



HOUSE BILL No. 6207

November 14, 1996, Introduced by Reps. Randall and McNutt and referred to the Committee on Appropriations.

A bill to amend sections 7 and 115 of Act No. 306 of the Public Acts of 1969, entitled as amended "Administrative procedures act of 1969," section 7 as amended by Act No. 224 of the Public Acts of 1995 and section 115 as amended by Act No. 222 of the Public Acts of 1996, being sections 24.207 and 24.315 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7 and 115 of Act No. 306 of the Public
2 Acts of 1969, section 7 as amended by Act No. 224 of the Public
3 Acts of 1995 and section 115 as amended by Act No. 222 of the
4 Public Acts of 1996, being sections 24.207 and 24.315 of the
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 7. "Rule" means an agency regulation, statement,
7 standard, policy, ruling, or instruction of general applicability

1 that implements or applies law enforced or administered by the
2 agency, or that prescribes the organization, procedure, or prac-
3 tice of the agency, including the amendment, suspension, or
4 rescission of the law enforced or administered by the agency.

5 Rule does not include any of the following:

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

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

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

11 (d) A rule or order pertaining to game and fish and promul-
12 gated under part 411 (protection and preservation of fish, game,
13 and birds) of the natural resources and environmental protection
14 act, Act No. 451 of the Public Acts of 1994, being
15 sections 324.41101 to 324.41105 of the Michigan Compiled Laws,
16 part 487 (sport fishing) of Act No. 451 of the Public Acts of
17 1994, being sections 324.48701 to 324.48740 of the Michigan
18 Compiled Laws, and part 401 (wildlife conservation) of Act
19 No. 451 of the Public Acts of 1994, being sections 324.40101 to
20 324.40119 of the Michigan Compiled Laws.

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

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

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

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

8 (i) A declaratory ruling or other disposition of a particu-
9 lar matter as applied to a specific set of facts involved.

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

13 (k) Unless another statute requires a rule to be promulgated
14 under this act, a rule or policy that only concerns the inmates
15 of a state correctional facility and does not directly affect
16 other members of the public, except that a rule that only con-
17 cerns inmates which was promulgated before December 4, 1986,
18 shall be considered a rule and shall remain in effect until
19 rescinded but shall not be amended. As used in this subdivision,
20 "state correctional facility" means a facility or institution
21 that houses an inmate population under the jurisdiction of the
22 department of corrections.

23 (l) All of the following, after final approval by the cer-
24 tificate of need commission or the statewide health coordinating
25 council under section 22215 or 22217 of the public health code,
26 Act No. 368 of the Public Acts of 1978, being sections 333.22215
27 and 333.22217 of the Michigan Compiled Laws:

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

3 (ii) Certificate of need review standards.

4 (iii) Data reporting requirements and criteria for determin-
5 ing health facility viability.

6 (iv) Standards used by the department of public health in
7 designating a regional certificate of need review agency.

8 (v) The modification of the 100 licensed bed limitation for
9 short-term nursing care programs set forth in section 22210 of
10 Act No. 368 of the Public Acts of 1978, being section 333.22210
11 of the Michigan Compiled Laws.

12 (m) A policy developed by the family independence agency
13 under section 6(3) of the social welfare act, Act No. 280 of the
14 Public Acts of 1939, being section 400.6 of the Michigan Compiled
15 Laws, setting income and asset limits, types of income and assets
16 to be considered for eligibility, and payment standards for
17 administration of assistance programs under that act.

18 (n) A policy developed by the family independence agency
19 under section 6(4) of Act No. 280 of the Public Acts of 1939,
20 being section 400.6 of the Michigan Compiled Laws, to implement
21 requirements that are mandated by federal statute or regulations
22 as a condition of receipt of federal funds.

23 (o) Until the expiration of 12 months after the effective
24 date of this subdivision, a regulation issued by the family inde-
25 pendence agency under section 6(2) of Act No. 280 of the Public
26 Acts of 1939 ~~, being section 400.6 of the Michigan Compiled~~
27 ~~Laws,~~ setting standards and policies for the administration of

1 programs under that act. Upon the expiration of 12 months after
2 the effective date of this subdivision, regulations described in
3 this subdivision are not binding and effective unless processed
4 as emergency rules under section 48 or promulgated in accordance
5 with this act. This subdivision does not apply to policies per-
6 manently exempted under subdivisions (m) and (n).

7 (P) THE PROVISIONS OF AN AGENCY'S CONTRACT WITH A PUBLIC OR
8 PRIVATE ENTITY INCLUDING, BUT NOT LIMITED TO, THE PROVISIONS OF
9 AN AGENCY'S STANDARD FORM CONTRACT.

10 Sec. 115. (1) Chapters 4 and 6 do not apply to proceedings
11 conducted under the worker's disability compensation act of 1969,
12 Act No. 317 of the Public Acts of 1969, being sections 418.101 to
13 418.941 of the Michigan Compiled Laws.

14 (2) Chapters 4 and 8 do not apply to a hearing conducted by
15 the department of corrections pursuant to chapter IIIA of Act
16 No. 232 of the Public Acts of 1953, being sections 791.251 to
17 791.256 of the Michigan Compiled Laws.

18 (3) Chapter 8 does not apply to any of the following:

19 (a) A contested case or other proceeding regarding the
20 granting or renewing of an operator's or chauffeur's license by
21 the secretary of state.

22 (b) Proceedings conducted by the Michigan employment rela-
23 tions commission.

24 (c) Worker's disability compensation proceedings under Act
25 No. 317 of the Public Acts of 1969.

26 (d) Unemployment compensation hearings under the Michigan
27 employment security act, Act No. 1 of the Public Acts of the

1 Extra Session of 1936, being sections 421.1 to 421.75 of the
2 Michigan Compiled Laws.

3 (e) ~~Department of social services~~ FAMILY INDEPENDENCE
4 AGENCY public assistance hearings under section 9 of the social
5 welfare act, Act No. 280 of the Public Acts of 1939, being sec-
6 tion 400.9 of the Michigan Compiled Laws.

7 (4) Chapter 6 does not apply to final decisions or orders
8 rendered under article 15 of the public health code, Act No. 368
9 of the Public Acts of 1978, being sections 333.16101 to 333.18838
10 of the Michigan Compiled Laws.

11 (5) Chapters 2, 3, and 5 do not apply to the municipal
12 employees retirement system and retirement board created by the
13 municipal employees retirement act of 1984, Act No. 427 of the
14 Public Acts of 1984, being sections 38.1501 to 38.1555 of the
15 Michigan Compiled Laws, on and after AUGUST 15, 1996. ~~the certi-~~
16 ~~fication date. As used in this subsection, "certification date"~~
17 ~~means that term as defined in section 2a of Act No. 427 of the~~
18 ~~Public Acts of 1984, being section 38.1502a of the Michigan~~
19 ~~Compiled Laws.~~

20 (6) CHAPTERS 2, 3, AND 5 DO NOT APPLY TO THE ESTABLISHMENT,
21 IMPLEMENTATION, ADMINISTRATION, OPERATION, INVESTMENT, OR DISTRI-
22 BUTION OF A TIER 2 RETIREMENT PLAN ESTABLISHED PURSUANT TO
23 SECTION 401(k) OF THE INTERNAL REVENUE CODE UNDER THE STATE
24 EMPLOYEES' RETIREMENT ACT, ACT NO. 240 OF THE PUBLIC ACTS OF
25 1943, BEINGS SECTIONS 38.1 TO 38.69 OF THE MICHIGAN COMPILED
26 LAWS.

1 (7) CHAPTERS 2, 3, AND 5 DO NOT APPLY TO THE ESTABLISHMENT,
2 IMPLEMENTATION, ADMINISTRATION, OPERATION, INVESTMENT, OR
3 DISTRIBUTION OF A TIER 2 RETIREMENT PLAN ESTABLISHED PURSUANT TO
4 SECTION 403(b) OF THE INTERNAL REVENUE CODE UNDER THE PUBLIC
5 SCHOOL EMPLOYEES RETIREMENT ACT OF 1979, ACT NO. 300 OF THE
6 PUBLIC ACTS OF 1980, BEING SECTIONS 38.1301 TO 38.1437 OF THE
7 MICHIGAN COMPILED LAWS.

8 Section 2. This amendatory act shall not take effect unless
9 all of the following bills of the 88th Legislature are enacted
10 into law:

11 (a) Senate Bill No. _____ or House Bill No. _____
12 (request no. 08353'96).

13 (b) Senate Bill No. _____ or House Bill No. _____
14 (request no. 08355'96).