

HOUSE BILL No. 6034

November 9, 2016, Introduced by Rep. Lauwers and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1909 PA 300, entitled

"An act to define and regulate common carriers and the receiving, transportation, and delivery of persons and property; to prevent the imposition of unreasonable rates; to prevent unjust discrimination; to insure adequate service; to provide for certain powers and duties of certain state agencies and officials; to provide for the promulgation of rules; and to prescribe penalties for violations of this act,"

by amending section 26 (MCL 462.26), as amended by 1987 PA 12.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 26. (1) Except as otherwise provided in section 7 of Act
2 ~~No. 299 of the Public Acts of 1972, being section 1972 PA 299, MCL~~
3 ~~460.117, of the Michigan Compiled Laws, section 5 of Act No. 246 of~~
4 ~~the Public Acts of 1921, being section 460.205 of the Michigan~~
5 ~~Compiled Laws, AND section 12 of Act No. 165 of the Public Acts of~~
6 ~~1969, being section 1969 PA 165, MCL 483.162, of the Michigan~~

1 ~~Compiled Laws, section 20 of Act No. 19 of the Public Acts of 1967,~~
2 ~~being section 486.570 of the Michigan Compiled Laws,~~ and except as
3 otherwise provided in this section, any common carrier or other
4 party in interest, being dissatisfied with any order of the
5 **MICHIGAN PUBLIC SERVICE** commission fixing any rate or rates, fares,
6 charges, classifications, joint rate or rates, or any order fixing
7 any regulations, practices, or services, may within 30 days from
8 the issuance and notice of that order file an appeal as of right in
9 the court of appeals. The court of appeals ~~shall~~ **DOES** not have
10 jurisdiction over any appeal that is filed later than the 30-day
11 appeal period provided for in this subsection.

12 (2) An appeal of any decision or order of the Michigan public
13 service commission that is pending in the circuit court on ~~the~~
14 ~~effective date of this subsection~~ **APRIL 1, 1987** shall proceed and
15 be decided in that court and appealed pursuant to the applicable
16 law in effect immediately ~~prior to the effective date of this~~
17 ~~subsection,~~ **BEFORE APRIL 1, 1987**, if on that date, the appeal has
18 progressed beyond the filing of a complaint and answer. All other
19 pending cases shall be transferred promptly by the circuit court to
20 the court of appeals.

21 (3) An appeal from any commission order that is filed in a
22 timely manner but is incorrectly initiated in either ~~the circuit~~
23 ~~court for the county of Ingham~~ **COUNTY CIRCUIT COURT** or the court of
24 appeals shall be transferred by that court, on its own motion or on
25 motion of a party, to the proper court and shall proceed as if
26 timely filed in that court.

27 (4) No injunction shall issue except upon application to the

1 court of appeals following notice to the **MICHIGAN PUBLIC SERVICE**
2 commission and a hearing. The court of appeals ~~shall have~~ **HAS** the
3 same equitable powers as possessed by the circuit court in chancery
4 in the county of Ingham ~~prior to the effective date of subsection~~
5 ~~(2)~~. **BEFORE APRIL 1, 1987.**

6 (5) Beginning on ~~the effective date of this subsection~~ **APRIL**
7 **1, 1987** and until December 31, 1988, and within the time for filing
8 an appeal, a party seeking a preliminary injunction may apply for
9 ~~such~~ **THAT** relief ~~pursuant to~~ **UNDER** subsection (4) and may request
10 that the court of appeals transfer ~~such~~ **THAT** application to ~~the~~
11 ~~circuit court for the county of Ingham~~ **COUNTY CIRCUIT COURT**. Upon
12 request, the court of appeals shall transfer an application for a
13 preliminary injunction to the circuit court for a determination.
14 The circuit court ~~shall have~~ **HAS** the same equitable powers as
15 possessed by the circuit court in chancery in the county of Ingham
16 ~~prior to the effective date of this subsection.~~ **BEFORE APRIL 1,**
17 **1987.** The circuit court shall grant or deny an application within
18 the time period prescribed by the court of appeals. An order of the
19 circuit court granting or denying an application shall be
20 transferred by that court to the court of appeals and made part of
21 the record in the pending appeal. An appeal of a circuit court
22 order issued under this subsection ~~shall~~ **IS** not ~~be~~ necessary to
23 confer upon the court of appeals full and complete jurisdiction to
24 enforce, vacate, or modify an order of the circuit court.

25 (6) Within 28 days ~~from~~ **AFTER** the filing of an appeal, a party
26 may ~~make application~~ **APPLY** to the **MICHIGAN PUBLIC SERVICE**
27 commission to present additional evidence. ~~A~~ **THE PARTY SHALL FILE A**

1 copy of the application for additional evidence ~~shall be filed in~~
2 the court of appeals and the court shall stay further appellate
3 proceedings pending the **MICHIGAN PUBLIC SERVICE** commission's
4 receipt and consideration of the proposed evidence. If the **MICHIGAN**
5 **PUBLIC SERVICE** commission finds that the proposed evidence is
6 different from or in addition to the evidence presented at the
7 original hearing, the **MICHIGAN PUBLIC SERVICE** commission shall
8 receive the additional evidence. After considering the additional
9 evidence, the **MICHIGAN PUBLIC SERVICE** commission may alter, modify,
10 amend, or rescind its order relating to the rate or rates, fares,
11 charges, classifications, joint rate or rates, regulations,
12 practice, or service complained of ~~and~~ and shall report its decision
13 to the court of appeals within the time period prescribed by the
14 court. If the **MICHIGAN PUBLIC SERVICE** commission rescinds its
15 order, the appeal shall be dismissed. If the **MICHIGAN PUBLIC**
16 **SERVICE** commission alters, modifies, or amends its order, that
17 amended order shall take the place of the original order, and the
18 court of appeals shall render its decision based on the amended
19 order. If the original order is not rescinded or amended by the
20 **MICHIGAN PUBLIC SERVICE** commission, judgment shall be rendered upon
21 the original order.

22 (7) An appeal from a **MICHIGAN PUBLIC SERVICE** commission order
23 pertaining to the application of existing commission rules,
24 tariffs, or rate schedules to an individual customer in a contested
25 case shall be filed in ~~the circuit court for the county of Ingham~~
26 **COUNTY CIRCUIT COURT** within 30 days of the issuance and notice of
27 an order.

1 (8) In all appeals under this section the burden of proof
2 ~~shall be~~ **IS** upon the appellant to show by clear and satisfactory
3 evidence that the order of the **MICHIGAN PUBLIC SERVICE** commission
4 complained of is unlawful or unreasonable.

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No. _____ or House Bill No. 6033 (request no.
7 05750'16) of the 98th Legislature is enacted into law.