

# HOUSE BILL No. 5934

March 30, 2006, Introduced by Reps. Marleau, Taub, Robertson, Gosselin, Farhat, Booher, LaJoy, Elsenheimer, Pastor, Palsrok, Stakoe, Hildenbrand, Moore, Wenke, Stahl, Nofs, Stewart, Newell, Brandenburg, Caswell, Hummel, Kahn, David Law, Mortimer, Ball, Schuitmaker, Drolet, Palmer, Huizenga, Hoogendyk, Ward, Jones, Green, Caul, Baxter, Pavlov, Vander Veen, Garfield, Kooiman, Acciavatti, Amos and Moolenaar and referred to the Committee on Commerce.

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending section 11 (MCL 24.211).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 11. (1) This act shall not be construed to repeal  
2 additional requirements imposed by law.
- 3       (2) A GUIDELINE, BULLETIN, INTERPRETIVE STATEMENT, OR FORM  
4 WITH INSTRUCTIONS SHALL NOT BE GIVEN THE FORCE AND EFFECT OF LAW BY  
5 THE AGENCY AND IS CONSIDERED MERELY ADVISORY. AN AGENCY SHALL NOT  
6 RELY UPON A GUIDELINE, BULLETIN, INTERPRETIVE STATEMENT, OR FORM  
7 WITH INSTRUCTIONS TO SUPPORT AN AGENCY'S DECISION TO ACT OR REFUSE  
8 TO ACT IF THAT DECISION IS SUBJECT TO JUDICIAL REVIEW. A COURT  
9 SHALL NOT RELY UPON A GUIDELINE, BULLETIN, INTERPRETIVE STATEMENT,

1 OR FORM WITH INSTRUCTIONS TO UPHOLD SUCH AN AGENCY DECISION.

2 (3) WHERE A STATUTE PROVIDES THAT AN AGENCY MAY PROCEED BY  
3 RULE-MAKING OR BY ORDER AND AN AGENCY PROCEEDS BY ORDER IN LIEU OF  
4 RULE-MAKING, THE ORDER SHALL NOT BE GIVEN GENERAL APPLICABILITY TO  
5 PERSONS WHO WERE NOT PARTIES TO THE PROCEEDING OR CONTESTED CASE  
6 PRIOR TO THE ISSUANCE OF THE ORDER. UNDER SUCH CIRCUMSTANCES, THE  
7 ORDER SHALL NOT APPLY IN SUBSEQUENT PROCEEDINGS OR CONTESTED CASES  
8 WHERE THE FACTUAL BASIS ON WHICH THE ORDER WAS PREDICATED IS  
9 CONTESTED IN THAT SUBSEQUENT PROCEEDING OR CONTESTED CASE.