By:  Klick, et al. (Senate Sponsor - Hall) H.B. No. 139

(In the Senate - Received from the House May 10, 2023; May 11, 2023, read first time and referred to Committee on Business & Commerce; May 19, 2023, reported favorably by the following vote: Yeas 10, Nays 0; May 19, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Schwertner           X

King                 X

Birdwell                       X

Campbell             X

Creighton            X

Johnson              X

Kolkhorst            X

Menéndez             X

Middleton            X

Nichols              X

Zaffirini            X

A BILL TO BE ENTITLED

AN ACT

relating to the provision of notice of certain proposed rules by state agencies.

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

SECTION 1.  Effective September 1, 2023, Section 2001.023, Government Code, is amended by adding Subsection (e) to read as follows:

(e)  Failure to publish a summary of a proposed rule in the manner required by Subsection (c) does not invalidate a rule adopted by a state agency or an action taken by the agency under that rule.

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

(a)  The notice of a proposed rule must include:

(1)  a brief explanation of the proposed rule;

(2)  the text of the proposed rule, except any portion omitted under Section 2002.014, prepared in a manner to indicate any words to be added or deleted from the current text;

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

(A)  a concise explanation of the particular statutory or other provisions under which the rule is proposed;

(B)  the section or article of the code affected; [~~and~~]

(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)  a certification that the proposed rule has been reviewed by legal counsel and found to be within the state agency's authority to adopt;

(4)  a fiscal note showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

(A)  the additional estimated cost to the state and to local governments expected as a result of enforcing or administering the rule;

(B)  the estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule;

(C)  the estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rule; and

(D)  if applicable, that enforcing or administering the rule does not have foreseeable implications relating to cost or revenues of the state or local governments;

(5)  a note about public benefits and costs showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

(A)  the public benefits expected as a result of adoption of the proposed rule; and

(B)  the probable economic cost to persons required to comply with the rule;

(6)  the local employment impact statement prepared under Section 2001.022, if required;

(7)  a request for comments on the proposed rule from any interested person; and

(8)  any other statement required by law.

(d)  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.  Subchapter B, Chapter 2001, Government Code, is amended by adding Section 2001.0261 to read as follows:

Sec. 2001.0261.  NOTICE TO CERTAIN PERSONS. (a) 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)  A state agency shall 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 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)  The state agency shall 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)  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.  The change in law made by this Act applies only to a proposed state agency rule for which notice is filed with the secretary of state under Section 2001.023, Government Code, on or after the effective date of this Act.

SECTION 5.  Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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