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Overview

This bill provides a number of changes to the Administrative Procedures Act, primarily focusing on agency statements of policy, and enacts a new office to oversee various activities related to harassment, misconduct, and discrimination in executive branch agencies.

All provisions of this bill are included in the state government finance omnibus bill, HF 4016, the second engrossment (Anderson, S.).

Section

- 1 **Rulemaking procedures.** Provides that certain statements of agency policy do not constitute “rules” for purposes of the Administrative Procedures Act. Instead, these statements are governed by a new section of law, established in section 2.
- 2 **Policy pronouncements.** Creates standards for the adoption of “policies” by state agencies, including recordkeeping requirements, and requirements for notice to the public and notice to the legislature.

A definition of “policy,” along with a number of exceptions, is provided. In general, policies are written documents prepared by an agency to provide an interpretation, clarification, or explanation of a law or rule in order to give guidance.

This section further provides that a policy may not be used by an agency until the legislature adjourns its annual legislative session that began the year the legislature received notice of the policy.

Section

- 3** **Exceptions.** Eliminates the ability of the governor to waive application of the right of small businesses and small cities to seek exemption from a rule, if the rule would cost the small business or city more than \$25,000 to implement (in other words, with this change, small businesses and cities would always be able to apply for an exemption, if the cost threshold is met).
- 4** **Fees and expenses.** Establishes new standards related to the award of fees and expenses to a prevailing party in an administrative action alleging that an agency is improperly enforcing a policy or other similar standard as if it were a rule.

Existing language related to the allocation of costs in these claims is repealed later in this bill.

- 5** **Harassment, misconduct, and discrimination; independent office established.** Establishes a centralized office to perform duties related to complaints of harassment, misconduct, and discrimination in executive branch state agencies. The office would be led by a director, appointed by the commissioner of management and budget.

A number of required duties are provided, including a duty to receive and review complaints, determine corrective action where needed, and track associated data and outcomes.

The office is also required to conduct a community survey of state employees related to their workplaces; conduct audits of applicable agency policies and procedures; administer a regular training program for state employees; and provide legislative reporting. The office may additionally contract for a hotline that may be used to make complaints.

The office's work would consolidate any existing work being done in individual state agencies. To the extent that an agency's work conflicts with (or duplicates) the office's duties, those responsibilities are transferred to the new office.

- 6** **Repealer.** Repeals provisions related to the assessment of costs in administrative actions alleging that an agency is improperly enforcing a policy as if it were a rule. New language to replace this repealed subdivision is enacted in section 4 of the bill.
- 7** **Effective date; application.** Provides an effective date, with related applicability provisions, related to the administrative rulemaking changes contained in the bill.