



HOUSE BILL No. 5832

April 30, 1996, Introduced by Rep. Brackenridge and referred to the Committee on Local Government.

A bill to authorize public bodies to provide enhanced access to certain public records and to impose certain fees for providing that enhanced access; to regulate enhanced access to certain public records; and to authorize public bodies to establish and impose fees for the use of digital mapping systems and geographical information systems.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "enhanced access to public records act".

3 Sec. 2. As used in this act:

4 (a) "Digital mapping system or geographical information
5 system" means a computer data base that contains detailed infor-
6 mation about a specific geographic location.

7 (b) "Enhanced access" means a public record's immediate
8 availability for public inspection and copying by digital means,

1 including a digital mapping system or geographical information
2 system.

3 (c) "Operating expenses" includes, but is not limited to, a
4 public body's direct cost of creating, compiling, storing, main-
5 taining, processing, upgrading, or enhancing information or data
6 in a form available for enhanced access, including the cost of
7 computer hardware and software, system development, employee
8 time, and the actual cost of supplying the information or record
9 in the form requested by the purchaser.

10 (d) "Person" means that term as defined in section 2 of the
11 freedom of information act, Act No. 442 of the Public Acts of
12 1976, being section 15.232 of the Michigan Compiled Laws.

13 (e) "Public body" means that term as defined in section 2 of
14 Act No. 442 of the Public Acts of 1976.

15 (f) "Public record" means that term as defined in section 2
16 of Act No. 442 of the Public Acts of 1976.

17 (g) "Reasonable fee" means a charge calculated to enable a
18 public body to recover over time those operating expenses associ-
19 ated with the public body's provision of enhanced access.

20 (h) "Software" means a set of statements or instructions
21 that when incorporated in a machine-usable medium is capable of
22 causing a machine or device having information processing capa-
23 bilities to indicate, perform, or achieve a particular function,
24 task, or result.

25 (i) "Third party vendor" means a person who executes a con-
26 tract with a public body to provide enhanced access as the public
27 body's agent.

1 Sec. 3. (1) In accordance with this act, a public body may
2 do all of the following:

3 (a) Upon authorization of the governing body of the public
4 body, provide enhanced access for the inspection or copying of a
5 public record that is not confidential or otherwise exempt by law
6 from disclosure.

7 (b) Charge a reasonable fee established by the public body's
8 governing body for providing enhanced access.

9 (c) Waive a fee for enhanced access in the same manner and
10 under the same circumstances that a fee may be waived under the
11 freedom of information act, Act No. 442 of the Public Acts of
12 1976, being sections 15.231 to 15.246 of the Michigan Compiled
13 Laws.

14 (d) Authorize a person other than the public body to provide
15 members of the general public with enhanced access on behalf of
16 the public body in accordance with section 4.

17 (e) Require a member of the general public to execute a con-
18 tract with the public body as a condition of providing that
19 member of the general public with enhanced access.

20 (2) Before providing enhanced access to a third party vendor
21 or a member of the general public, a public body shall adopt an
22 enhanced access policy that complies with this act.

23 (3) This act does not require a public body to provide
24 enhanced access if that public body has not established an
25 enhanced access policy in accordance with subsection (2).

26 Sec. 4. (1) The governing body of a public body and a third
27 party vendor shall execute a contract that provides for all of

1 the following before the third party vendor makes enhanced access
2 to public records of the public body available to members of the
3 general public:

4 (a) That members of the general public will pay to the third
5 party vendor or to the public body a fee, if any, authorized
6 under this act.

7 (b) That the third party vendor shall not provide members of
8 the general public with enhanced access to a public record that
9 is confidential, exempt from disclosure, or not authorized by the
10 public body to be disclosed by enhanced access.

11 (c) That the third party vendor shall not alter information
12 contained in an original public record.

13 (d) That the third party vendor shall indemnify the public
14 body for any claims against the public body arising from the
15 third party vendor's provision of enhanced access.

16 (e) That the third party vendor shall provide security mea-
17 sures satisfactory to the public body to prevent the unauthorized
18 alteration or destruction of a public record, and to prevent
19 unauthorized enhanced access.

20 (2) A public body may elect to provide enhanced access
21 through a third party vendor by executing a contract with the
22 third party vendor that complies with subsection (1). Selection
23 of a third party vendor is subject to competitive bidding.