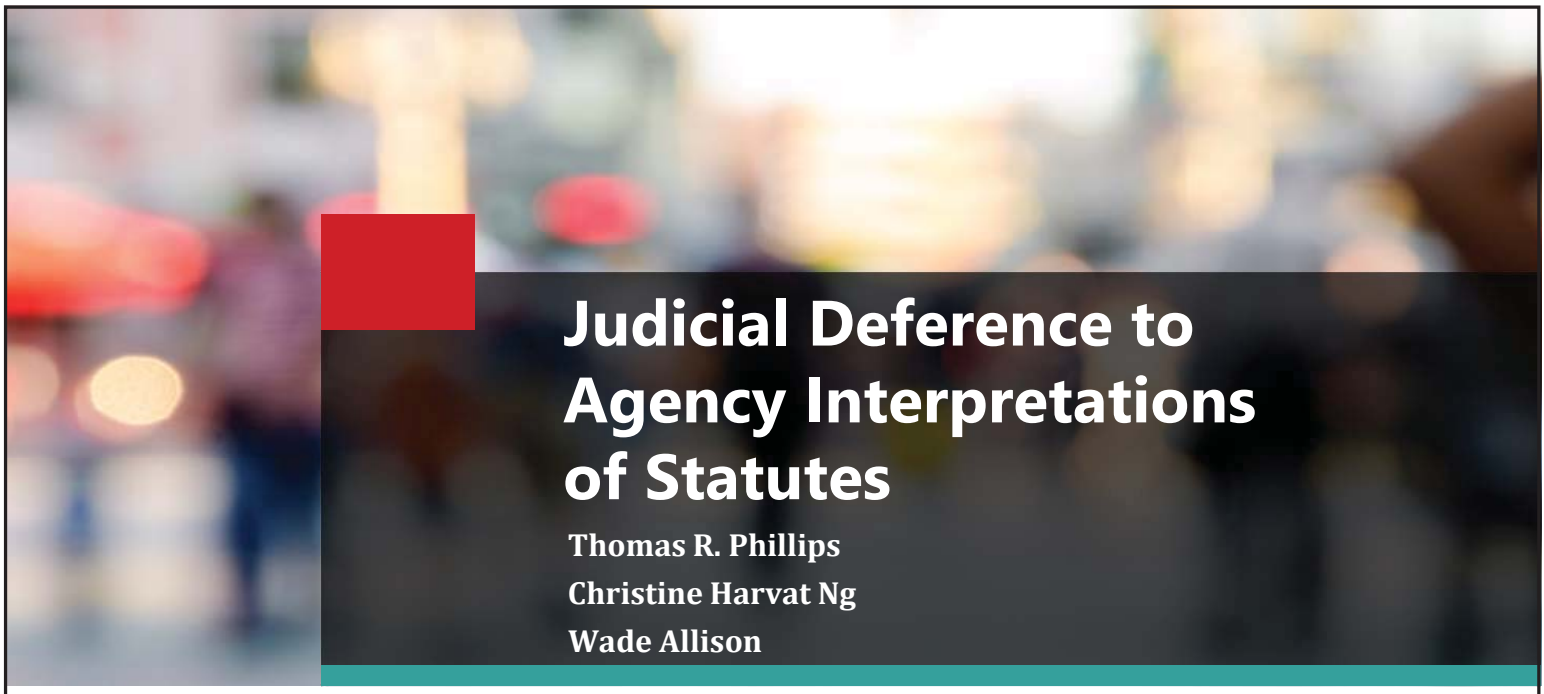


Judicial Deference to Agency Interpretations of Statutes

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TEXAS DEFERENCE:
TEXAS CITIZENS

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Standard

"…an agency's interpretation of a statute it is charged with enforcing is entitled to serious consideration," and Texas courts "will generally uphold an agency's interpretation of a statute it is charged by the Legislature with enforcing, so long as the construction is reasonable and does not contradict the plain language of the statute."

Railroad Commission of Texas v. Texas Citizens for a Safe Future & Clean Water, 336 S.W.3d 619, 624–25 (Tex. 2011) (internal quotations and citations omitted).

Other Considerations Mentioned by Texas Citizens

- Must be "formal opinion adopted after formal proceedings"
- An agency's "long-standing construction…is particularly worthy of [a court's] deference"
- Deference is "particularly important" in "a complex regulatory scheme . . . with a phrase as amorphous as 'public interest'"

Factors Also Considered by Texas Supreme Court

- "Courts may give less deference . . . when legislative intent is at issue rather than . . . technical or regulatory matters within the agency's expertise."
  - *In re Smith,* 338 S.W.3d 582 (Tex. 2011)
- Deference is accorded only in areas where legislative powers have been conferred "in clear and express language."
  - *Liberty Mutual Ins. Co. v. Adcock,* 412 S.W.3d 492 (Tex. 2013)
- Deference is proper only when "the language of the statute itself" is ambiguous, not merely when "the scope of the statute" is ambiguous.
  - *Southwest Royalties, Inc. v. Hegar,* 500 S.W.3d 400 (Tex. 2016)

Effects of *Texas Citizens*

- Improvement in nomenclature
- Continued focus on ambiguity and plain meaning
  - Only one subsequent Texas Supreme Court case finding ambiguity
- Continued application of *pre-Texas Citizens* authority on agency deference

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