

**SUBSTITUTE FOR
HOUSE BILL NO. 5892**

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending section 7 (MCL 24.207), as amended by 2016 PA 444.

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 401, 411, and 487 of the natural resources
4 and environmental protection act, 1994 PA 451, MCL 324.40101 to
5 324.40120, 324.41101 to 324.41105, and 324.48701 to 324.48740.

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

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

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

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

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

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

22 (k) Unless another statute requires a rule to be promulgated
23 under this act, a rule or policy that only concerns the inmates of
24 a state correctional facility and does not directly affect other
25 members of the public, except that a rule that only concerns
26 inmates that was promulgated before December 4, 1986, is a rule and
27 remains in effect until rescinded but shall not be amended. As used
28 in this subdivision, "state correctional facility" means a facility
29 or institution that houses an inmate population under the

1 jurisdiction of the department of corrections.

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4 subdivision may be rescinded as provided in section 80113(2) of the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

7 (m) All of the following, after final approval by the
8 certificate of need commission under section 22215 of the public
9 health code, 1978 PA 368, MCL 333.22215, or the statewide health
10 coordinating council under former section 22217 of the public
11 health code, 1978 PA 368:

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

14 (ii) Certificate of need review standards.

15 (iii) Data reporting requirements and criteria for determining
16 health facility viability.

17 (iv) Standards used by the department of health and human
18 services in designating a regional certificate of need review
19 agency.

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

23 (n) A policy developed by the department of health and human
24 services under section 6(3) of the social welfare act, 1939 PA 280,
25 MCL 400.6, setting income and asset limits, types of income and
26 assets to be considered for eligibility, and payment standards for
27 administration of assistance programs under that act.

28 (o) A policy developed by the department of health and human
29 services under section 6(4) of the social welfare act, 1939 PA 280,

1 MCL 400.6, to implement requirements that are mandated by federal
2 statute or regulations as a condition of receipt of federal funds.

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

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

12 (r) A minimum standard approved or established under authority
13 granted by the Michigan indigent defense commission act, 2013 PA
14 93, MCL 780.981 to 780.1003.

15 **(s) Scoring criteria and the definitions of overburdened**
16 **community and significantly overburdened community developed by the**
17 **department of environment, Great Lakes, and energy under the**
18 **authority granted under parts 53 and 54 of the natural resources**
19 **and environmental protection act, 1994 PA 451, MCL 324.5301 to**
20 **324.5316 and 324.5401 to 324.5418.**

21 Enacting section 1. This amendatory act does not take effect
22 unless House Bill No. 5890 of the 101st Legislature is enacted into
23 law.