

## **BILL ANALYSIS**

C.S.H.B. 462  
By: Dale  
Government Transparency & Operation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties question whether state agencies make rules that go beyond the scope of the original intent of the legislation that grants them rulemaking authority. C.S.H.B. 462 seeks to make legislators aware of how legislation granting such authority is ultimately implemented by requiring a state agency's notice of proposed rulemaking to include the bill number for the legislation providing the relevant rulemaking authority and by requiring the agency to provide that notice to each primary author, joint author, sponsor, and joint sponsor of that legislation.

### **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**

C.S.H.B. 462 amends the Government Code to include among the required contents of the notice of a proposed rule by a state agency subject to the Administrative Procedure Act the bill number for the legislation that enacted the statutory or other authority under which the rule is proposed to be adopted, in addition to other existing requirements. The bill requires such a state agency, on the same day the agency files the required notice of the proposed rule with the secretary of state, to provide notice of the proposed rule to each primary author, any joint author, each sponsor, and any joint sponsor of the legislation that enacted the statutory or other authority under which the proposed rule is to be adopted and requires the agency to provide that notice electronically if the recipient of the notice has provided an email address to the agency for the purpose of receiving the notice. The bill establishes that failure to provide such notice does not invalidate a rule adopted by a state agency or an action taken by the agency under that rule.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 462 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 405, Government Code, is amended by adding Section 405.024 to read as follows:

Sec. 405.024. REPORT ON LEGISLATION GRANTING RULEMAKING AUTHORITY. (a) Not later than the fifth day of each regular legislative session, the secretary of state shall submit to each member of the legislature a report that includes:

(1) a summary of each act of the legislature granting rulemaking authority enacted during the preceding regular legislative session and any special sessions of that legislature that has or will become law; and

(2) for each act of the legislature described by Subdivision (1), the full text of any rule adopted under the rulemaking authority granted by that act.

(b) The secretary of state may request the assistance of the Texas Legislative Council if the secretary needs assistance preparing the report required under this section. The Texas Legislative Council shall provide the requested assistance.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Section 2001.024(a), Government Code, is amended 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) the bill number for the legislation that enacted the statutory or other authority under which the rule is proposed to be adopted; 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.

No equivalent provision.

SECTION 2. 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) A state agency shall provide, on the same day the agency files notice with the secretary of state as required under Section 2001.023, notice of a proposed rule to each primary author, any joint author, each sponsor, and any joint sponsor of the legislation that enacted the statutory or other authority under which the proposed rule is to be adopted.

(b) The state agency shall provide the notice required under Subsection (a) electronically if the recipient of the notice

has provided an electronic mail address to the agency for the purpose of receiving the notice.

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

No equivalent provision.

SECTION 3. 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 2. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.