

HOUSE BILL No. 4729

June 17, 2015, Introduced by Reps. Gamrat, Courser, Glenn and Bizon and referred to the Committee on Health Policy.

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending sections 7, 8, and 28 (MCL 24.207, 24.208, and 24.228),
section 7 as amended by 2011 PA 52 and sections 8 and 28 as amended
by 2004 PA 23.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. "Rule" means an agency regulation, statement,
2 standard, policy, ruling, or instruction of general applicability
3 that implements or applies law enforced or administered by the
4 agency, or that prescribes the organization, procedure, or practice
5 of the agency, including the amendment, suspension, or rescission
6 of the law enforced or administered by the agency. Rule does not
7 include any of the following:

8 (a) A resolution or order of the state administrative board.

9 (b) A formal opinion of the attorney general.

1 (c) A rule or order establishing or fixing rates or tariffs.

2 (d) A rule or order pertaining to game and fish and
3 promulgated under ~~parts~~**PART** 401, 411, and ~~OR~~ 487 of the natural
4 resources and environmental protection act, 1994 PA 451, MCL
5 324.40101 to 324.40120, 324.41101 to 324.41105, and 324.48701 to
6 324.48740.

7 (e) A rule relating to the use of streets or highways, the
8 substance of which is indicated to the public by means of signs or
9 signals.

10 (f) A determination, decision, or order in a contested case.

11 (g) An intergovernmental, interagency, or intra-agency
12 memorandum, directive, or communication that does not affect the
13 rights of, or procedures and practices available to, the public.

14 (h) A form with instructions, an interpretive statement, a
15 guideline, an informational pamphlet, or other material that in
16 itself does not have the force and effect of law but is merely
17 explanatory.

18 (i) A declaratory ruling or other disposition of a particular
19 matter as applied to a specific set of facts involved.

20 (j) A decision by an agency to exercise or not to exercise a
21 permissive statutory power, although private rights or interests
22 are affected.

23 (k) Unless another statute requires a rule to be promulgated
24 under this act, a rule or policy that only concerns the inmates of
25 a state correctional facility and does not directly affect other
26 members of the public, except that a rule that only concerns
27 inmates which was promulgated before December 4, 1986, is a rule

1 and remains in effect until rescinded but shall not be amended. As
2 used in this subdivision, "state correctional facility" means a
3 facility or institution that houses an inmate population under the
4 jurisdiction of the department of corrections.

5 (l) A rule establishing special local watercraft controls
6 promulgated under former 1967 PA 303. A rule described in this
7 subdivision may be rescinded as provided in section 80113(2) of the
8 natural resources and environmental protection act, 1994 PA 451,
9 MCL 324.80113.

10 ~~—— (m) All of the following, after final approval by the~~
11 ~~certificate of need commission under section 22215 of the public~~
12 ~~health code, 1978 PA 368, MCL 333.22215, or the statewide health~~
13 ~~coordinating council under former section 22217 of the public~~
14 ~~health code, 1978 PA 368.~~

15 ~~—— (i) The designation, deletion, or revision of covered medical~~
16 ~~equipment and covered clinical services.~~

17 ~~—— (ii) Certificate of need review standards.~~

18 ~~—— (iii) Data reporting requirements and criteria for determining~~
19 ~~health facility viability.~~

20 ~~—— (iv) Standards used by the department of community health in~~
21 ~~designating a regional certificate of need review agency.~~

22 ~~—— (v) The modification of the 100 licensed bed limitation for~~
23 ~~extended care services programs set forth in section 22210 of the~~
24 ~~public health code, 1978 PA 368, MCL 333.22210.~~

25 (M) ~~(n)~~ A policy developed by the family independence agency
26 under section 6(3) of the social welfare act, 1939 PA 280, MCL
27 400.6, setting income and asset limits, types of income and assets

1 to be considered for eligibility, and payment standards for
 2 administration of assistance programs under that act.

3 (N) ~~(e)~~—A policy developed by the family independence agency
 4 under section 6(4) of the social welfare act, 1939 PA 280, MCL
 5 400.6, to implement requirements that are mandated by federal
 6 statute or regulations as a condition of receipt of federal funds.

7 (O) ~~(p)~~—The provisions of an agency's contract with a public
 8 or private entity including, but not limited to, the provisions of
 9 an agency's standard form contract.

10 (P) ~~(q)~~—A policy developed by the department of community
 11 health under the authority granted in section 111a of the social
 12 welfare act, 1939 PA 280, MCL 400.111a, to implement policies and
 13 procedures necessary to operate its health care programs in
 14 accordance with an approved state plan or in compliance with state
 15 statute.

16 Sec. 8. (1) The office of regulatory reform shall publish the
 17 Michigan register at least once each month. The Michigan register
 18 shall contain all of the following:

19 (a) Executive orders and executive reorganization orders.

20 (b) On a cumulative basis, the numbers and subject matter of
 21 the enrolled senate and house bills signed into law by the governor
 22 during the calendar year and the corresponding public act numbers.

23 (c) On a cumulative basis, the numbers and subject matter of
 24 the enrolled senate and house bills vetoed by the governor during
 25 the calendar year.

26 (d) Proposed administrative rules.

27 (e) Notices of public hearings on proposed administrative

1 rules.

2 (f) Administrative rules filed with the secretary of state.

3 (g) Emergency rules filed with the secretary of state.

4 (h) Notice of proposed and adopted agency guidelines.

5 (i) Other official information considered necessary or
6 appropriate by the office of regulatory reform.

7 (j) Attorney general opinions.

8 ~~—— (k) All of the items listed in section 7(m) after final~~
9 ~~approval by the certificate of need commission under section 22215~~
10 ~~of the public health code, 1978 PA 368, MCL 333.22215.~~

11 (2) The office of regulatory reform shall publish a cumulative
12 index for the Michigan register.

13 (3) The Michigan register shall be available for public
14 subscription at a fee reasonably calculated to cover publication
15 and distribution costs.

16 (4) If publication of an agency's proposed rule or guideline
17 ~~or an item described in subsection (1)(k)~~ would be unreasonably
18 expensive or lengthy, the office of regulatory reform may publish a
19 brief synopsis of the proposed rule or guideline, ~~or item described~~
20 ~~in subsection (1)(k)~~, including information on how to obtain a
21 complete copy of the proposed rule or guideline ~~or item described~~
22 ~~in subsection (1)(k)~~ from the agency at no cost.

23 (5) An agency shall electronically transmit a copy of the
24 proposed rules and notice of public hearing to the office of
25 regulatory reform for publication in the Michigan register.

26 Sec. 28. (1) Before the adoption of a standard form contract
27 that would have been considered a rule but for the exemption from

1 rule-making under section ~~7(p)~~ **7(O)** or a policy exempt from rule-
2 making under section ~~7(q)~~ **7(P)**, an agency shall give electronic
3 notice of the proposed standard form contract or policy to the
4 committee and the office of regulatory reform. The committee shall
5 provide an electronic copy of the notice not later than the next
6 business day after receipt of the electronic notice from the agency
7 to members of the committee and to members of the standing
8 committees of the senate and house of representatives that deal
9 with the subject matter of the proposed standard form contract or
10 policy.

11 (2) The electronic notice required by subsection (1) shall
12 include all of the following:

13 (a) A statement of the terms of substance of the proposed
14 standard form contract or policy, a description of the subjects and
15 issues involved, and the proposed effective date of the standard
16 form contract or policy.

17 (b) A statement that the addressee may express any views or
18 arguments regarding the proposed standard form contract or policy
19 or the standard form contract's or policy's effect on a person.

20 (c) The address to which comments may be sent and the date by
21 which the comments shall be mailed or electronically transmitted,
22 which date shall not be less than 35 days from the date of the
23 mailing or electronic transmittal of the notice.

24 (d) A reference to the specific statutory provision under
25 which the standard form contract or policy is issued.

26 (3) If the value of a proposed standard form contract exempt
27 from rule-making under section ~~7(p)~~ **7(O)** is \$10,000,000.00 or more,

1 the electronic notice required under subsection (1) shall include
2 an electronic copy of the proposed standard form contract. If the
3 value of the proposed standard form contract exempt from rule-
4 making under section ~~7(p)~~ 7(0) is less than \$10,000,000.00, the
5 agency shall provide an electronic or paper copy of the proposed
6 standard form contract or policy to any legislator requesting a
7 copy.

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.

10 Enacting section 2. This amendatory act does not take effect
11 unless Senate Bill No. ____ or House Bill No. 4728 (request no.
12 00969'15) of the 98th Legislature is enacted into law.