

BILL ANALYSIS

Senate Research Center

S.B. 2178
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Federal REINS Act (Regulations from the Executive in Need of Scrutiny—H.R. 427, 114th Congress, 2015-2016) passed the U.S. House of Representatives in July 2015 but was never taken up by the U.S. Senate. H.R. 427 required congressional approval of major federal rules before the rules could take effect. If congressional action was not taken within a certain time period, H.R. 427 provided that the federal rules did not take effect. Under H.R. 427, a major rule is one that results in some specific impact on the economy.

The purpose of this bill is to enact a state version of the REINS Act that provides judicial relief from certain local regulations that apply to a state licensee.

In addition to state regulations, strict compliance standards and costly application and renewal fees, state licensees are further burdened by a disparate set of municipal ordinances that often layer additional costs and onerous compliance requirements that result in an adverse economic impact on the state licensee.

If a person or entity is subject to regulation by a state licensing authority, this bill allows the state licensee to bring suit to enjoin enforcement of a local regulation that:

- Regulates the business activity of the state licensee in a manner that is more stringent than the state law and regulations that apply to the state licensee
- Results in an adverse economic impact on the state licensee

This bill allows a suit to be brought in a district court in Travis County or in a judicial district in which the local regulation is applied.

As proposed, S.B. 2178 amends current law relating to judicial review of certain regulations that apply to state licensees.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Regulations with Economic Impact in Need of Scrutiny (REINS) Act.

SECTION 2. Amends Title 2, Occupations Code, by adding Chapter 60, as follows:

CHAPTER 60. REGULATIONS WITH ECONOMIC IMPACT IN NEED OF SCRUTINY

Sec. 60.001. PURPOSE OF CHAPTER. Provides that it is the purpose of this chapter to provide a judicial remedy to ensure that a state licensee has the right to engage in an occupation or business activity authorized by and regulated under state law without

burdensome or inconsistent local regulation of the state licensee's occupation or lawful business activities.

Sec. 60.002. DEFINITIONS. Defines "local regulation," "state licensee," and "state licensing authority."

Sec. 60.003. SUIT TO ENJOIN ENFORCEMENT OF LOCAL REGULATION. (a) Authorizes a suit to enjoin enforcement of a local regulation to be brought by a state licensee that is subject to the local regulation if the local regulation establishes requirements for, imposes restrictions on, or otherwise regulates the business activity of the state licensee in a manner that is more stringent than the requirements, restrictions, and regulations imposed on the state licensee under state law, or would result in an adverse economic impact on the state licensee.

(b) Requires that a suit under this chapter be brought in certain district courts.

(c) Requires the state licensee, in a suit under this chapter, to show by a preponderance of the evidence that the local regulation substantially burdens the state licensee's right to engage in an occupation authorized by and regulated under state law or would result in an adverse economic impact on the state licensee. Authorizes the state licensee, in a suit, to submit evidence regarding the adverse economic impact of similar local regulations in other jurisdictions inside or outside the state.

(d) Provides that, if the state licensee meets the preponderance of the evidence burden required by Subsection (c), the municipality has the burden of establishing by clear and convincing evidence that the local regulation the municipality seeks to enforce does not conflict with state law and is necessary and narrowly tailored to protect against actual and specific harm to the public health or safety.

(e) Authorizes the district court (court) to grant any prohibitory or mandatory relief warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

(f) Requires the court, if a state licensee prevails in a suit brought under this chapter, to award the state licensee court costs and reasonable and necessary attorney's fees to be paid by the municipality.

SECTION 3. Effective date: upon passage or September 1, 2017.