

# HOUSE BILL NO. 5245

October 25, 2023, Introduced by Reps. Arbit, Morgan, Conlin, Rheingans, Miller, Paiz, Wilson, Breen, Churches, Glanville, Hood, Tsernoglou, Hoskins, Skaggs, MacDonell, Brixie, Hope, Mentzer, Neeley, Koleszar, McKinney, Wegela, Hill, Andrews, Brabec, Young, Puri, Martus, Dievendorf, Weiss, Aiyash and Coffia and referred to the Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending section 7 (MCL 24.207), as amended by 2022 PA 134.

**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

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

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

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

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

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

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

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

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

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

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

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

27 (k) Unless another statute requires a rule to be promulgated  
28 under this act, a rule or policy that only concerns the inmates of  
29 a state correctional facility and does not directly affect other

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

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

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

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

19 (ii) Certificate of need review standards.

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

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

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

28 (n) A policy developed by the department of health and human  
29 services under section 6(3) of the social welfare act, 1939 PA 280,

1 MCL 400.6, setting income and asset limits, types of income and  
2 assets to be considered for eligibility, and payment standards for  
3 administration of assistance programs under that act.

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

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

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

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

20 (s) Scoring criteria and the definitions of overburdened  
21 community and significantly overburdened community developed by the  
22 department of environment, Great Lakes, and energy under the  
23 authority granted under parts 53 and 54 of the natural resources  
24 and environmental protection act, 1994 PA 451, MCL 324.5301 to  
25 324.5316 and 324.5401 to 324.5418.

26 **(t) Cleanup criteria and target detection limits developed by**  
27 **the department of environment, Great Lakes, and energy under part**  
28 **201 of the natural resources and environmental protection act, 1994**  
29 **PA 451, MCL 324.20101 to 324.20142.**

1           Enacting section 1. This amendatory act does not take effect  
2 unless all of the following bills of the 102nd Legislature are  
3 enacted into law:

4           (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5242 (request no.  
5 00761'23).

6           (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5247 (request no.  
7 03591'23).