

BILL ANALYSIS

Senate Research Center
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S.B. 794
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As Filed

DIGEST

The Comptroller conducted regulatory focus group meeting with representatives of various industries around Texas. The group heard testimony citing problems understanding state agency rules and regulations and recommended that the rules be simplified. Establishing expiration or sunset dates for administrative rules is a growing regulatory reform trend that helps to establish goodwill between private enterprises and oversight agencies by outdating rules. S.B. 794 would require that state administrative rules be reviewed periodically to keep them relevant to current business practices and in compliance with applicable statutes.

PURPOSE

As proposed, S.B. 794 requires periodic review and expiration of state agency rules in coordination with the sunset review process and to certain other aspects of state agency rulemaking.

RULEMAKING AUTHORITY

Rulemaking authority is granted to state agencies in SECTION 1 (Section 2001.039(c)-(e), Chapter 2001B, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2001B, Government Code, by adding Section 2001.039, as follows:

Sec. 2001.039. AGENCY REVIEW OF EXISTING RULES; EXPIRATION OF RULES. Requires a state to review and consider for readoption each of its rules in accordance with this section. Requires a state agency that is scheduled for review by the Sunset Advisory Commission (commission) in accordance with Chapter 325, to review and consider for readoption each of its rules during the four year period preceding the date on which the agency is scheduled to be abolished if it is not continued in existence as provided by Chapter 325. Requires a state agency that is scheduled for review by the commission in accordance with Chapter 325 but that is not scheduled to be abolished, to review and consider for readoption each of its rules during the four year period preceding the September 1 following the regular session during which the legislature would be expected to consider the results of the scheduled sunset review of the agency. Requires a state agency that is not scheduled for review by the commission in accordance with Chapter 325 to review and consider for readoption each of its rules during a four year period for readoption every 12 years beginning with the four year period during which state agencies scheduled to be abolished on September 1, 2013, in connection with the sunset review process, review their rules. Requires each state agency, by rule, to provide that each of the agency's rules expires on the September 1 immediately following the four year period during which the agency is required to review its rules under Subsection (b). Requires the agency to accordingly adjust the period during which it reviews its rules under Subsection (b) and by rule to accordingly change the date on which its rules are scheduled to expire under Subsection (c). Requires a state agency to readopt a rule, readopt a rule with amendments, or allow a rule to expire as the result of reviewing the rule under this section. Provides that the procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to any resulting readoption or readoption with amendments of the rule, except as provided by this subsection and Subsection (g). Provides that the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review. Provides that an amendment only to the expiration date of a rule does not require publishing the text of the rule that is being scheduled for expiration.

Requires a state agency's review of a rule to include an assessment of whether the reasons for initially adopting the rule continue to exist. Requires the review to also include an assessment of whether the agency still needs all the information required under any agency, and if so, whether the agency needs the reports as often as the rule requires.

SECTION 2. Amends Section 2001.024, Government Code, by adding Subsection (d), to require the text of the proposed rule to be written in plain language. Requires the rule to be well organized.

SECTION 3. Amends Sections 2001.036(a) and (b), Government Code, to authorize a state agency to prescribe that the rule is effective on a stated date, less than 20 days after the filing date, that occurs after the adopted rule has been filed with the secretary of state after notice of the filing of the adopted rule and of the rule's accelerated effective date is published in the Texas Register, if the agency did not receive any public comment concerning the proposed rule after notice of the proposed rule was published in the Texas Register, and the agency considers the rule to be controversial. Requires the agency to include in its order adopting a rule that will have an accelerated effective date under Subsection (a)(3), the date that the rule will take effect and a statement that the rule meets the requirements of Subsection (a)(3). Requires the agency to take appropriate measures to make emergency rules and other rules with an accelerated effective date known to persons who may be affected by them.

SECTION 4. Provides that the duties prescribed by this section apply only to state agency rules that are in effect on September 1, 1999, and that have not already been reviewed in accordance with Section 167, Article IX, Chapter 1452, Acts of the 75th Legislature, Regular Session, 1997. Requires the agency to review each of those rules in accordance with the provisions of Section 2001.0319, as added by this Act, that do not apply to the timing of the review, and in accordance with this section, not later than August 31, 2001. Requires each state agency not later than August 31, 2001 to develop and send to the secretary of state for publication in the Texas Register a plan under which the agency will review its existing rules under this section. Requires the plan to state for each of those rules the date by which the agency will begin the review.

SECTION 5. Effective date: September 1, 1999.

SECTION 6. Emergency clause.