

By: Elkins

H.B. No. 3218

A BILL TO BE ENTITLED

AN ACT

relating to state agency rules affecting small businesses.

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

SECTION 1. Sections 2006.001(2) and (3), Government Code, are amended to read as follows:

(2) "Small business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

(A) is formed for the purpose of making a profit;

(B) is independently owned and operated; and

(C) has fewer than 500 [~~100~~] employees or less than \$6 [~~\$1~~] million in annual gross receipts.

(3) "State agency" means a department, board, bureau, commission, division, office, council, or other agency of the state and includes an officer who is authorized by law to determine contested cases.

SECTION 2. Section 2006.002, Government Code, is amended by amending Subsections (c) and (d) and adding Subsection (c-1) to read as follows:

(c) Before adopting a proposed rule that may [~~would~~] have an adverse economic effect on small businesses, a state agency shall prepare:

(1) an economic impact statement that estimates the number of small businesses subject to the proposed rule, projects the economic impact of the rule on small businesses, and describes

1 alternative methods of achieving the purpose of the proposed rule;  
2 and

3 (2) a regulatory flexibility analysis that includes  
4 the agency's consideration of alternative methods of achieving the  
5 purpose of the proposed rule.

6 (c-1) The analysis under Subsection (c) shall consider, if  
7 consistent with the health, safety, and environmental and economic  
8 welfare of the state, using regulatory methods that will accomplish  
9 the objectives of applicable rules while minimizing adverse impacts  
10 on small businesses. The state agency must include in the analysis  
11 several proposed methods of reducing the adverse impact of a  
12 proposed rule on a small business. [~~a statement of the effect of~~  
13 ~~the rule on small businesses. The statement must include:~~

14 ~~[(1) an analysis of the cost of compliance with the~~  
15 ~~rule for small businesses; and~~

16 ~~[(2) a comparison of the cost of compliance for small~~  
17 ~~businesses with the cost of compliance for the largest businesses~~  
18 ~~affected by the rule, using at least one of the following standards:~~

19 ~~[(A) cost for each employee,~~

20 ~~[(B) cost for each hour of labor; or~~

21 ~~[(C) cost for each \$100 of sales.]~~

22 (d) The agency shall include the economic impact statement  
23 and regulatory flexibility analysis [~~statement of effect~~] as part  
24 of the notice of the proposed rule that the agency files with the  
25 secretary of state for publication in the Texas Register and shall  
26 provide copies to the standing committee of each house of the  
27 legislature that is charged with reviewing the proposed rule.

1 SECTION 3. Subchapter A, Chapter 2006, Government Code, is  
2 amended by adding Sections 2006.003 and 2006.004 to read as  
3 follows:

4 Sec. 2006.003. JUDICIAL REVIEW OF STATE AGENCY DECISION TO  
5 ADOPT RULE. (a) A small business that is adversely affected by a  
6 state agency's final action with regard to the adoption of a rule is  
7 entitled to judicial review of the agency's compliance with the  
8 requirements of this subchapter.

9 (b) A small business may seek judicial review beginning on  
10 the date of the state agency's final action with regard to the  
11 adoption of a rule and not later than one year after that date.

12 Sec. 2006.004. STATE AGENCY REVIEW OF RULES. (a) A state  
13 agency shall:

14 (1) review rules adopted before January 1, 2008, to  
15 determine whether those rules have any adverse economic impact on  
16 small businesses; and

17 (2) at least every five years, review rules adopted on  
18 or after January 1, 2008, to determine whether those rules have any  
19 adverse economic impact on small businesses.

20 (b) If a state agency determines that a rule has an adverse  
21 economic impact on small businesses, the agency shall decide  
22 whether the rule should be repealed or amended to minimize any  
23 adverse economic impact on small businesses.

24 SECTION 4. Section 2006.002, Government Code, as amended by  
25 this Act, applies only to a rule that is adopted on or after January  
26 1, 2008. A rule adopted before that date is governed by the law in  
27 effect when the rule was adopted, and the former law is continued in

1 effect for that purpose.

2 SECTION 5. Not later than September 1, 2011, a state agency  
3 shall review all rules adopted before January 1, 2008, as required  
4 by Section 2006.004(a)(1), Government Code, as added by this Act,  
5 to determine whether those rules have any adverse economic impact  
6 on small businesses.

7 SECTION 6. This Act takes effect September 1, 2007.