

HOUSE BILL NO. 5511

February 20, 2020, Introduced by Reps. Maddock and Reilly 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 2016 PA 444 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



1 agency, or that prescribes the organization, procedure, or practice
2 of the agency, including the amendment, suspension, or rescission
3 of the law enforced or administered by the agency. Rule does not
4 include any of the following:

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

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

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

8 (d) A rule or order pertaining to game and fish and
9 promulgated under parts 401, 411, and 487 of the natural resources
10 and environmental protection act, 1994 PA 451, MCL 324.40101 to
11 324.40120, 324.41101 to 324.41105, and 324.48701 to 324.48740.

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

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

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

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

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

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

28 (k) Unless another statute requires a rule to be promulgated
29 under this act, a rule or policy that only concerns the inmates of



1 a state correctional facility and does not directly affect other
 2 members of the public, except that a rule that only concerns
 3 inmates that was promulgated before December 4, 1986, is a rule and
 4 remains in effect until rescinded but ~~shall~~**must** not be amended. As
 5 used in this subdivision, "state correctional facility" means a
 6 facility or institution that houses an inmate population under the
 7 jurisdiction of the department of corrections.

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

13 ~~(m) All of the following, after final approval by the
 14 certificate of need commission under section 22215 of the public
 15 health code, 1978 PA 368, MCL 333.22215, or the statewide health
 16 coordinating council under former section 22217 of the public
 17 health code, 1978 PA 368:~~

18 ~~(i) The designation, deletion, or revision of covered medical
 19 equipment and covered clinical services.~~

20 ~~(ii) Certificate of need review standards.~~

21 ~~(iii) Data reporting requirements and criteria for determining
 22 health facility viability.~~

23 ~~(iv) Standards used by the department of health and human
 24 services in designating a regional certificate of need review
 25 agency.~~

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

29 (m) ~~(n)~~A policy developed by the department of health and



1 human services under section 6(3) of the social welfare act, 1939
 2 PA 280, MCL 400.6, setting income and asset limits, types of income
 3 and assets to be considered for eligibility, and payment standards
 4 for administration of assistance programs under that act.

5 (n) ~~(e)~~—A policy developed by the department of health and
 6 human services under section 6(4) of the social welfare act, 1939
 7 PA 280, MCL 400.6, to implement requirements that are mandated by
 8 federal statute or regulations as a condition of receipt of federal
 9 funds.

10 (o) ~~(p)~~—The provisions of an agency's contract with a public
 11 or private entity including, but not limited to, the provisions of
 12 an agency's standard form contract.

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

19 (q) ~~(r)~~—A minimum standard approved or established under
 20 authority granted by the Michigan indigent defense commission act,
 21 2013 PA 93, MCL 780.981 to 780.1003.

22 Sec. 8. (1) The office ~~of regulatory reform~~ shall publish the
 23 Michigan ~~register at least~~ **Register not less than** once each month.
 24 The Michigan ~~register shall~~ **Register must** contain all of the
 25 following:

26 (a) Executive orders and executive reorganization orders.

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



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

4 (d) Proposed administrative rules.

5 (e) Notices of public hearings on proposed administrative
6 rules.

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

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

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

10 (i) Other official information considered necessary or
11 appropriate by the office. ~~of regulatory reform.~~

12 (j) Attorney general opinions.

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

16 (2) The office ~~of regulatory reform~~ shall publish a cumulative
17 index for the Michigan ~~register~~. **Register.**

18 (3) The Michigan ~~register~~ shall **Register must** be available for
19 public subscription at a fee reasonably calculated to cover
20 publication and distribution costs.

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

28 (5) An agency shall electronically transmit a copy of the
29 proposed rules and notice of public hearing to the office ~~of~~



1 ~~regulatory reform~~ for publication in the Michigan
 2 ~~register.~~ **Register.**

3 Sec. 28. (1) Before the adoption of a standard form contract
 4 that would have been considered a rule but for the exemption from
 5 rule-making under section ~~7(p)~~ **7(o)** or a policy exempt from rule-
 6 making under section ~~7(q)~~ **7(p)**, an agency shall give electronic
 7 notice of the proposed standard form contract or policy to the
 8 committee and the office. ~~of regulatory reform.~~ The committee shall
 9 provide an electronic copy of the notice not later than the next
 10 business day after receipt of the electronic notice from the agency
 11 to members of the committee and to members of the standing
 12 committees of the senate and house of representatives that deal
 13 with the subject matter of the proposed standard form contract or
 14 policy.

15 (2) The electronic notice required by subsection (1) ~~shall~~
 16 **must** include all of the following:

17 (a) A statement of the terms of substance of the proposed
 18 standard form contract or policy, a description of the subjects and
 19 issues involved, and the proposed effective date of the standard
 20 form contract or policy.

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

24 (c) The address to which comments may be sent and the date by
 25 which the comments ~~shall~~ **must** be mailed or electronically
 26 transmitted, which date ~~shall~~ **must** not be less than 35 days ~~from~~
 27 **after** the date of the mailing or electronic transmittal of the
 28 notice.

29 (d) A reference to the specific statutory provision under



1 which the standard form contract or policy is issued.

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

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

13 Enacting section 2. This amendatory act does not take effect
14 unless Senate Bill No. ____ or House Bill No. 5510 (request no.
15 04667'19) of the 100th Legislature is enacted into law.

