

## **BILL ANALYSIS**

Senate Research Center  
85R710 AAF-F

S.B. 289  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Administrative Procedure Act governs the rulemaking process for state agencies. Under the Act, agencies proposing a rule change must publish a notice including a brief explanation of the proposed rule, the proposed rule text, a reference to the statutory or other authority authorizing the rule change, a fiscal note, and a note about the rule's anticipated public benefits or economic costs. The Act requires additional disclosures for rules that may affect a local economy, or that qualify as a major environmental rule. Notices of agency rule changes are published in the Texas Register maintained by the Secretary of State.

Interested parties observe that while several disclosures are required as part of the rulemaking process, these notices do not sufficiently describe the effect that the rule changes will have on an agency's size, functions, budget, or scope of power. Further, the rulemaking notices published by state agencies may be confusing to the lay reader, and may not fairly disclose the effect that the rule changes will have on agency functions.

S.B. 289 requires that all state agencies include a government growth impact statement in their notices for proposed rule changes. An impact statement must disclose whether a proposed rule creates or eliminates an agency program; requires more or fewer employees; increases or decreases fees; creates a new regulation; eliminates an existing regulation; and, among other requirements, whether the rule will have a positive or adverse effect on the state economy. The government growth impact statement is designed to ensure that the effects of a rule change on an agency's size, budget, and scope of power, including the state's economy, are fairly and plainly disclosed as part of the rulemaking process. Lastly, S.B. 289 delegates rulemaking authority to the Office of the Comptroller of Public Accounts for the purpose of designing a standardized government growth impact statement for agencies' use.

As proposed, S.B. 289 amends current law relating to the preparation of government growth impact statements for rules proposed by state agencies.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 1 (Section 2001.0221, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 2001, Government Code, by adding Section 2001.0221, as follows:

Sec. 2001.0221. GOVERNMENT GROWTH IMPACT STATEMENTS. (a) Requires a state agency to prepare a government growth impact statement (statement) for a proposed rule.

(b) Requires a state agency to reasonably describe certain projected outcomes in the statement for the first five years that the rule will be in effect.

(c) Requires the comptroller of public accounts of the State of Texas (comptroller) to adopt rules to implement this section. Requires the rules to require that the

statement be in plain language. Authorizes the comptroller to prescribe the use of a chart that a state agency may use to disclose the required items.

(d) Requires each state agency to incorporate the statement into the notice required by Section 2001.024 (Content of Notice).

(e) Provides that this section applies to the adoption of an emergency rule.

(f) Provides that failure to comply with this section does not impair the legal effect of a rule adopted under this chapter.

SECTION 2. Requires the comptroller, not later than October 1, 2017, to adopt rules under Section 2001.0221(c), Government Code, as added by this Act.

SECTION 3. Makes application of this Act prospective to November 1, 2017.

SECTION 4. Effective date: September 1, 2017.