

By: Guillen

H.B. No. 2305

Substitute the following for H.B. No. 2305:

By: Lucio III

C.S.H.B. No. 2305

A BILL TO BE ENTITLED

AN ACT

relating to the operations, communications, and notice procedures
of state agencies.

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

SECTION 1. The heading to Subchapter G, Chapter 441,
Government Code, is amended to read as follows:

SUBCHAPTER G. STATE PUBLICATIONS AND REPORTS

SECTION 2. Section 441.101, Government Code, is amended by
adding Subdivision (5) to read as follows:

(5) "Texas Digital Archive" means the digital
repository maintained and operated by the commission for the
preservation of and access to permanently valuable copies of
archival state records, reports, and publications.

SECTION 3. Subchapter G, Chapter 441, Government Code, is
amended by adding Sections 441.107 and 441.108 to read as follows:

Sec. 441.107. REPORT OF REPORTS. (a) Notwithstanding
Section 441.101, in this section, "state agency" has the meaning
assigned by Section 441.180.

(b) Not later than January 1 of every other odd-numbered
year, the commission shall submit to the governor and the
Legislative Budget Board a written report regarding all statutorily
required reports prepared by and submitted to a state agency. The
commission may consult with other state agencies in preparing the
report. A state agency shall cooperate with the commission in

1 securing the information necessary for preparing the report and
2 shall submit that information to the commission. The commission
3 shall prescribe the time and manner in which a state agency
4 transmits the information necessary to prepare the report, and may
5 require the information to be submitted using the Texas Digital
6 Archive. The report must include for each statutorily required
7 report:

- 8 (1) the title of and the agency preparing the report;
9 (2) the statutory authority requiring the report;
10 (3) the recipient of the report;
11 (4) the deadline for submitting the report;
12 (5) a brief description of the report; and
13 (6) an assessment from each recipient of the report
14 whether the report is necessary.

- 15 (c) The report required by Subsection (b) must:
16 (1) be made available to the public; and
17 (2) provide indices by preparing agency, title of
18 report, and report recipient.

19 Sec. 441.108. STATE AGENCY USE OF TEXAS DIGITAL ARCHIVE FOR
20 CERTAIN REPORTS. (a) Notwithstanding Section [441.101](#), in this
21 section, "state agency" has the meaning assigned by Section
22 [2054.003](#).

23 (b) To the extent a report prepared by a state agency is not
24 confidential or excepted from the requirements of Section [552.021](#),
25 the agency shall use the Texas Digital Archive to submit or post the
26 report if the report is required by a statute, rule, or rider in the
27 General Appropriations Act to be submitted to:

- 1 (1) the governor;
- 2 (2) a member, agency, or committee of the legislature;
- 3 (3) another state agency; or
- 4 (4) the public.

5 (c) The commission shall develop and make accessible to each
6 state agency guidelines that assist the agency in determining:

7 (1) the reports prepared by the agency that are
8 appropriate for submission through the Texas Digital Archive; and

9 (2) the retention requirements for those reports.

10 (d) The commission shall monitor the effectiveness of state
11 agency use of the Texas Digital Archive for the purposes provided
12 under this section.

13 (e) A state agency that posts a report using the Texas
14 Digital Archive satisfies any requirement in state law that the
15 agency post the report on the agency's Internet website if the
16 agency posts a direct link to the Texas Digital Archive on the
17 agency's Internet website.

18 SECTION 4. Section 2001.026, Government Code, is amended to
19 read as follows:

20 Sec. 2001.026. NOTICE TO PERSONS REQUESTING ADVANCE NOTICE
21 OF PROPOSED RULES. A state agency shall provide ~~mail~~ notice of a
22 proposed rule to each person who has made a timely written request
23 of the agency for advance notice of its rulemaking proceedings. The
24 agency may provide the notice by electronic mail if the person
25 requests electronic delivery of the notice and includes an e-mail
26 address in the person's written request submitted to the agency.
27 Failure to provide ~~mail~~ the notice does not invalidate an action

1 taken or rule adopted.

2 SECTION 5. Chapter [2052](#), Government Code, is amended by
3 adding Subchapter F to read as follows:

4 SUBCHAPTER F. TRANSMISSION AND RECEIPT OF AGENCY DOCUMENTS

5 Sec. 2052.401. DEFINITION. In this subchapter, "state
6 agency" means a department, commission, board, office, council,
7 authority, or other agency that is in the executive, legislative,
8 or judicial branch of state government and that is created by the
9 constitution or a statute of this state, including a university
10 system or institution of higher education as defined by Section
11 [61.003](#), Education Code.

12 Sec. 2052.402. TRANSMISSION AND RECEIPT OF DOCUMENTS. (a)
13 A state agency may transmit and receive state documents in a format
14 prescribed by the agency and in any manner that the agency
15 determines will increase agency efficiency without compromising
16 the delivery of the agency's program to the public.

17 (b) A state agency that transmits and receives state
18 documents using the Internet or another electronic medium shall by
19 rule develop electronic communication procedures for the agency.

20 (c) Notwithstanding Subsection (a), a state agency may
21 continue to use established procedures prescribed by state law or
22 agency policy for the transmission and receipt of documents,
23 including the delivery of certain publications that exist in
24 physical format to a depository library as required by Section
25 [441.103](#).

26 (d) This section does not authorize the electronic
27 transmission or receipt of documents that are prohibited from being

1 electronically transmitted or received under federal law.

2 (e) To the extent of any conflict, this section prevails
3 over any other state law relating to the transmission and receipt of
4 state agency documents.

5 (f) A state agency shall include in the agency's legislative
6 appropriations request submitted to the Legislative Budget Board
7 for the state fiscal biennium beginning September 1, 2019, a report
8 on any cost savings or achievements in efficiency recognized from
9 implementing a change in the agency's procedures for the
10 transmission and receipt of state documents during the state fiscal
11 biennium ending August 31, 2019. This subsection expires September
12 1, 2020.

13 SECTION 6. Subchapter A, Chapter 2176, Government Code, is
14 amended by adding Section 2176.007 to read as follows:

15 Sec. 2176.007. COMPTROLLER STUDY ON MAIL OPERATIONS. (a)
16 The comptroller shall conduct a study on the mail operations of each
17 state agency in the executive branch of state government that
18 receives an appropriation. The study must identify provisions of
19 law relating to the mailing requirements for the agency that impede
20 the efficient transmission and receipt of documents by the agency.

21 (b) In conducting the study, the comptroller shall
22 collaborate with other state agencies to consider the needs or
23 concerns specific to those agencies.

24 (c) Not later than November 1, 2018, the comptroller shall
25 post the findings of the study conducted under this section on the
26 comptroller's Internet website.

27 (d) This section expires September 1, 2019.

1 SECTION 7. Section 243.015, Health and Safety Code, is
2 amended by amending Subsection (e) and adding Subsections (e-1) and
3 (e-2) to read as follows:

4 (e) If the department initially determines that a violation
5 occurred, the department shall give written notice of the report
6 ~~[by certified mail]~~ to the person. Notwithstanding any other law,
7 the notice may be provided by any certified delivery method,
8 including certified mail or certified electronic mail.

9 (e-1) If the notice under Subsection (e) is sent by
10 certified electronic mail:

11 (1) it must be sent to the person's last known e-mail
12 address as provided by the person to the department; and

13 (2) the department shall maintain proof that the
14 notice was sent.

15 (e-2) For purposes of Subsection (e), a person's provision
16 of an e-mail address to the department is considered consent to
17 electronically deliver notices and correspondence to the person.

18 SECTION 8. Sections 21.010(a), (d), and (e), Labor Code,
19 are amended to read as follows:

20 (a) Each state agency shall provide to employees of the
21 agency a ~~[an employment discrimination]~~ training program on the
22 prevention of employment discrimination ~~[that complies with this~~
23 ~~section]~~.

24 (d) The commission shall develop materials for use by state
25 agencies in providing the ~~[employment discrimination]~~ training
26 program ~~[as]~~ required by this section.

27 (e) Each state agency shall require an employee of the

1 agency who completes the [~~attends a~~] training program required by
2 this section to verify [~~sign a statement verifying~~] the employee's
3 completion of [~~attendance at~~] the training program in the manner
4 prescribed by the agency. The agency shall:

5 (1) file a document that verifies the employee's
6 completion of the training program [~~the statement~~] in the
7 employee's personnel file; or

8 (2) retain an electronic record that verifies the
9 employee's completion of the training program in accordance with
10 the record retention requirements applicable to the agency.

11 SECTION 9. Section 11.082(a), Natural Resources Code, is
12 amended to read as follows:

13 (a) A state agency or political subdivision may not formally
14 take any action that may affect state land dedicated to the
15 permanent school fund without first giving notice of the action to
16 the board. Notice of the proposed action shall be delivered [~~by~~
17 ~~certified mail, return receipt requested, addressed to the deputy~~
18 ~~commissioner of the asset management division of the General Land~~
19 ~~Office~~] on or before the state agency's or political subdivision's
20 formal initiation of the action by:

21 (1) certified mail, return receipt requested,
22 addressed to the deputy commissioner of the asset management
23 division of the General Land Office; or

24 (2) certified electronic mail to an e-mail address
25 specified by the deputy commissioner for the purpose of receiving
26 the notice.

27 SECTION 10. Section 301.160, Occupations Code, is amended

1 by adding Subsection (k) to read as follows:

2 (k) Notwithstanding Subsection (j), the board may deliver
3 the report under that subsection by certified electronic mail if
4 the recipient provides an e-mail address to the board for the
5 purpose of receiving the report.

6 SECTION 11. Section 228.0545, Transportation Code, is
7 amended by adding Subsection (e) to read as follows:

8 (e) The department may provide that the notice under
9 Subsection (c), instead of being sent by first class mail, be sent
10 as an electronic record to a registered owner that agrees to the
11 terms of the electronic record transmission of the information.

12 SECTION 12. A state agency is not required to comply with
13 Section 441.108, Government Code, as added by this Act, until the
14 Texas State Library and Archives Commission notifies the agency
15 that the Texas Digital Archive, as defined by Section 441.101,
16 Government Code, as amended by this Act, is configured to allow
17 compliance by the agency with that section.

18 SECTION 13. The changes in law made by this Act relating to
19 the method of delivery or submission of a notice or report apply
20 only to a notice or report that is required to be delivered or
21 submitted on or after the effective date of this Act. A notice or
22 report required to be delivered or submitted before the effective
23 date of this Act is governed by the law in effect on the date the
24 notice or report was required to be delivered or submitted, and the
25 former law is continued in effect for that purpose.

26 SECTION 14. The first report required under Section
27 441.107, Government Code, as added by this Act, is due not later

1 than January 1, 2021.

2 SECTION 15. This Act takes effect September 1, 2017.