



# SIERRA CLUB

## LONE STAR CHAPTER

April 18, 2023

The Honorable Jeff Leach  
Members, House Committee on Judiciary and Civil Jurisprudence  
From: Cyrus Reed, Conservation Director, Sierra Club, [cyrus.reed@sierraclub.org](mailto:cyrus.reed@sierraclub.org),  
512-888-9411

### **Sierra Club is opposed to HB 791 as filed by Harrison**

The Sierra Club does not oppose the review of agency rules to see if they are still relevant and needed. Thus, we appreciate much of the rationale behind HB 791 - to assure that state agencies implementing rules carefully consider and publish the potential costs on the regulated community and post the information publicly. We would note they should also post the benefit to the public. However, we are very concerned by one section that would potentially wipe out regulations simply because an agency failed to do the proper analysis, as well as another that could lead to court cases against the state agency to recover reasonable costs and attorney fees.

We are not concerned with the first part of the bill that requires state agencies to review rules to see if they are still relevant and needed and assess whether the costs on regulated entities could subject the rule to Section 2001.0045. We also do not object to putting the assessment on the agency's website so that impacted persons and the public can see the assessment.

### **We are opposed to (g) and (h)**

We are opposed to the section of the bill that could strike regulations that didn't comply with the four year review. While we expect most agencies could conduct such a review, simply ending rules because of a failure to conduct the required analysis could take away important rules for public safety, environmental protection or other relevant and important issues. Specifically, Section g) Provides that a rule, if a state agency fails to complete the rule review in accordance with Section 2001.039 (Agency Review of Existing Rules) by the date required under Subsection (b) (relating to requiring a state agency to review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date), expires on the day following the date required under that subsection and is

considered void and unenforceable. Furthermore the bill would allow regulated entities to take the state agency to court either in Travis County or any court where they were impacted by a rule that had “expired” under (g) and was still being enforced.

### **A better approach**

Rather than declaring rules null and void, we think a better approach would be to require that an agency such as the Comptroller of Secretary of State gather a list of rules more than four years old that were analyzed by state agencies as well as those that were not and report that to the Legislature. That way older regulations could be reviewed by the state to see if they were still needed.