

Briefly

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

March 2026 ■ Kristin Bricker Kolb, Chair ■ Kevin A. McQuillan and Nicole B. Tabin, Co-Editors-in-Chief

Save the Date for the 2026 Government Law Section Winter Educational Seminar!

March, 20 2026

8:30 AM – 4:30 PM

Troy Community Center, 3179 Livernois Road, Troy, MI

Join us for the 2026 GLS Winter Educational Seminar on Friday, March 20, 2026, at the Troy Community Center. This year's program focuses on Election Law - from the fundamentals of election administration, to Election Day operations, to navigating post-election FOIA requests. It is a valuable opportunity to stay current on key issues and connect with colleagues across the government law community. Please register at the link below.

<https://shorturl.at/ieE93>



Government Law Case Summaries

By Debani T. Gordon-Lehman and and Mackenzie J. Bailey

Bodman, PLC

White v. Pace

COA Docket No. 371878 (November 3, 2025)

In *White v. Pace* the Michigan Court of Appeals addressed whether Plaintiff was negligent as a matter of law for stopping in a marked bus zone and whether summary disposition was proper. The Plaintiff briefly stopped in a marked bus stop to load her adult daughter when a SMART bus attempted to enter the zone and struck her vehicle. The Trial Court granted summary disposition, concluding the Plaintiff was negligent per se as a matter of law for stopping in the bus zone. The Court of Appeals reversed as to the negligence per se ruling, holding that a statutory violation creates only a prima facie inference of negligence and presents a question of comparative fault for the jury. Because Michigan law excludes temporary loading or unloading from the definition of “parked,” and SMART conceded the Plaintiff was actively loading her passenger with her foot on the brake, she was by definition not parked under MCL 257.38 and did not violate MCL 257.674(1). The Court also held, even if another traffic provision applied, any violation would support only an inference of negligence, not summary disposition. The Court further held that whether the Plaintiff interfered with the bus’s entry into the stop was a factual issue for the jury, which could also consider whether the bus exercised reasonable care. The Court affirmed summary disposition for Defendant Pace due to the absence of any gross-negligence claim, reversed as to SMART, and remanded for further proceedings.

Animal Partisan v.

University of MI Bd. Of Regents

COA Docket No. 374669 (January 7, 2026)

Animal Partisan v. University of Michigan Board of Regents, involved a dispute over whether video recordings of laboratory experiments conducted on mice were exempt from disclosure under Michigan’s Freedom of Information Act (FOIA). Plaintiff, a nonprofit organization advocating against animal experimentation, sought disclosure of video footage created by university researchers in

2018. Defendant denied the request under FOIA’s statutory-exemption provision, MCL 15.243(1)(d), citing the Confidential Research and Investment Information Act (CRIIA), MCL 390.1554, which exempts certain university research materials from disclosure. Plaintiff argued that the requested videos were no longer exempt because the research findings derived from them had been published in a 2019 academic journal article. Defendant moved for summary disposition under MCR 2.116(C) (10) and asserted that the videos constituted exempt “intellectual property” under MCL 390.1554(1)(a). The Court of Claims granted summary disposition in Defendant’s favor and concluded that the videos were exempt intellectual property under the CRIIA, and that Plaintiff was not entitled to disclosure. On appeal, Plaintiff argued that the lower Court erred in concluding that the exemption applied and asserted that the videos had effectively been “published” because information derived from them appeared in a publicly available academic article. Plaintiff also argued that the records must be disclosed because a “reasonable opportunity had been provided for the videos to be published in a timely manner.” On Appeal, the Michigan Court of Appeals affirmed, holding that CRIIA protects the intellectual property itself until it is published, not merely information derived from it. Because the videos had not been publicly released, the exemption remained applicable, and publication of a journal article did not constitute publication of the underlying footage. The Court further held that the University had not yet been afforded a reasonable opportunity to publish the videos and that ongoing research justified continued protection. The Court rejected Plaintiff’s request for a bright-line disclosure rule and affirmed summary disposition, concluding the videos were exempt from disclosure under FOIA.

American Civil Liberties Union of MI v. ***City of Grand Rapids***

COA Docket No. 373417 (December 11, 2025)

In *American Civil Liberties Union of Michigan v. City of Grand Rapids*, the Michigan Court of Appeals

addressed whether an eight to ten month delay in producing records amounted to a constructive denial under Michigan's Freedom of Information Act (FOIA). On March 20, 2023, Plaintiffs submitted a FOIA request for records relating to the City's handling of FOIA requests. The City provided a good-faith estimate under MCL 15.234(8), accepted a deposit, and advised that production of the requested records would take eight to ten months. Plaintiffs filed an administrative appeal. The administrative appeal was rejected on the basis that the City's estimated time for fulfillment was not a denial of the request. Plaintiff filed suit alleging the delay violated FOIA's requirement that requestors be given a "reasonable opportunity" to receive records. Defendant ultimately produced the records in June 2024, after which the parties filed cross-motions for summary disposition. The circuit court granted summary disposition in Defendant's favor.

The Court of Appeals affirmed summary disposition for the City. The Court held that Michigan's FOIA does not impose a deadline for production of records, and that courts may not read one into the statute. FOIA's policy favoring disclosure and its procedural response deadlines do not create a timeliness requirement for fulfillment. The Court further held that MCL 15.233(3) applies only to on-site inspection, not to the timing of document production, and that the City satisfied the only applicable timing provision by providing a good-faith estimate. The Court rejected Plaintiffs' invitation to "establish a rebuttable presumption that a public body fulfill—or at least begin fulfilling—a FOIA request within 30 days of the requestor's deposit in order to provide requestors a 'reasonable opportunity.'" The Court explained that doing so would improperly rewrite the statute and substitute judicial policy preferences for legislative judgment. Because Plaintiffs failed to identify any statutory violation or ambiguity, the Court concluded that summary disposition was properly granted in Defendant's favor and affirmed the dismissal of Plaintiffs' complaint.

***American Civil Liberties Union of MI v.
City of Taylor***

COA Docket No. 372705 (December 15, 2025)

In American Civil Liberties Union of Michigan v. City of Taylor, a dispute arose from the ACLU's Freedom of Information Act (FOIA) request to the Taylor Police Department for records created on or after October 7, 2021, that in any way concerned allegations or findings

of racial profiling, racial discrimination, harassment, or excessive force by Taylor police officers. The police department denied the request as overly broad, vague, and ambiguous, citing the use of terms such as "any" and "in any way." Defendants claimed that these words "individually or in compound form request information which asks for one, some, or all indiscriminately." Defendants further asserted that because the FOIA requires a requestor to sufficiently describe the record which is sought, the requestor may not use broad terms. Defendants also invoked the civil-litigation exemption under MCL 15.243(1)(v) based on unrelated federal litigation in which the ACLU served as counsel but was not a party.

The ACLU's filed and administrative appeal and the appeal was denied. Plaintiffs filed a FOIA action seeking injunctive relief, attorney fees, and damages. Although Plaintiffs moved for summary disposition under MCR 2.116(C)(9), the Trial Court considered materials outside the pleadings and effectively ruled under MCR 2.116(C)(10), granting summary disposition in favor of Defendants based on an affidavit from the city clerk stating that she did not know where to begin searching for responsive records.

The Court of Appeals reversed, holding that FOIA requires only that a request sufficiently describe the records sought so the public body can locate them, and that broad terms do not render a request invalid. It found that the intent of the request appeared "amply clear. The request was for documents that relate, even minimally, to allegations or findings that police officers engaged in racial profiling, racial discrimination, harassment, or excessive force. How this request was deemed incomprehensible is mystifying." It further noted that Defendants did not adequately explain on appeal "how or why the request was indiscernible."

The Court emphasized that the sufficiency of a FOIA request is a legal question and that a public body may not rely on subjective confusion to deny access. The Court also rejected application of the civil-litigation exemption, which applies only when both the requestor and the public body are parties to the same action. The Court reasoned, Defendants' contention "that the ACLU should be treated as a party in the *Bryant* federal litigation—because it is the Plaintiffs' agent in that case—is foreclosed by" the court's decision in *Taylor v Lansing Bd of Water & Light*, 272 Mich App 200; 725 NW2d 84 (2006). The Court directed entry of summary disposition for Plaintiffs and remanded for costs.

Halasz v. Cass City Pub. Schs.
U.S. Court of Appeals Sixth Circuit, Case No. 25-1492 (December 18, 2025)

Halasz v. Cass City Public Schools marked the Sixth Circuit's first published opinion addressing whether a public school officials' conduct constitutes a Fourth Amendment seizure of a student when the official limits "the student's freedom of movement" in a manner that "significantly exceed[s] that inherent in everyday, compulsory attendance." Student H.H. made a remark during class suggesting that he either had a gun or intended to bring one to school. School officials questioned H.H. and conducted a search of his person, backpack, and locker, but found no weapon. The school expelled him for 180 days for making a threat of violence. H.H.'s parents filed suit under 42 USC § 1983, alleging unconstitutional search and seizure, violations of procedural and substantive due process, and related state-law tort claims. The District Court granted summary judgment in favor of Defendants. On appeal, the Court first addressed the Fourth Amendment search claim. Plaintiffs argued that the search exceeded the scope warranted by the circumstances. The Court disagreed and held that the search was not unreasonably intrusive given the context, including the fact that a school shooting had occurred only one week earlier and approximately 60 miles away. Under those circumstances, a limited search of H.H.'s person and searches of his backpack and locker were "reasonably related" to the situation and therefore reasonable under the Fourth Amendment.

The Court next considered the seizure claim. The Court explained that, given schools' custodial responsibilities, not every restriction on a student's movement constitutes a seizure. A seizure requires a limitation on movement beyond the ordinary restrictions inherent in compulsory school attendance. The Court joined several other circuits in applying the *T.L.O.* reasonable suspicion standard to student seizure claims in the public-school context. A student seizure is reasonable if it (1) is justified at its inception, meaning there is a reasonable basis to believe the student has violated the law or a school rule, and (2) is reasonably related in scope to the circumstances that initially justified the seizure. Assuming that H.H. was seized, the Court concluded that the seizure was reasonable because school officials had clear justification to detain him briefly to investigate his alleged statements and to ensure he did not possess a weapon. The approxi-

mately 30-minute detention was no longer than necessary to confirm that H.H. posed no immediate threat. The Court also noted that the absence of Miranda warnings or advisement of a criminal investigation did not alter the constitutional analysis.

Finally, the Court held that H.H.'s procedural and substantive due process rights were not violated and that Defendants were immune from liability on the state-law tort claims. The Court affirmed the District Court's grant of summary judgment in favor of Defendants.

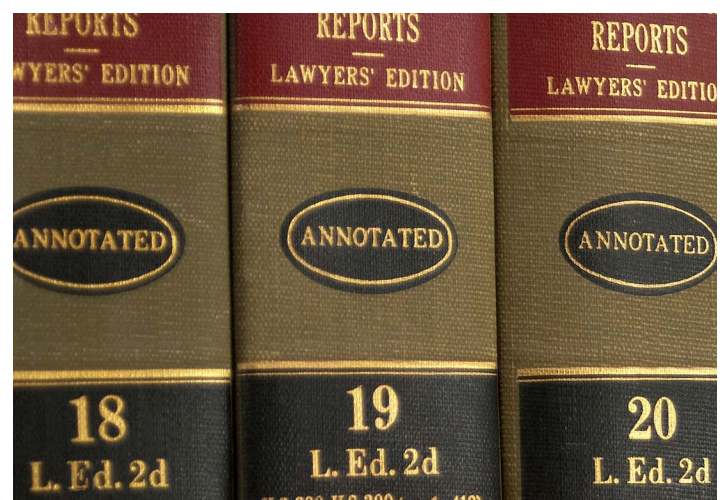
About the Authors



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.



Mackenzie J. Bailey is a First Year Associate at Bodman PLC in Detroit Michigan. Mackenzie focuses her practice on enterprise procurement, representing business clients in connection with a variety of commercial transactions, including the drafting and negotiation of vendor contracts for a broad range of goods and services.



Attorney General Opinion Updates

By Joshua O. Booth

Assistant Attorney General, State Operations Division

OAG 7328

<p>CONSTITUTIONAL LAW:</p> <p>SEPARATION OF POWERS:</p> <p>BICAMERALISM AND PRESENTMENT:</p> <p>APPROPRIATIONS:</p> <p>SEVERANCE:</p>	<p>Constitutionality of MCL 18.1451a(3), which allows the Senate or House Appropriations Committee to disapprove of work projects designated by the State Budget Director</p>
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The disapproval mechanism in MCL 18.1451a(3) amounts to a legislative committee veto that violates Article 3, § 2 of the Michigan Constitution, which requires the separation of powers between the three branches of government, and Article 4, § 33, which requires legislation to be completed consistent with the bicameralism and presentment requirements set forth in the Michigan Constitution.

Although the disapproval mechanism in MCL 18.1451a(3) is unconstitutional, the invalid portion is legally severable because the remaining provisions regarding temporal limits, substantive criteria, and reporting requirements are independently operable and further the Legislature's intent for fiscal oversight over work projects.

Legislative Update

By Aimee Gibbs, John Weiss, Eric McGlothlin, Laura Bassett,
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Prior to the legislative session's adjournment on December 31, 2025, there were a number of new laws and bills of public sector interest enacted by or under consideration in the Michigan Legislature. The following are summaries of some of the most pertinent new laws and bills.

Enacted Legislation

- Civil Procedure. Public Act 52 of 2025** creates the "Uniform Public Expression Protection Act" to allow expedited dismissal of lawsuits related to public communication and constitutional rights, aiming to minimize the impact of strategic lawsuits against public participation known as "SLAPP suits." Creates new act.
- Civil Rights. Public Act 53 of 2025** amends the Tax Tribunal Act and the Open Meetings Act to allow the Tax Tribunal to conduct hearings and proceedings electronically. Amends sec. 3a of 1976 PA 267 (MCL 15.263a). Tie-barred with HB 4098.
- Education. Public Act 48 of 2025** amends the Revised School Code to require the Michigan Department of Education and the Michigan Department of Natural Resources to make a model program of firearm safety instruction available to schools as an elective course for students in grades 6 to 12. Amends 1976 PA 451 (MCL 380.1 - 380.1852) by adding sec. 1163a.

- **Health Facilities. Public Act 45 of 2025** extends from December 31, 2025 to December 31, 2030, the sunset on a provision limiting a county's maintenance of effort payment rate for Medicaid-funded long-term nursing home care to the rate in effect as of September 30, 1984 for county medical care facilities. Amends sec. 109 of 1939 PA 280 (MCL 400.109).
- **Highways. Public Act 16 of 2025** modifies the moveable bridge fund and creates neighborhood roads fund. Amends sec. 11g of 1951 PA 51 (MCL 247.661g); adds sec. 13c.
- **Land Use. Public Act 58 of 2025** authorizes counties and municipalities to increase the number of parcels resulting from land division. Amends sec. 108 of 1967 PA 288 (MCL 560.108).
- **Land Use. Public Act 67 of 2025** provides for survey of parts and for grants to county remonumentation programs. Amends sec. 5, 7, 11, & 13 of 2022 PA 81 (MCL 54.315 et seq.) & repeals this act.
- **Property Tax. Public Act 53 of 2025** amends the Tax Tribunal Act to allow the Tax Tribunal to hold hearings and decide proceedings electronically by telephone, video conferencing or in person. In-person hearings would be held upon request of one of the parties in the proceeding and would have to be held at a location that is mutually agreed on by all parties and approved by the tribunal. Amends secs. 26 & 34 of 1973 PA 186 (MCL 205.726 & 205.734). Tie-barred with HB 4099'25.
- **Health Facilities. Public Act 45 of 2025** extends from December 31, 2025 to December 31, 2030, the sunset on a provision limiting a county's maintenance of effort payment rate for Medicaid-funded long-term nursing home care to the rate in effect as of September 30, 1984 for county medical care facilities. Amends sec. 109 of 1939 PA 280 (MCL 400.109).
- **Civil Procedure. HB 5152** would amend the Revised Judicature Act of 1961, specifically addressing foreclosure notice requirements, the validity of conveyances during foreclosure, and the recording of foreclosure cancellations. Amends sec. 3208 of 1961 PA 236 (MCL 600.3208) & adds secs. 3214 & 3222. Tie-barred with HB 5153'25.
- **Civil Rights. HB 5247** would amend the Freedom of Information Act to provide limited access to public records for incarcerated individuals. Amends secs. 1, 2, 3 & 5 of 1976 PA 442 (MCL 15.231 et seq.).
- **Consumer Protection. SB 0539** would amend the Handgun Licensure Act to require the Department of State Police (MSP) to establish and maintain temporary and indefinite firearm do-not-sell lists and provide for application and enforcement procedures. Amends secs. 1 & 2 of 1927 PA 372 (MCL 28.421 & 28.422) & adds sec. 12c.
- **Courts. HB 4397** would create the Elected Official Protection Act, which would allow certain elected officials (e.g. legislatures, current or former governors, current lieutenant governor, attorney general, or secretary of state) and their families to request the removal of their personal identifying information from public postings and displays. Creates new act.
- **Economic Development. HB 5243** would abolish the Michigan Economic Development Corporation. Amends secs. 4, 5 & 7 of 1984 PA 270 (MCL 125.2004 et seq.); adds sec. 15 & repeals sec. 29e of 1984 PA 270 (MCL 125.2029e).

Pending Legislation

- **Businesses. HB 4745** would amend the Charitable Organizations and Solicitations Act to exempt nonprofit corporations that are primarily engaged in the collection, storage, transportation, and distribution of donated food items from the Act's registration and reporting requirements for charitable organizations. Amends sec. 13 of 1975 PA 169 (MCL 400.283).
- **Businesses. HB 5131** would create a new act to prohibit governmental entities from restricting the use of convertible virtual currency by a person and to prohibit the imposition of certain taxes and tax reporting requirements. The act would also provide for the powers and duties of certain governmental officers and entities. Creates new act.
- **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. SB 0691** would amend the Michigan Election Law to eliminate the August primary election date, move the August primary election date to May, and add the February regular election date. Amends multiple sections of 1954 PA 116.

- **Highways. HB 5176** requires 10-year warranty contract on state road projects. Amends secs. 11, 12 & 13 of 1951 PA 51 (MCL 247.661 et seq.).
- **Housing. HB 5170** provides for right for water bill to be in tenant's name. Amends 1972 PA 348 (MCL 554.601-554.616) by adding sec. 1f.
- **Housing. SB 253** provides for right for water bill to be in tenant's name. Amends 1972 PA 348 (MCL 554.601-554.616) by adding sec. 1f.
- **Human Services. HB 5173** modifies public records of assistance. Amends sec. 64 of 1939 PA 280 (MCL 400.64).
- **Labor. HB 5215** prohibits an employer from discriminating against an employee who is or who intends to be a candidate for public office. Creates new act.
- **Labor. HB 5232** modifies local unit of government's option to provide paid leave for military active service to reflect mandatory paid leave for certain members of law enforcement agencies and fire departments. Amends sec. 3a of 1955 PA 133 (MCL 32.273a). Tie-barred with HB 5233.
- **Labor. HB 5233** provides for paid military leave for certain members of a fire department or law enforcement agency. Creates new act.
- **Law Enforcement. HB 5332** prohibits purchase or use of certain drones by public agencies. Amends 2016 PA 436 (MCL 259.301 - 259.33) by adding sec. 6. Tie-barred with HB 5330.
- **Liquor. SB 624** requires local legislative body approval for a specially designated merchant license or specially designated distributor license. Amends sec. 533 of 1998 PA 58 (MCL 436.1533).
- **Local Government. HB 5167** prohibits certain waste collection agreements. Amends 1994 PA 451 (MCL 324.101 – 324.90106) by adding sec. 11531a.
- **Local Government. HB 5171** prohibits water lien on residential property. Creates new act & repeals 1939 PA 178 (MCL 123.161 – 123.167).
- **Local Government. HB 5192** prohibits use of funds to hire certain lobbyists. Creates new act.
- **Public employees. HB 5399** would prohibit certain elected officials from entering into certain nondisclosure agreements, provide for the powers and duties of certain state and local governmental officers and entities, and provide civil sanctions. Creates new act.
- **Public employees and officers. HB 5245** would prohibit a state officer, for at least two years after leaving public office, to accept employment with or provide services for compensation for a person that the state officer entered into a contract with while in the state officer's official capacity. Creates new act.
- **Property tax. HB 5376** would amend the General Property Tax Act to exempt property owners who do not have dependents attending a public school on a full or part time basis at any time during the year from school-related property taxes. Amends 1893 PA 206 (MCL 211.1 - 211.155) by adding sec. 7yy. Tie-barred with HB 5377'25, HB 5378'25, HB 5379'25.
- **Property. SB 0478** would authorize the State Administrative Board to transfer administrative jurisdiction of a state-owned parcel in Green Oak Township, Livingston County from the Department of Corrections to the Department of Military and Veterans Affairs. Creates land transfer act.
- **Property. HB 5367** would amend recording requirements to provide that if an instrument is executed after the effective date of the SFR tax and economics act and effectuates the transfer of a single-family residential dwelling, it must state on its face, or through an affidavit, the total fair market value of the property being transferred, and is accompanied by the documentary stamps required under the SFR tax and economics act, or states on its face why it is not subject to the bulk-buyer transfer surtax. Amends sec. 1 of 1937 PA 103 (MCL 565.201). Tie-barred with HB 5365'25.
- **Occupations. HB 5289** would amend the Michigan law on notarial acts to allow a notary public to utilize a two-way real-time audiovisual technology to perform notarial acts electronically if the individual seeking the notary's services, if not personally known to the notary, presents satisfactory evidence of identity to the notary before and during the video conference that allows the notary to confirm the identity of the individual. Amends sec. 26c & 26d of 2003 PA 238 (MCL 55.286c & 55.286d).
- **State Finance. HB 4511** would create a new act to prohibit the state or its political subdivisions from

banning, limiting, requiring a permit or license for, or imposing an additional tax on digital assets, in addition to other provisions concerning digital assets as described below. “Digital asset” is currently defined in the bill as: virtual currency, cryptocurrencies, and stablecoins. Creates new act.

- **Traffic Control. HB 5156** would amend the Michigan Vehicle Code to permit a local law enforcement agency to, by means of police officers or temporary traffic control devices, temporarily guide, direct, control, or stop traffic on a highway or street within the geographic jurisdiction of the local law enforcement agency if necessary for public safety because of an emergency or event. Amends 1949 PA 300 (MCL 257.1 – 257.923) by adding sec. 606c.
- **Transportation. HB 4845** would amend 1951 PA 51, which governs the distribution of funding for state and local road and bridge programs, to modify construction contract bidding requirements for Michigan Department of Transportation (MDOT) and local road agency projects. Specifically, the bill would retain the current \$100,000 threshold requiring competitive bidding with respect to MDOT projects, but it would newly exempt the installation or upgrading of advanced traffic operation centers and traffic signal systems from the competitive bidding requirements. The bill would also remove the \$100,000 threshold with respect to local road agency projects. It would

newly require local road agency preventive maintenance projects to be subject to competitive bidding, while exempting a local agency’s resurfacing of roads. Amends sec. 11c of 1951 PA 51 (MCL 247.661c).

- **Use Tax. HB 5397** would amend Section 21 of the Use Tax Act to eliminate the data center exemption under Section 4cc of the act. Amends sec. 21 of 1937 PA 94 (MCL 205.111) and repeals sec. 4cc of 1937 PA 94 (MCL 205.94cc).
- **Water Supply. SB 248, 250 and 251**, tie-barred, would amend the Social Welfare act to create a Low-Income Water Affordability Program within the Department of Health and Human Services (DHHS) and to create a restricted fund to allow the State to appropriate funding to operate and administer funding to water providers to make up the difference between the total of customers’ actual water, sewerage, and stormwater bill and total discounted water and sewerage bills provided through the DHHS or a local water provider water affordability program. The bills would also enact a water shutoff protection act to prohibit a provider from shutting off residential water service while a customer was part of a program and to provide requirements for water shut offs and allowances for customers to avoid such shut offs. Amends 1939 PA 280 (MCL 400.1 – 400.119b) by adding secs. 14n, 14o, 14p, 14r, 14s, 14t and 14u, and creates a new act.

