

# **Texas Regulatory Efficiency Office**

## **Regulatory Economic Analysis Manual For State Agencies**

## **Regulatory Economic Analysis Manual**

- Section 1. Background
- Section 2. Purpose and Scope
- Section 3. Statutory Authorities Overview
- Section 4. Internal Agency Form and Processes
  - 4.1. Economic Analysis Manual.
  - 4.2. Personnel
  - 4.3. Conducting the Economic Analysis.
- Section 5. Factors in Identifying and Determining Economic Impact
  - 5.1. Identifying and Quantifying Economic Impact
  - 5.2. Unable to Identify or Quantify Economic Impact
- Section 6. Economic Impact on State and Local Governments
- Section 7. Local Employment Impact Statement
- Section 8. Public Benefits
- Section 9. Economic Impact on Persons Required to Comply
- Section 10. Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities
  - 10.1. Small Businesses and Micro-Businesses
  - 10.2. Rural Communities
  - 10.3. Economic Impact Statement
  - 10.4. Regulatory Flexibility Analysis
- Section 11. One-for-One Requirement for Rules with an Economic Impact
- Section 12. Government Growth Impact Statement
- Section 13. Takings Impact Assessment
- Section 14. Regulatory Analysis for Major Environmental Rules
- Section 15. Resources
- Appendix A. Rulemaking Economic Analysis Form Template

## **1. Background.**

The Texas Regulatory Efficiency Office (TREO) was established within the Office of the Governor (OOG) under Texas Government Code, Chapter 465, as added by [Senate Bill 14](#), 89th Legislature, Regular Session (2025). TREO is established to identify and expand opportunities for implementing efficiencies in the rule adoption process and regulatory review process. TREO's duties extend to every aspect of "the process by which state agencies adopt rules." (Texas Government Code, Section 465.0052(a)(1)(A), and (B)).

TREO is charged with assisting state agencies in identifying: (1) unnecessary and ineffective rules; (2) the effect and cost to this state and regulated persons of the agencies' rules and proposed rules; and (3) opportunities to repeal or amend rules to provide effective protection to the public with the least cost and inconvenience to regulated persons. (Texas Government Code, Section 465.0052(a)(2)).

As part of that effort, TREO is required to prepare and publish a Regulatory Economic Analysis Manual. The manual must identify and describe best practices for state agencies related to specific economic analysis elements that must be addressed when an agency proposes rules. (Texas Government Code, Section 465.0053). This manual was reviewed by Dr. Jonathan S. Hartley of the Civitas Institute at the University of Texas at Austin.

## **2. Purpose and Scope.**

This Regulatory Economic Analysis Manual (manual) complies with the requirements of Texas Government Code, Section 465.0053. It addresses the specific economic impact analyses described under Texas Government Code, Section 465.0053, as part of the broader discussion of the economic impact analyses required for proposed rules under Texas Government Code, Chapters 2001, 2006, and 2007.

This manual provides background information on the statutory requirements related to economic analyses associated with rulemaking. It also provides guidance for identifying, quantifying, and analyzing the economic impact of proposed rules; for completing the Rulemaking Economic Analysis Form (see Appendix A); and for addressing each of the economic elements in the proposed rules notice. This manual also includes best practices and resources for obtaining economic data.

Nothing in this guide should be considered legal advice. A state agency should consult its own legal counsel before making determinations or decisions.

## **3. Statutory Authorities Overview.**

Texas Government Code, Chapters 465, 2001, 2006, and 2007, discuss the economic impact analyses that must be conducted and addressed in a proposed rules notice. This section of the manual provides an overview of these chapters, with the specific requirements discussed later in the manual starting with Section 6.

## Texas Government Code, Chapter 465

Texas Government Code, [Section 465.0053](#) requires the Regulatory Economic Analysis Manual to identify and describe best practices for state agencies related to the following items, which are included under Texas Government Code, Chapters 2001 and 2006:

- (1) preparing a local employment impact statement under Section [2001.022](#);
- (2) conducting a regulatory analysis under Section [2001.0225](#);
- (3) preparing a fiscal note under Section [2001.024](#);
- (4) preparing a note regarding public benefits and costs under Section [2001.024](#); and
- (5) preparing an economic impact statement under Section [2006.002](#).

## Texas Government Code, Chapter 2001

Texas Government Code, Chapter 2001, Administrative Procedure Act, contains the primary statutes governing rulemaking in Texas. This chapter includes the proposed rules notice requirements under [Section 2001.023](#), and it prescribes most of the contents of the proposed rules notice under [Section 2001.024](#). Other elements of the proposed rules notice are found elsewhere under Chapter 2001 and under Chapters 2006 and 2007, as discussed below.

[Section 2001.024](#) requires the proposed rules notice to address the following economic items:

- a) a fiscal note regarding the estimated costs and estimated revenues to the state government and to local governments as a result of enforcing or administering the rule;
- b) a statement about the impact of the proposed rule on local employment under [Section 2001.022](#), if required;
- c) a note about the public benefits expected as a result of adopting the proposed rule; and
- d) a note about the probable economic costs to persons required to comply with the rule.

The proposed rules notice must also include a Government Growth Impact Statement that addresses eight specific economic items. Many of these items are already addressed in other sections of the notice, but the Government Growth Impact Statement provides a high-level summary of these economic items. (Texas Government Code, [Section 2001.0221](#)).

The proposed rules notice may also include a statement regarding if or how the “one-for-one requirement” applies to the proposed rules. This provision applies to proposed rules that have a fiscal note that imposes a cost on regulated persons, but it includes exceptions for certain types of rules and agencies. (Texas Government Code, [Section 2001.0045](#)).

The proposed rules notice may also include a regulatory analysis of “major environmental rules,” if applicable. (Texas Government Code, [Section 2001.0225](#)) This analysis requires the agency to consider the benefits and costs of the proposed rule of the proposed rule in relationship to state agencies, local governments, the public, the regulated community, and the environment.

## Texas Government Code, Chapter 2006

Texas Government Code, Chapter 2006, Agency Actions Affecting Small Businesses and Rural Communities, requires state agencies to determine whether the proposed rules will have an adverse economic effect on small businesses, micro-businesses, or rural communities. The proposed rules notice must include a statement that there is no adverse economic effect or include an Economic Impact Statement and a Regulatory Flexibility Analysis that explains the adverse economic effect and the steps the agency took to reduce the adverse economic effect. (Texas Government Code, [Section 2006.002](#)).

## Texas Government Code, Chapter 2007

Texas Government Code, Chapter 2007, Governmental Action Affecting Private Property Rights, requires state agencies to determine whether the proposed rules would impact private real property interests and would restrict, limit, or impose a burden on an owner's right to his or her private real property. If the proposed rules may result in a "taking" of private real property, as defined under the statute, the proposed rules notice must include a Takings Impact Assessment. (Texas Government Code, Sections [2007.003](#), [2007.042](#), and [2007.043](#)).

### **4. Internal Agency Form and Processes.**

All proposed rulemakings are required to have an economic analysis performed, even if the proposed rules are a result of statutory changes.

A state agency should consider developing an internal form and processes for completing the economic analyses required by Texas Government Code, Chapters 2001, 2006, and 2007. The processes may address the staff who are involved and their roles and the timing and logistics of performing and completing the economic analyses.

#### **4.1. Rulemaking Economic Analysis Form.**

A state agency should consider developing a rulemaking economic analysis form (economic analysis form or form) to standardize the process of identifying, quantifying, and analyzing the economic information and preparing the economic impact sections of the proposed rules notice.

The form may include each of the economic impact provisions required by the three statutes that the agency must address in the proposed rules notice. Each of those required statutory provisions are discussed in this manual starting with Section 6.

The agency should consider having the person who is responsible for completing and/or approving the form to sign and date the form. The form may also provide a way to identify each person who was a resource or who contributed to the information in the form.

A Rulemaking Economic Analysis Form template is included in this guide as Appendix A. A state agency may use this template to develop and tailor its own economic analysis form.

## **4.2. Personnel.**

A state agency should consider identifying the agency personnel who will be involved in conducting the economic analysis and preparing the economic analysis form. This may be a constant for all rulemakings or may vary based on the scope and subject of the rulemaking.

These staff members may include representatives across various divisions or positions, including subject matter experts based on the scope and subject of the proposed rules, financial-related staff, legal staff, and executive officers.

**Rulemaking Lead or Coordinator:** The agency should designate the person who is responsible for preparing, gathering, and providing the necessary documents to the personnel who will complete the economic analysis and for determining the due date of the form. This person may be the primary rule drafter or a rules coordinator.

**Person Responsible for Preparing or Approving the Economic Analysis Form:** The agency should determine the person who is responsible for completing and signing the economic impact form. The APA requires an agency to identify in the proposed rules notice the officer or employee responsible for preparing or approving:

- a) the note about fiscal impact;
- b) the note about public benefits and economic costs;
- c) the local employment impact statement; and
- d) the economic impact statement and regulatory flexibility analysis.

The APA does not require that the same person be responsible for each item, although an agency may have the same person responsible for all the items. Since the economic analysis must address costs and revenues, the form ideally should be prepared and/or approved by a person in a financial-related position within the agency.

**Subject Matter Experts:** The personnel in various agency divisions who are key participants in the development of the proposed rules may also be involved in the preparation of the economic analysis form. These staff are instrumental in explaining the draft proposed rules and providing industry-specific information to the person preparing the economic analysis form including: the numbers and types of licenses affected; information about how the industry/occupation/profession works; and the impact of the proposed rules on the industry/occupation/profession and on the public. These staff may also take the lead in drafting the initial analysis in the economic analysis form.

## **4.3. Conducting and Documenting the Economic Analysis.**

A state agency should consider the potential economic impacts as part of developing the draft proposed rules. The potential costs of any rule changes should always be kept in mind. There may be a specific goal or outcome sought when developing rules, but there may be several ways to accomplish the goal or outcome. The agency should examine the various options for achieving

the goal and the costs associated with each option. The completion of the economic analysis form will begin after the draft proposed rules are finalized.

The personnel involved in conducting the economic analyses and preparing the economic analysis form should review: a copy of the draft proposed rules; a summary of the proposed rule changes; and any other necessary or helpful reference materials (e.g. legislative documents and fiscal notes). The personnel should also review and use the list of resources that was developed to assist agency staff in identifying and obtaining the necessary data and information to determine the economic impact of the proposed rules. This list of resources is not exhaustive and is a starting point for the required research and analysis. (See Section 15.)

The personnel involved in conducting the economic analysis should document the analysis and any alternatives that may have been considered as part of the process. The personnel should “show their work” on the form. A state agency may consider requiring each person who was responsible for completing and/or approving the form to sign and date the economic analysis form.

A state agency may want to include in its process time for a designated person to review the completed economic analysis form, ask questions, and return incomplete forms or forms with insufficient information for completion and/or additional research, analysis, or explanation. The information contained in the economic analysis form is ultimately used to complete the economic impact sections of the proposed rules notice.

A state agency may also want to include provisions in its process to address changes to the proposed rules that could affect the economic analysis. These changes could require the economic analysis form to be revised, the proposed or adopted rules notices to be updated, or the proposed rulemaking to start over with a new economic analysis.

## **5. Factors in Identifying and Determining Economic Impact.**

### **5.1. Identify and Quantify Economic Impact.**

A state agency must identify the number and type of the agency’s licensees affected by the proposed rules and identify any other individuals, businesses, or other entities directly affected by the proposed rules. When citing the number of licensees, include the date that the numbers were run. (Example: As of January 1, 2026, there were 500 full licensees, 150 assistant licensees, and 27 licensed facilities.)

The state agency must anticipate, analyze, and discuss the estimated costs, revenues, benefits, and impacts to licensees, the public, local economies, local government, and state government. The agency needs to identify and discuss estimated economic impacts or costs of the proposed rules.

Examples of costs that would have an economic impact (not an exhaustive list):

- Increase/decrease in number of people or businesses needing to obtain a license or registration;
- Increase/decrease in the fees for licensees and registrants;

- Increase/decrease in the number of inspections performed or inspection costs;
- Increase/decrease in costs to disseminate information related to compliance with new requirements;
- Increase/decrease in costs of overhead, materials, travel, or insurance;
- Increase/decrease in the amount of time or resources required to perform additional procedures or steps;
- Increase/decrease in the number of staff required to perform tasks;
- Increase/decrease in inconvenience or delay;
- Requires new or additional training or continuing education for the license holder;
- Requires changes in procedure, policy, forms, or fees;
- Requires purchase of equipment or signage;
- Requires construction or modification of business facilities or vehicles;
- Requires training of employees or contractors of a license holder;
- Regulatory changes that result in a loss of business opportunities;
- Restrictions on hours of operation; and
- Anticipated effect on public safety or health like increasing public awareness or reducing risk of injury or accident.

The agency also needs to determine: (1) whether any fees that are assessed are discretionary or non-discretionary; (2) whether these fees are considered an economic cost to persons required to comply with the rules; and (3) whether these fees would have an adverse economic impact for small businesses, micro-businesses, or rural communities. This fee information is also applicable for determining losses or increases in revenue to state and local governments.

#### Discretionary Fees:

- Examples - dishonored payment device fee, criminal history evaluation letter fee, late renewal fee, and duplicate license fees.
- Agencies cannot predict the number of people who will need to use or pay these fees.
- These fees do not constitute a burden on the payor.
- Payor can avoid the fee.
- New or increased discretionary fees do not result in adverse economic effect on small or micro-businesses.

#### Non-Discretionary Fees:

- Examples - license application fees, license renewal fees, inspection fees, plan review fees, and required course fees.
- Fees apply across the board to a licensed population.
- Cost to each individual or business must be estimated.
- Payors cannot avoid the fee by exercising discretion.
- New or increased non-discretionary fees will result in adverse economic effect on small or micro businesses.

If there is a decrease/reduction in costs for licensees (a savings or benefit to licensees), include this information under “Public Benefits” in the economic analysis form and in the proposed rules notice.



If there are no new costs to licensees or if there is an increase in costs to licensees, include this information under “Economic Costs” in the economic analysis form and in the proposed rules notice.

## **5.2. Unable to Identify or Quantify Economic Impact.**

State Agencies should consider implementing any possible efforts to accurately determine whether there will be economic costs. Sometimes there may not be enough data to be able to predict some or all economic impacts. If agency staff do not know whether there will be an impact and/or the scope or extent of the impact, then agency staff need to explain why they are unable to obtain the information to analyze and project the economic impact of the proposed rules.

The public comment period may result in the agency receiving additional information on the economic impact of the proposed rules in response to the requests under Texas Government Code, Sections 2001.024(a)(7) and (a)(8). The agency, however, should explore other resource options to obtain the information before publishing any proposed rules. (See Section 15).

## **6. Economic Impact on State and Local Government.**

Authority: Texas Government Code, [Section 2001.024\(a\)\(4\)\(A\), \(B\), \(C\), and \(D\)](#)

A state agency must determine for each year of the first five years the rules will be in effect, the estimated state costs (increases or decreases), the estimated state revenues (increases or losses), the estimated local government costs (increases or decreases), and the estimated local government revenues (increases or losses) as a result of enforcing or administering the rules.

The state agency must explain these items and provide a yearly breakdown of the estimated additional costs or estimated cost reductions and a yearly breakdown of the estimated increased revenues or estimated losses in revenues. These estimates include state funds, federal funds, and other funds.

## **7. Local Employment Impact Statement.**

Authority: Texas Government Code, [Section 2001.022](#) and [Section 2001.024\(a\)\(6\)](#)

A state agency must determine whether a rule may affect a local economy or local employment before proposing the rule for adoption. This section does not apply to an emergency rule.

If the proposed rules will not affect a local economy or local employment, the agency is not required to prepare a local employment impact statement under Texas Government Code, Section 2001.022. While not required, a state agency should consider including in the proposed rules notice an affirmative statement that there is no local employment impact or that the proposed rules will not affect a local economy.

If a state agency determines that a proposed rule may affect a local economy or local employment, the agency must prepare a local employment impact statement for the proposed rule. The impact

statement must describe in detail the probable effect of the rule on employment in each geographic area affected by the rule for each year of the first five years that the rule will be in effect and may include other factors at the agency's discretion.

The agency must explain the impact on local employment, including any potential job loss or growth, effect on local labor force, effect on the local economy, and any other factors pertinent to the question of local employer impact.

## **8. Public Benefits.**

Authority: Texas Government Code, [Section 2001.024\(a\)\(5\)\(A\)](#))

A state agency must determine for each year of the first five years that the rule will be in effect, what public benefits are expected as a result of adoption of the proposed rule.

The agency should explain who benefits from the proposed rules and what the benefits are. The public benefits can include benefits to the state agency, licensees, or the public generally.

Examples of public benefits (not an exhaustive list):

- Decrease in costs (savings) to persons required to comply with the rules.
- Increased public health and safety.
- Implementation of recent legislation.
- Reducing, streamlining, or eliminating regulatory requirements.
- Clarifying the rules for the agency, the licensees, and the public.

## **9. Probable Economic Costs to Persons Required to Comply with Proposal.**

Authority: Texas Government Code, [Section 2001.024\(a\)\(5\)\(B\)](#))

A state agency must determine for each year of the first five years that the rule will be in effect, what the probable economic costs are to persons who are required to comply with the rule (including licensees, the general public, and businesses, regardless of size).

The state agency should discuss the specific provisions that will increase the costs and the specific amount of the increase. Any increases in costs to persons who are required to comply with the rules would be discussed in this section.

## **10. Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities.**

Authority: Texas Government Code, [Section 2006.002](#))

A state agency must determine whether the proposed rules will have an adverse economic effect on small businesses, micro-businesses, or rural communities.

A state agency should analyze and address all three entities separately in the economic analysis form. In the proposed rules notice, separate paragraphs may be required to address small businesses and micro-businesses separate from rural communities. Also, there may be an adverse economic effect on one of the three entities, but not the others, so each entity may need to be addressed separately.

If there is no adverse economic effect on small businesses, micro-business, or rural communities, a state agency could address them together in the proposed rules notice.

### **10.1. Small Businesses and Micro-Businesses.**

The state agency must determine whether the proposed rules will have an adverse economic effect on small businesses or micro-businesses. As part of this determination, agency staff must estimate the number and type of agency licensees that are small businesses or micro-businesses that must comply with the rule and identify and estimate the number of other small or micro-businesses directly affected by the rule.

“Micro-business” means a legal entity, including a corporation, partnership, or sole proprietorship, that:

- (A) is formed for the purpose of making a profit;
- (B) is independently owned and operated; and
- (C) has not more than 20 employees.

“Small business” means a legal entity, including a corporation, partnership, or sole proprietorship, that:

- (A) is formed for the purpose of making a profit;
- (B) is independently owned and operated; and
- (C) has fewer than 100 employees or less than \$6 million in annual gross receipts.

(See Texas Government Code, [Section 2006.001](#), Definitions.)

The state agency may not have data on whether a licensee is a small or micro-business. In estimating the number of small or micro-businesses affected, staff may use an approximation, a range, or a narrative statement. The OAG Small Businesses and Rural Communities Guidelines provide examples of different approaches that are acceptable in estimating the number of small and micro-businesses subject to the rule. (See Section 15.) The examples include:

- An approximation, such as “more than 1,000”.
- A range, such as 1-100, 101-500, 501-1,000, etc.
- A sentence (narrative), such as: “The Board has approximately 5,000 doctor of chiropractic licensees and 3,000 registered facilities, and nearly all of these entities are small businesses and many of them are micro-businesses.”

If the agency determines that the proposed rule will have no adverse economic effect on small businesses or micro-businesses, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis is not required. While not required, a state agency should consider including

in the proposed rules notice an affirmative statement that the proposed rules will not have an adverse effect on small businesses or micro-businesses.

If the proposed rules may or will have an adverse economic effect on small businesses or micro-businesses, the state agency must prepare and submit an Economic Impact Statement and a Regulatory Flexibility Analysis (separate documents) and include this information in the proposed rules notice. (See Sections 10.3 and 10.4.)

## **10.2. Rural Communities.**

The state agency must determine whether the proposed rules will have an adverse economic effect on rural communities.

“Rural community” means a municipality with a population of less than 25,000.

(See Texas Government Code, [Section 2006.001](#), Definitions.)

The OAG Small Businesses and Rural Communities Guidelines provide information on obtaining population data and provide a rural communities impact example. (See Section 15.)

If the agency determines that the proposed rule will have no adverse economic effect on rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis is not required. While not required, a state agency should consider including in the proposed rules notice an affirmative statement that the proposed rules will not have an adverse effect on rural communities.

If the proposed rules may or will have an adverse economic effect on rural communities, the state agency must prepare and submit an Economic Impact Statement and a Regulatory Flexibility Analysis (two separate documents) and include this information in the proposed rules notice. (See Sections 10.3 and 10.4.)

## **10.3. Economic Impact Statement.**

For small and micro-businesses:

The Economic Impact Statement must include:

- a) an estimate of the number of small businesses and micro-businesses subject to the proposed rule;
- b) a general explanation of the adverse impact, including an estimate of any economic losses that the small businesses and micro-businesses may suffer; any expenditures that the small businesses and micro-businesses may have to undertake in order to comply with the rule; and any other economic costs that may be imposed as a result of compliance;
- c) an estimated length of time that the anticipated adverse impact will last for the licensees and other small and micro-businesses affected; and
- d) a description of the alternative methods of achieving the purpose of the proposed rule.

For rural communities:

The Economic Impact Statement must include:

- a) an estimate of the number of rural communities subject to the proposed rule;
- b) a list of each rural community affected by the rule;
- c) a general explanation of the adverse impact, including an estimate of any economic losses that the communities may suffer; any expenditures that the communities may have to undertake in order to comply with the rule; and any other economic costs that may be imposed as a result of compliance;
- d) an estimated length of time that the anticipated adverse impact will last; and
- e) a description of the alternative methods of achieving the purpose of the proposed rule.

#### **10.4. Regulatory Flexibility Analysis.**

For small and micro-businesses:

The Regulatory Flexibility Analysis must include:

- a) the agency's consideration of alternative methods of achieving the purpose of the proposed rule;
- b) the agency's consideration (if consistent with the health, safety, and environmental and economic welfare of the state) of regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses and micro-businesses; and
- c) several proposed methods of reducing the adverse impact of a proposed rule on a small business or micro-business.

For rural communities:

The Regulatory Flexibility Analysis must include:

- a) the agency's consideration of alternative methods of achieving the purpose of the proposed rule;
- b) the agency's consideration (if consistent with the health, safety, and environmental and economic welfare of the state) of regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on rural communities; and
- c) several proposed methods of reducing the adverse impact of a proposed rule on a rural community.

### **11. One-for-One Requirement for Rules with an Economic Impact.**

Authority: Texas Government Code, [Section 2001.0045](#)

A state agency may not adopt a proposed rule that imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless, on or before the effective date of the proposed rule, the agency either:

- 1) repeals an existing rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed by the proposed rule; or
- 2) amends an existing rule to decrease the total cost imposed on regulated persons by the amount equal to or greater than the cost imposed by the proposed rule.

This provision is known as the “one-for-one requirement.” For purposes of this requirement, the statute states that a “rule proposal that contains more than one rule in a single rulemaking action is considered one rule for purposes of this section.”

The statute provides specific exceptions to the one-for-one requirement for certain agencies and rules. This section does not apply to an agency under the authority of an elected officer of the state. In addition, this section does not apply to a rule that:

- relates to agency procurement;
- is amended to reduce the burden or responsibilities imposed on regulated persons by the rule; or decrease the persons’ cost for compliance with the rule;
- is adopted in response to a natural disaster;
- is necessary to receive a source of federal funds or to comply with federal law;
- is necessary to protect water resources of this state as authorized by the Water Code;
- is necessary to protect the health, safety, and welfare of the residents of this state;
- is adopted by the Department of Family and Protective Services, Texas Department of Motor Vehicles, Parks and Wildlife Department, Public Utility Commission of Texas, Texas Commission on Environmental Quality, or Texas Racing Commission;
- is adopted by a self-directed semi-independent agency; or
- is necessary to implement legislation, unless the legislature specifically states this section applies to the rule.

For state agencies that are exempt from Section 2001.0045:

While not required, a state agency should consider including in the proposed rules notice a statement about whether or not the one-for-one requirement applies to the agency or its rules.

For state agencies that are not exempt from Section 2001.0045:

If the proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government, then the agency is not required to take any further action under Texas Government Code, Section 2001.0045. A state agency should consider including in the proposed rules notice an affirmative statement that the proposed rules do not have a fiscal note that imposes a cost on regulated persons and that no further action is required under Texas Government Code, Section 2001.0045.

If the proposed rules have a fiscal note that imposes a cost on regulated persons, but they fall under one of the exceptions under Texas Government Code, Section 2001.0045(c), then the agency should consider including in the proposed rules notice a statement that the proposed rules have a

fiscal note that imposes a cost on regulated persons but that an exception under Texas Government Code, Section 2001.0045(c) applies (specify the exception). Since an exception applies, the agency is not required to take any further action under Texas Government Code, Section 2001.0045.

If there is an economic impact for a proposed rule and none of the listed exceptions apply, then the agency will either need to revise the proposed rule before publication to eliminate the costs or identify existing rules to repeal or amend in conjunction with the proposed rule. The agency will need to explain in the proposed rules notice which rules are being repealed or amended in order to offset the costs of the proposed rules and to comply with Texas Government Code, Section 2001.0045.

## **12. Government Growth Impact Statement.**

Authority: Texas Government Code, [Section 2001.0221](#); Texas Comptroller of Public Accounts (Comptroller) Rules, 34 TAC [Section 11.1](#)

A state agency is required to prepare a Government Growth Impact Statement for all proposed rules. The statement must address eight specific items listed in the statute, and the statement must be in plain language. The statement must be included in the proposed rules notice required by Texas Government Code, [Section 2001.024](#).

Many of these items are already addressed in other sections of the notice, but the statute requires a separate Government Growth Impact Statement. The Government Growth Impact Statement provides a high-level summary of these items.

The Comptroller adopted rules to implement the Government Growth Impact Statement requirement for all affected state agencies. The Comptroller's rules define "regulation" to mean "rule." They also direct a state agency to utilize information that is readily available to the agency when the preparing the Government Growth Impact Statement.

For each year of the first five years the rule will be in effect, the agency must determine whether any of the following eight situations will occur. The agency must address each item in the affirmative or in the negative in the proposed rules notice.

- 1) The proposed rule creates or eliminates a government program.
- 2) Implementation of the proposed rule requires the creation of new employee positions or the elimination of existing employee positions.
- 3) Implementation of the proposed rule requires an increase or decrease in future legislative appropriations to the agency.
- 4) The proposed rule requires an increase or decrease in fees paid to the agency.
- 5) The proposed rule creates a new regulation.
- 6) The proposed rule expands, limits, or repeals an existing regulation.
- 7) The proposed rule increases or decreases the number of individuals subject to the rule's applicability.
- 8) The proposed rule positively or adversely affects this state's economy.

### 13. Takings Impact Assessment.

Authority: Texas Government Code, Sections [2007.003](#), [2007.042](#), and [2007.043](#)

A state agency is required to determine whether the proposed rules will affect private real property interests (i.e. real estate, land, buildings or structures attached to the land, groundwater or surface water rights) or will restrict, limit, or impose a burden on an owner's right to his or her private real property.

The OAG Texas Private Real Property Rights Preservation Act Guidelines provide guidance to state agencies to assist in making this determination. (See Section 15.) If the proposed rules may result in a "taking" of private real property, the proposed rules notice must include a Takings Impact Assessment.

"Taking" means:

- a) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section [17](#) or [19](#), Article I, Texas Constitution; or
- b) a governmental action that:
  - (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and
  - (ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

(See Texas Government Code, [Section 2007.002](#), Definitions.)

If the proposed rules do not affect private real property interests and there is no restriction, limitation, or burden on an owner's rights to his or her private real property, then the proposed rules do not constitute a taking or require a Takings Impact Assessment under Texas Government Code, Section 2007.043. While not required, a state agency should consider including in the proposed rules notice an affirmative statement that the proposed rules do not constitute a taking or require a takings impact assessment.

If the proposed rules affect private real property interests, and there is a restriction, limitation, or burden on an owner's rights to his or her private real property, then the agency must prepare a



Takings Impact Assessment statement, as detailed and required under Texas Government Code, Section 2007.043. The agency must explain the impact on private property rights and include the required Takings Impact Assessment statement in the proposed rules notice.

#### **14. Regulatory Analyses of Major Environmental Rules.**

Authority: Texas Government Code, [Section 2001.0225](#)

Texas Government Code, Section 2001.0225 applies to a “major environmental rule” that will:

- 1) exceed a standard set by federal law, unless the rule is specifically required by state law;
- 2) exceed an express requirement of state law, unless the rule is specifically required by federal law;
- 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or
- 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.” (Section 2001.0225(a))

For purposes of this section, “major environmental rule” means “a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.” (Section 2001.0225(g)(3))

A state agency that intends to adopt a “major environmental rule” subject to this section must conduct a regulatory analysis that:

- 1) identifies the problem the rule is intended to address;
- 2) determines whether a new rule is necessary to address the problem; and
- 3) considers the benefits and costs of the proposed rule in relationship to state agencies, local governments, the public, the regulated community, and the environment. (Section 2001.0225(b))

When proposing a rule subject to this section, the agency must prepare “a draft impact analysis describing the anticipated effects of the proposed rule.”

- a) The draft impact analysis, at a minimum, must address the eight items specified in Section 2001.0225(c).
- b) The state agency shall identify the information that was considered by the agency, the information that the agency determined to be relevant and reliable, and the assumptions and facts on which the agency made its regulatory decision, as required under Section 2001.0225(e).
- c) The draft impact analysis must be incorporated into the fiscal note required by Section 2001.024, which is part of the proposed rules notice.

If the agency determines, after considering the public comments, that a proposed rule should be adopted, the agency shall prepare a final regulatory analysis.

- a) The final regulatory analysis must comply with Section 2001.033, which provides the required elements of the rule adoption order.
- b) The state agency must identify the information that was considered by the agency, the information that the agency determined to be relevant and reliable, and the assumptions and facts on which the agency made its regulatory decision, as required under Section 2001.0225(e).
- c) The final regulatory analysis must include the state agency's finding and assessment that are specified under Section 2001.0225(d) and (e).

## **15. Resources.**

- 1) Texas Government Code, Chapter 465, Regulatory and Rulemaking Efficiency  
<https://statutes.capitol.texas.gov/?tab=1&code=GV&chapter=GV.465&artSec=>
- 2) Texas Government Code, Chapter 2001, Administrative Procedure Act  
Subchapter A, General Provisions, and Subchapter B, Rulemaking  
<https://statutes.capitol.texas.gov/?tab=1&code=GV&chapter=GV.2001&artSec=>
- 3) Texas Government Code, Chapter 2002, Texas Register and Administrative Code  
<https://statutes.capitol.texas.gov/?tab=1&code=GV&chapter=GV.2002&artSec=>
- 4) Texas Government Code, Chapter 2006, Agency Actions Affecting Small Business and Rural Communities  
<https://statutes.capitol.texas.gov/?tab=1&code=GV&chapter=GV.2006&artSec=>
- 5) Texas Government Code, Chapter 2007, Governmental Action Affecting Private Property Rights  
<https://statutes.capitol.texas.gov/?tab=1&code=GV&chapter=GV.2007&artSec=>
- 6) Texas Secretary of State Rules, 1 TAC Chapter 91, Texas Register  
Subchapter A, General, and Subchapter C, Rulemaking.  
[https://texas-sos.appianportalsgov.com/rules-and-meetings?chapter=91&interface=VIEW\\_TAC&part=4&title=1](https://texas-sos.appianportalsgov.com/rules-and-meetings?chapter=91&interface=VIEW_TAC&part=4&title=1)
- 7) OAG Administrative Law Handbook 2022, Rulemaking Chapter\_  
[https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/adminlaw\\_hb.pdf](https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/adminlaw_hb.pdf)
- 8) Small Businesses and Rural Communities Impact Guidelines, Updated December 2017, OAG Guidance on Implementing Texas Government Code, Chapter 2006  
<https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/RuralCommunitiesImpactGuidelines2017.pdf>

- 9) Texas Private Real Property Rights Preservation Act Guidelines  
OAG Guidance on Implementing Texas Government Code, Chapter 2007  
<https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/TexasPropertyRightsPreservationActGuidelines.pdf>

10) Resources for Obtaining Economic Data:

- Texas Comptroller of Public Accounts, Fiscal Management – HB 3430 Reporting Requirements — Determining Potential Effects on Small Businesses  
<https://fmxcpa.texas.gov/fmx/legis/ecoeffect/>
- North American Industry Classification System (NAICS)  
<https://www.census.gov/naics/>
- Texas Workforce Commission, Labor Market Information  
<http://www.twc.state.tx.us/businesses/labor-market-information>
- Legislative Budget Board  
<https://www.lbb.texas.gov/>
- Texas Legislature Online - fiscal notes for specific bills  
<https://capitol.texas.gov/>
- U.S. Department of Labor, Bureau of Labor Statistics  
<https://www.bls.gov/>
- U.S. Department of Commerce, Bureau of Economic Analysis  
<https://www.bea.gov/>
- Texas A&M Real Estate Center:
  - Texas Economy Page:  
<https://www.recenter.tamu.edu/research/the-texas-economy/>
  - Data and Reports Page:  
[https://www.recenter.tamu.edu/research/market-research/#!/Austin-Round\\_Rock/Market\\_Overview](https://www.recenter.tamu.edu/research/market-research/#!/Austin-Round_Rock/Market_Overview)
- Texas Association of Regional Councils:
  - TARC (Councils of Governments):  
<https://txregionalcouncil.org/>
  - Map and Links to Each of the Councils of Government:  
<https://txregionalcouncil.org/regional-councils/>

- Stakeholders, Industry, and Interested Parties:
  - Advisory Boards - individual members or workgroups
  - Trade associations and industry group representatives
  - Licensees – survey licensees for input before proposing rules
  - Industry reports or studies
- State agency contacts in other states (if similar requirements)