

2015 Amendments to the APA

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Roadmap

- Four Bills from the 84th Legislature Amended the APA:
 - S.B. 1267
 - H.B. 763
 - H.B. 2154
 - H.B. 2299

S.B. 1267

- Three Broad Goals:
 1. Requiring more meaningful notice of facts triggering administrative proceedings
 2. Creating judicial remedy for a licensee whose license has been suspended without notice
 3. Removing procedural traps in the motions for rehearing process to avoid loss of jurisdiction based on technicalities

S.B. 1267 — Notice Issues

- Section 2001.052
 - General Notice Requirements for All Cases
 - Judicial weakening of Subdivision (a)(4)
- Section 2001.054
 - Additional Notice Requirements for Licensees
 - Judicial Destruction of Subdivision (c)(2)
 - SCOTX: “. . . indistinguishable from the general notice requirements under section 2001.052.”
- No recourse for summary suspension limbo

S.B. 1267 — Action on Notice Issues

- Section 2001.052(a):
 - (4) a short, plain statement of the factual matters asserted.
- Section 2001.052(b):
 - More detailed statement required seven days before hearing, instead of three
 - State agencies required to assert all statutes or rules not previously noticed at least seven days before hearing, or else seven-day continuance on request

S.B. 1267 — Action on Notice Issues

- Section 2001.052(c):
 - Added Subsection (c) makes state agency's failure to follow (a)(3) or (b) constitute prejudice to substantial rights of appellant
 - Exceptions:
 - Waiver
 - Court finding of no unfair surprise and prejudice

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