



**Testimony Regarding House Bill 4540  
House Committee on Oversight and Ethics  
Representative Ed McBroom, Chair**

Submitted in writing by  
Jennifer McKay, Policy Specialist  
Tip of the Mitt Watershed Council  
May 19, 2015

Tip of the Mitt Watershed Council, on behalf of its 2,500 plus members, wishes to express our concern regarding House Bill (HB) 4540, as written. This bill would exempt basic information “about the production, generation, transportation, transmission, or distribution of fuel or energy” from Michigan’s Freedom of Information Act (FOIA).

First, this legislation is duplicative and unnecessary given current existing federal law which already addresses national security issues to keep sensitive energy infrastructure information out of the hands of terrorists or bad actors who may seek to harm Michigan and its citizens. Federal regulation, 18 CFR 388.113, restricts access to critical energy infrastructure information. The federal program also includes a process for landowners and groups interested in protecting public safety and natural resources to access this information in a manner which protects any sensitive information.

As introduced, the state legislation creates a blanket exemption that would not allow landowners, lake associations, nongovernmental organizations, or any other parties to access the information under any circumstance. This broad sweeping bill hinders the ability of landowners and citizen groups to act as watchdogs and help protect the State’s valuable water resources. As an organization dedicated to protecting the environmental integrity and economic and aesthetic values of lakes, streams, wetlands, and groundwater in Northern Michigan, as well as statewide and throughout the Great Lakes Basin, we rely on such information to make technically sound and science based decisions. The exemption in this bill would block the public from accessing information related to Michigan’s network of pipelines and other energy infrastructure, thereby denying critical information to property owners, advocates, and citizens concerned about pipelines in the Great Lakes or near their homes and drinking water.

In addition, Michigan’s FOIA law already has a provision that exempts from disclosure records that would jeopardize safety and security. Under MCL 15.243, a public body may already exempt from disclosure “records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building,

public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.”

If we are going to maintain the proud heritage of the “Great Lakes State” and “Pure Michigan,” we must remain vigilant in our efforts to protect our most valuable resources. We hope you will see that HB 4540 is not necessary and can have significant adverse consequences for Michigan’s citizens and environment. Tip of the Mitt Watershed Council urges you to oppose HB 4540 as introduced.

Thank you again for the opportunity to comment. If you have any questions about the comments provided, please feel free to contact me at [jenniferm@watershedcouncil.org](mailto:jenniferm@watershedcouncil.org) or 231-347-1181.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer McKay".

Jennifer McKay  
Policy Specialist