

1 give each party a minimum of 20 minutes to present their case to the board. The department grants each
2 party a maximum of 20 minutes for the initial presentation, and five minutes for any rebuttal. However,
3 the department reminds the parties that the board is not authorized to relitigate contested cases. In the
4 *Sunset Advisory Commission Staff Report with Final Results, 2018 -2019, 86th Legislature, the Sunset*
5 *Advisory Commission* warned the board that the board is not authorized to relitigate contested cases. The
6 State Office of Administrative Hearings (SOAH) proceedings provide the parties to a contested case an
7 opportunity to make arguments and produce evidence in accordance with standard processes under the
8 Texas Administrative Procedure Act, Government Code Chapter 2001. SOAH proceedings can last from
9 hours to weeks, depending on the complexity of the case. The department's proposed amendments give
10 each party an adequate amount of time to present their case to the board for most cases, while providing
11 the chairman with the authority to grant more time for cases that warrant more time, consistent with the
12 board's role under Government Code §2001.058(e).

13 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
14 has determined that for each year of the first five years the amendments will be in effect, there will be no
15 fiscal impact to state or local governments as a result of the enforcement or administration of the
16 proposal. Daniel Avitia, Deputy Executive Director, has determined that there will be no measurable effect
17 on local employment or the local economy as a result of the proposal.

18 **PUBLIC BENEFIT AND COST NOTE.** Mr. Avitia has also determined that, for each year of the first five years
19 the amended section is in effect, there is an anticipated public benefit because the amendments give each
20 party an adequate amount of time to present their case to the board for most cases, while providing the
21 chairman with the authority to grant more time for cases that warrant more time.

1 Anticipated Costs To Comply With The Proposal. Mr. Avitia anticipates that there will be no costs
2 to comply with these amendments. Parties to a contested case have an opportunity, rather than a
3 requirement, to make an oral presentation to the board.

4 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
5 Code §2006.002, the department has determined that the proposed amendments will not have an
6 adverse economic effect on small businesses, micro-business, and rural communities because parties to
7 a contested case have an opportunity, rather than a requirement, to make an oral presentation to the
8 board. Therefore, the department is not required to prepare a regulatory flexibility analysis under
9 Government Code §2006.002.

10 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
11 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
12 that would otherwise exist in the absence of government action and, therefore, does not constitute a
13 taking or require a takings impact assessment under the Government Code §2007.043.

14 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
15 first five years the proposed amendments are in effect, no government program would be created or
16 eliminated. Implementation of the proposed amendments would not require the creation of new
17 employee positions or elimination of existing employee positions. Implementation would not require an
18 increase or decrease in future legislative appropriations to the department or an increase or decrease of
19 fees paid to the department. The proposed amendments do not create a new regulation, or expand, limit,
20 or repeal an existing regulation. Lastly, the proposed amendments do not affect the number of individuals
21 subject to the rule's applicability and will not affect this state's economy.

22 **REQUEST FOR PUBLIC COMMENT.**

1 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on
2 September 21, 2020. A request for a public hearing must be sent separately from your written comments.
3 Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General
4 Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is
5 held, the department will consider written comments and public testimony presented at the hearing.

6 **STATUTORY AUTHORITY.** The department proposes amendments under Occupations Code
7 §2301.153(a)(8), which authorizes the board to adopt rules; Occupations Code §2301.155, which
8 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code Chapter
9 2301 and to govern practice and procedure before the board; Occupations Code §2301.709(d), which
10 authorizes the board to adopt rules that establish standards for reviewing a case under Occupations Code
11 Chapter 2301, Subchapter O; Occupations Code §2302.051, which authorizes the board to adopt rules as
12 necessary to administer Occupations Code Chapter 2302; Transportation Code §502.091, which
13 authorizes the department to adopt and enforce rules to carry out the International Registration Plan;
14 Transportation Code §623.002, which authorizes the board to adopt rules that are necessary to enforce
15 Transportation Code Chapter 623; Transportation Code §643.003, which authorizes the department to
16 adopt rules to administer Transportation Code Chapter 643; Government Code §2001.004(1), which
17 authorizes a state agency to adopt rules of practice that state the nature and requirements of all available
18 formal and informal procedures; and Transportation Code §1002.001, which authorizes the board to
19 adopt rules that are necessary and appropriate to implement the powers and the duties of the
20 department.

21 **CROSS REFERENCE TO STATUTE.** Occupations Code §§2301.001, 2301.153(a)(1) and (a)(7), and Chapter
22 2301, Subchapter O; Occupations Code §2302.354 and §2302.355; Transportation Code §§502.091,

1 623.271 -623.272, 643.251 -643.257, §1004.002; and Government Code Chapter 2001, Subchapters C and
2 F.

3 **TEXT.**

4 **SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS**

5 **43 TAC §206.22**

6 §206.22. Public Access to Board Meetings.

7 (a) Posted agenda items. A person may speak before the board on any matter on a posted agenda
8 by submitting a request, in a form and manner as prescribed by the department, prior to the matter being
9 taken up by the board. A person speaking before the board on an agenda item will be allowed an
10 opportunity to speak:

11 (1) prior to a vote by the board on the item; and

12 (2) for a maximum of three minutes, except as provided in subsections [~~subsection~~] (d)(6),
13 (e), and (f) of this section.

14 (b) Open comment period.

15 (1) At the conclusion of the posted agenda of each regular business meeting, the board
16 shall allow an open comment period, not to exceed one hour, to receive public comment on any other
17 matter that is under the jurisdiction of the board.

18 (2) A person desiring to appear under this subsection shall complete a registration form,
19 as provided by the department, prior to the beginning of the open comment period.

20 (3) Except as provided in subsections [~~subsection~~] (d)(6) and (e) of this section, each
21 person shall be allowed to speak for a maximum of three minutes for each presentation in the order in
22 which the speaker is registered.

1 (c) Disability accommodation. Persons with disabilities, who have special communication or
2 accommodation needs and who plan to attend a meeting, may contact the department in Austin to
3 request auxiliary aids or services. Requests shall be made at least two days before a meeting. The
4 department shall make every reasonable effort to accommodate these needs.

5 (d) Conduct and decorum. The board shall receive public input as authorized by this section,
6 subject to the following guidelines.

7 (1) Questioning of those making presentations shall be reserved to board members and
8 the department's administrative staff.

9 (2) Organizations, associations, or groups are encouraged to present their commonly held
10 views, and same or similar comments, through a representative member where possible.

11 (3) Presentations shall remain pertinent to the issue being discussed.

12 (4) A person who disrupts a meeting shall leave the meeting room and the premises if
13 ordered to do so by the chair.

14 (5) Time allotted to one speaker may not be reassigned to another speaker.

15 (6) The time allotted for presentations or comments under this section may be increased
16 or decreased by the chair, or in the chair's absence, the vice chair, as may be appropriate to assure
17 opportunity for the maximum number of persons to appear.

18 (e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in
19 the public interest if necessary for the performance of the responsibilities of the board or the department.

20 (f) Contested Cases. The parties to a contested case under review by the board will be allowed an
21 opportunity to provide oral argument to the board, subject to the following limitations and conditions.

22 (1) Each party shall be allowed a maximum of 20 minutes for their initial presentation.

23 (2) Each party shall be allowed a maximum of 5 minutes for rebuttal.

