

# Briefly

A Publication of the Government Law Section of the State Bar of Michigan

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# Government Law Case Summaries

By Dehani T. Gordon-Lehman

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## ***Blackwell v. City of Inkster*** **COA Docket No. 372782 (April 7, 2026)**

In *Blackwell v. City of Inkster*, the Michigan Court of Appeals held that the trial court’s permanent injunction conformed to the standards established in the Persons with Disabilities Civil Rights Act (“PWDCRA”), MCL 37.1101 *et seq.* Plaintiff, a paraplegic confined to a wheelchair, requested that the City permit him to submit written comments in advance of meetings for City staff to read aloud during the public-comment portion of city council meetings because he could not readily attend meetings in person. The City initially accommodated the request at two meetings but later adopted a policy limiting public comment to in-person participation only. Plaintiff filed suit seeking injunctive relief under the PWDCRA. The trial court entered a permanent injunction requiring the City to read plaintiff’s written comments aloud at meetings, and the City appealed.

On appeal, the Michigan Court of Appeals affirmed. The Court held that plaintiff established a *prima facie* showing that the City failed to accommodate his disability and that the burden therefore shifted to the City to establish that the requested accommodation imposed an undue hardship. The Court emphasized that the City failed to present evidence demonstrating that reading plaintiff’s comments aloud would fundamentally alter city council meetings or create an undue burden, particularly where the City had already successfully accommodated plaintiff on prior occasions. The Court further rejected the City’s argument that the requested accommodation conflicted with the Open Meetings Act (“OMA”), concluding that the OMA did not prohibit a municipality from providing accommodations required under the PWDCRA. The Court also noted that plaintiff’s comments remained subject to the same generally applicable public-comment rules governing all speakers. Accordingly, the Court affirmed the injunction requiring the City to permit plaintiff to participate through written comments read aloud during meetings.

## ***Davis v. The Charter County of Wayne*** **COA Docket No. 374135 (April 10, 2026)**

In *Davis v. The Charter County of Wayne*, the Michigan Court of Appeals held that Wayne County was entitled to governmental immunity arising from injuries sustained at the County’s “Jazz on the River” festival because operation of the festival constituted a governmental function under the Governmental Tort Liability Act (“GTLA”), MCL 691.1401 *et seq.* Plaintiff attended the annual Jazz on the River event at Elizabeth Park in Wayne County when a tent pole allegedly fell and struck her in the head, causing injury. Plaintiff thereafter asserted premises liability, gross negligence, and nuisance claims against the County. The trial court denied the County’s motion for summary disposition, concluding that operating the festival was not a governmental function because organizing and operating a jazz festival was not an activity unique to government.

The Court of Appeals reversed. Relying on *Ross v. Consumers Power Co.* and the statutory definition of “governmental function” contained in the GTLA, the Court explained that a governmental function includes activities expressly or impliedly authorized by constitution, statute, or other law. The Court held that MCL 123.51 expressly authorizes counties to operate systems of public recreation and to maintain recreational facilities. Because the Jazz on the River festival constituted a recreational activity authorized by statute, the County was engaged in a governmental function and therefore entitled to immunity. The Court further rejected plaintiff’s argument that allegations of gross negligence defeated the County’s immunity, explaining that under MCL 691.1407(1), a governmental agency’s immunity is not eliminated merely because a plaintiff alleges gross negligence. The Court noted that plaintiff failed to name individual governmental employees or assert separate gross-negligence claims against individual employees. Accordingly, the Court reversed the trial court’s denial of summary disposition and remanded for entry of judgment in favor of the County.

***Lesko v. Supreme Felons, Inc.***  
**COA Docket No. 376081 (April 23, 2026)**

In *Lesko v. Supreme Felons, Inc.*, the Michigan Court of Appeals held that a newspaper editor lacked standing to pursue a Freedom of Information Act (“FOIA”), MCL 15.231 *et seq.*, action in her individual capacity where the underlying FOIA requests were submitted on behalf of the newspaper rather than the individual editor personally. Plaintiff, an editor for The Ann Arbor Independent, submitted two FOIA requests to defendant seeking records allegedly subject to disclosure under FOIA. The requests repeatedly stated that “The Ann Arbor Independent” sought the records and referenced potential legal action by the newspaper if the requests were denied. Defendant denied the requests on the basis that it was not a public body subject to FOIA. Plaintiff thereafter filed suit in her individual capacity challenging the denial.

The trial court granted summary disposition in defendant’s favor, concluding plaintiff lacked standing because the requests were made on behalf of the newspaper rather than plaintiff individually. The Court of Appeals affirmed. The Court explained that under FOIA, only the “requesting person” may commence a civil action challenging a denial of records under MCL 15.240(1)(b). Although plaintiff personally signed the requests, the Court held that the content of the requests made clear that the requests were submitted solely on behalf of The Ann Arbor Independent. The Court emphasized that the requests specifically stated that the newspaper sought the records, referenced the newspaper’s legal recourse, and utilized the newspaper’s address and contact information. Accordingly, plaintiff acted only as an agent of the newspaper rather than as an individual requesting person under FOIA. Because the newspaper, and not plaintiff individually, was the entity that requested the records, plaintiff lacked standing to pursue the FOIA action in her personal capacity. The Court therefore affirmed summary disposition in defendant’s favor.

***Mr. C’s P&M, LLC v. Charter Township of Chesterfield***  
**COA Docket No. 374292 (February 6, 2026)**

In *Mr. C’s P&M, LLC v. Charter Township of Chesterfield*, the Michigan Court of Appeals held that neighboring business owners qualified as “aggrieved parties” entitled to challenge a zoning board of appeals (“ZBA”) decision approving a special land use application for a competing

business. Plaintiffs operated a car wash approximately 598 feet from a proposed Mister Car Wash development. After the Township planning commission denied the proposed special land use application, the applicant appealed to the ZBA, which unanimously approved the application. Plaintiffs opposed the proposal during public comment and submitted written objections arguing that the market was already oversaturated with car washes, traffic would increase, and the proposed development would negatively affect plaintiffs’ business and property value. Plaintiffs appealed the ZBA’s decision to the circuit court, which dismissed the appeal after concluding plaintiffs were not aggrieved parties.

The Court of Appeals reversed. Applying *Saugatuck Dunes Coastal Alliance v. Saugatuck Township* and *Tuscola Area Airport Authority v. Michigan Aeronautics Commission*, the Court held that plaintiffs sufficiently alleged a legally protected pecuniary interest *likely* to be affected by the ZBA’s decision. The Court explained that plaintiffs did more than merely speculate about generalized business competition. Plaintiffs presented evidence that they had invested substantial funds into their existing business and that the competing car wash would likely diminish their business operations and property value. The Court concluded that the circuit court improperly dismissed plaintiffs’ claims as speculative and failed to properly consider whether plaintiffs demonstrated a likely pecuniary injury sufficient to establish aggrieved-party status. Because plaintiffs participated in the challenged proceedings and established a legally protected pecuniary interest *likely* to be affected by the ZBA’s decision, the Court held that plaintiffs qualified as aggrieved parties entitled to appeal the ZBA’s approval of the special land use application. The matter was therefore reversed and remanded.

***Southfield v. Ishakis***  
**COA Docket No. 372631 (April 17, 2026)**

In *Southfield v. Ishakis*, the Michigan Court of Appeals held that the City of Southfield’s failure to comply with the mandatory notice requirements of the International Property Maintenance Code (“IPMC”) required dismissal of a civil-infraction action relating to an allegedly defective residential driveway. Defendants owned a residence in Southfield with a driveway allegedly containing broken and uneven slabs. The City issued multiple notices directing defendants to repair the driveway and later issued a

civil-infraction citation for violating IPMC § 302.3. However, none of the notices advised defendants of their right to appeal the alleged violation to the City's property maintenance board of appeals as required by the IPMC. The district court nevertheless found defendants responsible for the civil infraction, and the circuit court affirmed.

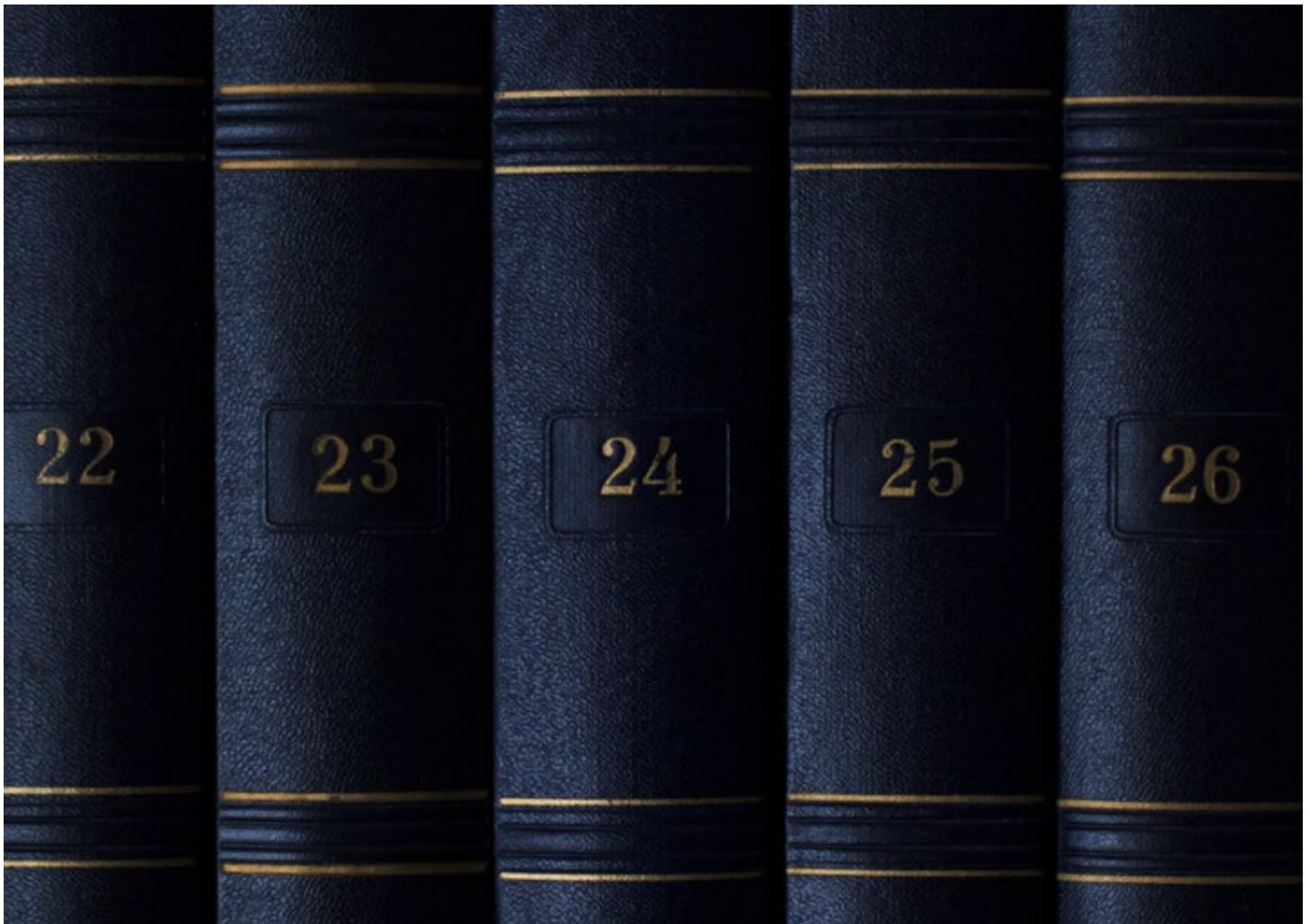
The Court of Appeals vacated the judgment and remanded for dismissal of the civil infraction. The Court explained that the City adopted the IPMC into its ordinances and therefore was required to comply with the mandatory notice provisions contained within the code. Under IPMC §§ 106.2 and 107.2, notices of violation "shall" comply with all listed requirements, including advising recipients of their right to appeal. The Court emphasized that the terms "shall" and "all" reflected mandatory requirements rather than discretionary guidance. Because the City failed to provide notice of defendants' appeal rights, the notices did not comply with the ordinance and could not support enforcement of the civil in-

fraction. The Court rejected the City's argument that the omission constituted harmless error, reasoning that compliance with the notice provisions was a prerequisite to enforcement proceedings. Accordingly, the Court vacated the civil-infraction judgment and remanded for dismissal.

### About the Author



*Debani T. Gordon-Lehman is an Senior Associate Attorney at Bodman, PLC in Troy Michigan. Debani focuses her practice on municipal law, representing city leaders, departments, and related entities on a broad range of legal issues faced by municipal governments. Debani also serves in Bodman's Litigation practice group and represents clients in civil disputes involving a broad spectrum of issues.*



# Legislative Update

By Aimee Gibbs, John Weiss, Eric McGlothlin, Laura Bassett,  
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Since the start of the new calendar year, there have been a number of new laws enacted and bills under consideration in the Michigan Legislature. The following are summaries of some of the most pertinent new laws and bills.

## Enacted Legislation

- **Education. Public Act 2 of 2026** amends the Revised School Code to require the board of a school district or the board of directors of a public school academy to implement a wireless communications device policy that prohibits students from using a wireless communications device on school grounds during instructional time. Amends 1976 PA 451 (MCL 380.1 - 380.1852) by adding sec. 1303a and repeals sec. 1303 (MCL 380.1303).
- **State. Public Act 7 of 2026** designating the wood duck as the official state duck. Creates new act.

## Pending Legislation

- **Administrative Procedure. HB 5499** would amend the Administrative Procedures Act to allow a person denied a permit by a state agency to bring a civil action against such agency after the person has exhausted all administrative remedies available within the agency. If the person prevails in the civil action, the court would award monetary damages and reasonable attorney fees. Amends sec. 101 of 1969 PA 306 (MCL 24.301).
- **Alienage. SB 0780** would prohibit certain immigration enforcement agreements between a law enforcement agency and the Department of Homeland Security. Creates new act.
- **Businesses. HB 5594** would put a moratorium on certain department and local government approvals for and operation of any new data centers until April 1, 2027. Creates new act. Tie-barred with HB 5596, which would make the Michigan Zoning Enabling Act subject to the Data Center Regulation Act.

- **Campaign Finance. HB 5197** would prohibit a foreign national from certain actions to promote or defeat a ballot question or to qualify a question for placement on the ballot, including making contributions or expenditures, soliciting a donation by another, and directing or controlling a person from participating in a person's decision-making process. Amends secs. 7, 15, 24, 26, 51 & 54 of 1976 PA 388 (MCL 169.207 et seq.) & adds sec. 34a.
- **Civil Rights. HB 4931** would amend the Open Meetings Act to allow a licensing board to hold a meeting, in whole or in part, electronically by telephonic or video conferencing. A licensing board would mean any body responsible for determining qualifications or issuing credentials to serve in an occupation, including but not limited to, any such body under the following acts: Public Health Code, Occupational Code, Skilled Trades Regulation Act, Stille-DeRossett-Hale Single State Construction Act, Barrier Free Design Board, Mobile Home Commission Act, Elevator Safety Board, and Ski Area Safety Act. Amends sec. 3a of 1976 PA 267 (MCL 15.263a).
- **Civil Rights. SB 775** would require all open meetings of public bodies to be audio recorded. Amends sec. 9a of 1976 PA 267 (MCL 15.269a).
- **Counties. HB 5647** would allow county equalization department staff to perform township assessments. Amends sec. 3 of 1978 PA 566 (MCL 15.183).
- **Counties. HB 5795** would require candidates for county office to disclose felony convictions. Amends 1954 PA 116 (MCL 168.1 - 168.992) by adding sec. 558a. Tie-barred with HB 5795.
- **Drains. HB 5691** would increase the period to appeal apportionment or assessment costs on drain projects. Amends secs. 72 & 72a of 1956 PA 40 (MCL 280.72 & 280.72a).
- **Economic Development. SB 0918** would amend the tax increment financing act to include dam repairs

and maintenance in the definition of “water resource improvement.” Amends sec. 703 of 2018 PA 57 (MCL 125.4703).

- **Education. HB 4141** has been ordered enrolled and amends the Revised School Code to require the board of a school district or board of directors of a public school academy to implement a wireless communications device policy. Amends 1976 PA 451 (MCL 380.1-380.1852) by adding sec. 1303a & repeals sec. 1303 of 1976 PA 451 (MCL 380.1303).
- **Elections. HB 4584** would amend the Michigan Election Law to limit school millage elections to November elections. Amends secs. 312, 641 & 821 of 1954 PA 116 (MCL 168.312 et seq.).
- **Elections. HB 4765** would amend the Michigan Election Law to require proof of United States citizenship when registering to vote and identification when voting. Amends secs. 493a, 493b, 495, 509gg; 509ii of 1954 PA 116 (MCL 168.493a et seq.); and adds sec. 496c.
- **Elections. HB 5717** would amend the Michigan Election Law to authorize township election officials to contract with an accredited individual to perform election law duties in the absence of a township clerk. Amends sec. 373 of 1954 PA 116 (MCL 168.373). See also SB 0833.
- **Land Use. HB 5529** limits parcel and lot size requirements. Amends sec. 109, 148 & 186 of 1967 PA 288 (MCL 560.109 et seq.).
- **Land Use. HB 5530** limits minimum residential lot size requirements. Amends sec. 201 of 2006 PA 110 (MCL 125.3201) & adds sec. 205f.
- **Land Use. HB 5531** limits required studies and documents for site plan approval. Amends sec. 501 of 2006 PA 110 (MCL 125.3501).
- **Land Use. HB 5532** revises protest petition requirements for city or village zoning ordinance amendment. Amends sec. 403 of 2006 PA 110 (MCL 125.3403).
- **Land Use. HB 5581** limits minimum home size requirements. Amends sec. 201 of 2006 PA 110 (MCL 125.3201) & adds sec. 205e.
- **Land Use. HB 5582** limits minimum residential parking space requirements and limitations on mobile homes. Amends 2006 PA 110 (MCL 125.3101 – 125.3702) by adding sec. 205b.
- **Land Use. HB 5583** prohibits setback requirement greater than 25 feet. Amends 2006 PA 110 (MCL 125.3101 – 125.3702) by adding sec. 205c.
- **Land Use. HB 5584** permits duplexes in single-family residential zones. Amends sec. 102 of 2006 PA 110 (MCL 125.3102) & adds sec. 517.
- **Land Use. HB 5585** modifies zoning restrictions related to accessory dwelling units and mobile homes. Amends sec. 102 of 2006 PA 110 (MCL 125.3102) & adds secs. 207a & 516.
- **Land Use. HB 5804** allows for alternate members to serve on planning commission. Amends sec. 15 of 2008 PA 33 (MCL 125.3815).
- **Land Use. HB 5846** provides for zoning overlay districts for data centers. Creates new act.
- **Land Use. SB 884** modifies commission meeting notice requirements. Amends sec. 103 of 2006 PA 110 (MCL 125.3103).
- **Law Enforcement. HB 5705** allows reimbursement from state police for assisting with certain incidents. Creates new act.
- **Law Enforcement. HB 5706** provides for reimbursement from highway safety fund to local law enforcement agencies for assisting certain vehicle crashes. Amends sec. 629e of 1949 PA 300 (MCL 257.629e). Tie-barred with HB 5705.
- **Local Government. HB 5790** modifies financing requirements for enterprise data centers. Amends sec. 4ee of 1933 PA 157 (MCL 205.54ee).
- **Local Government. HB 5837** prohibits implementation of certain taxes or regulations based on emissions and the climate or other energy-related metrics. Creates new act.
- **Local Government. HB 5881** makes the Michigan Zoning Enabling Act subject to the data center planning and responsibility act. Amends sec. 205 of 2006 PA 110 (MCL 125.3205). Tie-barred with HB 5882.
- **Local Government. HB 5882** provides for requirements for a moratorium imposed by a local unit of government on large-scale data centers or cryptocurrency facilities. Creates new act. Tie-barred with HB 5881.

- **Local Government. SB 929** repeals local financial stability and choice act. Repeals 2012 PA 436 (MCL 141.1541 – MCL 141.1575).
- **Mental Health. HB 5823** would allow video monitoring and recording in certain care settings. Amends sec. 724 of 1974 PA 258 (MCL 330.1724).
- **Military Affairs. HB 4163** would prohibit the release of the Michigan national guard into active-duty combat without an official act of Congress. Amends 1967 PA 150 (MCL 32.501 - 32.851) by adding sec. 203.
- **Military Affairs. HB 4279** would create new act to establish Michigan National Guard apprenticeship program. Creates new act.
- **Occupations. SB 0811** would allow remote notary services. Amends secs. 2003 PA 238 (MCL 55.286c and MCL 55.286d).
- **State Management. SB 559 (S-1), 561 and 912**, tie-barred, would amend the Michigan Trust Fund Act to create the Revenue Sharing Trust Fund in the Department of Treasury to deposit a percentage of sales tax revenue., and would require that State Treasurer disburse \$299.1 million of the money available in the Fund to each city, village and township (CVT) in the same proportion that each entity was eligible to receive under Section 952 of Article 5 in Public Act (PA) 119 of 2023, regardless of any eligibility criteria or limitation under that section; any additional amount appropriated to CVTs would be distributed according to a three-factor formula, defined by the bill. The legislation would also amend the General Sales Tax Act to require the Department of Treasury to deposit a percentage of the tax and to distribute the revenue to CVTs and counties and would amend the Michigan Trust Fund Act to change the title of the Act. Amends title & sec. 2 of 2000 PA 489 (MCL 12.252); amends 2000 PA 489 (MCL 12.251 - 12.262) by adding secs. 11a & 11b; and amends sec. 25 of 1933 PA 167 (MCL 205.75).
- **Taxation. SB 583** would amend the revenue Act to allow a taxpayer to consent to receive notice from the Department of Treasury concerning tax liability via email, rather than relying only on the current methods of personal service or certified mail. Amends sec. 28 of 1941 PA 122 (MCL 205.28) & adds sec. 28a.
- **Transportation. SB 692** would amend the Regional Transit Authority Act to update reference to the Michigan Election Law according to changes proposed by Senate Bill 691 (S-2), which would amend the Michigan Election Law to (1) allow a primary election to be held on the February regular election date, (2) remove the August primary option and require primary elections that would have been held in August to be held in May, (3) modify timelines for election administration to align with the bill's requirement, (4) modify the filing deadline for a withdrawal petition, (5) modify the deadline by which a political party's State central committee would have to issue a call to convention and the date by which a county committee would have to issue a call to a county convention, (6) modify the dates upon which a special recall election for governor could be held, and (7) modify the filing deadline that candidates for governor and president of the United States running without party affiliation must follow when filing the candidacies of lieutenant governor and vice president. Amends sec. 10 of 2012 PA 387 (MCL 124.550).

