

BILL ANALYSIS

Senate Research Center
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H.B. 139
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the interim of the 86th Legislature, during the onset of the pandemic, it was difficult for the public and legislators alike to monitor the implementation of legislation. The legislature frequently directs state agencies to act or adopt rules pursuant to the text of legislation, but often there is little follow-up on that which descends from the rulemaking process, and the public struggles to ascertain from what authority rules stem.

When promulgating rules in response to legislation, an agency is not required to notify the author of the bill that directed the agency's action. Requiring that notice be given to the author and of the specific enabling legislation furthers the transparent administration of government.

H.B. 139 requires a state agency to provide notice of a proposed rule to each person who was a primary author and sponsor of the legislation that enacted the statutory authority under which the proposed rule is to be adopted if that person is a current member of the legislature. Notice shall be provided electronically to one's designated Capitol e-mail address. Notice of a proposed rule issued by an agency must include the bill number for the legislation that enacted the statutory authority under which the proposed rule is to be adopted.

H.B. 139 amends current law relating to the provision of notice of certain proposed rules by state agencies.

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 Section 2001.023, Government Code, effective September 1, 2023, by adding Subsection (e), as follows:

(e) Provides that failure to publish a summary of a proposed rule in the manner required by Subsection (c) (relating to requiring a state agency to publish on the agency's Internet website a summary of a proposed rule when an agency files notice of proposed rules) does not invalidate a rule adopted by a state agency or an action taken by the agency under that rule.

SECTION 2. Amends Section 2001.024, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires that the notice of a proposed rule include:

(1)-(2) makes no changes to these subdivisions;

(3) a statement of the statutory or other authority under which the rule is proposed to be adopted, including:

(A) makes no changes to this paragraph;

(B) makes a nonsubstantive change to this paragraph;

(C) if applicable, the bill number for the legislation that enacted the statutory authority under which the rule is proposed to be adopted if the legislation was enacted during the four-year period preceding the date notice of the proposed rule is given; and

(D) makes no changes to this paragraph; and

(4)-(8) makes no changes to these subdivisions.

(d) Provides that failure to include in the notice of a proposed rule the bill number for the legislation that enacted the statutory authority under which the rule is proposed to be adopted as required by Subsection (a)(3)(C) does not invalidate a rule adopted by a state agency or an action taken by the agency under that rule.

SECTION 3. Amends Subchapter B, Chapter 2001, Government Code, by adding Section 2001.0261, as follows:

Sec. 2001.0261. NOTICE TO CERTAIN PERSONS. (a) Provides that this section applies only to a rule that is proposed to be adopted by a state agency under statutory authority that:

(1) specifically authorizes the agency to adopt the rule; and

(2) became law during the preceding four-year period.

(b) Requires that a state agency provide, not later than the third day after the date the agency files notice with the secretary of state as required under Section 2001.023 (Notice of Proposed Rule), notice of a proposed rule to the primary author and the primary sponsor of the legislation that enacted the statutory authority under which the proposed rule is to be adopted, if the primary author or primary sponsor is a current member of the legislature.

(c) Requires the state agency to provide the notice required under Subsection (b) electronically to the person's designated Capitol e-mail address or to another e-mail address provided by the person to the agency for the purpose of receiving the notice.

(d) Provides that failure to provide the notice required under Subsection (b) does not invalidate a rule adopted by a state agency or an action taken by the agency under that rule.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date, except as otherwise provided by this Act: upon passage or September 1, 2023.