

## **BILL ANALYSIS**

Senate Research Center  
80R6378 TAD-D

S.B. 700  
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State Affairs  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

According to the latest statistics from the U.S. Census Bureau, approximately 96 percent of firms in Texas fall under the definition of small business. Although Texas law does contain some regulatory flexibility, there are areas that could be strengthened for the promotion of a stronger entrepreneurial environment. Strengthening regulatory flexibility could create a friendly climate for small businesses to operate and prosper in; thus allowing Texas to increase economic development.

As proposed, S.B. 700 ensures that the definition of small business is consistent with state practices and permitting authorities, requires that state agencies prepare a small business economic impact analysis before implementing regulations, requires state agencies to consider alternatives that are less burdensome for small businesses to meet agency objectives, and includes a provision requiring state government agencies to periodically review existing regulations.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to a state agency is modified in SECTION 2 (Section 2006.002, Government Code) and SECTION 3 (Section 2006.004, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2006.001(2) and (3), Government Code, to redefine "small business" and "state agency."

SECTION 2. Amends Section 2006.002, Government Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Requires a state agency to prepare an economic impact statement estimating certain information and a regulatory flexibility analysis including the agency's consideration of alternative options to the proposed rule prior to adopting a proposed rule that may, rather than would, have an adverse economic affect on small business. Makes a conforming change.

(c-1) Requires the analysis under Subsection (c) to consider, if consistent with the health, safety, environmental, and economic welfare of the state, using regulatory methods to accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses. Requires the analysis to include several proposed methods of reducing the adverse impact of a proposed rule on small business, rather than a statement of the effect of the rule on small business. Deletes certain information the statement must include.

(d) Requires the agency to include the economic impact statement and regulatory flexibility analysis, rather than statement of effect, in the notice of the proposed rule that the agency files with the secretary of state for publication in the Texas Register and to provide copies to the standing committee of each legislative house that is charged with reviewing the proposed rule.

SECTION 3. Amends Subchapter A, Chapter 2006, Government Code, by adding Sections 2006.003 and 2006.004, as follows:

Sec. 2006.003. JUDICIAL REVIEW OF STATE AGENCY DECISION TO ADOPT RULE. (a) Entitles a small business adversely affected by an agency's adoption of a rule to judicial review of the agency's compliance with the requirements of this subchapter.

(b) Authorizes a small business to seek judicial review beginning of the date of the agency's adoption of a rule and within no more than one year.

Sec. 2006.004. STATE AGENCY REVIEW OF RULES. (a) Requires an agency to review rules adopted prior to January 1, 2008, to determine whether any adverse economic impact on small business has resulted, and to review, a minimum of every five years, rules adopted on or after January 1, 2008, to determine whether any adverse economic impact on small business has resulted.

(b) Requires an agency that has determined that a rule has had an adverse economic impact on small business to determine if the rule should be repealed or amended to minimize the adverse economic impact on small business.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Requires an agency to review all rules adopted prior to January 1, 2008, no later than September 1, 2011, as required by Section 2006.004(a)(1), Government Code.

SECTION 6. Effective date: September 1, 2007.