

HOUSE BILL No. 4686

April 28, 2005, Introduced by Reps. Meyer and Brown and referred to the Committee on Government Operations.

A bill to provide for the maintenance, storage, retrieval, and duplication of public records.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) As used in this act:

2 (a) "Proprietary" means material such as indexes, records, or
3 files created by an office or department that creates, records, or
4 files them and that is statutorily responsible for the proprietary
5 material as mandated by law, whether or not all copies of that
6 index, record, or file are maintained in that office or department.

7 (b) "Public body" means any of the following, subject to
8 subsection (2):

9 (i) A state officer, employee, agency, department, division,
10 bureau, board, commission, council, authority, or other body in the

1 executive branch of the state government, but does not include the
2 governor or lieutenant governor, the executive office of the
3 governor or lieutenant governor, or employees thereof.

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

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

10 (iv) Any other body which is created by state or local
11 authority or which is primarily funded by or through state or local
12 authority.

13 (c) "Records reproduction act" means the records reproduction
14 act, 1992 PA 116, MCL 24.401 to 24.406.

15 (2) Public body does not include the judiciary, including the
16 office of the county clerk and employees thereof when acting in the
17 capacity of clerk to the circuit court.

18 Sec. 2. (1) A public body may use a medium authorized under
19 the records reproduction act to create, index, maintain, record, or
20 file a public record as required by law. An index, record, or file
21 is proprietary to the office or department of the public body that
22 creates, records, or files it and which office is statutorily
23 responsible as mandated by law.

24 (2) The constitutional officer or appointed official of that
25 office or department may waive fees for access to records or copies
26 of records created by a medium authorized under the records
27 reproduction act and shared with another public body for that

1 public body's official use with a written intergovernmental or
2 intragovernmental agreement that specifies that the public body
3 receiving the record is prohibited from providing access to the
4 record to a third party.

5 Sec. 3. An index required to be created by a county, city, or
6 township government for the purpose of reception and retrieval of
7 records is open to public examination and inspection as allowed by
8 law, but shall only be duplicated by the office responsible for
9 maintaining records, or that office's designee, solely for the
10 purpose of security and protection of the records.

11 Sec. 4. (1) An established fee or a fee that may be
12 established for copies of a public record, as authorized for sale
13 by statute, is considered a copy and perpetual maintenance fee.
14 Copy and perpetual maintenance fees shall be deposited in the
15 public body's general fund or as otherwise directed. Expenses of
16 maintaining and reproducing records and files according to the
17 records reproduction act shall be provided from the public body's
18 general fund. All fees authorized by statute for duplication or
19 reproduction of records take precedence over other fees or
20 legislation regarding access to those records, regardless of the
21 medium on which the records are created, stored, or duplicated.

22 (2) Unless otherwise requested, the proprietary office or
23 department shall provide copies of the requested records or files
24 in a paper format upon payment of the established or statutory fee.
25 Reproductions in any other medium, as approved by the records
26 reproduction act shall be based on the availability of the medium
27 in the proprietary office or department responsible for the record

1 or file and an established enhanced access policy at the discretion
2 of the elected official or department head. A record or copy of a
3 record produced by a method approved by the records reproduction
4 act has the same effect and force as a paper record or copy.

5 Sec. 5. An established fee or a fee that may be established,
6 as authorized by statute, for recording or filing of a public
7 record or document applies to all recordings and filings created or
8 presented in a medium approved by the records reproduction act. The
9 record or document must be reproducible in a printout or other
10 output readable by sight from the medium and in the sight-readable
11 format shall meet all requirements as established for the type of
12 record or file and comply with all requirements or prerequisites
13 for recording or filing. The sight-readable form shall be used to
14 determine the recording or filing fee and the fee for the
15 reproduction or copy of the record or file. Filings and recordings
16 in any approved medium other than paper shall only be acceptable if
17 the technology, media, and means to file, record, and reproduce the
18 record or document are currently available and operational in the
19 recording or filing office and an enhanced access policy exists. A
20 recording or filing of a record or document by a medium approved by
21 the records reproduction act has the same effect and force as a
22 paper filing or recording.