

AN ACT

relating to the required repeal of a state agency rule and a government growth impact statement before adoption of a new state agency rule.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 2001, Government Code, is amended by adding Section 2001.0045 to read as follows:

Sec. 2001.0045. REQUIREMENT FOR RULE INCREASING COSTS TO REGULATED PERSONS. (a) In this section, "state agency" means a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government. This term does not include an agency under the authority of an elected officer of this state.

(b) A state agency rule proposal that contains more than one rule in a single rulemaking action is considered one rule for purposes of this section. Except as provided by Subsection (c), a state agency may not adopt a proposed rule for which the fiscal note for the notice required by Section 2001.024 states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless on or before the effective date of the proposed rule the state agency:

(1) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or

1 (2) amends a rule to decrease the total cost imposed on
2 regulated persons by an amount that is equal to or greater than the
3 cost imposed on the persons by the proposed rule.

4 (c) This section does not apply to a rule that:

5 (1) relates to state agency procurement;

6 (2) is amended to:

7 (A) reduce the burden or responsibilities
8 imposed on regulated persons by the rule; or

9 (B) decrease the persons' cost for compliance
10 with the rule;

11 (3) is adopted in response to a natural disaster;

12 (4) is necessary to receive a source of federal funds
13 or to comply with federal law;

14 (5) is necessary to protect water resources of this
15 state as authorized by the Water Code;

16 (6) is necessary to protect the health, safety, and
17 welfare of the residents of this state;

18 (7) is adopted by the Department of Family and
19 Protective Services, Department of Motor Vehicles, Public Utility
20 Commission, Texas Commission on Environmental Quality, or Texas
21 Racing Commission;

22 (8) is adopted by a self-directed semi-independent
23 agency; or

24 (9) is necessary to implement legislation, unless the
25 legislature specifically states this section applies to the rule.

26 (d) Each state agency that adopts a rule subject to this
27 section shall comply with the requirements imposed by Subchapter B

1 and Chapter 2002 for publication in the Texas Register.

2 SECTION 2. Subchapter B, Chapter 2001, Government Code, is
3 amended by adding Section 2001.0221 to read as follows:

4 Sec. 2001.0221. GOVERNMENT GROWTH IMPACT STATEMENTS. (a)
5 A state agency shall prepare a government growth impact statement
6 for a proposed rule.

7 (b) A state agency shall reasonably describe in the
8 government growth impact statement whether, during the first five
9 years that the rule would be in effect:

10 (1) the proposed rule creates or eliminates a
11 government program;

12 (2) implementation of the proposed rule requires the
13 creation of new employee positions or the elimination of existing
14 employee positions;

15 (3) implementation of the proposed rule requires an
16 increase or decrease in future legislative appropriations to the
17 agency;

18 (4) the proposed rule requires an increase or decrease
19 in fees paid to the agency;

20 (5) the proposed rule creates a new regulation;

21 (6) the proposed rule expands, limits, or repeals an
22 existing regulation;

23 (7) the proposed rule increases or decreases the
24 number of individuals subject to the rule's applicability; and

25 (8) the proposed rule positively or adversely affects
26 this state's economy.

27 (c) The comptroller shall adopt rules to implement this

1 section. The rules must require that the government growth impact
2 statement be in plain language. The comptroller may prescribe a
3 chart that a state agency may use to disclose the items required
4 under Subsection (b).

5 (d) Each state agency shall incorporate the impact
6 statement into the notice required by Section 2001.024.

7 (e) Failure to comply with this section does not impair the
8 legal effect of a rule adopted under this chapter.

9 SECTION 3. Section 2001.0045, Government Code, as added by
10 this Act, applies only to a rule proposed by a state agency on or
11 after the effective date of this Act. A rule proposed before that
12 date is governed by the law in effect on the date the rule was
13 proposed, and the former law is continued in effect for that
14 purpose.

15 SECTION 4. Not later than October 1, 2017, the comptroller
16 shall adopt rules required under Section 2001.0221(c), Government
17 Code, as added by this Act.

18 SECTION 5. Section 2001.0221, Government Code, as added by
19 this Act, applies only to a proposed rule for which the notice
20 required under Section 2001.023(b), Government Code, is filed on or
21 after November 1, 2017.

22 SECTION 6. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 1290 was passed by the House on May 6, 2017, by the following vote: Yeas 114, Nays 28, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1290 on May 25, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1290 on May 28, 2017, by the following vote: Yeas 119, Nays 22, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1290

I certify that H.B. No. 1290 was passed by the Senate, with amendments, on May 23, 2017, by the following vote: Yeas 25, Nays 6; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1290 on May 28, 2017, by the following vote: Yeas 23, Nays 8.

Secretary of the Senate

APPROVED: _____

Date

Governor