

By: Capriglione, Hunter, Leach, Bhojani,
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H.B. No. 10

Substitute the following for H.B. No. 10:

By: Bhojani

C.S.H.B. No. 10

A BILL TO BE ENTITLED

AN ACT

relating to reforming the procedure by which state agencies adopt
rules and impose regulatory requirements and the deference given to
the interpretation of laws and rules by state agencies in certain
judicial proceedings.

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

SECTION 1. This Act may be cited as the Regulatory Reform
and Efficiency Act.

SECTION 2. Subtitle E, Title 4, Government Code, is amended
by adding Chapter 465 to read as follows:

CHAPTER 465. REGULATORY AND RULEMAKING EFFICIENCY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 465.0001. DEFINITIONS. (a) The definitions in
Chapter 2001 apply to this chapter.

(b) In this chapter:

(1) "Institution of higher education" has the meaning
assigned by Section 61.003, Education Code.

(2) "Office" means the Texas Regulatory Efficiency
Office.

(3) "Panel" means the Texas Regulatory Efficiency
Advisory Panel.

SUBCHAPTER B. TEXAS REGULATORY EFFICIENCY OFFICE

Sec. 465.0051. ESTABLISHMENT OF OFFICE. The Texas
Regulatory Efficiency Office is established as an office within the

office of the governor.

Sec. 465.0052. PURPOSES OF OFFICE. (a) The office is established to:

(1) identify and expand opportunities for implementing efficiencies in:

(A) the process by which state agencies adopt rules;

(B) the regulatory review process; and

(C) the processes by which contested cases are conducted;

(2) assist state agencies in identifying:

(A) unnecessary and ineffective rules;

(B) the effect and cost to this state and regulated persons of the agencies' rules and proposed rules; and

(C) opportunities to repeal or amend rules to provide effective protection to the public with the least cost and inconvenience to regulated persons;

(3) coordinate with the secretary of state, the Department of Information Resources, and other state agencies in the secretary of state's efforts under Section 2001.007 to:

(A) improve public access to information regarding state agency rules, forms, and filings; and

(B) create an interactive Internet website for use by the public to search and obtain information regarding rules, forms, and filings applicable to specific regulated occupations, industries, professions, and activities;

(4) coordinate with state agencies to reduce rules or

other regulatory requirements, including by:

(A) eliminating unnecessary or ineffective rules or other regulatory requirements; and

(B) reducing the inefficiencies resulting from rules or other regulatory requirements adopted by the agency by:

(i) reducing required training hours while protecting the health and safety of the residents of this state;

(ii) reducing the number of forms a regulated person is required to complete;

(iii) reducing the amount of information required by forms that a regulated person is required to complete;

(iv) reducing the amount of or eliminating fees imposed by the rules;

(v) reducing the number of activities covered by the rules; or

(vi) creating waivers for or exemptions from the rules under certain circumstances; and

(5) prepare and publish written manuals, guides, or other publications as required by this chapter.

(b) The office shall coordinate with the panel, state agencies, and the governor's office, as applicable, to accomplish the purposes of the office.

Sec. 465.0053. REGULATORY ECONOMIC ANALYSIS MANUAL. (a) The office shall prepare and publish a regulatory economic analysis manual.

(b) The manual required by Subsection (a) must identify and describe best practices for state agencies related to:

1 (1) preparing a local employment impact statement
2 under Section 2001.022;

3 (2) conducting a regulatory analysis under Section
4 2001.0225;

5 (3) preparing a fiscal note under Section 2001.024;

6 (4) preparing a note regarding public benefits and
7 costs under Section 2001.024; and

8 (5) preparing an economic impact statement under
9 Section 2006.002.

10 (c) The office shall ensure that the manual required by
11 Subsection (a) is written in plain language that may be easily
12 understood by the public.

13 Sec. 465.0054. REGULATORY REDUCTION GUIDE. (a) The office
14 shall prepare and publish a regulatory reduction guide.

15 (b) The purpose of the guide required by Subsection (a) is
16 to assist each state agency to:

17 (1) reduce rules and other regulatory requirements
18 under Section 465.0052(a)(4); and

19 (2) document the agency's results under Subdivision
20 (1).

21 (c) The office shall ensure that the guide required by
22 Subsection (a) is written in plain language that may be easily
23 understood by the public.

24 Sec. 465.0055. RULEMAKING AND REGULATORY EFFICIENCY FORUM.
25 The office may establish, as needed, a forum for interested persons
26 described by Section 2001.021(d) to assist the office and the panel
27 to accomplish the purposes of the office and panel.

1 SUBCHAPTER C. TEXAS REGULATORY EFFICIENCY ADVISORY PANEL

2 Sec. 465.0101. ESTABLISHMENT OF ADVISORY PANEL. The office
3 may establish, as needed, the Texas Regulatory Efficiency Advisory
4 Panel to serve as an advisory panel to the governor's office,
5 including the office established under this chapter.

6 Sec. 465.0102. ADMINISTRATIVE SUPPORT. The office
7 established under this chapter shall provide staff, facilities, and
8 other administrative support necessary to assist the panel in
9 performing the panel's duties under this chapter.

10 Sec. 465.0103. COMPOSITION OF PANEL. In designating
11 individuals to serve on the panel, the governor may give priority to
12 individuals with expertise in state agency rules and the rulemaking
13 process, including expertise in regulatory research, compliance,
14 cost, and impact analysis, and related law and procedure.

15 Sec. 465.0104. REIMBURSEMENT FOR EXPENSES. Members of the
16 panel serve without compensation but may, at the discretion of the
17 office, be reimbursed for actual and necessary expenses incurred in
18 performing official duties under this chapter.

19 Sec. 465.0105. PRESIDING OFFICER. The governor may
20 designate one member of the panel to serve as the panel's presiding
21 officer.

22 Sec. 465.0106. MEETINGS. The panel shall meet at the call
23 of the panel's presiding officer.

24 Sec. 465.0107. PURPOSES OF PANEL. The panel is established
25 to:

26 (1) use the knowledge and expertise of regulated
27 persons, small and large businesses, institutions of higher

education, and state agencies to identify and expand opportunities for implementing efficiencies in:

(A) the process by which state agencies adopt rules;

(B) the regulatory review process; and

(C) the processes by which contested cases are conducted; and

(2) assist the office and state agencies in identifying:

(A) unnecessary and ineffective rules;

(B) the effect and cost to this state and regulated persons of the agencies' rules and proposed rules; and

(C) opportunities to repeal or amend rules to provide effective protection to the public with the least cost and inconvenience to regulated persons.

Sec. 465.0108. APPLICATION OF OTHER LAW. Chapter 2110 does not apply to the panel.

SUBCHAPTER D. REPORTING REQUIREMENT

Sec. 465.0151. BIENNIAL REPORT. (a) Not later than December 1 of each even-numbered year, the office shall prepare and submit to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board a written report that describes:

(1) the activities undertaken by the office during the two-year period preceding the date of the report to accomplish the purposes of the office; and

(2) any legislative recommendations of the office to

1 accomplish and further the activities described by Subdivision (1).

2 (b) The panel may assist the office in preparing the report
3 required by Subsection (a).

4 SECTION 3. Section 2001.007, Government Code, is amended by
5 adding Subsection (e) to read as follows:

6 (e) The secretary of state, Department of Information
7 Resources, and Texas Regulatory Efficiency Office shall jointly
8 coordinate with each other state agency to establish an Internet
9 website that allows a person to search the rules and related
10 information made available by state agencies under Subsection (a)
11 by:

12 (1) the general topic of the rule;

13 (2) the type of activity or business regulated by the
14 rule; and

15 (3) if applicable, the North American Industry
16 Classification System (NAICS) sector code for the type of activity
17 or business regulated by the rule.

18 SECTION 4. Section 2001.024, Government Code, is amended by
19 amending Subsection (a) and adding Subsection (e) to read as
20 follows:

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

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

23 (2) the text of the proposed rule, except any portion
24 omitted under Section 2002.014, prepared in a manner to indicate
25 any words to be added or deleted from the current text and, to the
26 extent practicable, written in plain language;

27 (3) a statement of the statutory or other authority

1 under which the rule is proposed to be adopted, including:

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

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

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

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

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

17 (A) the additional estimated cost to the state
18 and to local governments expected as a result of enforcing or
19 administering the rule;

20 (B) the estimated reductions in costs to the
21 state and to local governments as a result of enforcing or
22 administering the rule;

23 (C) the estimated loss or increase in revenue to
24 the state or to local governments as a result of enforcing or
25 administering the rule; and

26 (D) if applicable, that enforcing or
27 administering the rule does not have foreseeable implications

relating to cost or revenues of the state or local governments;

(5) a note about public benefits and costs showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

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

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

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

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

(8) a request for information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person; and

(9) any other statement required by law.

(e) For purposes of Subsection (a)(2), the text of a proposed rule is written in plain language if the text is written using language the general public, including individuals with limited English proficiency, can readily understand because the language is concise and well-organized.

SECTION 5. Sections 2001.035(a) and (b), Government Code, are amended to read as follows:

(a) A rule is voidable unless a state agency adopts it in substantial compliance with Sections 2001.022 [~~2001.0225~~] through

1 2001.034.

2 (b) A person must initiate a proceeding to contest a rule on
3 the ground of noncompliance with the procedural requirements of
4 Sections 2001.022 [~~2001.0225~~] through 2001.034 not later than the
5 second anniversary of the effective date of the rule.

6 SECTION 6. Section 2001.040, Government Code, is amended to
7 read as follows:

8 Sec. 2001.040. SCOPE AND EFFECT OF ORDER INVALIDATING
9 AGENCY RULE. If a court finds that an agency has not substantially
10 complied with one or more procedural requirements of Sections
11 2001.022 [~~2001.0225~~] through 2001.034, the court may remand the
12 rule, or a portion of the rule, to the agency and, if it does so
13 remand, shall provide a reasonable time for the agency to either
14 revise or readopt the rule through established procedure. During
15 the remand period, the rule shall remain effective unless the court
16 finds good cause to invalidate the rule or a portion of the rule,
17 effective as of the date of the court's order.

18 SECTION 7. Subchapter B, Chapter 2001, Government Code, is
19 amended by adding Section 2001.042 to read as follows:

20 Sec. 2001.042. JUDICIAL REVIEW OF STATE AGENCY LEGAL
21 DETERMINATION REGARDING LAWS AND RULES. Notwithstanding any other
22 law, in a judicial proceeding in this state, including an action
23 subject to Section 2001.038, a court is not required to give
24 deference to a state agency's legal determination regarding the
25 construction, validity, or applicability of the law or a rule
26 adopted by the state agency responsible for the rule's
27 administration, implementation, or other enforcement. This

1 section does not prohibit a court from giving consideration to a
2 legal determination made by a state agency that is reasonable and
3 does not conflict with the plain language of the statute.

4 SECTION 8. Subchapter G, Chapter 2001, Government Code, is
5 amended by adding Section 2001.1721 to read as follows:

6 Sec. 2001.1721. JUDICIAL REVIEW OF QUESTION OF LAW. (a)
7 Except as provided by Subsection (b), in any matter brought under
8 this subchapter, the reviewing court shall review all questions of
9 law de novo, including the interpretation of constitutional or
10 statutory provisions or rules adopted by a state agency, without
11 giving deference to any legal determination by a state agency.

12 (b) Subsection (a) does not prohibit a reviewing court from
13 giving consideration to a legal determination made by a state
14 agency that is reasonable and does not conflict with the plain
15 language of the statute.

16 (c) Notwithstanding any other law, this section applies in
17 an action for judicial review of a contested case authorized by law
18 and other court actions authorized by law that involve a state
19 agency's legal determination of a constitutional or statutory
20 provision or a rule adopted by the state agency.

21 (d) A law may not exempt an action from the application of
22 this section except by specific reference to this section.

23 SECTION 9. Sections 2001.022(c) and 2001.0221(e),
24 Government Code, are repealed.

25 SECTION 10. Sections 2001.024, 2001.035, and 2001.040,
26 Government Code, as amended by this Act, and the repeal by this Act
27 of Sections 2001.022(c) and 2001.0221(e), Government Code, apply

1 only to a rule proposed by a state agency on or after the effective
2 date of this Act. A rule proposed before the effective date of this
3 Act is governed by the law in effect on the date the rule was
4 proposed, and the former law is continued in effect for that
5 purpose.

6 SECTION 11. Sections 2001.042 and 2001.1721, Government
7 Code, as added by this Act, apply only to a petition for judicial
8 review, action for declaratory judgment, contested case, or other
9 proceeding initiated on or after the effective date of this Act. A
10 petition for judicial review, action for declaratory judgment,
11 contested case, or other proceeding initiated before the effective
12 date of this Act is governed by the law in effect on the date the
13 proceeding was initiated, and the former law is continued in effect
14 for that purpose.

15 SECTION 12. The office of the governor, the Department of
16 Information Resources, the Texas Regulatory Efficiency Office, and
17 the secretary of state are required to implement the changes in law
18 made by Chapter 465, Government Code, and Section 2001.007(e),
19 Government Code, as added by this Act, only if the legislature
20 appropriates money specifically for that purpose. If the
21 legislature does not appropriate money specifically for that
22 purpose, the office of the governor, the Department of Information
23 Resources, the Texas Regulatory Efficiency Office, and the
24 secretary of state may, but are not required to, implement those
25 changes in law using other appropriations available for that
26 purpose.

27 SECTION 13. This Act takes effect immediately if it

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1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2025.