

By: Middleton

H.B. No. 2854

A BILL TO BE ENTITLED

AN ACT

relating to judicial deference regarding an interpretation of law  
by a state agency.

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

SECTION 1. Subchapter C, Chapter 311, Government Code, is  
amended by adding Section 311.0231 to read as follows:

Sec. 311.0231. PROHIBITED DEFERENCE TO AGENCY  
CONSTRUCTION. Notwithstanding Section 311.023(6) or any other law,  
a court may not give deference to any construction of a statute by  
the state agency responsible for the statute's administration or  
implementation.

SECTION 2. Subchapter B, Chapter 2001, Government Code, is  
amended by adding Section 2001.042 to read as follows:

Sec. 2001.042. JUDICIAL REVIEW OF AGENCY RULEMAKING.  
Notwithstanding any other law, in a judicial proceeding in this  
state, including an action subject to Section 2001.038, a court may  
not give deference to a legal determination made by a state agency  
regarding the construction, validity, or applicability of a rule  
adopted by the state agency responsible for the rule's  
administration or implementation.

SECTION 3. Subchapter G, Chapter 2001, Government Code, is  
amended by adding Section 2001.1721 to read as follows:

Sec. 2001.1721. JUDICIAL REVIEW OF QUESTION OF LAW. (a) In  
any matter brought under this subchapter, the reviewing court shall

1 decide all questions of law by trial de novo, including the  
2 interpretation of constitutional provisions, statutory provisions,  
3 or rules adopted by a state agency, without giving deference to any  
4 legal determination by a state agency.

5 (b) Notwithstanding any other law, this section applies in  
6 an action for judicial review of a contested case that is authorized  
7 by law and other court actions authorized by law that involve a  
8 state agency's construction of a constitutional provision or  
9 statutory provision or a rule adopted by a state agency.

10 (c) A law may not exempt an action from the application of  
11 this section except by specific reference to this section.

12 SECTION 4. The changes in law made by this Act apply to a  
13 petition for judicial review, action for declaratory judgment, or  
14 other judicial proceeding filed on or after the effective date of  
15 this Act. A petition for judicial review, action for declaratory  
16 judgment, or other judicial proceeding filed before the effective  
17 date of this Act is governed by the law in effect on the date the  
18 petition for judicial review, action for declaratory judgment, or  
19 other judicial proceeding was filed, and the former law is  
20 continued in effect for that purpose.

21 SECTION 5. This Act takes effect September 1, 2019.