



p 517-346-6300

October 4, 2006

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The Honorable Scott Hummel
State Representative
State Capitol
P.O. Box 30014
Lansing, MI 48909-7514

306 Townsend Street
Michael Franck Building
Lansing, MI
48933-2083

RE: HB 5933 Administrative Procedures Act

Dear Representative Hummel:

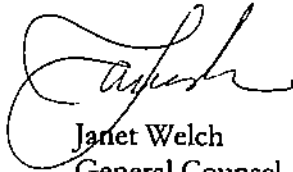
At its September 13, 2006 meeting, the Board of Commissioners unanimously voted to **support in principle¹ HB 5933** provided that the following amendments suggested by the Administrative Law Section are adopted:

- The sentence beginning on page 2, line 7 of HB 5933 as introduced 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.

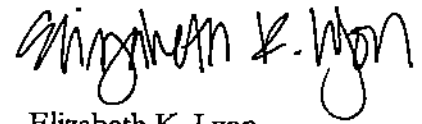
¹ Definition of support in principle: pending legislation that the State Bar supports, but that is not the subject of active lobbying effort. The State Bar is on record on this position and will explain it upon request.

If you would like to discuss this position in further detail or have questions, please contact Janet Welch directly at (517) 346-6375, jwelch@mail.michbar.org; or Elizabeth Lyon directly at (517) 346-6325, elyon@mail.michbar.org.

Sincerely,



Janet Welch
General Counsel



Elizabeth K. Lyon
Public Policy Program Analyst

CC. Kimberly M. Cahill, President
John T. Berry, Executive Director
Nell Kuhnmuensch, Governmental Consultant Services, Inc.