

# HOUSE BILL NO. 4262

March 14, 2023, Introduced by Reps. Kuse, Kuhn, Thompson, Greene, Rigas, Bierlein, Bollin, Meerman, Tisdell, Schuette, Bezotte, Borton, St. Germaine, Steele and Beson and referred to the Committee on Ethics and Oversight.

A bill to amend 1976 PA 442, entitled  
"Freedom of information act,"  
(MCL 15.231 to 15.246) by adding part 2.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### PART 2

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Sec. 21. (1) This part may be cited as the "legislative open records act".

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding

1 the affairs of government and the official acts of those who  
2 represent them as public officials and public employees, consistent  
3 with this part. The people shall be informed so that they may fully  
4 participate in the democratic process.

5 Sec. 22. As used in this part:

6 (a) "Council administrator" means the administrator of the  
7 legislative council appointed under section 104a of the legislative  
8 council act, 1986 PA 268, MCL 4.1104a.

9 (b) "Legislator" means a member of the senate or the house of  
10 representatives of this state.

11 (c) "LORA" means the legislative open records act.

12 (d) "LORA coordinator" means either of the following:

13 (i) An individual who is a public body.

14 (ii) An individual designated by a public body to accept and  
15 process requests for public records under this part.

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

22 (f) "Public body" means a state officer, legislator, employee,  
23 agency, department, division, bureau, board, commission, committee,  
24 council, authority, or other body in the legislative branch of the  
25 state government. Public body does not include the office of the  
26 auditor general.

27 (g) "Public record" means a writing prepared, owned, used, in  
28 the possession of, or retained by a public body in the performance  
29 of an official function that has been in the possession of the

1 public body for 15 days or more. Public record does not include  
2 computer software. This part separates public records into the  
3 following 2 classes:

4 (i) Those that are exempt from disclosure under section 29d.

5 (ii) Those that are not exempt from disclosure under section  
6 29d and are subject to disclosure under this part.

7 (h) "Session day" means a day in which either the house of  
8 representatives or the senate convenes in session and a quorum of  
9 the body is recorded.

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

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

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

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

27 (k) "Writing" means handwriting, typewriting, printing,  
28 photostating, photographing, photocopying, and every other means of  
29 recording, and includes letters, words, pictures, sounds, or

1 symbols, or combinations thereof, and papers, maps, magnetic or  
2 paper tapes, photographic films or prints, microfilm, microfiche,  
3 magnetic or punched cards, discs, drums, hard drives, solid state  
4 storage components, or other means of recording or retaining  
5 meaningful content.

6 (l) "Written request" means a writing that asks for information  
7 and includes a writing transmitted by facsimile, email, or other  
8 electronic means.

9 Sec. 23. (1) Except as expressly provided in section 29d, upon  
10 providing a public body's LORA coordinator with a written request  
11 that describes a public record sufficiently to enable the public  
12 body to find the public record, a person has a right to inspect,  
13 copy, or receive copies of the requested public record of the  
14 public body. A request from a person, other than an individual who  
15 qualifies as indigent under section 24(2)(a), must include the  
16 requesting person's complete name, address, and contact  
17 information, and, if the request is made by a person other than an  
18 individual, the complete name, address, and contact information of  
19 the person's agent who is an individual. An address must be written  
20 in compliance with United States Postal Service addressing  
21 standards. Contact information must include a valid telephone  
22 number or email address. An employee of a public body who receives  
23 a request for a public record shall forward that request to the  
24 LORA coordinator within 3 business days.

25 (2) A LORA coordinator shall keep a copy of all written  
26 requests for public records on file for not less than 1 year.

27 (3) A public body shall furnish a requesting person a  
28 reasonable opportunity for inspection and examination of its public  
29 records and shall furnish reasonable facilities for making

1 memoranda or abstracts from its public records during the usual  
2 business hours. A public body may make reasonable rules necessary  
3 to protect its public records and to prevent excessive and  
4 unreasonable interference with the discharge of its functions. A  
5 public body shall protect public records from loss, unauthorized  
6 alteration, mutilation, or destruction.

7 (4) This part does not require a public body to make a  
8 compilation, summary, or report of information.

9 (5) This part does not require a public body to create a new  
10 public record, except to the extent required by this part for the  
11 furnishing of copies, or edited copies of an existing public record  
12 under this part.

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

16 (7) Except for a record exempt from disclosure under section  
17 29d, a public body shall not destroy or alter a public record, or a  
18 record that will become a public record once it has been in its  
19 possession for 15 days, before the record has been in its  
20 possession for 730 days.

21 Sec. 24. (1) A public body may charge a fee for a public  
22 record search, for the necessary copying of a public record for  
23 inspection, or for providing a copy of a public record if it has  
24 established, makes publicly available, and follows procedures and  
25 guidelines to implement this section as described in subsection  
26 (4). Subject to subsections (2), (3), (4), (5), and (9), the fee  
27 must be limited to actual mailing costs and to the actual  
28 incremental cost of duplication or publication, including labor,  
29 the cost of search, examination, review, and the deletion and

1 separation of exempt from nonexempt information as provided in  
2 section 29e. Except as otherwise provided in this part, if the  
3 public body estimates or charges a fee in accordance with this  
4 part, the total fee must not exceed the sum of the following:

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

15 (b) That portion of labor costs, including necessary review,  
16 if any, directly associated with the separating and deleting of  
17 exempt information from nonexempt information as provided in  
18 section 29e. For services performed by an employee of the public  
19 body, the public body shall not charge more than the hourly wage of  
20 its lowest-paid employee capable of separating and deleting exempt  
21 information from nonexempt information in the particular instance  
22 as provided in section 29e, regardless of whether that person is  
23 available or who actually performs the labor. Labor costs under  
24 this subdivision shall be estimated and charged in increments of 15  
25 minutes or more, with all partial time increments rounded down. A  
26 public body shall not charge for labor directly associated with  
27 redaction under section 29e if it knows or has reason to know that  
28 it previously redacted the public record in question and the  
29 redacted version is 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 requestor may stipulate that the public records be  
5 provided on nonpaper physical media, emailed, or otherwise  
6 electronically provided to the requestor in lieu of paper copies.  
7 This subdivision does not apply if a public body lacks the  
8 technological capability necessary to provide records on the  
9 particular nonpaper physical media stipulated in the particular  
10 instance.

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

22           (e) The cost of labor directly associated with duplication or  
23 publication, including making paper copies, making digital copies,  
24 or transferring digital public records to be given to the requestor  
25 on nonpaper physical media or through the internet or other  
26 electronic means as stipulated by the requestor. The public body  
27 shall not charge more than the hourly wage of its lowest-paid  
28 employee capable of necessary duplication or publication in the  
29 particular instance, regardless of whether that person is available

1 or who actually performs the labor. Labor costs under this  
2 subdivision may be estimated and charged in time increments of the  
3 public body's choosing. However, all partial time increments shall  
4 be rounded down.

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

11 (2) When calculating labor costs under subsection (1) (a), (b),  
12 or (e), fee components shall be itemized in a manner that expresses  
13 both the hourly wage and the number of hours charged. The public  
14 body may also add up to 50% to the applicable labor charge amount  
15 to cover or partially cover the cost of fringe benefits if it  
16 clearly notes the percentage multiplier used to account for  
17 benefits in the detailed itemization described in subsection (4).  
18 Subject to the 50% limitation, the public body shall not charge  
19 more than the actual cost of fringe benefits, and overtime wages  
20 shall not be used in calculating the cost of fringe benefits.  
21 Overtime wages shall not be included in the calculation of labor  
22 costs unless overtime is specifically stipulated by the requestor  
23 and clearly noted on the detailed itemization described in  
24 subsection (4). A search for a public record may be conducted or  
25 copies of public records may be furnished without charge or at a  
26 reduced charge if the public body determines that a waiver or  
27 reduction of the fee is in the public interest because searching  
28 for or furnishing copies of the public record can be considered as  
29 primarily benefiting the general public. A public record search



1 shall be made and a copy of a public record shall be furnished  
2 without charge for the first \$20.00 of the fee for each request by  
3 either of the following:

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

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

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

24 (b) A nonprofit organization formally designated by the state  
25 to carry out activities under subtitle C of the developmental  
26 disabilities assistance and bill of rights act of 2000, Public Law  
27 106-402, and the protection and advocacy for mentally ill  
28 individuals act, Public Law 99-319, or their successors, if the  
29 request meets all of the following requirements:

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

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

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

8           (3) A fee as described in subsection (1) shall not be charged  
9 for the cost of search, examination, review, and the deletion and  
10 separation of exempt from nonexempt information as provided in  
11 section 29e unless failure to charge a fee would result in  
12 unreasonably high costs to the public body because of the nature of  
13 the request in the particular instance and the public body  
14 specifically identifies the nature of these unreasonably high  
15 costs.

16           (4) A public body shall establish procedures and guidelines to  
17 implement this part and shall create a written public summary of  
18 the specific procedures and guidelines relevant to the general  
19 public regarding how to submit written requests to the public body  
20 and explaining how to understand a public body's written responses,  
21 deposit requirements, fee calculations, and avenues for challenge  
22 and appeal. The written public summary shall be written in a manner  
23 so as to be easily understood by the general public. A public body  
24 shall post and maintain the procedures and guidelines and its  
25 written public summary on its website. A public body shall make the  
26 procedures and guidelines publicly available by providing free  
27 copies of the procedures and guidelines and its written public  
28 summary both in the public body's response to a written request and  
29 upon request by visitors at the public body's office. A public body

1 may include the website link to the documents in lieu of providing  
2 paper copies in its response to a written request. A public body's  
3 procedures and guidelines must include the use of a standard form  
4 for detailed itemization of any fee amount in its responses to  
5 written requests under this part. The detailed itemization must  
6 clearly list and explain the allowable charges for each of the 6  
7 fee components listed under subsection (1) that compose the total  
8 fee used for estimating or charging purposes. A public body that  
9 has not established procedures and guidelines, has not created a  
10 written public summary, or has not made those items publicly  
11 available without charge as required in this subsection is not  
12 relieved of its duty to comply with any requirement of this part  
13 and shall not require deposits or charge fees otherwise permitted  
14 under this part until it is in compliance with this subsection.  
15 Notwithstanding this subsection and despite any law to the  
16 contrary, a public body's procedures and guidelines under this part  
17 are not exempt public records under section 29d.

18 (5) Any public records available to the general public on a  
19 public body's internet site at the time the request is made are  
20 exempt from charge under subsection (1) (b). If the LORA coordinator  
21 knows or has reason to know that all or a portion of the requested  
22 information is available on its website, the public body shall  
23 notify the requestor in its written response that all or a portion  
24 of the requested information is available on its website. The  
25 written response, to the degree practicable in the specific  
26 instance, must include a specific webpage address where the  
27 requested information is available. On the detailed itemization  
28 described in subsection (4), the public body shall separate the  
29 requested public records that are available on its website from

1 those that are not available on the website and shall inform the  
2 requestor of the additional charge to receive copies of the public  
3 records that are available on its website. If the public body has  
4 included the website address for a record in its written response  
5 to the requestor and the requestor thereafter stipulates that the  
6 public record be provided to the requestor in a paper format or  
7 other form as described under subsection (1)(c), the public body  
8 shall provide the public records in the specified format but may  
9 use a fringe benefit multiplier greater than the 50% limitation in  
10 subsection (2), not to exceed the actual costs of providing the  
11 information in the specified format.

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

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

19 (8) In either the public body's initial response or subsequent  
20 response as described under section 25(2)(d), the public body may  
21 require a good-faith deposit from the person requesting information  
22 before providing the public records to the requestor if the entire  
23 fee estimate or charge authorized under this section exceeds  
24 \$50.00, based on a good-faith calculation of the total fee  
25 described in subsection (4). Subject to subsection (10), the  
26 deposit must not exceed 1/2 of the total estimated fee, and a  
27 public body's request for a deposit must include a detailed  
28 itemization as required under subsection (4). The response must  
29 also contain a best efforts estimate by the public body regarding

1 the time frame it will take the public body to comply with the law  
2 in providing the public records to the requestor. The time frame  
3 estimate is nonbinding upon the public body, but the public body  
4 shall provide the estimate in good faith and strive to be  
5 reasonably accurate and to provide the public records in a manner  
6 based on this state's public policy under section 21 and the nature  
7 of the request in the particular instance. If a public body does  
8 not respond in a timely manner as described under section 25(2), it  
9 is not relieved from its requirements to provide proper fee  
10 calculations and time frame estimates in any tardy responses.  
11 Providing an estimated time frame does not relieve a public body  
12 from any of the other requirements of this part.

13 (9) If a public body does not respond to a written request in  
14 a timely manner as required under section 25(2), the public body  
15 shall do the following:

16 (a) Reduce the charges for labor costs otherwise permitted  
17 under this section by 5% for each day the public body exceeds the  
18 time permitted under section 25(2) for a response to the request,  
19 with a maximum 50% reduction, if either of the following applies:

20 (i) The late response was willful and intentional.

21 (ii) The written request included language that conveyed a  
22 request for information within the first 250 words of the body of a  
23 letter, facsimile, email, or email attachment, or specifically  
24 included the words, characters, or abbreviations for "freedom of  
25 information", "open records", "information", "LORA", "copy", or a  
26 recognizable misspelling of such, or appropriate legal code  
27 reference for this part, on the front of an envelope or in the  
28 subject line of an email, a letter, or a facsimile cover page.

29 (b) If a charge reduction is required under subdivision (a),

1 fully note the charge reduction on the detailed itemization  
2 described under subsection (4).

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

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

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

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

22 (c) The public records were made available to the individual,  
23 subject to payment, within the time frame estimate described under  
24 subsection (8).

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

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

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

4 (12) A public body shall not continue to require an increased  
5 estimated fee deposit from an individual as described under  
6 subsection (11) if any of the following apply:

7 (a) The individual shows to the public body proof of prior  
8 payment in full for the applicable prior request.

9 (b) The public body receives payment in full for the  
10 applicable prior written request.

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

14 (13) A deposit required by a public body under this part is a  
15 fee.

16 (14) If a deposit that is required under subsection (8) or  
17 (11) is not received by the public body within 45 days from receipt  
18 by the requesting person of the notice that a deposit is required,  
19 and if the requesting person has not filed an appeal of the deposit  
20 amount pursuant to section 29b, the request shall be considered  
21 abandoned by the requesting person and the public body is no longer  
22 required to fulfill the request. Notice of a deposit requirement  
23 under subsection (8) or (11) is considered received 3 days after it  
24 is sent, regardless of the means of transmission. Notice of a  
25 deposit requirement under subsection (8) or (11) must include  
26 notice of the date by which the deposit must be received, which  
27 date is 48 days after the date the notice is sent.

28 Sec. 25. (1) Except as provided in section 23, to inspect or  
29 receive a copy of a public record under this part, a person shall

1 submit a written request for the public record to the LORA  
2 coordinator of the public body. A written request made by  
3 facsimile, email, or other electronic transmission under this part  
4 is not considered to be received by a public body's LORA  
5 coordinator until 1 business day after the electronic transmission  
6 is made. However, if a written request is sent by email and  
7 delivered to the public body's spam or junk mail folder, the  
8 request is not received until 1 day after the public body first  
9 becomes aware of the written request. The public body shall note in  
10 its records both the time a written request is delivered to its  
11 spam or junk mail folder and the time the public body first becomes  
12 aware of that request.

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

17 (a) Granting the request.

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

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

22 (d) Issuing a notice extending for not more than 10 business  
23 days the time by which the public body must respond to the request.  
24 A public body shall not issue more than 1 notice of extension for  
25 each request.

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

29 (a) The failure was willful and intentional.



1 (b) The written request included language that conveyed a  
2 request for information within the first 250 words of the body of a  
3 letter, facsimile, email, or email attachment, or specifically  
4 included the words, characters, or abbreviations for "freedom of  
5 information", "open records", "information", "LORA", "copy", or a  
6 recognizable misspelling of such, or appropriate legal code  
7 reference to this part, on the front of an envelope or in the  
8 subject line of an email, letter, or facsimile cover page.

9 (4) A written notice denying a request for a public record in  
10 whole or in part is a public body's final determination to deny the  
11 request or portion of that request. The written notice must contain  
12 all of the following:

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

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

21 (c) A description of a public record or information on a  
22 public record that is separated or deleted pursuant to section 29e,  
23 if a separation or deletion is made.

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

26 (i) Submit a written request for reconsideration to the public  
27 body's LORA coordinator that specifically states the word  
28 "reconsideration", "appeal", "redetermination", or "reverse" and  
29 identifies the reason or reasons for reversal of the disclosure

1 denial.

2 (ii) Seek final review of the denial under section 29a.

3 (5) The individual designated under sections 26 to 28 as a  
4 LORA coordinator or under section 29 as a LORA coordinator designee  
5 shall sign the written notice of denial.

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

10 (a) Grant the request.

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

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

15 (7) If a public body makes a final determination to deny in  
16 whole or in part a request to inspect or receive a copy of a public  
17 record or portion of a public record, the requesting person may  
18 seek reconsideration or appeal of the denial as provided in section  
19 29a.

20 Sec. 26. Subject to sections 27 and 28, the council  
21 administrator shall designate an individual as the LORA coordinator  
22 for all public bodies.

23 Sec. 27. The house of representatives may designate an  
24 individual as the LORA coordinator for the house of  
25 representatives.

26 Sec. 28. The senate may designate an individual as the LORA  
27 coordinator for the senate.

28 Sec. 29. A LORA coordinator may designate another individual  
29 to act on the LORA coordinator's behalf in accepting and processing

1 requests for the public body's public records and in approving a  
2 denial under section 25.

3       Sec. 29a. (1) If a public body makes a final determination to  
4 deny all or a portion of a request, the requesting person may do  
5 any of the following:

6           (a) Submit to the public body's LORA coordinator a written  
7 request for reconsideration that specifically states the word  
8 "reconsideration", "appeal", "redetermination", or "reverse", and  
9 identifies the reason or reasons for reversal of the denial.

10          (b) Submit to the council administrator a written request to  
11 compel the public body's disclosure of the public records within  
12 180 days after a public body's final determination to deny a  
13 request. A request shall not be submitted under this subdivision  
14 unless 1 of the following applies:

15           (i) The public body's LORA coordinator failed to respond to a  
16 written request for reconsideration as required under subsection  
17 (2).

18           (ii) The public body's LORA coordinator issued a determination  
19 to a written request for reconsideration as required under  
20 subsection (2).

21          (2) Within 10 business days after receiving a written request  
22 for reconsideration pursuant to subsection (1)(a), the public  
23 body's LORA coordinator shall do 1 of the following:

24           (a) Reverse the disclosure denial.

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

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

1           (d) Under unusual circumstances, issue a notice extending for  
2 not more than 10 business days the period during which the public  
3 body's LORA coordinator shall respond to the written request for  
4 reconsideration. The public body's LORA coordinator shall not issue  
5 more than 1 notice of extension for a particular written request  
6 for reconsideration.

7           (3) The public body's LORA coordinator is not considered to  
8 have received a written request for reconsideration under  
9 subsection (2) until the first scheduled session day following  
10 submission of the written request under subsection (1)(a). If the  
11 public body's LORA coordinator fails to respond to a written  
12 request for reconsideration pursuant to subsection (2), or if  
13 public body's LORA coordinator upholds all or a portion of the  
14 disclosure denial that is the subject of the written request, the  
15 requesting person may seek final review of the nondisclosure by  
16 submitting an appeal to the council administrator under subsection  
17 (1)(b).

18           (4) In an appeal commenced under subsection (1)(b), if the  
19 council administrator determines that a public record is not exempt  
20 from disclosure, the public body must cease withholding or produce  
21 all or a portion of a public record wrongfully withheld, regardless  
22 of the location of the public record.

23           (5) An appeal commenced under subsection (1)(b) shall be  
24 reviewed and decided by the council administrator at the earliest  
25 practicable date and expedited in every way.

26           (6) The council administrator may require a reasonable fee,  
27 not to exceed \$75.00, for an appeal commenced under subsection  
28 (1)(b) unless the requesting person is eligible for a fee waiver or  
29 reduction under section 24 because of indigence.

1           (7) If the council administrator determines in an appeal  
2 commenced under this section that the public body has arbitrarily  
3 and capriciously violated this part by refusal of a public record  
4 or delay in disclosing or providing copies, the council  
5 administrator shall recommend appropriate disciplinary action to  
6 the speaker of the house of representatives or the senate majority  
7 leader, as applicable. The council administrator shall make any  
8 recommendation for disciplinary action under this subsection  
9 publicly available on the internet not later than 5 business days  
10 after the recommendation is issued.

11           Sec. 29b. (1) If a public body requires a fee that exceeds the  
12 amount permitted under its publicly available procedures and  
13 guidelines or section 24, the requesting person may do any of the  
14 following:

15           (a) Submit to the public body's LORA coordinator a written  
16 request for a fee reduction that specifically states the word  
17 "reconsideration", "appeal", "redetermination", or "reverse", and  
18 identifies how the required fee exceeds the amount permitted under  
19 the public body's available procedures and guidelines or section  
20 24.

21           (b) Submit to the council administrator a written request for  
22 a fee reduction within 45 days after receiving either a notice of  
23 the required fee or a determination of a request for  
24 reconsideration. A request shall not be submitted under this  
25 subdivision unless 1 of the following applies:

26           (i) The public body's LORA coordinator failed to respond to a  
27 written request for a fee reduction as required under subsection  
28 (2).

29           (ii) The public body's LORA coordinator issued a determination

1 upon a written request for a fee reduction as required under  
2 subsection (2).

3 (2) Within 10 business days after receiving a written request  
4 for a fee reduction pursuant to subsection (1)(a), the public  
5 body's LORA coordinator shall do 1 of the following:

6 (a) Waive the fee.

7 (b) Reduce the fee and issue a written determination to the  
8 requesting person indicating the specific basis under section 24  
9 that supports the remaining fee. The determination must include a  
10 certification from the public body's LORA coordinator that the  
11 statements in the determination are accurate and that the reduced  
12 fee amount complies with its publicly available procedures and  
13 guidelines and section 24.

14 (c) Uphold the fee and issue a written determination to the  
15 requesting person indicating the specific basis under section 24  
16 that supports the required fee. The determination must include a  
17 certification from the public body's LORA coordinator that the  
18 statements in the determination are accurate and that the fee  
19 amount complies with the public body's publicly available  
20 procedures and guidelines and section 24.

21 (d) Issue a notice extending for not more than 10 business  
22 days the period during which the public body's LORA coordinator  
23 must respond to the written request for a fee reduction. The public  
24 body's LORA coordinator shall not issue more than 1 notice of  
25 extension for a particular written request for a fee reduction.

26 (3) The public body's LORA coordinator is not considered to  
27 have received a written request for reconsideration under  
28 subsection (2) until the first scheduled session day following  
29 submission of the written request under subsection (1)(a).

1           (4) If, in an appeal commenced under subsection (1)(b), the  
2 council administrator determines that the public body required a  
3 fee that exceeds the amount permitted under its publicly available  
4 procedures and guidelines or section 24, the public body shall  
5 reduce the fee to a permissible amount.

6           (5) An appeal commenced under subsection (1)(b) shall be  
7 reviewed and decided by the council administrator at the earliest  
8 practicable date and expedited in every way.

9           (6) The council administrator may require a reasonable fee,  
10 not to exceed \$50.00, for an appeal commenced under subsection  
11 (1)(b) unless the requesting person is eligible for a fee waiver or  
12 reduction under section 24 because of indigence. If the requesting  
13 person prevails in an appeal commenced under subsection (1)(b) by  
14 receiving a reduction of 50% or more of the total fee, the council  
15 administrator shall waive the fee required under this subsection.

16           (7) If the council administrator determines in an appeal  
17 commenced under this section that the public body has arbitrarily  
18 and capriciously violated this part by charging an excessive fee,  
19 the council administrator shall recommend appropriate disciplinary  
20 action to the speaker of the house of representatives or the  
21 majority leader of the senate, as applicable. The council  
22 administrator shall make any recommendation for disciplinary action  
23 under this subsection publicly available on the internet not later  
24 than 5 business days after the recommendation is issued.

25           (8) As used in this section, "fee" means the total fee or any  
26 component of the total fee calculated under section 24, including  
27 any deposit.

28           Sec. 29c. (1) This part shall not be construed to limit,  
29 modify, waive, or otherwise affect the privileges and immunities

1 guaranteed under section 11 of article IV of the state constitution  
2 of 1963.

3 (2) This part does not create or imply a private cause of  
4 action for a violation of this part.

5 Sec. 29d. (1) A public body may exempt from disclosure as a  
6 public record under this part any of the following:

7 (a) Records or information of a personal nature if public  
8 disclosure of the information would constitute a clearly  
9 unwarranted invasion of an individual's privacy. That information  
10 includes, but is not limited to, the following:

11 (i) An individual's Social Security number, financial  
12 institution record, electronic fund number, deferred compensation,  
13 savings bonds, W-2 and W-4 forms, and any court-enforced judgments.

14 (ii) An employee's health care benefit selection.

15 (iii) Unemployment compensation and worker's disability  
16 compensation records.

17 (iv) Internet-use records unless the records indicate an  
18 unlawful use of public resources.

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

23 (c) Communications, including any related records or  
24 information, between a legislator or a legislator's office and a  
25 constituent, other than a person required to be registered as a  
26 lobbyist under 1978 PA 472, MCL 4.411 to 4.431. For purposes of  
27 this subdivision, "constituent" means any of the following:

28 (i) An individual who is registered to vote in the district the  
29 legislator is elected to represent.



1           (ii) An individual who is a resident of the district the  
2 legislator is elected to represent and who is not registered to  
3 vote outside of that district.

4           (iii) An individual other than an individual described in  
5 subparagraph (i) or (ii) if the individual intended that the  
6 communication be with the legislator elected to represent the  
7 district where the individual is registered to vote or, if not  
8 registered to vote, resides.

9           (d) Communications and notes within a public body or between  
10 public bodies of an advisory nature to the extent that they cover  
11 other than purely factual materials and are preliminary to a final  
12 determination of policy or action. This exemption does not apply if  
13 in the particular instance the public interest in disclosure  
14 clearly outweighs the public interest in encouraging frank  
15 communications. For purposes of this subdivision, "public body"  
16 includes a public body as defined in part 1.

17           (e) Records or information pertaining to an ongoing internal  
18 or legislative investigation.

19           (f) Trade secrets or commercial or financial records or  
20 information voluntarily provided in confidence for use in  
21 developing governmental policy.

22           (g) Records or information subject to the attorney-client  
23 privilege or any other privilege recognized by the constitution,  
24 statute, or court rule.

25           (h) Records or information relating to a civil action in which  
26 the public body is a party until such litigation or claim has been  
27 finally adjudicated or otherwise settled.

28           (i) Records or information specifically described and exempted  
29 from disclosure by statute and including the records and

1 information subject to confidentiality requirements in sections  
2 109, 501, and 601 of the legislative council act, 1986 PA 268, MCL  
3 4.1109, 4.1501, and 4.1601, in section 9 of 2016 PA 198, MCL 4.779,  
4 and in section 9 of 1975 PA 46, MCL 4.359.

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

12 (k) Records of the office of sergeant at arms.

13 (l) Records of a public body's security measures, including  
14 security plans, capabilities, procedures, measures, passwords,  
15 passes, keys, and codes and combinations.

16 (m) A bid, quote, or proposal submitted by a person to enter  
17 into a contract or agreement and records created in the preparation  
18 for and evaluation of the bid, quote, or proposal until the time of  
19 final notification of award of the contract or agreement.

20 (n) Records containing a trade secret as defined under section  
21 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902, or  
22 financial or proprietary information submitted in connection with a  
23 bid, quote, or proposal to enter into a contract or agreement.

24 (o) Records that would do any of the following if disclosed:

25 (i) Interfere with law enforcement proceedings.

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

28 (iii) Disclose the identity of a confidential source or  
29 information furnished by a confidential source in the course of a

1 legislative investigation.

2 (iv) Endanger the life or physical safety of any individual.

3 (v) Prejudice a public body's ability to maintain the security  
4 or integrity of its properties or information technology systems.

5 (p) Records created, prepared, owned, used, in the possession  
6 of, or retained by a public body prior to January 1, 2024.

7 (q) Records created, prepared, owned, used, in the possession  
8 of, or retained by the majority or minority caucuses of each house  
9 of the legislature.

10 (r) The cellular telephone number of a public body.

11 (s) Records containing location information for future  
12 meetings of a public body.

13 (2) This part does not authorize the exemption from disclosure  
14 of any salary record of an employee or official of a public body.

15 (3) This part does not authorize the exemption from disclosure  
16 of a record otherwise required by law to be made available to the  
17 public.

18 Sec. 29e. (1) If a public record contains material that is not  
19 exempt under section 29d, as well as material that is exempt from  
20 disclosure under section 29d, the public body shall separate the  
21 exempt and nonexempt material and make the nonexempt material  
22 available for examination and copying.

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

1           **Sec. 29f. The attorney general shall counsel and advise a**  
2 **public body on the administration of this part upon request.**

3           Enacting section 1. This amendatory act takes effect January  
4 1, 2024.

5           Enacting section 2. This amendatory act does not take effect  
6 unless all of the following bills of the 102nd Legislature are  
7 enacted into law:

8           (a) Senate Bill No. \_\_\_\_ or House Bill No. 4261 (request no.  
9 01222'23).

10           (b) Senate Bill No. \_\_\_\_ or House Bill No. 4263 (request no.  
11 01223'23).