

BILL ANALYSIS

Senate Research Center
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H.B. 2851
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State agencies currently have broad discretion to adopt rules that are reasonably related to their statutory authorization and are required to review their rules periodically and to assess the continuing necessity for such rules. State law also provides the legislature and the public a means of providing input into, challenging, and changing, including overturning, agency rules. Parties interested in the issue of state agency rulemaking acknowledge the importance of agency staff expertise in the rulemaking process but nevertheless argue that the more fundamental determinations in the adoption of a rule should be guided by the legislative intent of state statutes that govern the agency rules.

During the recent interim, the House Committee on Government Efficiency and Reform examined state agency rulemaking and found that agencies may adopt rules that appear to be beyond the purview of the agency and the enabling legislation. H.B. 2851 seeks to address this issue by clarifying the purpose of state agency rulemaking.

H.B. 2851 amends current law relating to the adoption of rules by state agencies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to a state agency in SECTION 1 (Section 2001.0205, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 2001, Government Code, by adding Section 2001.0205, as follows:

Sec. 2001.0205. ADOPTION OF RULES. Authorizes a state agency to adopt only rules that fulfill a purpose established by the constitutional or statutory law governing the state agency and that are within the state agency's authority to adopt.

SECTION 2. Effective date: September 1, 2013.