

CHAPTER 570

H.B. No. 2388

An Act relating to certain procedures and to the adoption of rules by certain state agencies under the Administrative Procedure and Texas Register Act.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 5, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) *Except as provided by Subsection (h) of this section, each* ~~Each~~ *notice of a proposed rule becomes effective as notice when published in the register. The notice shall be mailed to all persons who have made timely written requests of the agency for advance notice of its rulemaking proceedings. However, failure to mail the notice does not invalidate any actions taken or rules adopted. Except as provided by this subsection, a proposed rule is automatically withdrawn six months after the date of publication of notice of the proposed rule in the Texas Register if the agency has failed within that time to adopt, adopt as amended, or withdraw the proposed rule.*

(h) Notice of the adoption of a proposed rule by the Commission on Jail Standards or the Commission on Law Enforcement Officer Standards and Education that affects a law enforcement agency of the state or a political subdivision of the state does not become effective until the notice is published in compliance with Subsection (b) of this section and is mailed to each law enforcement agency that may be affected by the proposed rule.

SECTION 2. Section 14(d), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) On its own motion or on the written request of any party to a contested case pending before it [~~on a showing of good cause;~~] and on deposit of sums that will reasonably insure payment of the amounts estimated to accrue under Subsections (1)(1) and (2) of this section, an agency shall issue a commission, addressed to the several officers authorized by statute to take depositions, to require that the deposition of a witness be taken, which commission shall authorize the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects as may be necessary and proper for the purposes of the proceeding. The deposition of a member of an agency board may not be taken after a date has been set for hearing.

SECTION 3. Section 14a(a), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Upon motion of any party [~~showing good cause therefor~~] and upon notice to all other parties, and subject to such limitations of the kind provided for discovery under [~~in Rule 186b of~~] the Rules of Civil Procedure [~~as the agency may impose~~], the agency in which an action is pending may order any party:

(1) to produce and permit the inspection and copying or photographing by or on behalf of the moving party any of the following which are in his possession, custody, or control: any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain, or are reasonably calculated to lead to the discovery of, evidence material to any matter involved in the action; and

(2) to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon which may be material to any matter involved in the action.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 17, 1985, by the following vote: Yeas 110, Nays 0, 2 present, not voting; House concurred in Senate amendments to H.B. No. 2388 on May 27, 1985, by a non-record vote; passed by the Senate, with amendments, on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 12, 1985

Effective: August 26, 1985