

Amend Floor Amendment No. 1 to CSSB 22 by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE _____. LEGISLATIVE INTENT

SECTION __.01. Chapter 322, Government Code, is amended by adding Section 322.015 to read as follows:

Sec. 322.015. LETTERS OF LEGISLATIVE INTENT. (a) The board may issue a letter to a state governmental entity clarifying or explaining meaning or legislative intent on matters relating to:

(1) the General Appropriations Act; or

(2) another legislative enactment that makes an appropriation or qualifies, details, limits, or restricts an appropriation.

(b) A state governmental entity, in interpreting a provision of law described by Subsection (a), may rely on a letter of legislative intent issued by the board under this section.

SECTION __.02. Section 2001.032, Government Code, is amended to read as follows:

Sec. 2001.032. LEGISLATIVE REVIEW AND NOTIFICATION. (a) In the process of developing new rules and before a state agency gives notice of its intention of adopting a rule under Sections 2001.023 and 2001.024, the agency shall research the legislative history of the law and prepare a legislative history document on the bill or amendment that authorizes a state agency to adopt the rule. To effectively research and prepare a legislative history document, the state agency must:

(1) confirm the names of the primary author and sponsor of the legislation or amendment that authorizes the state agency to adopt the rule with the chief clerk of the house of representatives, the secretary of the senate, or an automated information system operated by the Texas Legislative Council or some other reliable information service;

(2) determine whether a statement or discussion of legislative intent was entered into the journals of the senate or house of representatives in connection with legislation that became law and that added, amended, or clearly affected the law under which the rule would be adopted;

(3) verify the standing of each legislative author and sponsor identified in Subdivision (1) as to their current membership in the legislature; and

(4) assemble the information gathered under Subdivisions (1), (2), and (3) into a legislative history document to be used by the state agency during the deliberative process of developing new rules.

(b) In this section, a reference to the law under which a rule is or would be adopted includes a reference to the law that authorizes a state agency to adopt the rule and to the law that the rule would implement or enforce.

(c) Before a state agency gives notice of its intention to adopt a rule under Sections 2001.023 and 2001.024, the agency shall establish an internal review process to ensure that the proposed rule is consistent with the legislative history in enacting or otherwise affecting the law under which the rule would be adopted.

(d) Before a state agency gives notice of its intention to adopt a rule under Sections 2001.023 and 2001.024, the agency shall inform the primary author and sponsor of legislation that became law and that added, amended, or clearly affected the law under which the rule would be adopted, if the primary author or sponsor is still a member of the legislature, that the adoption of a rule related to the member's legislation is being considered.

(e) Concurrently with the state agency's filing of the notice with the secretary of state, the agency shall deliver a copy of the notice of the proposed rule required by Sections 2001.023 and 2001.024 to the primary author and sponsor as described in the legislative history if the primary author or sponsor is still a member of the legislature.

(f) Not later than the seventh day before the date the state agency considers the rule for final adoption, the agency shall deliver to the primary author and sponsor a copy of the rule as proposed for final adoption if the text of the rule differs from the text of the proposed rule published under Section 2001.024 and if the author or sponsor is still a member of the legislature. The state agency also shall notify the primary author and sponsor in a timely manner of the time and place of a public hearing held in

connection with the contemplated rulemaking if the primary author or sponsor is still a member of the legislature.

(g) The state agency shall deliver a copy of an emergency rule adopted under Section 2001.034 and the written reasons for its adoption to the primary author and sponsor as determined by the legislative history with respect to the law under which the emergency rule was adopted concurrently with the agency's filing of the rule and the reasons for its adoption with the secretary of state. If the state agency gives an abbreviated notice or conducts a hearing in connection with the adoption of the emergency rule, the agency shall also promptly furnish the primary author and sponsor with a copy of the notice and shall timely inform the primary author and sponsor of the time and place of the hearing.

(h) Failure to provide notice under this section does not invalidate an action taken or rule adopted. ~~[Each house of the legislature by rule shall establish a process under which the presiding officer of each house refers each proposed state agency rule to the appropriate standing committee for review before the rule is adopted.]~~

~~[(b) A state agency shall deliver to the lieutenant governor and the speaker of the house of representatives a copy of the notice of a proposed rule when the agency files notice with the secretary of state under Section 2001.023.]~~

~~[(c) On the vote of a majority of its members, a standing committee may send to a state agency a statement supporting or opposing adoption of a proposed rule.]~~

SECTION __.03. Section 2001.024(a), Government Code, is amended to read as follows:

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

(1) a brief explanation of the proposed rule;

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

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

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

(B) the section or article of the code affected;
[and]

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

(D) a copy of the legislative history developed and used by the agency during the proposal process;

(4) a fiscal note 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 additional estimated cost to the state and to local governments expected as a result of enforcing or administering the rule;

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

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

(D) if applicable, that enforcing or 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) any other statement required by law.

SECTION __.04. Section 2001.033, Government Code, is

amended to read as follows:

Sec. 2001.033. STATE AGENCY ORDER ADOPTING RULE. (a) A state agency order finally adopting a rule must include:

(1) a reasoned justification for the rule as adopted consisting solely of:

(A) a summary of comments received from parties and of any written comments received from members of the legislature interested in the rule that shows the names of interested groups or associations offering comment on the rule and of members of the legislature offering written comment on the rule and whether they were for or against its adoption;

(B) a summary of the factual basis for the rule as adopted which demonstrates a rational connection between the factual basis for the rule and the rule as adopted; and

(C) the reasons why the agency disagrees with party submissions and proposals and with any written comments or proposals offered by a member of the legislature;

(2) a concise restatement of the particular statutory provisions under which the rule is adopted and of how the agency interprets the provisions as authorizing or requiring the rule; and

(3) a certification that the rule, as adopted, has been reviewed by legal counsel and found to be:

(A) a valid exercise of the agency's legal authority; and

(B) consistent with the intent of the legislature in enacting or otherwise affecting the law under which the rule is adopted, as described by Section 2001.032(b).

(b) Nothing in this section shall be construed to require additional analysis of alternatives not adopted by an agency beyond that required by Subsection (a)(1)(C) [~~Subdivision (1)(C)~~] or to require the reasoned justification to be stated separately from the statements required in Subsection (a)(1) [~~Subdivision (1)~~].

SECTION __.05. The changes in law made by this article relating to the process of state agency rulemaking apply only in relation to:

(1) a state agency rule for which notice of the rule as proposed is first published in the Texas Register under Sections

2001.023 and 2001.024, Government Code, on or after December 1, 2003; or

(2) an emergency rule adopted on or after November 15, 2003.