

By: Tepper

H.B. No. 1259

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the State Agency Rules Review Commission and the procedures by which state agencies adopt rules.

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

SECTION 1. Subtitle C, Title 3, Government Code, is amended by adding Chapter 330 to read as follows:

CHAPTER 330. STATE AGENCY RULES REVIEW COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 330.0001. DEFINITIONS. In this chapter:

(1) "Commission" means the State Agency Rules Review Commission.

(2) "Final rule" means a rule adopted by a state agency that has not been approved by the commission. The term does not include an emergency rule adopted under Section 2001.034.

(3) "Revised rule" means a final rule that has been revised by the agency in response to an objection by the commission to a prior version of the rule.

(4) "Rule" has the meaning assigned by Section 2001.003.

(5) "State agency" means a state officer, board, commission, or department with statewide jurisdiction that makes rules.

Sec. 330.0002. APPLICABILITY OF PUBLIC MEETING AND PUBLIC INFORMATION LAW. The commission is subject to Chapters 551 and 552.

1 Sec. 330.0003. RULES. (a) The commission shall adopt rules
2 as necessary to carry out this chapter.

3 (b) Chapter 2001 applies to the commission.

4 Sec. 330.0004. SUNSET PROVISION. (a) The commission is
5 subject to a limited review under Chapter 325 (Texas Sunset Act) but
6 may not be abolished under that chapter. The limited review must
7 assess the commission's:

8 (1) governance;

9 (2) management;

10 (3) operating structure; and

11 (4) compliance with legislative requirements.

12 (b) The commission shall be reviewed as provided by this
13 section every 12th year after the year the commission is first
14 reviewed.

15 (c) The first review of the commission shall be completed
16 not later than December 31, 2030. This subsection expires August
17 31, 2031.

18 SUBCHAPTER B. ESTABLISHMENT AND GOVERNANCE

19 Sec. 330.0051. STATE AGENCY RULES REVIEW COMMISSION. The
20 State Agency Rules Review Commission is established as an agency of
21 the legislative branch of state government.

22 Sec. 330.0052. MEMBERSHIP. (a) The commission consists
23 of:

24 (1) four senators appointed by the lieutenant
25 governor;

26 (2) four members of the house of representatives
27 appointed by the speaker of the house of representatives; and

1 (3) three public members appointed by the governor.

2 (b) The governor, lieutenant governor, and speaker of the
3 house of representatives shall appoint a chair and two vice chairs
4 as the presiding officers of the commission. The positions of chair
5 and vice chairs must alternate every two years between the three
6 membership groups appointed by the governor, lieutenant governor,
7 and speaker of the house of representatives under Subsection (a).
8 The governor, lieutenant governor, and speaker of the house of
9 representatives shall each designate a presiding officer from their
10 appointed membership group. The chair and the vice chairs may not
11 be from the same membership group.

12 (c) A public member acts on behalf of the legislature when
13 participating on the commission in furtherance of the legislature's
14 duty to provide oversight of the process by which state agencies
15 adopt rules.

16 Sec. 330.0053. TERMS; VACANCY. (a) Members of the
17 commission serve two-year terms.

18 (b) Members appointed by the lieutenant governor and
19 speaker of the house of representatives serve terms staggered so
20 that the terms of half of the members appointed by the lieutenant
21 governor and the terms of half of the members appointed by the
22 speaker of the house of representatives expire September 1 of each
23 odd-numbered year. Members appointed by the governor serve terms
24 that expire September 1 of each odd-numbered year.

25 (c) If a vacancy occurs, the appropriate appointing
26 authority shall appoint a person to serve for the remainder of the
27 unexpired term in the same manner as the original appointment.

1 (d) If a member of the legislature appointed to the
2 commission ceases to be a member of the house of the legislature
3 from which the member was appointed, the member vacates the
4 member's place on the commission.

5 Sec. 330.0054. LIMITATION ON TERM OF SERVICE. (a) An
6 individual is not eligible for reappointment to another term or
7 part of a term on the commission:

8 (1) if the individual is a member of the legislature
9 and has served two terms on the commission; or

10 (2) if the member is a public member and has served
11 three terms on the commission.

12 (b) For purposes of this section, an individual is
13 considered to have served a term if the individual served more than
14 half of the term.

15 Sec. 330.0055. ELIGIBILITY PROVISIONS APPLICABLE TO PUBLIC
16 MEMBERS. An individual is not eligible for appointment to or
17 service on the commission as a public member if the individual or
18 the individual's spouse is:

19 (1) regulated by a state agency whose rules the
20 commission will review during the term for which the individual
21 would serve;

22 (2) employed by, participates in the management of, or
23 directly or indirectly has more than a 10 percent ownership
24 interest in a business entity or other organization regulated by a
25 state agency whose rules the commission will review during the term
26 for which the individual would serve; or

27 (3) required to register as a lobbyist under Chapter

1 305 because of the individual's activities for compensation on
2 behalf of a profession or entity related to the operation of an
3 agency whose rules are subject to review under this chapter.

4 Sec. 330.0056. REMOVAL OF PUBLIC MEMBER. (a) It is a
5 ground for removal of a public member appointed to the commission
6 that the member, for a reason provided under Section 330.0055:

7 (1) was not eligible for appointment to the commission
8 at the time of appointment; or

9 (2) is not eligible to continue to serve on the
10 commission.

11 (b) The validity of an action by the commission is not
12 affected by the fact that the action was taken when a ground for
13 removal of a public member of the commission existed.

14 Sec. 330.0057. QUORUM; ACTION BY COMMISSION. (a) Six
15 members of the commission constitute a quorum.

16 (b) A final action may not be taken or recommendation may
17 not be made by the commission unless the action or recommendation is
18 approved by a record vote of a majority of the members of the
19 commission.

20 Sec. 330.0058. EXPENSES. (a) A member of the commission is
21 entitled to reimbursement for actual and necessary expenses
22 incurred by the member in performing commission duties.

23 (b) A member of the commission who is a member of the
24 legislature is entitled to reimbursement from the appropriate fund
25 of the member's respective house.

26 (c) A public member of the commission is entitled to
27 reimbursement from money appropriated to the commission for that

1 purpose.

2 Sec. 330.0059. EXECUTIVE DIRECTOR; EMPLOYEES. (a) The
3 commission shall employ an executive director to act as the
4 executive head of the commission.

5 (b) The executive director shall employ persons necessary
6 to carry out this chapter using money appropriated to the
7 commission by the legislature for that purpose.

8 Sec. 330.0060. EMPLOYMENT OF STAFF BY MEMBER. (a) A member
9 of the commission may employ a staff to work for the member on
10 matters related to the member's service on the commission.

11 (b) Unless an appropriation is made to the commission
12 specifically for the purpose of paying staff employed by the
13 members of the commission, members are responsible for paying the
14 costs associated with the members' staff.

15 SUBCHAPTER C. REVIEW OF RULES; EFFECT OF REVIEW

16 Sec. 330.0101. REVIEW OF FINAL RULE BY COMMISSION. (a) A
17 state agency shall submit each final rule adopted by the agency to
18 the commission on the date the agency by order finally adopts the
19 rule.

20 (b) Not later than the 30th day after the date the
21 commission receives a rule from a state agency, the commission
22 shall determine whether:

23 (1) the agency that adopted the rule:
24 (A) has the authority to adopt the rule; and
25 (B) complied with Chapter 2001 when adopting the
26 rule; and

27 (2) the rule is:

1 (A) clear and unambiguous; and

2 (B) reasonably necessary to implement or
3 interpret an enactment of the legislature or a federal statute or
4 regulation.

5 (c) Not later than the fifth day after the date the
6 commission makes a determination under Subsection (b), the
7 commission shall:

8 (1) if the commission determines that the requirements
9 of Subsection (b) are satisfied:

10 (A) approve the rule; and

11 (B) notify the state agency that adopted the rule
12 and the secretary of state of the commission's approval of the rule;
13 or

14 (2) if the commission determines that the requirements
15 of Subsection (b) are not satisfied:

16 (A) return the rule to the agency; and

17 (B) provide a clear written statement of the
18 commission's determination, including an explanation of the
19 commission's objection to the rule.

20 (d) If a state agency submits to the commission a final rule
21 that is an amendment to an existing rule, the commission may
22 consider both the final rule and the rule amended by the final rule
23 when making a determination under Subsection (c).

24 (e) The commission shall make a determination required
25 under this section in an open meeting.

26 Sec. 330.0102. STATE AGENCY ACTION ON RETURNED RULE. Not
27 later than the 30th day after the date the commission returns a rule

1 to a state agency under Section 330.0101(c)(2), the agency shall:

2 (1) revise the rule to address the commission's
3 objection to the rule and submit the revised rule to the commission;

4 or

5 (2) submit a written response to the commission
6 stating that the agency declines to revise the final rule and will
7 withdraw the rule.

8 Sec. 330.0103. REVIEW OF REVISED RULE BY COMMISSION. (a)

9 Not later than the 30th day after the date a state agency submits a
10 revised rule to the commission under Section 330.0102, the
11 commission shall determine whether the revised rule:

12 (1) satisfies the requirements of Section
13 330.0101(b); and

14 (2) is substantially different from the final rule
15 adopted by the agency before the agency revised the final rule.

16 (b) Not later than the fifth day after the date the
17 commission makes a determination under Subsection (a), the
18 commission shall:

19 (1) if the commission determines that the revised rule
20 satisfies the requirements of Section 330.0101(b) and is not
21 substantially different from the final rule:

22 (A) approve the rule; and

23 (B) notify the state agency that adopted the rule
24 and the secretary of state of the commission's approval of the rule;

25 (2) if the commission determines that the revised rule
26 does not satisfy the requirements of Section 330.0101(b):

27 (A) return the rule to the agency for additional

1 revision in the manner prescribed by Section 330.0102; and

2 (B) provide a clear written statement of the
3 commission's determination, including an explanation of the
4 commission's objection to the rule; or

5 (3) if the commission determines that the revised rule
6 satisfies the requirements of Section 330.0101(b) but is
7 substantially different from the final rule:

8 (A) return the rule to the agency for action by
9 the agency under Section 330.0104; and

10 (B) provide a clear written statement of the
11 commission's determination.

12 (c) In determining whether a revised rule satisfies the
13 requirements of Section 330.0101(b) under this section, the
14 commission shall make the determination based solely on whether the
15 revised rule addresses the commission's objections to the adopted
16 rule provided to the state agency under Section 330.0101(c)(2)(B).

17 (d) The commission shall make a determination required
18 under this section in an open meeting.

19 Sec. 330.0104. STATE AGENCY ACTION ON REVISED RULE THAT IS
20 SUBSTANTIALLY DIFFERENT. (a) Not later than the 30th day after the
21 date the commission notifies a state agency that a revised rule is
22 substantially different from a final rule under Section
23 330.0103(b)(3), the agency shall:

24 (1) readopt the revised rule as a new rule following
25 the procedures prescribed by Subchapter B, Chapter 2001, including
26 the procedures contained in Sections 2001.029, 2001.030, and
27 2001.031, and submit the rule to the commission for an abbreviated

1 review under Section 330.0105; or

2 (2) withdraw the rule.

3 (b) This section does not prohibit a state agency from
4 making changes to a revised rule in response to information
5 received by the agency under Sections 2001.029, 2001.030, and
6 2001.031.

7 Sec. 330.0105. COMMISSION ACTION ON REVISED RULE THAT IS
8 SUBSTANTIALLY DIFFERENT. (a) Not later than the 30th day after the
9 date the commission receives a revised rule from a state agency
10 under Section 330.0104(a)(1), the commission shall:

11 (1) if the agency changed the revised rule under
12 Section 330.0104, determine whether the revised rule satisfies the
13 requirements of Section 330.0101(b); or

14 (2) if the agency did not change the revised rule under
15 Section 330.0104:

16 (A) approve the rule; and

17 (B) notify the state agency that adopted the rule
18 and the secretary of state of the commission's approval of the rule.

19 (b) Not later than the fifth day after the date the
20 commission makes a determination under Subsection (a)(1), the
21 commission shall:

22 (1) if the commission determines that the revised rule
23 satisfies the requirements of Section 330.0101(b):

24 (A) approve the rule; and

25 (B) notify the state agency that adopted the rule
26 and the secretary of state of the commission's approval of the rule;

27 or

1 (2) if the commission determines that the revised rule
2 does not satisfy the requirements of Section 330.0101(b):

3 (A) return the rule to the agency; and

4 (B) provide a clear written statement of the
5 commission's determination, including an explanation of the
6 commission's objection to the rule.

7 (c) Except as otherwise provided by this subsection, a
8 revised rule returned to a state agency by the commission under
9 Subsection (b)(2) may not take effect or again be revised by the
10 agency. If the agency is required to adopt a rule on the subject of
11 the revised rule by state or federal law, the agency shall adopt a
12 new rule on the subject in the manner prescribed by Chapter 2001 and
13 this chapter.

14 (d) The commission shall make a determination required
15 under this section in an open meeting.

16 Sec. 330.0106. STATE AGENCY APPEAL OF COMMISSION
17 DETERMINATION. (a) A state agency may appeal a determination of the
18 commission under this chapter.

19 (b) An appeal under this section shall be conducted by the
20 State Office of Administrative Hearings. The appeal is a contested
21 case under Chapter 2001.

22 Sec. 330.0107. EXPEDITED REVIEW PROCEDURE. The commission
23 may adopt a procedure providing for the expedited review of rules a
24 state agency is required to adopt by a certain date to comply with a
25 federal statute or regulation.

26 SUBCHAPTER D. DETERMINATION OF CERTAIN APPEALS

27 Sec. 330.0151. DETERMINATION OF APPEAL OF PETITION FOR

1 ADOPTION OF RULES. (a) Not later than the 30th day after the date
2 the commission receives an appeal under Section 2001.021(e), the
3 commission shall adopt a final order determining the appeal at an
4 open meeting of the commission.

5 (b) A final order adopted under this section must:

6 (1) grant the interested person's appeal and order the
7 state agency that is the subject of the appeal to initiate a
8 rulemaking proceeding under Chapter 2001 in response to the
9 interested person's petition; or

10 (2) deny the interested person's appeal and provide a
11 clear written statement of the reasons for the commission's denial.

12 SECTION 2. Subchapter F, Chapter 551, Government Code, is
13 amended by adding Section 551.1284 to read as follows:

14 Sec. 551.1284. STATE AGENCY RULES REVIEW COMMISSION:
15 INTERNET POSTING OF MEETING MATERIALS AND BROADCAST OF OPEN
16 MEETING. (a) In this section, "commission" has the meaning
17 assigned by Section 330.0001.

18 (b) The commission, for any regularly scheduled meeting of
19 the commission for which notice is required under this chapter,
20 shall:

21 (1) post as early as practicable in advance of the
22 meeting on the Internet website of the commission any written
23 agenda and related supplemental written materials provided to the
24 commission members in advance of the meeting by the commission for
25 the members' use during the meeting;

26 (2) broadcast the meeting, other than any portion of
27 the meeting closed to the public as authorized by law, over the

1 Internet in the manner prescribed by Section 551.128; and

2 (3) record the broadcast and make that recording
3 publicly available in an online archive located on the commission's
4 Internet website.

5 (c) Subsection (b)(1) does not apply to written materials
6 that the general counsel or another appropriate attorney for the
7 commission certifies are confidential or may be withheld from
8 public disclosure under Chapter 552.

9 (d) The commission is not required to comply with the
10 requirements of this section if compliance is not possible because
11 of an act of God, force majeure, or a similar cause not reasonably
12 within the commission's control.

13 (e) The commission shall maintain a publicly accessible
14 Internet website for the purpose of complying with this section.

15 SECTION 3. Section 2001.021, Government Code, is amended by
16 adding Subsections (e) and (f) to read as follows:

17 (e) If a state agency denies an interested person's petition
18 under this section, the interested person may appeal the decision
19 to the State Agency Rules Review Commission for determination under
20 Section 330.0151.

21 (f) Notwithstanding any other provision of this section, a
22 state agency shall initiate a rulemaking proceeding under this
23 subchapter if the State Agency Rules Review Commission adopts a
24 final order requiring the agency to do so under Section 330.0151.

25 SECTION 4. Section 2001.024, Government Code, is amended by
26 adding Subsection (e) to read as follows:

27 (e) In addition to any other information required by this

1 section, the notice for a rule that is subject to review by the
2 State Agency Rules Review Commission must state that the rule may
3 not take effect until the commission notifies the secretary of
4 state that the commission has approved the rule.

5 SECTION 5. Section 2001.036, Government Code, is amended by
6 amending Subsection (a) and adding Subsection (a-1) to read as
7 follows:

8 (a) A rule takes effect on the later of:

9 (1) the 20th day [~~20 days~~] after the date on which the
10 rule [~~it~~] is filed in the office of the secretary of state; or

11 (2) the date the State Agency Rules Review Commission
12 notifies the secretary of state that the commission has approved
13 the rule.

14 (a-1) Notwithstanding Subsection (a), a rule may take
15 effect on a date other than the date prescribed by that subsection
16 if [~~, except that~~]:

17 (1) [~~if~~] a later date is required by statute or
18 specified in the rule, in which case that [~~the~~] later date is the
19 effective date of the rule;

20 (2) subject to applicable constitutional or statutory
21 provisions, [~~if~~] a state agency finds that an expedited effective
22 date for the rule is necessary because of imminent peril to the
23 public health, safety, or welfare, in which case the [~~and subject to~~
24 ~~applicable constitutional or statutory provisions,~~ a] rule is
25 effective immediately on filing with the secretary of state[~~7~~] or
26 on a stated date less than 20 days after the filing date; or [~~and~~]

27 (3) [~~if~~] a federal statute or regulation requires

1 ~~[that]~~ a state agency to implement the [a] rule by a certain date,
2 in which case the rule is effective on the prescribed date, provided
3 that the date may not be earlier than the date prescribed by
4 Subsection (a)(2).

5 SECTION 6. Section 141.008(a), Health and Safety Code, is
6 amended to read as follows:

7 (a) The executive commissioner may adopt rules to implement
8 this chapter. In adopting the rules the executive commissioner
9 shall comply with Subchapter B, Chapter 2001, Government Code,
10 including Section [~~Sections 2001.032(b) and~~] 2001.033, Government
11 Code. In developing the rules to be adopted by the executive
12 commissioner, the department shall consult parents, youth camp
13 operators, and appropriate public and private officials and
14 organizations.

15 SECTION 7. Section 2001.032, Government Code, is repealed.

16 SECTION 8. (a) Not later than November 1, 2025, the
17 governor, lieutenant governor, and speaker of the house of
18 representatives shall make their initial appointments to the State
19 Agency Rules Review Commission as required by Section 330.0052(a),
20 Government Code, as added by this Act.

21 (b) Notwithstanding Section 330.0053, Government Code, as
22 added by this Act, with respect to the initial members appointed
23 under Subsection (a) of this section:

24 (1) the three members appointed by the governor serve
25 an initial term that begins November 1, 2025, and expires September
26 1, 2027;

27 (2) two of the four members appointed by the

1 lieutenant governor and two of the four members appointed by the
2 speaker of the house of representatives serve an initial term that
3 begins November 1, 2025, and expires September 1, 2026; and

4 (3) two of the four members appointed by the
5 lieutenant governor and two of the four members appointed by the
6 speaker of the house of representatives serve an initial term that
7 begins November 1, 2025, and expires September 1, 2027.

8 SECTION 9. The changes in law made by this Act apply to a
9 rule adopted by a state agency on or after the effective date of
10 this Act. A rule adopted before the effective date of this Act is
11 governed by the law in effect on the date the rule is adopted, and
12 the former law is continued in effect for that purpose.

13 SECTION 10. (a) Except as provided by Subsection (b) of
14 this section, this Act takes effect January 1, 2026.

15 (b) Section 8 of this Act takes effect September 1, 2025.