

SUBJECT: Publishing texts of proposed rules

COMMITTEE: State Affairs — favorable, with amendment

VOTE: 11 ayes — Wolens, Alvarado, Brimer, Carter, Counts, Danburg, Hilbert,
Hunter, D. Jones, Longoria, Ramsay

0 nays

4 absent — S. Turner, Craddick, McCall, Stiles

SENATE VOTE: On final passage, Local and Uncontested Calendar, April 28 — 31-0

WITNESSES: None

DIGEST: SB 1715, as amended, would require state agencies to publish the text of proposed rules in the *Texas Register*, along with the text of any rule that would be amended by the proposal. The bill would specify standard strike-out, underlining, and bracketing formats for indicating existing and new text.

Any rule that did not conform to the publishing standards or other existing requirements on information about proposed rules would be null and void and of no force or effect.

SB 1715 would take effect September 1, 1997.

SUPPORTERS SAY: SB 1715 would provide a consistent and reliable standard, based on legislative documents, for publishing proposed rules in the *Texas Register*. This would promote accountability to the public and ensure that rulemaking processes were open and above board. As a final surety, the bill would specify that any rule that did not meet these standards would be null and void. This would provide a certain impetus to agencies to follow the standards precisely.

Because the bill would provide clear notification to the public about proposed rules, any interested parties would be able to follow the progress of rulemaking. Current provisions already require that notice of final

rulemaking be published, along with an explanation of any changes made to the proposed version. There would be no need to reprint a proposed final rule in its entirety. Requiring publication of the final rule would serve no useful purpose and cost the state additional printing expenses.

**OPPONENTS
SAY:**

SB 1715 could be used to mount frivolous challenges to agency rules. A typographical error in publication could raise claims of nonconformity with the standards, voiding a rule and requiring the agency to go through the process all over again. This would generate considerable expenses for taxpayers. The publishing standards of SB 1715 should allow for innocent errors.

**OTHER
OPPONENTS
SAY:**

SB 1715 should provide for republishing a proposed final rule. Often, the final version is significantly changed from the initial proposal because of concerns raised at hearings and through public comment. If the bill is intended to promote public awareness of the rulemaking process and its end result, it should not gloss over the final text.

NOTES:

The committee amendment would delete a requirement of the Senate-passed version that a proposed rule be republished if it was amended.