

BILL ANALYSIS

Senate Research Center

S.B. 776
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the Farm and Ranch Freedom Alliance, one of small farmers' and local food producers' most common complaints is that the regulatory requirements are too confusing and complicated. In a survey of farmers' market organizers asking about the issues that pose the greatest problems for the markets and their vendors, the issue of simply knowing what regulations apply and how to comply with them consistently ranked as one of the top problems.

In a typical example of this dilemma, a small-scale livestock producer who wants to sell eggs and chickens at farmers' markets and locally-sourcing restaurants must understand and comply with: (1) egg grading requirements from the Texas Department of Agriculture (TDA); (2) weights and measures requirements from TDA; (3) on-farm chicken processing regulations from the Texas Department of State Health Services (DSHS); (4) food manufacturing regulations from DSHS; and (5) local health organizations from multiple jurisdictions regarding selling potentially hazardous foods. A farm in Milam County selling to major markets with a 100-mile radius, therefore, would have to comply with regulation of the City of Austin along with those of Bell, Brazos, McClennan, Travis, and Williamson counties (and additional jurisdictions if any smaller markets and venues were included).

Confusion over ambiguous regulations ultimately leads to unintentional violations of those regulations. This imposes costs, not only on the producer and the business, but also on agencies in the form of lost time and unnecessary expense. The ombudsman would help producers understand what regulations apply and what regulations require.

Although several Texas state agencies have established ombudsman positions to assist and communicate with outside stakeholders, a position currently does not exist within the Texas government to assist agricultural or rural businesses. S.B. 776, therefore, would establish such a position within Texas Economic Development and Tourism Office.

The ombudsman would be responsible for the following duties:

- (1) responding to questions about state, federal, and local regulations that apply to agriculture and local businesses;
- (2) providing contact information for local, state, and federal officials to assist in complying with regulations;
- (3) providing assurance to local and state regulatory agencies that agricultural and rural businesses that are receiving assistance from the ombudsman are meeting applicable legal and regulatory requirements; and
- (4) ensuring that agricultural and rural businesses are treated fairly and expeditiously in regulatory application and review processes.

Creating an ombudsman position would encourage the establishment and growth of Texas agricultural and rural businesses, reduce their expenses, and improve regulatory compliance and consistency.

As proposed, S.B. 776 amends current law relating to the establishment of an agriculture and rural ombudsman office.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive director of the Texas Economic Development and Tourism Office in SECTION 1 (Section 482.005, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 4, Government Code, by adding Chapter 482, as follows:

CHAPTER 482. AGRICULTURE AND RURAL OMBUDSMAN OFFICE

Sec. 482.001. DEFINITIONS. Defines "agriculture business," "executive director," "office," and "ombudsman."

Sec. 482.002. ESTABLISHMENT; PURPOSE. Requires the Office of the Governor (governor's office) to establish an agriculture and rural ombudsman office within the Texas Economic Development and Tourism Office (office) for the purpose of assisting agriculture businesses and businesses located in rural areas.

Sec. 482.003. QUALIFICATION; APPOINTMENT. (a) Requires the ombudsman to have expertise in local, state, or federal regulations applicable to assisting agriculture businesses and businesses located in rural areas.

(b) Requires the executive director of the office (executive director) to select the ombudsman.

Sec. 482.004. ASSISTANTS. (a) Authorizes the ombudsman with the approval of the executive director to employ assistants to, under the direction of the ombudsman, perform the same duties and exercise the same powers as the ombudsman.

(b) Authorizes the ombudsman with the approval of the executive director to employ persons or contract for specific purposes as necessary to carry out this chapter, including legal counsel and other professional and administrative staff that are necessary to provide services to agriculture businesses and businesses located in rural areas.

Sec. 482.005. RULES. Requires the executive director to adopt rules proposed by the ombudsman to implement this chapter.

Sec. 482.006. PROMOTION OF AWARENESS OF OFFICE. Requires the ombudsman to promote public awareness of how the office may be contacted, the purpose of the office, and the services the office provides.

Sec. 482.007. DUTIES AND POWERS OF OFFICE. Requires the office to:

(1) respond to questions about local, state, and federal regulations that apply to agriculture businesses and businesses located in rural areas;

(2) provide contact information for local, state, and federal officials that may assist agriculture businesses and businesses located in rural areas in complying with regulations;

(3) provide assurance to local and state regulatory agencies that agriculture businesses and businesses located in rural areas that are receiving assistance from the ombudsman are meeting applicable legal and regulatory requirement; and

(4) ensure that agriculture businesses and businesses located in rural areas are treated fairly and expeditiously in regulatory application and review processes.

Sec. 482.008. ACCESS TO INFORMATION. (a) Requires a government entity to provide the office access to the government entity's records that relate to a complaint or inquiry the office is reviewing or investigating.

(b) Authorizes the ombudsman to use the information obtained under this section for the purposes of assisting agriculture businesses and businesses located in rural areas, evaluating governmental entities' application of laws affecting agriculture businesses and businesses located in rural areas, and making recommendations for legislation.

Sec. 482.009. CONFIDENTIALITY OF RECORDS. Requires the office to maintain the confidentiality of personal information obtained under Section 482.008 and other information obtained under that section that is confidential under Chapter 552 (Public Information).

Sec. 482.110. REPORT. Requires the ombudsman, on or before January 1 of each year, to submit to the governor, the lieutenant governor, and each member of the legislature a report that describes, for the one-year period preceding the report, the activities of the ombudsman, the types and number of complaints and inquiries submitted to the ombudsman, any recommendations the ombudsman has relating to the office, and any legislative proposals relating to agriculture businesses and businesses located in rural areas.

SECTION 2. Requires the governor's office, not later than January 1, 2020, to establish the agriculture and rural ombudsman office under Chapter 482, Government Code, as added by this Act, and requires the executive director of the Texas Economic Development and Tourism Office to select the agriculture and rural ombudsman.

SECTION 3. Effective date: upon passage or September 1, 2019.