

BILL ANALYSIS

H.B. 791
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Regulations create burdens and impose costs on millions of Texans. Retrospective review of the costs and benefits of federal regulations has long been a goal of presidents and regulatory experts across the political spectrum, such as Obama's regulatory czar Cass Sunstein and Trump's regulatory czar Paul Ray. In fact, every president since Jimmy Carter has attempted to force periodic retrospective reviews of regulations. By requiring that the rule expire if not reviewed, H.B. 791 seeks to ensure that only regulations which have been reviewed are able to remain in effect and that the cost on regulated persons is taken into consideration.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 791 amends the Government Code to revise the provisions governing an applicable state agency's review of an existing rule for potential readoption under the Administrative Procedure Act as follows:

- includes among the factors that must be considered in the review an assessment of any cost imposed on regulated persons that subjects the rule to statutory provisions requiring such a cost to be offset in the rule adoption process through the repeal or amendment of a different rule;
- requires a state agency to publish on its website each such cost assessment the agency conducts and include a link on the website to the data, working papers, and other materials the agency used to complete the assessment;
- sets a rule the review of which a state agency fails to complete in the manner and time provided by law to expire on the day following the date the review was required to be completed and renders the rule void and unenforceable;
- authorizes any person potentially injured by the continued enforcement of a rule that has expired due to lack of compliance with applicable requirements to file a civil action, either in a district court in the person's county of residence or in Travis County, to obtain a declaratory judgment against and injunctive relief from the rule's continued enforcement; and
- entitles a plaintiff who substantially prevails in such an action to recover reasonable costs and attorney's fees from the state agency that adopted the rule.

EFFECTIVE DATE

September 1, 2023.