

## **BILL ANALYSIS**

Senate Research Center  
76R4584 JRD-F

S.B. 382  
By: Duncan  
State Affairs  
2/11/1999  
Committee Report (Amended)

### **DIGEST**

Currently, Texas law requires state agencies to provide a reasoned justification for the adoption of rules. Texas law allows for nonspecified considerations, in addition to those required by law, in providing a reasoned justification. This bill provides requirements for state agency orders adopting rules and substantial compliance with rulemaking requirements.

### **PURPOSE**

As proposed, S.B. 382 provides requirements for state agency orders adopting rules and substantial compliance with rulemaking requirements.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2001.033, Government Code, to require a state agency adopting a rule to include reasoned justification for the rule as a whole consisting solely of certain information, including a summary, rather than a restatement, of the basis for the rules adopted. Makes nonsubstantive changes.

SECTION 2. Amends Sections 2001.035 and adds 2001.039, Government Code, as follows:

Sec. 2001.035. SUBSTANTIAL COMPLIANCE REQUIREMENT; TIME LIMIT ON PROCEDURAL CHALLENGE. Provides that a rule is voidable unless adopted by a state agency. Provides that compliance requirements for Section 2001.033 are met if it is demonstrated that the rule adopted is a reasonable means to a legitimate objective. Provides that technical defects are not grounds for invalidation of a rule. Deletes text which provides that a rule adopted after January 1, 1976 is not valid unless adopted by an agency.

Sec. 2001.039. SCOPE AND EFFECT OF ORDER INVALIDATING AGENCY RULE. Authorizes the court to remand a rule to the agency for re adoption or revision, when one or more procedural requirements have not been met. Requires a rule to remain effective during a remand period.

SECTION 3. (a) Repealer: Section 2001.030, Government Code (Statement of Reasons for or Against Adoption).

(b) Repealer: Sections 2 and 3, Chapter 1067, Acts of the 75th Legislature, Regular Session, 1997.

SECTION 4. Effective date: September 1, 1999. Makes application of this Act prospective to January 1, 1998. Exempts challenges to a rule in a court action brought before September 1, 1999.

SECTION 5. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

Committee Amendment No. 1:  
SECTION 2.

Adds Section 2001.039, Government Code, to authorize a court to remand a rule if an agency has failed to meet one or more procedural requirements. Requires the rule to remain effective unless the court finds good cause for invalidation, effective the date of the court's order.