

Martens Law

Texas Tax Update:

New Texas “DOGE” Law Shifts Power Balance in Texas Lawsuits What Taxpayers and Businesses Need to Know About Senate Bill 14

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Texas just took a major step in reshaping how state agencies—like the Texas Comptroller of Public Accounts—adopt rules and how courts review and apply those rules. **Senate Bill 14**, now law as the *Regulatory Reform and Efficiency Act*, significantly rewires the administrative process, and most importantly for Texas taxpayers, **eliminates Texas courts’ deference to agency interpretations of the law.**

Here’s what that means for taxpayers who find themselves at odds with rules or policies adopted by the Comptroller, and decide to ask the courts to invalidate agency action:

1. Texas Courts Will No Longer Automatically Defer to the Agency’s Legal Interpretations

Historically, Texas law required courts to defer to state agencies’ interpretations of ambiguous laws, particularly in the context of tax regulations. That changes now. Under SB 14, in any judicial proceeding in Texas, including an action for declaratory judgment regarding the validity or applicability of an agency rule, **a court is not required to give deference to a state agency’s legal determination regarding the construction, validity, or applicability of the law or a rule adopted by the state agency.**

SB 14 also mandates that courts review legal questions “de novo” (meaning “anew”) in any suits providing for judicial review of contested administrative cases—**meaning without giving deference to the agency’s interpretation.** Most garden-variety tax suits were already subject to “de novo” review under Chapter 112 of the Texas Tax Code, yet courts often defer to and cite in their opinions various agency interpretations.

This is a substantial win for Texas taxpayers. While courts may still “consider” an agency’s view, they may reject it—even if it seems reasonable—if it is not the best interpretation of the underlying statute.

2. New Requirements for Rule Proposals: More Scrutiny, More Transparency

Under SB 14, when the Comptroller (or any state agency) proposes a rule, they must now:

- A. Use plain language so rules can be understood by the general public, including those with limited English proficiency;
- B. Choose language that is concise and well-organized (we're looking at you, R&D rules); and
- C. Request public feedback on the rule's economic costs and benefits, giving taxpayers and business owners more opportunities to push back during the rulemaking process.

3. Procedural Defects Can Void a Rule

If an agency fails to comply with procedural requirements, such as economic impact disclosures or legal authority certifications, the resulting rule may be voided. Courts have the authority to remand or invalidate rules that were adopted without proper compliance, and the new law expands the grounds for noncompliance with procedural requirements. This procedural leverage is especially important for tax disputes where improperly adopted rules impose costly burdens on businesses. Such challenges, however, must be brought by the second anniversary of the rule's effective date.

Strategic Consideration: Texas taxpayers undertaking challenges to audit assessments, refund denials, or agency policy should consider probing compliance with the statute's new procedural requirements if the rule or policy in question took effect in the prior two years. If they find defects, they might raise procedural challenges that could send the rule back to the drawing board.

4. The Birth of the Texas Regulatory Efficiency Office

SB 14 establishes the Texas Regulatory Efficiency Office (TREO) within the Governor's Office. TREO's job is to:

- A. Identify outdated, duplicative, or overly burdensome rules;
- B. Help agencies reduce regulatory requirements (e.g., cutting unnecessary fees, forms, or training mandates); and
- C. Improve transparency and public access to rulemaking information.

Inspired by the federal court's rejection of deference in the now-famous *Loper Bright* case, and by the federal Department of Government Efficiency (DOGE), this signals a broader trend toward regulatory rollback and simplification, with potential implications for how tax rules are created, amended, or repealed in the future. This has been nicknamed "Texas DOGE" in its effort to emulate its federal counterpart (although, hopefully, without flaming out on social media).

5. A Stronger Framework for Litigation

For firms like ours who litigate Texas tax cases against the Texas Comptroller, SB 14 creates powerful new tools. We can now:

- A. Challenge the legality of tax rules with a de novo standard of review;
- B. Hold agencies accountable for more procedural missteps in the rulemaking process; and
- C. Demand stronger justification and transparency for rules that affect our clients' bottom lines.

6. When Does the New Landscape Take Effect?

The law applies to rules proposed on or after the law's effective date, and to court challenges initiated after that date. For Texas businesses facing an unfair or burdensome Texas tax rule—or those that were penalized under a rule they believe is unlawful—when is the time to act?

Senate Bill 14 becomes effective on September 1, 2025, because it did not receive the supermajority vote necessary to become effective upon passage. This means:

- A. Rulemaking changes, such as the new notice, economic analysis, and plain language requirements, apply only to rules proposed on or after September 1, 2025.
- B. Judicial review changes, including the elimination of automatic deference to agency interpretations, apply only to lawsuits or proceedings filed on or after that date.
- C. Rules and lawsuits initiated before the effective date remain subject to the prior law.

The text of this bill can be located by following this link:

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=89R&Bill=SB14>

About Martens Law

Martens Law is a trial and appellate law firm headquartered in Austin, Texas. It handles only Texas tax cases, specifically those involving the Texas sales tax and Texas franchise tax. The firm's attorneys have handled cases all the way through the Texas Supreme Court and U.S. Supreme Court. They speak and write frequently on a variety of Texas sales tax and franchise tax topics and have published articles in publications such as the Journal of State Taxation, the Texas Bar Journal, the Texas Lawyer, and the Texas Tech Administrative Law Journal. For more information, please visit texastaxlaw.com.

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