

BILL ANALYSIS

H.B. 2041
By: Ellis
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, under Section 2001.032 of the Government Code, each house of the legislature must establish a process by which the presiding officer of each house refers proposed state agency rules to the appropriate standing committee for review of the rules before adoption. Once the committee has heard the proposed rule and a majority of its members vote on it they may send a statement of support or opposition of adoption of the rule to the agency. Through the present system of rule review the original intent of the author or sponsor is sometimes misinterpreted and therefore implemented in a way that does not achieve the author's or sponsor's desired results. The purpose of House Bill 2041 is to create a more stringent process of rule review in order to help ensure that the rule is consistent with the legislative intent of the author and sponsor.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

House Bill 2041 adds Section 2001.0321 to the Government Code pertaining to independent review of agency rules and the suspension of those rules by the governor. The bill authorizes the chair of any standing committee of either house of the legislature, or the author or sponsor of legislation that enacted a law under which a rule or proposed rule is authorized, to request the presiding officer of that house to initiate an independent review of a proposed or adopted state agency rule, including an emergency rule, unless the rule has been in effect for more than 180 days. Upon such a request, the bill requires the presiding officer to timely notify the petitioning chair or requesting author or sponsor concerning whether the review will be conducted, and timely refer the rule to the appropriate standing committee if a determination is made that such review is appropriate.

House Bill 2041 establishes detailed timelines, procedures, and criteria for standing committee review of a rule or proposed rule. After such review, the committee may by majority vote recommend to the presiding officer of the appropriate house that the governor be requested to suspend the rule or proposed rule. If the presiding officer decides to make such a request, the bill sets out a detailed mechanism for making the request.

House Bill 2041 sets out the criteria and the mechanism to be used, and the timelines to be followed, by the governor if the governor decides to suspend a rule adopted or proposed by a state agency. The bill also establishes procedures and timelines to be followed by a state agency in the event the governor suspends a rule or proposed rule.

House Bill 2041 repeals Section 2001.032 (Legislative Review) of the Government Code.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

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