

By: Capriglione

H.B. No. 10

A BILL TO BE ENTITLED

AN ACT

relating to reforming the procedure by which state agencies adopt rules and impose regulatory requirements and the deference given to the interpretation of laws and rules by state agencies in certain judicial proceedings.

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

SECTION 1. This Act may be cited as the Regulatory Reform and Efficiency Act.

SECTION 2. Subtitle E, Title 4, Government Code, is amended by adding Chapter 465 to read as follows:

CHAPTER 465. REGULATORY AND RULEMAKING EFFICIENCY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 465.0001. DEFINITIONS. (a) The definitions in Chapter 2001 apply to this chapter.

(b) In this chapter:

(1) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(2) "Office" means the Texas Regulatory Efficiency Office.

(3) "Panel" means the Texas Regulatory Efficiency Advisory Panel.

Sec. 465.0002. APPLICATION OF SUNSET ACT TO OFFICE AND PANEL. (a) The Texas Regulatory Efficiency Office and the Texas Regulatory Efficiency Advisory Panel are subject to Chapter 325

1 (Texas Sunset Act).

2 (b) Unless continued in existence as provided by Chapter 325
3 (Texas Sunset Act), the office and panel are abolished September 1,
4 2037.

5 SUBCHAPTER B. TEXAS REGULATORY EFFICIENCY OFFICE

6 Sec. 465.0051. ESTABLISHMENT OF OFFICE. The Texas
7 Regulatory Efficiency Office is established as an office within the
8 office of the governor.

9 Sec. 465.0052. PURPOSES OF OFFICE. (a) The office is
10 established to:

11 (1) identify and expand opportunities for
12 implementing efficiencies in:

13 (A) the process by which state agencies adopt
14 rules;

15 (B) the regulatory review process; and

16 (C) the manner in which contested cases are
17 conducted;

18 (2) assist state agencies in identifying:

19 (A) unnecessary and ineffective rules;

20 (B) the effect and cost to this state and
21 regulated persons of the agencies' rules and proposed rules; and

22 (C) opportunities to repeal or amend rules to
23 provide effective protection to the public with the least cost and
24 inconvenience to regulated persons;

25 (3) coordinate with the secretary of state, the
26 Department of Information Resources, and other state agencies in
27 the secretary of state's efforts under Section 2001.007 to:

1 (A) improve public access to information
2 regarding state agency rules, forms, and filings; and

3 (B) create an interactive Internet website for
4 use by the public to search and obtain information regarding rules,
5 forms, and filings applicable to specific regulated occupations,
6 industries, professions, and activities;

7 (4) establish a goal for each state agency to reduce
8 rules or other regulatory requirements, including by:

9 (A) eliminating unnecessary or ineffective rules
10 or other regulatory requirements; and

11 (B) reducing the inefficiencies resulting from
12 rules or other regulatory requirements adopted by the agency by:

13 (i) reducing required training hours;

14 (ii) reducing the number of forms a
15 regulated person is required to complete;

16 (iii) reducing the amount of information
17 required by forms that a regulated person is required to complete;

18 (iv) reducing the amount of or eliminating
19 fees imposed by the rules;

20 (v) reducing the number of activities
21 covered by the rules; or

22 (vi) creating waivers for or exemptions
23 from the rules under certain circumstances; and

24 (5) prepare and publish written manuals, guides, or
25 other publications as required by this chapter.

26 (b) The office shall coordinate with the panel, state
27 agencies, and the governor's office to accomplish the purposes of

1 the office.

2 Sec. 465.0053. REGULATORY ECONOMIC ANALYSIS MANUAL. (a)
3 The office shall prepare and publish a regulatory economic analysis
4 manual.

5 (b) The manual required by Subsection (a) must identify and
6 describe best practices for state agencies related to:

7 (1) preparing a local employment impact statement
8 under Section 2001.022;

9 (2) conducting a regulatory analysis under Section
10 2001.0225;

11 (3) preparing a fiscal note under Section 2001.024;
12 and

13 (4) preparing a note regarding public benefits and
14 costs under Section 2001.024.

15 (c) The office shall ensure that the manual required by
16 Subsection (a) is written in plain language that may be easily
17 understood by the public.

18 Sec. 465.0054. REGULATORY REDUCTION GUIDE. (a) The office
19 shall prepare and publish a regulatory reduction guide.

20 (b) The purpose of the guide required by Subsection (a) is
21 to assist each state agency to:

22 (1) meet the goal established by the agency under
23 Section 465.0052(a)(4); and

24 (2) document that the agency met the goal described by
25 Subdivision (1).

26 (c) The office shall ensure that the guide required by
27 Subsection (a) is written in plain language that may be easily

1 understood by the public.

2 Sec. 465.0055. RULEMAKING AND REGULATORY EFFICIENCY FORUM.

3 The office shall establish a forum for interested persons described
4 by Section 2001.021(d) to assist the office and the panel to
5 accomplish the purposes of the office and panel.

6 SUBCHAPTER C. TEXAS REGULATORY EFFICIENCY ADVISORY PANEL

7 Sec. 465.0101. ESTABLISHMENT OF PANEL. The Texas
8 Regulatory Efficiency Advisory Panel is established as an advisory
9 panel to the governor's office, including the office established
10 under this chapter.

11 Sec. 465.0102. ADMINISTRATIVE ATTACHMENT AND SUPPORT. (a)
12 The panel is administratively attached to the office of the
13 governor.

14 (b) The office established under this chapter shall provide
15 staff, facilities, and other administrative support necessary to
16 assist the panel in performing the panel's duties under this
17 chapter.

18 Sec. 465.0103. COMPOSITION OF PANEL. (a) The panel is
19 composed of the following seven members appointed by the governor:

20 (1) one member who represents regulated small
21 businesses;

22 (2) one member who represents regulated large
23 businesses;

24 (3) one member who holds an occupational license
25 issued by a state agency;

26 (4) one member employed by an institution of higher
27 education who conducts research at the institution and has

1 experience addressing issues related to state agency rules;

2 (5) one member who represents state agencies that
3 adopt rules; and

4 (6) two members of the public.

5 (b) In making appointments under Subsection (a), the
6 governor shall give priority to individuals with expertise in state
7 agency rules and the rulemaking process, including expertise in
8 regulatory research, compliance, cost, and impact analysis, and
9 related law and procedure.

10 Sec. 465.0104. TERMS; VACANCY. (a) Members of the panel
11 serve two-year terms.

12 (b) A vacancy on the panel shall be filled in the same manner
13 and is subject to the same qualifications as the original
14 appointment. A panel member appointed to fill a vacancy on the
15 panel shall serve the remainder of the unexpired term.

16 Sec. 465.0105. REIMBURSEMENT FOR EXPENSES. Members of the
17 panel serve without compensation but are entitled to reimbursement
18 for actual and necessary expenses incurred in performing official
19 duties under this chapter.

20 Sec. 465.0106. PRESIDING OFFICER. The governor shall
21 appoint one member of the panel to serve as the panel's presiding
22 officer.

23 Sec. 465.0107. MEETINGS. The panel shall meet at the call
24 of the panel's presiding officer.

25 Sec. 465.0108. PURPOSES OF PANEL. The panel is established
26 to:

27 (1) use the knowledge and expertise of regulated

1 persons, small and large businesses, institutions of higher
2 education, and state agencies to identify and expand opportunities
3 for implementing efficiencies in:

4 (A) the process by which state agencies adopt
5 rules;

6 (B) the regulatory review process; and

7 (C) the manner in which contested cases are
8 conducted; and

9 (2) assist the office and state agencies in
10 identifying:

11 (A) unnecessary and ineffective rules;

12 (B) the effect and cost to this state and
13 regulated persons of the agencies' rules and proposed rules; and

14 (C) opportunities to repeal or amend rules to
15 provide effective protection to the public with the least cost and
16 inconvenience to regulated persons.

17 Sec. 465.0109. APPLICATION OF OTHER LAW. Chapter 2110 does
18 not apply to the panel.

19 SUBCHAPTER D. REPORTING REQUIREMENT

20 Sec. 465.0151. BIENNIAL REPORT. (a) Not later than
21 December 1 of each even-numbered year, the office shall prepare and
22 submit to the governor and the Legislative Budget Board a written
23 report that describes:

24 (1) the activities undertaken by the office during the
25 two-year period preceding the date of the report to accomplish the
26 purposes of the office;

27 (2) any findings and recommendations of the office

1 related to the office's purposes under this chapter; and

2 (3) any legislative recommendations of the office to
3 accomplish and further the findings and recommendations described
4 by Subdivision (2).

5 (b) The panel may assist the office in preparing the report
6 required by Subsection (a).

7 SECTION 3. Section 2001.007, Government Code, is amended by
8 adding Subsection (e) to read as follows:

9 (e) The secretary of state, Department of Information
10 Resources, and Texas Regulatory Efficiency Office shall jointly
11 coordinate with each other state agency to establish an Internet
12 website that allows a person to search the rules and related
13 information made available by state agencies under Subsection (a)
14 by:

15 (1) the general topic of the rule;

16 (2) the type of activity or business regulated by the
17 rule; and

18 (3) if applicable, the North American Industry
19 Classification System (NAICS) sector code for the type of activity
20 or business regulated by the rule.

21 SECTION 4. Section 2001.024, Government Code, is amended by
22 amending Subsection (a) and adding Subsection (e) to read as
23 follows:

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

25 (1) a brief explanation of the proposed rule;

26 (2) the text of the proposed rule, except any portion
27 omitted under Section 2002.014, prepared in a manner to indicate

1 any words to be added or deleted from the current text and, to the
2 extent practicable, written in plain language;

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

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

7 (B) the section or article of the code affected;

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

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

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

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

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

26 (C) the estimated loss or increase in revenue to
27 the state or to local governments as a result of enforcing or

1 administering the rule; and

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

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

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

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

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

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

17 (8) a request for information related to the cost,
18 benefit, or effect of the proposed rule, including any applicable
19 data, research, or analysis, from any person required to comply
20 with the proposed rule or any other interested person; and

21 (9) any other statement required by law.

22 (e) For purposes of Subsection (a)(2), the text of a
23 proposed rule is written in plain language if the text is written
24 using language the general public, including individuals with
25 limited English proficiency, can readily understand because the
26 language is concise and well-organized.

27 SECTION 5. Sections 2001.035(a) and (b), Government Code,

1 are amended to read as follows:

2 (a) A rule is voidable unless a state agency adopts it in
3 substantial compliance with Sections 2001.022 [~~2001.0225~~] through
4 2001.034.

5 (b) A person must initiate a proceeding to contest a rule on
6 the ground of noncompliance with the procedural requirements of
7 Sections 2001.022 [~~2001.0225~~] through 2001.034 not later than the
8 second anniversary of the effective date of the rule.

9 SECTION 6. Section 2001.040, Government Code, is amended to
10 read as follows:

11 Sec. 2001.040. SCOPE AND EFFECT OF ORDER INVALIDATING
12 AGENCY RULE. If a court finds that an agency has not substantially
13 complied with one or more procedural requirements of Sections
14 2001.022 [~~2001.0225~~] through 2001.034, the court may remand the
15 rule, or a portion of the rule, to the agency and, if it does so
16 remand, shall provide a reasonable time for the agency to either
17 revise or readopt the rule through established procedure. During
18 the remand period, the rule shall remain effective unless the court
19 finds good cause to invalidate the rule or a portion of the rule,
20 effective as of the date of the court's order.

21 SECTION 7. Subchapter B, Chapter 2001, Government Code, is
22 amended by adding Section 2001.042 to read as follows:

23 Sec. 2001.042. JUDICIAL REVIEW OF STATE AGENCY LEGAL
24 DETERMINATION REGARDING LAWS AND RULES. Notwithstanding any other
25 law, in a judicial proceeding in this state, including an action
26 subject to Section 2001.038, a court is not required to give
27 deference to a state agency's legal determination regarding the

1 construction, validity, or applicability of the law or a rule
2 adopted by the state agency responsible for the rule's
3 administration, implementation, or other enforcement. This
4 section does not prohibit a court from giving consideration to a
5 legal determination made by a state agency that is reasonable and
6 does not conflict with the plain language of the statute.

7 SECTION 8. Subchapter G, Chapter 2001, Government Code, is
8 amended by adding Section 2001.1721 to read as follows:

9 Sec. 2001.1721. JUDICIAL REVIEW OF QUESTION OF LAW. (a)
10 Except as provided by Subsection (b), in any matter brought under
11 this subchapter, the reviewing court shall review all questions of
12 law de novo, including the interpretation of constitutional or
13 statutory provisions or rules adopted by a state agency, without
14 giving deference to any legal determination by a state agency.

15 (b) Subsection (a) does not prohibit a reviewing court from
16 giving consideration to a legal determination made by a state
17 agency that is reasonable and does not conflict with the plain
18 language of the statute.

19 (c) Notwithstanding any other law, this section applies in
20 an action for judicial review of a contested case authorized by law
21 and other court actions authorized by law that involve a state
22 agency's legal determination of a constitutional or statutory
23 provision or a rule adopted by the state agency.

24 (d) A law may not exempt an action from the application of
25 this section except by specific reference to this section.

26 SECTION 9. Sections 2001.022(c) and 2001.0221(e),
27 Government Code, are repealed.

1 SECTION 10. (a) As soon as practicable after the effective
2 date of this Act, but not later than January 1, 2026, the governor
3 shall appoint the members of the Texas Regulatory Efficiency
4 Advisory Panel as required by Section 465.0103, Government Code, as
5 added by this Act.

6 (b) Not later than the 60th day after the date the governor
7 appoints the members of the Texas Regulatory Efficiency Advisory
8 Panel under Subsection (a) of this section, the panel shall hold its
9 first meeting.

10 SECTION 11. Sections [2001.024](#), [2001.035](#), and [2001.040](#),
11 Government Code, as amended by this Act, and the repeal by this Act
12 of Sections [2001.022\(c\)](#) and [2001.0221\(e\)](#), Government Code, apply
13 only to a rule proposed by a state agency on or after the effective
14 date of this Act. A rule proposed before the effective date of this
15 Act is governed by the law in effect on the date the rule was
16 proposed, and the former law is continued in effect for that
17 purpose.

18 SECTION 12. Sections [2001.042](#) and [2001.1721](#), Government
19 Code, as added by this Act, apply only to a petition for judicial
20 review, action for declaratory judgment, contested case, or other
21 proceeding initiated on or after the effective date of this Act. A
22 petition for judicial review, action for declaratory judgment,
23 contested case, or other proceeding initiated before the effective
24 date of this Act is governed by the law in effect on the date the
25 proceeding was initiated, and the former law is continued in effect
26 for that purpose.

27 SECTION 13. This Act takes effect immediately if it

H.B. No. 10

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2025.