

## **BILL ANALYSIS**

H.B. 2854  
By: Middleton  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

It has been argued that the practice of providing judicial deference regarding an interpretation of law by a state agency undermines the separation of powers by transferring and consolidating lawmaking powers in an administrative agency. H.B. 2854 seeks to prohibit this practice.

### **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. 2854 amends the Government Code to prohibit a court from giving deference to any construction of a statute by the state agency responsible for the statute's administration or implementation. The bill prohibits a court from giving deference in a judicial proceeding to a legal determination made by a state agency regarding the construction, validity, or applicability of a rule adopted by the state agency responsible for the rule's administration or implementation.

H.B. 2854 requires a court, in any matter brought to the court regarding judicial review of state agency actions under the Administrative Procedure Act, to decide all questions of law by trial de novo without giving deference to any legal determination by a state agency. That requirement applies in action for judicial review of a contested case that is authorized by state law and other court actions authorized by state law that involve a state agency's construction of a constitutional provision or statutory provision or a rule adopted by a state agency, and the bill prohibits a law from exempting an action from the application of that requirement except by specific reference to these provisions.

### **EFFECTIVE DATE**

September 1, 2019.