

BILL ANALYSIS

Senate Research Center

H.B. 3046
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised regarding the issuance of potentially unconstitutional executive orders by the President of the United States and assistance that might be provided by state or local governments in enforcing those orders or rules adopted by the federal government to implement the policy directives included in the orders. H.B. 3046 seeks to address this issue by requiring the attorney general to issue a monthly report identifying certain rules adopted by federal government agencies in response to a presidential executive order that violate rights guaranteed by the U.S. Constitution and prohibiting state agencies and political subdivisions from cooperating with a federal government agency to enforce certain unconstitutional federal rules.

H.B. 3046 amends current law relating to the identification of and prohibited cooperation by state and local entities with certain federal acts that violate the United States Constitution.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 7, Government Code, by adding Chapter 793, as follows:

CHAPTER 793. IDENTIFICATION OF AND PROHIBITED COOPERATION WITH CERTAIN UNCONSTITUTIONAL ACTS OF FEDERAL GOVERNMENT

Sec. 793.001. DEFINITIONS. Defines "political subdivision" and "state agency."

Sec. 793.002. REVIEW OF EXECUTIVE ORDERS. (a) Requires the attorney general, on the last day of each month, to provide a written report to the governor, lieutenant governor, speaker of the house of representatives, and each member of the legislature that:

(1) identifies each rule adopted by a federal government agency during the previous month that:

(A) relates to pandemics or other health emergencies, the regulation of natural resources, including coal and oil, the regulation of the agriculture industry, the use of land, the regulation of the financial sector as it relates to environmental, social, or governance standards, the regulation of the constitutional right to keep and bear arms, or the free exercise of religion, including the congregating of religious practitioners;

(B) was adopted in response to an executive order by the president of the United States; and

(C) violates the rights guaranteed to the citizens of the United States by the United States Constitution; and

(2) provides the status of any lawsuit filed against the federal government relating to a rule identified by any report prepared under this section, including whether a court has found the rule to violate the rights guaranteed to the citizens of the United States by the United States Constitution.

(b) Requires the attorney general to publish any report prepared under this section on the attorney general's website and in the Texas Register.

Sec. 793.003. COOPERATION WITH UNCONSTITUTIONAL ACTS. Prohibits a state agency or political subdivision, notwithstanding any other law, from cooperating with a federal government agency in implementing an agency rule that a report published under Section 793.002 indicates has been found by a federal court in a decision that has not been stayed, reversed, or overruled to violate the rights guaranteed to the citizens of the United States by the United States Constitution.

Sec. 793.004. INJUNCTIVE RELIEF. Authorizes the attorney general to bring an action in a district court in Travis County or in a county in which the political subdivision is located to enjoin a violation of Section 793.003.

SECTION 2. Effective date: upon passage or September 1, 2021.