



## Report on Public Policy Position

**Name of Section:**

Administrative Law

**Contact Person:**

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**Bill Number:**

**HB 5933** (Hummel) Administrative procedure; contested cases; requirement of written record; clarify. Amends sec. 74 of 1969 PA 306 (MCL 24.274).

**Date position was adopted:**

8/17/2006

**Process used to take the ideological position:**

Position adopted via electronic discussion and vote among members of the Administrative Law Section's Council.

**Number of members in the decision-making body:**

9 of 12 Administrative Law Council members voted

**Number who voted in favor and opposed to the position:**

6 members supported the bill in principle provided that suggested amendments are adopted

**FOR SECTIONS ONLY:**

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

*If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.*

**Position:**

The Administrative Law Section supports in principle HB 5933 provided that the following clarifications, qualifications, or proposed changes to the Bill language are adopted:

- The first sentence should be changed to include a version of the following proposed language:  
Where a board, commission, or other entity within an agency conducts deliberations on issues that are pending in contested cases before the agency, a verbatim record must be made available to the respondent upon request and offer to pay for its preparation.
- As to the finality of decisions, there are many practical problems with undoing the finality of a final order because a transcript is not available on appeal. Such a procedural issue is something that should be addressed by or on a case by case basis with the appeals court.

- The following proposed language should be added:

“Oral proceedings of boards or commissions or other entities within an agency that conduct hearings or meetings regarding contested cases shall be recorded.”

- The word respondent should be changed to the word “party” or “person”, and the words "verbatim" and "hearing" should be defined.
- The language should acknowledge that the Open Meetings Act has carved out a limited number of exceptions for certain specific public bodies while conducting deliberative sessions addressing contested cases before them.

**The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:**

<http://legislature.mi.gov/doc.aspx?2006-HB-5933>