF A PUBLIC BODY SHALL DO 1 OF THE
8 FOLLOWING:

9 (A) WAIVE THE FEE.

10 (B) REDUCE THE FEE AND ISSUE A WRITTEN DETERMINATION TO THE
11 REQUESTING PERSON INDICATING THE SPECIFIC BASIS UNDER SECTION 4
12 THAT SUPPORTS THE REDUCED FEE. THE DETERMINATION SHALL INCLUDE A
13 CERTIFICATION FROM THE HEAD OF THE PUBLIC BODY THAT THE STATEMENTS
14 CONTAINED THEREIN ARE ACCURATE AND THAT THE REDUCED FEE AMOUNT IS
15 NOT AN UNREASONABLE FEE.

16 (C) UPHOLD THE FEE AND ISSUE A WRITTEN DETERMINATION TO THE
17 REQUESTING PERSON INDICATING THE SPECIFIC BASIS UNDER SECTION 4
18 THAT SUPPORTS THE REQUIRED FEE. THE DETERMINATION SHALL INCLUDE A
19 CERTIFICATION FROM THE HEAD OF THE PUBLIC BODY THAT THE STATEMENTS
20 CONTAINED THEREIN ARE ACCURATE AND THAT THE PERMITTED FEE IS NOT AN
21 UNREASONABLE FEE.

22 (D) UNDER UNUSUAL CIRCUMSTANCES, ISSUE A NOTICE EXTENDING FOR
23 NOT MORE THAN 10 BUSINESS DAYS THE PERIOD DURING WHICH THE HEAD OF
24 THE PUBLIC BODY SHALL RESPOND TO THE WRITTEN APPEAL. THE HEAD OF A
25 PUBLIC BODY SHALL NOT ISSUE MORE THAN 1 NOTICE OF EXTENSION FOR A
26 PARTICULAR WRITTEN APPEAL.

27 (3) A BOARD OR COMMISSION THAT IS THE HEAD OF A PUBLIC BODY IS

1 NOT CONSIDERED TO HAVE RECEIVED A WRITTEN APPEAL FOR PURPOSES OF
2 THE TIME LIMIT IN SUBSECTION (2) UNTIL THE FIRST REGULARLY
3 SCHEDULED MEETING OF THAT BOARD OR COMMISSION FOLLOWING SUBMISSION
4 OF THE WRITTEN APPEAL UNDER SUBSECTION (1) (A) .

5 (4) IN AN ACTION AGAINST A LOCAL PUBLIC BODY COMMENCED UNDER
6 SUBSECTION (1) (B) , IF A COURT DETERMINES THAT THE PUBLIC BODY
7 REQUIRED AN UNREASONABLE FEE, IT SHALL REDUCE THE FEE TO AN AMOUNT
8 SUPPORTED UNDER SECTION 4. THE CIRCUIT COURT FOR THE COUNTY IN
9 WHICH THE COMPLAINANT RESIDES OR HAS HIS OR HER PRINCIPAL PLACE OF
10 BUSINESS, OR THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PUBLIC
11 RECORD OR AN OFFICE OF THE PUBLIC BODY IS LOCATED, HAS VENUE OVER
12 THE ACTION. THE COURT SHALL DETERMINE THE MATTER DE NOVO, AND THE
13 BURDEN IS ON THE PUBLIC BODY TO ESTABLISH THAT THE REQUIRED FEE IS
14 NOT AN UNREASONABLE FEE. FAILURE TO COMPLY WITH AN ORDER OF THE
15 COURT MAY BE PUNISHED AS CONTEMPT OF COURT.

16 (5) AN ACTION COMMENCED UNDER THIS SECTION AND AN APPEAL FROM
17 AN ACTION COMMENCED UNDER THIS SECTION SHALL BE ASSIGNED FOR
18 HEARING AND TRIAL OR FOR ARGUMENT AT THE EARLIEST PRACTICABLE DATE
19 AND EXPEDITED IN EVERY WAY.

20 (6) IF A PERSON ASSERTING THE RIGHT TO A REDUCTION IN FEES
21 PREVAILS IN AN ACTION COMMENCED UNDER SUBSECTION (1) (B) (i) , THE
22 COURT MAY, IN ITS DISCRETION, AWARD ALL OR AN APPROPRIATE PORTION
23 OF REASONABLE ATTORNEY FEES, COSTS, AND DISBURSEMENTS. IF THE
24 PERSON ASSERTING THE RIGHT TO A REDUCTION IN FEES PREVAILS IN AN
25 ACTION COMMENCED UNDER SUBSECTION (1) (B) (ii) , THE COURT SHALL AWARD
26 REASONABLE ATTORNEY FEES, COSTS, AND DISBURSEMENTS. IF THE PERSON
27 ASSERTING THE RIGHT TO A REDUCTION IN FEES PREVAILS IN AN ACTION

1 COMMENCED UNDER SUBSECTION (1) (B) (iii) AND THE COURT FINDS THAT THE
2 HEAD OF THE PUBLIC BODY'S BASIS FOR IMPOSING THE FEE CONTAINED IN
3 THE WRITTEN NOTICE WAS UNSUPPORTED OR WAS CLEARLY ERRONEOUS, THE
4 COURT SHALL AWARD REASONABLE ATTORNEY FEES, COSTS, AND
5 DISBURSEMENTS. AN AWARD UNDER THIS SUBSECTION SHALL BE ASSESSED
6 AGAINST THE PUBLIC BODY LIABLE FOR DAMAGES UNDER SUBSECTION (7).

7 (7) IF THE COURT DETERMINES IN AN ACTION COMMENCED UNDER THIS
8 SECTION THAT THE PUBLIC BODY HAS ARBITRARILY AND CAPRICIOUSLY
9 VIOLATED THIS ACT BY CHARGING AN UNREASONABLE FEE, THE COURT SHALL
10 AWARD, IN ADDITION TO ANY ACTUAL OR COMPENSATORY DAMAGES, PUNITIVE
11 DAMAGES IN THE AMOUNT OF \$1,000.00 TO THE PERSON SEEKING THE RIGHT
12 TO INSPECT OR RECEIVE A COPY OF A PUBLIC RECORD. THE DAMAGES SHALL
13 NOT BE ASSESSED AGAINST AN INDIVIDUAL, BUT SHALL BE ASSESSED
14 AGAINST THE NEXT SUCCEEDING PUBLIC BODY THAT IS NOT AN INDIVIDUAL
15 AND THAT KEPT OR MAINTAINED THE PUBLIC RECORD AS PART OF ITS PUBLIC
16 FUNCTION.

17 (8) AS USED IN THIS SECTION, "UNREASONABLE FEE" MEANS A FEE OR
18 ANY COMPONENT OF A FEE THAT UNREASONABLY EXCEEDS THE AMOUNT
19 PROPERLY CALCULATED UNDER SECTION 4.

20 SEC. 10B. IF THE COURT DETERMINES, IN AN ACTION COMMENCED
21 UNDER THIS ACT, THAT A PUBLIC BODY WILLFULLY AND INTENTIONALLY
22 FAILED TO COMPLY WITH THIS ACT OR OTHERWISE ACTED IN BAD FAITH, THE
23 COURT SHALL IMPOSE UPON THE PUBLIC BODY, IN ADDITION TO ANY OTHER
24 AWARD OR SANCTION, A CIVIL FINE OF NOT LESS THAN \$2,500.00 OR MORE
25 THAN \$7,500.00 FOR EACH OCCURRENCE. IN DETERMINING THE AMOUNT OF
26 THE CIVIL FINE, THE COURT SHALL CONSIDER THE BUDGET OF THE PUBLIC
27 BODY AND WHETHER THE PUBLIC BODY HAS PREVIOUSLY BEEN ASSESSED

1 PENALTIES FOR VIOLATIONS OF THIS ACT. THE CIVIL FINE SHALL BE
2 DEPOSITED IN THE GENERAL FUND OF THE STATE TREASURY.

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

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

7 (b) Promulgated rules.

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

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

14 (3) Except to the extent that a person has actual and timely
15 notice of the terms thereof, a person ~~shall not in any manner be~~ IS
16 NOT required to resort to, ~~or~~ AND SHALL NOT be adversely affected
17 by, a matter required to be published and made available, if the
18 matter is not so published and made available.

19 (4) This section does not apply to public records ~~which~~ THAT
20 are exempt from disclosure under section 13.

21 (5) A person may commence an action in the ~~circuit~~ court OF
22 CLAIMS to compel a state agency to comply with this section. If the
23 court determines that the state agency has failed to comply, the
24 court shall order the state agency to comply and shall award
25 reasonable attorneys' fees, costs, and disbursements to the person
26 commencing the action. The ~~circuit court for the county in which~~
27 ~~the state agency is located~~ shall have COURT OF CLAIMS HAS

1 EXCLUSIVE jurisdiction to issue the order.

2 (6) As used in this section, "state agency", "contested case",
3 and "rules" shall have the same meanings as ascribed to those terms
4 in Act No. 306 of the Public Acts of 1969, as amended, being
5 sections 24.201 to 24.315 of the Michigan Compiled Laws. THE
6 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
7 24.328.