

BILL ANALYSIS

Senate Research Center

S.B. 1636
By: Duncan
State Affairs
4-14-97
As Filed

DIGEST

Currently, the Texas Administrative Procedures Act requires state agencies to meet certain procedural requirements in adopting rules. A state agency order adopting a rule must state a "reasoned justification" and must be in "substantial compliance" with procedures. Texas courts have not been consistent with "reasoned justification" and "substantial compliance." This bill clarifies "reasoned justification" and "substantial compliance" and that mere technical defects which do not result in prejudice to a party's rights or privileges are not grounds for invalidation of a rule.

PURPOSE

As proposed, S.B. 1636 clarifies "reasoned justification" and "substantial compliance" and that mere technical defects which do not result in prejudice to a party's rights or privileges are not grounds for invalidation of a rule.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Repealer: Section 2001.030, Government Code (Statement of reasons for or against adoption).

SECTION 2. Amends Section 2001.033, Government Code, to require a state agency rule to include a reasoned justification for the rule as a whole comprised solely of a summary of factual basis for the rule as adopted. Authorizes administrative convenience to be an appropriate justification for a rule.

SECTION 3. Amends Section 2001.035, Government Code, to provide that a rule, rather than a rule adopted after January 1, 1976, is voidable, rather than not valid, unless a state agency adopts it in substantial compliance with certain sections. Sets forth provisions of substantial compliance. Provides that mere technical defects which do not result in prejudice to a party's rights or privileges are not grounds for invalidation of a rule.

SECTION 4. Effective date: September 1, 1997.
Makes application of this Act retroactive to January 1, 1996.

SECTION 5. Emergency clause.