

Act No. 239
Public Acts of 2011
Approved by the Governor
November 28, 2011
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Rep. Haines

ENROLLED HOUSE BILL No. 4573

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 sections 3 and 39 (MCL 24.203 and 24.239), section 3 as amended by 1988 PA 277 and section 39 as amended by 2004 PA 23.

The People of the State of Michigan enact:

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

(2) "Agency" means a state department, bureau, division, section, board, commission, trustee, authority or officer, created by the constitution, statute, or agency action. Agency does not include an agency in the legislative or judicial branch of state government, the governor, an agency having direct governing control over an institution of higher education, the state civil service commission, or an association of insurers created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or other association or facility formed under that act as a nonprofit organization of insurer members.

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

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

(5) "Court" means the circuit court.

(6) "Decision record" means, in regard to a request for rule-making where an agency receives recommendations or comments by an advisory committee or other advisory entity created by statute, both of the following:

(a) The minutes of all meetings related to the request for rule-making.

(b) The votes of members.

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

Sec. 39. (1) Before initiating any changes or additions to rules, an agency shall electronically file with the office of regulatory reinvention a request for rule-making in a format prescribed by the office of regulatory reinvention. The request for rule-making shall include the following:

- (a) The state or federal statutory or regulatory basis for the rule.
- (b) The problem the rule intends to address.
- (c) An assessment of the significance of the problem.
- (d) If applicable, the decision record.

(2) If an agency receives recommendations or comments by any advisory committee or other advisory entity created by statute regarding a request for rule-making, the advisory committee or entity shall issue to the agency a decision record.

(3) An agency shall not proceed with the processing of a rule outlined in this chapter unless the office of regulatory reinvention has approved the request for rule-making. The office of regulatory reinvention is not required to approve a request for rule-making and shall do so only after it has indicated in its response to the request for rule-making submitted by an agency that there are appropriate and necessary policy and legal bases for approving the request for rule-making.

(4) The office of regulatory reinvention shall record the receipt of all requests for rule-making on the internet and shall make electronic or paper copies of approved requests for rule-making available to members of the general public. The office of regulatory reinvention shall issue a written or electronic response to the request for rule-making that specifically addresses whether the request has appropriate and necessary policy and legal bases for approving the request for rule-making.

(5) The office of regulatory reinvention shall immediately make available to the committee electronic copies of the request for rule-making submitted to the office of regulatory reinvention. On a weekly basis, the office of regulatory reinvention shall electronically provide to the committee a listing of all requests for rule-making approved or denied during the previous week. The committee shall electronically provide a copy of the approved and denied requests for rule-making, not later than the next business day after receipt of the notice from the office of regulatory reinvention, to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor