

Chapter 819

H.B. No. 1290

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.

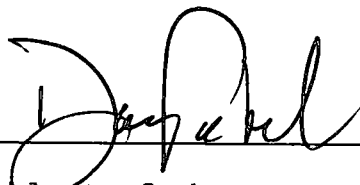
7 (e) Failure to comply with this section does not impair the  
8 legal effect of a rule adopted under this chapter.

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.

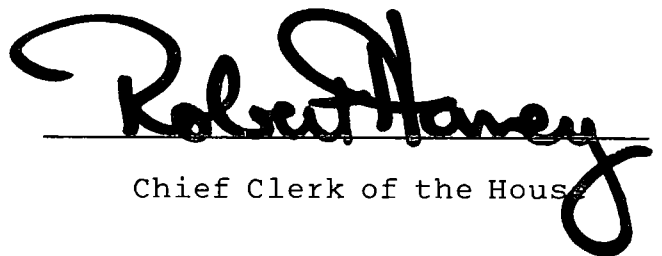
18 SECTION 5. Section 2001.0221, Government Code, as added by  
19 this Act, applies only to a proposed rule for which the notice  
20 required under Section 2001.023(b), Government Code, is filed on or  
21 after November 1, 2017.

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

  
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President of the Senate

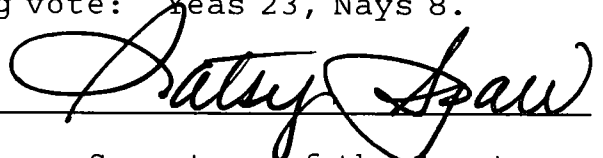
H.B. No. 1290  
  
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Speaker of the House

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.

  
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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: 6-12-2017  
Date

  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3 PM O'CLOCK

JUN 15 2017  
  
Secretary of State

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 27, 2017**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1290** by Roberts (Relating to the required repeal of a state agency rule and a government growth impact statement before adoption of a new state agency rule.),  
**Conference Committee Report**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Government Code to restrict a state agency from adopting a proposed rule for which the fiscal note for the notice of the proposed rule states that the rule imposes a cost on any regulated person, including another state agency, a special district and a local government, unless on or before the effective date of the proposed rule the state agency repeals a rule that would decrease total costs on the person in an amount equal to or greater than the cost imposed by the proposed rule, or the agency amends a rule which would decrease the total costs on the person in an amount equal to or greater than the costs from the proposed rule.

The bill would apply the restriction to a "state agency" that is a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government. "State agency" would not include an agency under the authority of an elected officer of the state. The restriction would not apply to certain rules specified in the bill.

The bill would amend Chapter 2001, Government Code, to require a state agency to prepare a government growth impact statement for a proposed rule. The bill would specify information to be included in the impact statements. The bill would require the Comptroller of Public Accounts to adopt rules relating to the impact statements not later than October 1, 2017. A state agency would be required to incorporate the impact statement into the notice of the proposed rule required under Section 2001.024. The government growth impact statements would only be required on proposed rules for which the notice required under Section 2001.0221, Government Code is filed on or after November 1, 2017.

The bill would take effect on September 1, 2017.

This analysis assumes that costs to implement the provisions of the bill could be absorbed within existing resources.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 307 Secretary of State, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 451 Department of Banking, 452 Department of Licensing and Regulation, 458 Alcoholic Beverage Commission, 503 Texas Medical Board, 537 State Health Services, Department of, 551 Department of Agriculture, 582 Commission on Environmental Quality, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 781 Higher Education Coordinating Board

**LBB Staff:** UP, KK, SD, NV, LCO, CL, AG, MSO, EK, RD, ASa, WP



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 24, 2017**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1290** by Roberts (Relating to the required repeal of a state agency rule before adoption of a new state agency rule. ), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Government Code to restrict a state agency from adopting a proposed rule for which the fiscal note for the notice of the proposed rule states that the rule imposes a cost on any regulated person, including another state agency, a special district and a local government, unless on or before the effective date of the proposed rule the state agency repeals a rule that would decrease total costs on the person in an amount equal to or greater than the cost imposed by the proposed rule, or the agency amends a rule which would decrease the total costs on the person in an amount equal to or less than the proposed rule.

The bill would apply the restriction to a "state agency" that is a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government. "State agency" would not include an agency under the authority of an elected officer of the state. The restriction would not apply to certain rules specified in the bill.

The bill would amend Chapter 2001, Government Code, to require a state agency to prepare a government growth impact statement for a proposed rule. The bill would specify information to be included in the impact statements. The bill would require the Comptroller of Public Accounts to adopt rules relating to the impact statements. A state agency would be required to incorporate the impact statement into the notice of the proposed rule required under Section 2001.024.

The bill would take effect on September 1, 2017.

This analysis assumes that costs to implement the provisions of the bill could be absorbed within existing resources.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 307 Secretary of State, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 451 Department of Banking, 452 Department of Licensing and Regulation, 458 Alcoholic Beverage Commission, 503 Texas Medical Board, 537 State Health Services, Department of, 551 Department of Agriculture, 582 Commission on Environmental Quality, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 781 Higher Education Coordinating Board

**LBB Staff:** UP, KK, NV, LCO, CL, AG, MSO, EK, RD, ASa, WP

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION  
Revision 1**

**May 22, 2017**

**TO:** Honorable Lois W. Kolthorst, Chair, Senate Committee on Administration

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1290** by Roberts (Relating to the required repeal of a state agency rule before adoption of a new state agency rule.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 2001 of the Government Code to restrict a state agency from adopting a proposed rule unless on or before the effective date of the proposed rule, the state agency repeals at least one state agency rule. The bill would require a state agency to prepare a proposed rule reduction statement relating to the effect of the proposed rule and repeal of the existing rule. The bill would specify information to be included in the statements. The bill would require the Comptroller of Public Accounts to adopt rules relating to the statements not later than October 1, 2017.

The provisions of the bill would apply to a "state agency" as defined by Section 2001.006 of the Government Code. The provisions would not apply to the adoption of a rule specifically required by the legislature; a rule necessary to protect the health and safety of the residents of this state as authorized under the Health and Safety Code; or rules related to the essential knowledge and skills developed under Subchapter A, Chapter 28, Education Code, or high school graduation requirements adopted under Section 28.025, Education Code.

This analysis assumes that any additional work resulting from implementation of the bill could be absorbed within state agencies' existing resources.

To the extent that the bill only addresses rulemaking procedure rather than modify, add, or abolish a tax or fee, the bill would not have a direct revenue implication. However, the Comptroller indicates that the requirements of the bill could delay implementation of other legislative changes and reduce guidance to taxpayers regarding new and existing law, and may therefore result in delayed or reduced revenue collections.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 307 Secretary of State, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 451 Department of Banking, 452 Department of Licensing and Regulation, 458 Alcoholic Beverage Commission, 503 Texas Medical Board, 537 State Health Services, Department of, 551 Department of Agriculture, 582 Commission on Environmental Quality, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 781 Higher Education Coordinating Board

**LBB Staff:** UP, KK, NV, LCO, CL, AG, MSO, EK, RD, ASa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**March 21, 2017**

**TO:** Honorable Byron Cook, Chair, House Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1290** by Roberts (Relating to the required repeal of a state agency rule before adoption of a new state agency rule.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Government Code to restrict a state agency from adopting a proposed rule unless on or before the effective date of the proposed rule, the state agency repeals at least one state agency rule. The bill would apply the restriction to a "state agency" as defined by Section 2001.006 of the Government Code. The restriction would not apply to the adoption of a rule specifically required by the legislature or to a rule necessary to protect the health and safety of the residents of this state as authorized under the Health and Safety Code.

Based on the analyses of several agencies, any additional work resulting from implementation of the bill could be absorbed within existing resources.

To the extent that the bill only addresses rulemaking procedure rather than modify, add, or abolish a tax or fee, the bill would not have a direct revenue implication. However, the Comptroller indicates that the requirements of the bill could delay implementation of other legislative changes and reduce guidance to taxpayers regarding new and existing law, and may therefore result in delayed or reduced revenue collections.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 307 Secretary of State, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 451 Department of Banking, 452 Department of Licensing and Regulation, 458 Alcoholic Beverage Commission, 503 Texas Medical Board, 537 State Health Services, Department of, 551 Department of Agriculture, 582 Commission on Environmental Quality, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 781 Higher Education Coordinating Board

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