

By: West

S.B. No. 95

A BILL TO BE ENTITLED

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AN ACT

relating to the procedures under which a state agency considers legislative intent during the process of implementing certain legislative enactments.

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

SECTION 1. 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), is entitled to rely on a letter of legislative intent issued by the board under this section.

SECTION 2. Section 2001.032, Government Code, is amended to read as follows:

Sec. 2001.032. CONSIDERATION OF LEGISLATIVE INTENT ~~[REVIEW]~~. (a) 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

1 rule would implement or enforce.

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

9 (c) The state agency shall deliver a copy of the notice of  
10 the proposed rule required by Sections 2001.023 and 2001.024 to  
11 each member of the legislature described by Subsection (b)  
12 concurrently with the agency's filing of the notice with the  
13 secretary of state. Not later than the seventh day before the date  
14 the state agency considers the rule for final adoption, the agency  
15 shall also deliver to the member a copy of the rule as proposed for  
16 final adoption if the text of the rule differs from the text of the  
17 proposed rule published under Section 2001.024 and shall solicit  
18 comment from the member regarding the changed text of the proposed  
19 rule. The state agency also shall:

20 (1) timely inform the member of the time and place of  
21 any public hearing or informal conference held in connection with  
22 the contemplated rulemaking and allow the member to participate;  
23 and

24 (2) invite the member to participate as a member of any  
25 advisory committee the state agency appoints in connection with the  
26 contemplated rulemaking.

27 (d) The state agency shall deliver a copy of an emergency

1 rule adopted under Section 2001.034 and the written reasons for its  
2 adoption to each member of the legislature described by Subsection  
3 (b) with respect to the law under which the emergency rule was  
4 adopted concurrently with the agency's filing of the rule and the  
5 reasons for its adoption with the secretary of state. If the state  
6 agency gives an abbreviated notice or conducts a hearing in  
7 connection with the adoption of the emergency rule, the agency  
8 shall also promptly furnish the member with a copy of the notice and  
9 shall timely inform the member of the time and place of any hearing.

10 (e) If a dispute arises between the state agency and a  
11 member of the legislature described by Subsection (b) with regard  
12 to the legislature's intent in enacting or otherwise affecting the  
13 law under which the rule would be adopted, either the state agency  
14 or the member may request the attorney general to issue an opinion  
15 to resolve the dispute. If an opinion is requested under this  
16 subsection before the date on which the rule would otherwise take  
17 effect, the rule may not take effect unless the attorney general  
18 issues an opinion that determines the rule as finally proposed for  
19 adoption is consistent with the legislature's intent in enacting or  
20 otherwise affecting the law under which the rule would be adopted  
21 ~~[Each house of the legislature by rule shall establish a process~~  
22 ~~under which the presiding officer of each house refers each~~  
23 ~~proposed state agency rule to the appropriate standing committee~~  
24 ~~for review before the rule is adopted.~~

25 ~~[(b) A state agency shall deliver to the lieutenant governor~~  
26 ~~and the speaker of the house of representatives a copy of the notice~~  
27 ~~of a proposed rule when the agency files notice with the secretary~~

1 ~~of state under Section 2001.023.~~

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

5 SECTION 3. Subsection (b), Section 402.042, Government  
6 Code, is amended to read as follows:

7 (b) An opinion may be requested by:

- 8 (1) the governor;
- 9 (2) the head of a department of state government;
- 10 (3) a head or board of a penal institution;
- 11 (4) a head or board of an eleemosynary institution;
- 12 (5) the head of a state board;
- 13 (6) a regent or trustee of a state educational  
14 institution;
- 15 (7) a member of the legislature in accordance with  
16 Section 2001.032 or a committee of a house of the legislature;
- 17 (8) a county auditor authorized by law; or
- 18 (9) the chairman of the governing board of a river  
19 authority.

20 SECTION 4. The changes in law made by this Act relating to  
21 the process of state agency rulemaking apply only in relation to:

- 22 (1) a state agency rule for which notice of the rule as  
23 proposed is first published in the Texas Register under Sections  
24 2001.023 and 2001.024, Government Code, on or after October 1,  
25 2003; or
- 26 (2) an emergency rule adopted on or after September  
27 15, 2003.

1 SECTION 5. This Act takes effect September 1, 2003.