



# HOUSE BILL No. 5435

November 30, 1995, Introduced by Reps. Jersevic, Cropsey, Leland, Olshove, London, McBryde, Rocca, Dalman, Jaye, Goschka, Middleton, Middaugh, Law, Walberg, Weeks, Kukuk, Horton, McManus, Rhead, Jamian, Gustafson, Green, Hill, Jellema, Byl, Ryan, Randall, Lowe, Brewer, McNutt, Llewellyn, Voorhees, Bankes, Baade, Nye, Bush, Porreca, Whyman, Bryant, Galloway, Gilmer, Perricone, Hood, LeTarte, Gernaat, Geiger, Bobier, Dolan, Bodem, Dobb, Brackenridge, Bullard, Johnson, Oxender, Hammerstrom, Owen, Sikkema, Wetters, Gagliardi, Baird, Freeman, Gubow, Wallace, Varga, Price, DeHart, Curtis, Harder, Munsell, Willard, Anthony, Tesanovich, Schroer, Griffin, Dobronski, Palamara, Prusi, Profit, Yokich, Kelly, Agee, Hanley and Gnodtke and referred to the Committee on House Oversight and Ethics.

A bill to amend sections 3, 24, 25, 35, 36, 47, 49, 50, 51, and 52 of Act No. 306 of the Public Acts of 1969, entitled as amended

"Administrative procedures act of 1969,"

section 3 as amended by Act No. 277 of the Public Acts of 1988, sections 24 and 52 as amended by Act No. 413 of the Public Acts of 1982, and section 35 as amended by Act No. 178 of the Public Acts of 1995, being sections 24.203, 24.224, 24.225, 24.235, 24.236, 24.247, 24.249, 24.250, 24.251, and 24.252 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 3, 24, 25, 35, 36, 47, 49, 50, 51, and  
2 52 of Act No. 306 of the Public Acts of 1969, section 3 as  
3 amended by Act No. 277 of the Public Acts of 1988, sections 24  
4 and 52 as amended by Act No. 413 of the Public Acts of 1982, and

1 section 35 as amended by Act No. 178 of the Public Acts of 1995,  
2 being sections 24.203, 24.224, 24.225, 24.235, 24.236, 24.247,  
3 24.249, 24.250, 24.251, and 24.252 of the Michigan Compiled Laws,  
4 are amended to read as follows:

5       Sec. 3. (1) "Adoption of a rule" means that step in the  
6 processing of a rule consisting of the formal action of an agency  
7 establishing a rule before its promulgation.

8       (2) "Agency" means a state department, bureau, division,  
9 section, board, commission, trustee, authority, or officer, cre-  
10 ated by the constitution, statute, or agency action. Agency does  
11 not include an agency in the legislative or judicial branch of  
12 state government, the governor, an agency having direct governing  
13 control over an institution of higher education, the state civil  
14 service commission, or an association of insurers created under  
15 the insurance code of 1956, Act No. 218 of the Public Acts of  
16 1956, being sections 500.100 to 500.8302 of the Michigan Compiled  
17 Laws, or other association or facility formed under Act No. 218  
18 of the Public Acts of 1956 as a nonprofit organization of insurer  
19 members.

20       (3) "Contested case" means a proceeding, including  
21 rate-making, price-fixing, and licensing, in which a determina-  
22 tion of the legal rights, duties, or privileges of a named party  
23 is required by law to be made by an agency after an opportunity  
24 for an evidentiary hearing. When a hearing is held before an  
25 agency and an appeal from its decision is taken to another  
26 agency, the hearing and the appeal are deemed to be a continuous  
27 proceeding as though before a single agency.

1 (4) "Committee" means the ~~joint~~ committee on  
2 administrative rules.

3 (5) "Court" means the circuit court.

4 (6) "Guideline" means an agency statement or declaration of  
5 policy which the agency intends to follow, which does not have  
6 the force or effect of law, and which binds the agency but does  
7 not bind any other person.

8 Sec. 24. (1) Before the adoption of a guideline, an agency  
9 shall give notice of the proposed guideline to the ~~joint~~ com-  
10 mittee on administrative rules, the legislative service bureau,  
11 the office of the governor, and each person who requested the  
12 agency in writing for advance notice of proposed action which may  
13 affect the person. The notice shall be given by mail, in writ-  
14 ing, to the last address specified by the person. A request for  
15 notice is renewable each December.

16 (2) The notice required by subsection (1) shall include all  
17 of the following:

18 (a) A statement of the terms or substance of the proposed  
19 guideline, a description of the subjects and issues involved, and  
20 the proposed effective date of the guideline.

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

24 (c) The address to which written comments may be sent and  
25 the date by which comments shall be mailed, which date shall not  
26 be less than 60 days from the date of the mailing of the notice.

1 (d) A reference to the specific statutory provision about  
2 which the proposed guideline states a policy.

3 Sec. 25. When adopted, a guideline is a public record.  
4 Copies of guidelines shall be sent to the ~~joint~~ committee on  
5 administrative rules, the legislative service bureau, the office  
6 of the governor, and all persons who have requested the agency in  
7 writing for advance notice of proposed action which may affect  
8 them.

9 Sec. 35. (1) The ~~joint~~ committee on administrative rules  
10 is created and consists of 5 members of the senate and 5 members  
11 of the house of representatives appointed in the same manner as  
12 standing committees are appointed for terms of 2 years. Of the 5  
13 members in each house, 3 shall be from the majority party and 2  
14 shall be from the minority party. The chairperson of the commit-  
15 tee shall alternate between houses each year. Members of the  
16 committee shall serve without compensation but shall be reim-  
17 bursed for expenses incurred in the business of the committee.  
18 The expenses of the members of the senate shall be paid from  
19 appropriations to the senate and the expenses of the members of  
20 the house of representatives shall be paid from appropriations to  
21 the house of representatives. The committee may meet during a  
22 session of the legislature and during an interim between  
23 sessions. The committee may hold a hearing on a rule transmitted  
24 to the committee. Action by the committee, including action  
25 taken under section 52, shall be by concurring majorities of the  
26 members from each house. The committee shall report its

1 activities and recommendations to the legislature at each regular  
2 session.

3 (2) The committee may hire staff to assist the committee  
4 under this act. However, the supervision of staff, budgeting,  
5 procurement, and related functions of the committee shall be per-  
6 formed by the council administrator under section 104a of the  
7 legislative council act, Act No. 268 of the Public Acts of 1986,  
8 being section 4.1104a of the Michigan Compiled Laws.

9 Sec. 36. The ~~joint~~ committee on administrative rules may  
10 prescribe procedures and standards not inconsistent with this act  
11 or other applicable statutes, for the drafting, processing, pub-  
12 lication, and distribution of rules. The procedures and stan-  
13 dards shall be included in a manual which the legislative service  
14 bureau shall publish and distribute in reasonable quantities to  
15 the state departments.

16 Sec. 47. (1) Except in case of a rule processed under sec-  
17 tion 48, a rule becomes effective on the date fixed in the rule,  
18 which shall not be earlier than 15 days after the date of its  
19 promulgation, or if a date is not so fixed then on the date of  
20 its publication in the Michigan administrative code or a supple-  
21 ment ~~thereto~~ TO THE MICHIGAN ADMINISTRATIVE CODE.

22 (2) Except in case of a rule processed under section 48, an  
23 agency may withdraw a promulgated rule which has not become  
24 effective by a written request stating reasons, (a) to the secre-  
25 tary of state on or before the last day for filing rules for the  
26 interim period in which the rules were first filed, or (b) to the  
27 secretary of state and the legislative service bureau, within a

1 reasonable time as determined by the bureau, after the last day  
2 for filing and before publication of the rule in the next supple-  
3 ment to the code. In any other case, an agency may abrogate its  
4 rule only by rescission. When an agency has withdrawn a promul-  
5 gated rule, it shall give notice, stating reasons, to the ~~joint~~  
6 committee on administrative rules that the rule has been  
7 withdrawn.

8       Sec. 49. (1) The secretary of state shall transmit or mail  
9 ~~forthwith~~ IMMEDIATELY, after copies of rules are filed in his  
10 OR HER office, copies on which the day and hour of such filing  
11 have been indorsed, as follows:

12       (a) To the secretary of the ~~joint~~ committee on administra-  
13 tive rules and the legislative service bureau.

14       (b) To the secretary of the senate and the clerk of the  
15 house of representatives for distribution by them to each member  
16 of the senate and the house of representatives. When the legis-  
17 lature is not in session, or is in session but will not meet for  
18 more than 10 days after the secretary and clerk have received the  
19 rules, the secretary and clerk shall mail 1 copy to each member  
20 of the legislature at his OR HER home address.

21       (2) The secretary of the senate and clerk of the house of  
22 representatives shall present the rules to the senate and the  
23 house of representatives.

24       Sec. 50. When the legislature is in session the ~~joint~~  
25 committee shall notify the appropriate standing committee of each  
26 house of the legislature when rules have been transmitted to the  
27 committee by the secretary of state. If the ~~joint~~ committee

1 determines that a hearing on such rules is to be held, it shall  
2 notify the ~~chairmen~~ CHAIRPERSONS of the standing committees and  
3 all members of the standing committees may be present and take  
4 part in the hearing. The ~~chairman~~ CHAIRPERSON or a designated  
5 member of the standing committee should be present at the hear-  
6 ing, but ~~their~~ HIS OR HER absence does not affect the validity  
7 of the hearing.

8       Sec. 51. If the ~~joint~~ committee on administrative rules,  
9 an appropriate standing committee, or a member of the legislature  
10 believes that a promulgated rule or any part ~~thereof~~ OF THE  
11 RULE is unauthorized, is not within legislative intent, or is  
12 inexpedient, the committee or member may do either or both of the  
13 following:

14       (a) Introduce a concurrent resolution at a regular or spe-  
15 cial session of the legislature expressing the determination of  
16 the legislature that the rule should be amended or rescinded.  
17 Adoption of the concurrent resolution constitutes legislative  
18 disapproval of the rule, but rejection of the resolution does not  
19 constitute legislative approval of the rule.

20       (b) Introduce a bill at a regular session, or special ses-  
21 sion if included in a governor's message, which in effect amends  
22 or rescinds the rule.

23       Sec. 52. If authorized by concurrent resolution of the leg-  
24 islature, the ~~joint~~ committee on administrative rules, acting  
25 between regular sessions, may suspend a rule or a part of a rule  
26 promulgated during the interim between regular sessions. The  
27 committee shall notify the agency promulgating the rule, the

1 secretary of state, the department of management and budget, and  
2 the legislative service bureau of any rule or part of a rule the  
3 ~~joint~~ committee suspends, and the rule or part of a rule shall  
4 not be published in the Michigan register or in the Michigan  
5 administrative code while suspended. A rule suspended by the  
6 committee continues to be suspended until the end of the next  
7 regular session.