

**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2011**

**Introduced by Senators Robertson, Nofs, Colbeck, Marleau, Emmons, Booher, Proos, Kahn, Schuitmaker, Brandenburg, Casperson, Caswell, Hansen, Hildenbrand, Hune, Jones, Kowall, Meekhof, Moolenaar, Pappageorge, Pavlov and Richardville**

# **ENROLLED SENATE BILL No. 276**

AN ACT to amend 1969 PA 306, entitled "An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of certain publications; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to create and establish certain committees and offices; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date," by amending section 122 (MCL 24.322), as added by 1984 PA 196, and by adding section 45b.

*The People of the State of Michigan enact:*

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
- (b) Instructions on any existing administrative remedies or appeals available to the public.
- (c) Instructions regarding the method of complying with the rules, if available.
- (d) Any rules filed with the secretary of state and the effective date of those rules.

(2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

Sec. 122. (1) "Contested case" means a contested case as defined in section 3 but does not include a case that is settled or in which a consent agreement is entered into or a proceeding for establishing a rate or approving, disapproving, or withdrawing approval of a form.

(2) "Costs and fees" means the normal costs incurred, after a party has received notice of an initial hearing under section 71, in being a party in a contested case under this act and include all of the following:

- (a) The reasonable and necessary expenses of expert witnesses as determined by the presiding officer.
- (b) The reasonable cost of any study, analysis, engineering report, test, or project that is determined by the presiding officer to have been necessary for the preparation of a party's case.
- (c) Reasonable and necessary attorney or agent fees including those for purposes of appeal.

(3) "Party" means a party as defined in section 5, but does not include any of the following:

(a) An individual whose net worth was more than \$500,000.00 at the time the contested case was initiated.

(b) The sole owner of an unincorporated business or any partnership, corporation, association, or organization whose net worth exceeded \$3,000,000.00 at the time the contested case was initiated and that is not either exempt from taxation pursuant to section 501(c)(3) of the internal revenue code, 26 USC 501, or a cooperative association as defined in section 15(a) of the agricultural marketing act, 12 USC 1141j(a).

(c) The sole owner of an unincorporated business or any partnership, corporation, association, or organization that had more than 250 full-time equivalent employees, as determined by the total number of employees multiplied by their working hours divided by 40, at the time the contested case was initiated.

(d) As used in this subsection "net worth" means the amount remaining after the deduction of liabilities from assets as determined according to generally accepted accounting principles.

(4) "Presiding officer" means an agency, 1 or more members of the agency, a person designated by statute to conduct a contested case, or a hearing officer designated and authorized by the agency to conduct a contested case.

(5) "Prevailing party" means either of the following, as applicable:

(a) In an action involving several remedies, or issues or counts that state different causes of actions or defenses, the party prevailing as to each remedy, issue, or count.

(b) In an action involving only 1 issue or count stating only 1 cause of action or defense, the party prevailing on the entire record.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Sam E. Randall*

Clerk of the House of Representatives

Approved .....

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Governor