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H.B. No. 139

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the provision of notice of certain proposed rules by
3 state agencies.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Effective September 1, 2023, Section 2001.023,
6 Government Code, is amended by adding Subsection (e) to read as
7 follows:

8 (e) Failure to publish a summary of a proposed rule in the
9 manner required by Subsection (c) does not invalidate a rule
10 adopted by a state agency or an action taken by the agency under
11 that rule.

12 SECTION 2. Section 2001.024, Government Code, is amended by
13 amending Subsection (a) and adding Subsection (d) to read as
14 follows:

15 (a) The notice of a proposed rule must include:

16 (1) a brief explanation of the proposed rule;

17 (2) the text of the proposed rule, except any portion
18 omitted under Section 2002.014, prepared in a manner to indicate
19 any words to be added or deleted from the current text;

20 (3) a statement of the statutory or other authority
21 under which the rule is proposed to be adopted, including:

22 (A) a concise explanation of the particular
23 statutory or other provisions under which the rule is proposed;

24 (B) the section or article of the code affected;

1 [~~and~~]

2 (C) if applicable, the bill number for the
3 legislation that enacted the statutory authority under which the
4 rule is proposed to be adopted if the legislation was enacted during
5 the four-year period preceding the date notice of the proposed rule
6 is given; and

7 (D) a certification that the proposed rule has
8 been reviewed by legal counsel and found to be within the state
9 agency's authority to adopt;

10 (4) a fiscal note showing the name and title of the
11 officer or employee responsible for preparing or approving the note
12 and stating for each year of the first five years that the rule will
13 be in effect:

14 (A) the additional estimated cost to the state
15 and to local governments expected as a result of enforcing or
16 administering the rule;

17 (B) the estimated reductions in costs to the
18 state and to local governments as a result of enforcing or
19 administering the rule;

20 (C) the estimated loss or increase in revenue to
21 the state or to local governments as a result of enforcing or
22 administering the rule; and

23 (D) if applicable, that enforcing or
24 administering the rule does not have foreseeable implications
25 relating to cost or revenues of the state or local governments;

26 (5) a note about public benefits and costs showing the
27 name and title of the officer or employee responsible for preparing

1 or approving the note and stating for each year of the first five
2 years that the rule will be in effect:

3 (A) the public benefits expected as a result of
4 adoption of the proposed rule; and

5 (B) the probable economic cost to persons
6 required to comply with the rule;

7 (6) the local employment impact statement prepared
8 under Section 2001.022, if required;

9 (7) a request for comments on the proposed rule from
10 any interested person; and

11 (8) any other statement required by law.

12 (d) Failure to include in the notice of a proposed rule the
13 bill number for the legislation that enacted the statutory
14 authority under which the rule is proposed to be adopted as required
15 by Subsection (a)(3)(C) does not invalidate a rule adopted by a
16 state agency or an action taken by the agency under that rule.

17 SECTION 3. Subchapter B, Chapter 2001, Government Code, is
18 amended by adding Section 2001.0261 to read as follows:

19 Sec. 2001.0261. NOTICE TO CERTAIN PERSONS. (a) This
20 section applies only to a rule that is proposed to be adopted by a
21 state agency under statutory authority that:

22 (1) specifically authorizes the agency to adopt the
23 rule; and

24 (2) became law during the preceding four-year period.

25 (b) A state agency shall provide, not later than the third
26 day after the date the agency files notice with the secretary of
27 state as required under Section 2001.023, notice of a proposed rule

1 to the primary author and the primary sponsor of the legislation
2 that enacted the statutory authority under which the proposed rule
3 is to be adopted, if the primary author or primary sponsor is a
4 current member of the legislature.

5 (c) The state agency shall provide the notice required under
6 Subsection (b) electronically to the person's designated Capitol
7 e-mail address or to another e-mail address provided by the person
8 to the agency for the purpose of receiving the notice.

9 (d) Failure to provide the notice required under Subsection
10 (b) does not invalidate a rule adopted by a state agency or an
11 action taken by the agency under that rule.

12 SECTION 4. The change in law made by this Act applies only
13 to a proposed state agency rule for which notice is filed with the
14 secretary of state under Section 2001.023, Government Code, on or
15 after the effective date of this Act.

16 SECTION 5. Except as otherwise provided by this Act, this
17 Act takes effect immediately if it receives a vote of two-thirds of
18 all the members elected to each house, as provided by Section 39,
19 Article III, Texas Constitution. If this Act does not receive the
20 vote necessary for immediate effect, this Act takes effect
21 September 1, 2023.