

GOVERNMENT CODE
CHAPTER 2002. TEXAS REGISTER AND ADMINISTRATIVE CODE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2002.001. DEFINITIONS. In this chapter:

(1) "Administrative code" means the Texas Administrative Code.

(2) "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

(3) "State agency" means a state officer, board, commission, or department with statewide jurisdiction that makes rules or determines contested cases other than:

(A) an agency wholly financed by federal money;

(B) the legislature;

(C) the courts;

(D) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(E) an institution of higher education.

(4) The following terms have the meanings assigned by Section 2001.003:

(A) "contested case";

(B) "license";

(C) "licensing";

(D) "party";

(E) "person"; and

(F) "rule."

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 455, Sec. 1, eff. Aug. 28, 1995; Acts 2005, 79th Leg., ch. 265, Sec. 6.008, eff. Sept. 1, 2005.

Sec. 2002.002. PURPOSE. It is the public policy of this state to provide adequate and proper public notice of proposed state agency rules and state agency actions through publication of a state register.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. TEXAS REGISTER

Sec. 2002.011. TEXAS REGISTER. The secretary of state shall compile, index, cross-index to statute, and publish a publication to be known as the Texas Register. The register shall contain:

(1) notices of proposed rules issued and filed in the office of the secretary of state as provided by Subchapter B of Chapter 2001;

(2) the text of rules adopted and filed in the office of the secretary of state;

(3) notices of open meetings issued and filed in the office of the secretary of state as provided by law;

(4) executive orders issued by the governor;

(5) summaries of requests for opinions of the attorney general and of the Texas Ethics Commission;

(6) summaries of opinions of the attorney general and of the Texas Ethics Commission;

(7) guidelines prepared by the attorney general under Section 2007.041;

(8) notices relating to the preparation of takings impact assessments as provided by Section 2007.043; and

(9) other information of general interest to the public of this state, including:

(A) federal legislation or regulations affecting the state or a state agency; and

(B) state agency organizational and personnel changes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 517, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1134, Sec. 16, eff. Sept. 1, 1997.

Sec. 2002.012. SUMMARIES OF OPINIONS AND REQUESTS FOR OPINIONS. The attorney general or the Texas Ethics Commission, as appropriate, shall prepare and forward to the secretary of state for publication in the Texas Register:

(1) summaries of requests for opinions under Section 2002.011(5); and

(2) summaries of opinions under Section 2002.011(6).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 16, eff. Sept. 1,

1997.

Sec. 2002.013. FREQUENCY OF PUBLICATION. The secretary of state shall publish the Texas Register at regular intervals, but not less often than 52 times each calendar year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 502, Sec. 1, eff. Sept. 1, 1997.

Sec. 2002.014. OMISSION OF INFORMATION. The secretary of state may omit information from the Texas Register if:

(1) the secretary determines that publication of the information would be cumbersome, expensive, or otherwise inexpedient;

(2) on application to the adopting state agency, the information is made available in printed or processed form by the agency; and

(3) the register contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.015. DISTRIBUTION. (a) On request, the secretary of state shall make one copy of each issue of the Texas Register available without charge to:

(1) each board, commission, and department with statewide jurisdiction;

(2) the governor;

(3) the lieutenant governor;

(4) the attorney general;

(5) each member and each standing committee of the legislature;

(6) each county judge or each county clerk;

(7) each library of a public university;

(8) one public library in each municipality that has a public library; and

(9) each court of appeals.

(b) The secretary of state shall make copies of the Texas Register available to other persons for a reasonable fee to be fixed by the secretary.

(c) If the secretary of state determines that an entity requesting the Texas Register under Subsection (a) possesses computer and telecommunications equipment that allows the entity to access the Texas Register through the Internet or through an electronic bulletin board, the secretary may comply with Subsection (a) by providing the Texas Register to the entity at no charge through the Internet or through an electronic bulletin board, as applicable.

(d) The secretary of state shall determine whether making the Texas Register available without charge under Subsection (a) results in a revenue shortfall. If there is a shortfall, the secretary of state shall request an appropriation in that amount in the secretary's legislative appropriations request for the next state fiscal biennium for the purpose of complying with Subsection (a). If the secretary of state does not receive an appropriation for that next state fiscal biennium of an amount necessary to cover the secretary's costs in complying with Subsection (a), the secretary may, beginning with the first day of the biennium, charge a subscription fee to entities requesting the Texas Register under Subsection (a) in an amount that will cover the secretary's revenue shortfall in complying with Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 455, Sec. 5, eff. Aug. 28, 1995.

Sec. 2002.0151. ELECTRONIC AVAILABILITY OF TEXAS REGISTER. (a) Subject to Subsection (e), the secretary of state:

(1) shall make the full text of the Texas Register available to the public through the Internet at no charge; and

(2) may make the full text of the Texas Register available on an electronic bulletin board at no charge.

(b) An edition of the Texas Register that is made available through the Internet or an electronic bulletin board operated by the secretary of state must be made available not later than the date of the edition.

(c) If the secretary of state does not make the full text of the Texas Register available on an electronic bulletin board, the secretary of state shall, on the request of one or more agencies that operate an electronic bulletin board, make the full text of the

Texas Register available to at least one requesting agency for posting on that agency's electronic bulletin board until the secretary of state begins operating an electronic bulletin board.

(d) The secretary of state may electronically provide to the public specialized value-added services related to the Texas Register such as clipping services or subscription services at the market price for the services.

(e) The secretary of state shall determine whether making the Texas Register available on the Internet at no charge and on an electronic bulletin board at no charge, as provided by this section, results in a revenue shortfall that is not covered by the sale of value-added services as provided by Subsection (d). The secretary of state shall report any shortfall attributed to the free Internet and electronic bulletin board services to the Legislative Budget Board in its biennial budget. If a shortfall occurs, the secretary shall also request the appropriation of funds for the next biennial budget in the amount of the shortfall to continue the Internet and electronic bulletin board services at no charge. If the requested funds are not appropriated, the secretary of state may, at the beginning of the next state fiscal year, charge user fees for the Internet and electronic bulletin board services in an amount that will compensate the secretary of state for the revenue shortfall.

Added by Acts 1995, 74th Leg., ch. 455, Sec. 2, eff. Aug. 28, 1995.

Sec. 2002.016. FILING PROCEDURES. (a) To file a document for publication in the Texas Register, a state agency shall, during normal working hours:

(1) deliver to the office of the secretary of state two certified copies of the document for filing; or

(2) send to the secretary of state over dedicated cable or commercial lines between word or data processors one copy of the document to be filed and deliver to the office of the secretary a letter of certification that is signed by the agency's designated certifying agent and liaison and that contains a statement specifying the type of information electronically sent.

(b) On receipt of a document required to be filed in the office of the secretary of state and published in the Texas Register, the secretary shall note the day and hour of filing on the certified copies of the document or on the letter of certification.

(c) One copy of each filed document shall be maintained in original form or on microfilm in a permanent register in the office of the secretary of state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.017. RULES. (a) The secretary of state may adopt rules to ensure the effective administration of this subchapter, including rules prescribing paper size and the format of documents required to be filed for publication.

(b) The secretary of state may refuse to accept for filing and publication a document that does not substantially conform to the rules.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.018. MICROFILM AND ELECTRONIC STORAGE. The secretary of state may maintain on microfilm or on an electronic storage and retrieval system the files of state agency rules and other information required to be published in the Texas Register. After microfilming or electronically storing the information, the secretary may destroy the original copies of the information submitted for publication.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.019. TABLE OF CONTENTS; INDEX. (a) Each issue of the Texas Register must contain a table of contents.

(b) A cumulative index to all information required to be published in the Texas Register during the previous year shall be published at least once each year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.020. CERTIFICATION. An official of a submitting state agency who is authorized to certify documents of the agency must certify each document that is filed with the secretary of state for publication.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.021. AGENCY LIAISON. A state agency shall designate at least one individual to act as a liaison through whom all required documents may be submitted to the secretary of state for filing and publication.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.022. EVIDENTIARY VALUE OF TEXAS REGISTER; CITATION. (a) The contents of the Texas Register are to be judicially noticed and are prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of the notation.

(b) Without prejudice to another mode of citation, the contents of the Texas Register may be cited by volume and page number.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.023. EXCEPTIONS. This subchapter does not apply to:

(1) a suspension, revocation, cancellation, denial, or disqualification of a driver's license or commercial driver's license as authorized by:

(A) Subchapter N, Chapter 521, Transportation Code, except Sections 521.304 and 521.305 of that subchapter, or by Subchapter O or P of that chapter;

(B) Chapter 522, Transportation Code;

(C) Chapter 601, Transportation Code;

(D) Chapter 724, Transportation Code; or

(E) Section 13, Article 42.12, Code of Criminal Procedure;

(2) matters related solely to the internal personnel rules and practices of a state agency;

(3) the Texas Workforce Commission, other than to matters of unemployment insurance maintained by the commission; or

(4) a rule or internal procedure of the Texas Department of Criminal Justice or Texas Board of Criminal Justice that applies to an inmate or any other person under the custody or control of the department or to an action taken under that rule or procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.23(c), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.198, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1117, Sec. 8, eff. Sept. 1, 2000.

SUBCHAPTER C. TEXAS ADMINISTRATIVE CODE

Sec. 2002.051. PUBLICATION OF TEXAS ADMINISTRATIVE CODE. (a) The secretary of state shall compile, index, and publish a Texas Administrative Code.

(b) The administrative code shall be periodically supplemented as necessary, but not less often than once each year.

(c) The administrative code shall contain each rule adopted by a state agency under Chapter 2001, but may not contain emergency rules adopted under Section 2001.034.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.052. OMISSION OF INFORMATION. (a) The secretary of state may omit from the administrative code a rule that is general in form if its inclusion in the code is impracticable, undesirable, or unnecessary because it is of local or limited application.

(b) The secretary of state may omit information from the administrative code if:

(1) the secretary determines that publication of the information would be cumbersome, expensive, or otherwise inexpedient;

(2) on application to the adopting state agency, the information is made available in printed or processed form by the agency; and

(3) the administrative code contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained.

(c) Omission from the administrative code under this section does not affect the validity or effectiveness of an omitted rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.053. PURCHASE AND RESALE OF ADMINISTRATIVE CODE. (a) To promote efficiency and economy in state government, the secretary of state may periodically purchase copies of the administrative code for resale and distribution to other branches of state government, state agencies, or institutions.

(b) The purchase does not require the secretary of state to engage in competitive bidding procedures to enter into the contract or license to publish the code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.054. EVIDENTIARY VALUE OF ADMINISTRATIVE

CODE. State agency rules published in the administrative code, as approved by the secretary of state and as amended by documents later filed with the office of the secretary:

- (1) are to be judicially noticed; and
- (2) are prima facie evidence of the text of the rules and of the fact that they are in effect on and after the date of the notation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.055. RULES. (a) The secretary of state may adopt rules to ensure the effective administration of this subchapter.

- (b) The rules may establish:
 - (1) titles of the administrative code; and
 - (2) a system of classification of the subject matter of the administrative code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.056. CONFIDENTIALITY OF DATA BASE. (a) The data base for the administrative code is exempt from disclosure under Chapter 552.

(b) In this section, "data base" means the machine-readable form of the material prepared for and used in the publication of the administrative code and includes:

- (1) indexes;
- (2) annotations;
- (3) tables of contents;
- (4) tables of authority;
- (5) cross-references;
- (6) compiled rules; and
- (7) other unique material.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 455, Sec. 3, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1995.

Sec. 2002.057. ELECTRONIC AVAILABILITY OF ADMINISTRATIVE CODE. (a) Subject to Subsection (d), the secretary of state:

- (1) shall make the full text of the administrative code available to the public through the Internet at no charge, and update the text that is available through the Internet as soon as practicable; and

- (2) may make the full text of the administrative code available on an electronic bulletin board at no charge.

(b) If the secretary of state does not make the full text of the administrative code available on an electronic bulletin board, the secretary of state shall, on the request of one or more agencies that operate an electronic bulletin board, make the full text of the administrative code available to at least one requesting agency for posting on that agency's electronic bulletin board until the secretary of state begins operating an electronic bulletin board.

(c) The secretary of state may electronically provide to the public specialized value-added services related to the administrative code such as clipping services or subscription services at the market price for the services.

(d) The secretary of state shall determine whether making the administrative code available on the Internet at no charge and on an electronic bulletin board at no charge, as provided by this section, results in a revenue shortfall that is not covered by the sale of value-added services as provided by Subsection (c). The secretary of state shall report any shortfall attributed to the free Internet and electronic bulletin board services to the Legislative Budget Board in its biennial budget. If a shortfall occurs, the secretary of state shall also request the appropriation of funds for the next biennial budget in the amount of the shortfall to continue the Internet and electronic bulletin board services at no charge. If the requested funds are not appropriated, the secretary of state may, at the beginning of the next state fiscal year, charge user fees for the Internet and electronic bulletin board services in an amount that will compensate the secretary of state for the revenue shortfall.

Added by Acts 1995, 74th Leg., ch. 455, Sec. 4, eff. Aug. 28, 1995.

Sec. 2002.058. OBSOLETE OR INVALID RULES. (a) Unless the law provides otherwise, the secretary of state shall remove a state agency's rules from the administrative code after the agency has been abolished. If the legislature transfers the abolished agency's rules to another state agency, the secretary of state shall transfer the rules to the appropriate place in the administrative code.

(b) A state agency shall repeal a rule that has been

declared invalid by a final court judgment. For purposes of this subsection, a court judgment is not considered final during the time that the judgment may be reversed by an appellate court.
Added by Acts 2001, 77th Leg., ch. 639, Sec. 2, eff. Sept. 1, 2001.