

BILL ANALYSIS

Senate Research Center
83R204 MCK-F

H.B. 86
By: Callegari et al. (Lucio)
Business & Commerce
5/2/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texas regulates more than 500 types of occupations, representing jobs held by several million Texans. Interested observers contend that Texas regulates a greater proportion of its workforce than the national average. While some occupational licensing programs serve a compelling public interest, the state's policy emphasis in favor of greater occupational regulation can have negative implications for the state's workforce and consumers. For instance, occupational licensing programs can restrict individuals' entry into regulated occupations, precluding some individuals from exercising a right to work.

H.B. 86 amends the Sunset Act, to enhance the Sunset Advisory Commission's (sunset commission) review of existing occupational licensing programs to ensure that they achieve a meaningful public interest and allow sunset commission staff to recommend repealing of licensures when they have no meaningful public interest. Although the sunset commission reviews and makes recommendations pertaining to individual occupational licenses, there is little-to-no formalized criterion for making that assessment. H.B. 86 adds that criteria.

Furthermore, H.B. 86 creates a sunrise process, which will grant the sunset commission the authority to review and evaluate the merits of new, proposed occupational licensing programs. This is similar to an impact statement, for it will allow a legislator to have additional criteria by which to judge the appropriateness of a new licensing program before establishment.

H.B. 86 amends current law relating to the criteria for review by the Sunset Advisory Commission of an agency that licenses an occupation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 325, Government Code, by adding Section 352.0115, as follows:

Sec. 325.0115. CRITERIA FOR REVIEW OF CERTAIN AGENCIES. (a) Defines, in this section "license" and "public interest."

(b) Requires the Sunset Advisory Commission (sunset commission), in an assessment of an agency that licenses an occupation or profession, to consider:

(1) whether the occupational licensing program serves a meaningful, defined public interest, and provides the least restrictive form of regulation that will adequately protect the public interest;

(2) the extent to which the regulatory objective of the occupational licensing program may be achieved through market forces, private or industry certification and accreditation programs, or enforcement of other law;

(3) the extent to which licensing criteria, if applicable, ensure that applicants have occupational skill sets or competencies that correlate with a public interest and the impact that those criteria have on applicants, particularly those with moderate or low incomes, seeking to enter the occupation or profession; and

(4) the impact of the regulation, including the extent to which the program stimulates or restricts competition and affects consumer choice and the cost of services.

SECTION 2. Amends Chapter 325, Government Code, by adding Section 325.023, as follows:

Sec. 325.023. PREVIEW OF PROPOSED LEGISLATION REGULATING AN OCCUPATION. (a) Authorizes a member of the legislature to submit proposed legislation that would create an occupational licensing program or significantly affect an existing occupational licensing program to the sunset commission for review and analysis. Requires that a request under this section be submitted not later than December 31 of an odd-numbered year. Authorizes the sunset commission chair to, on the recommendation of the executive director of the sunset commission (executive director), deny a request for review under this section.

(b) Requires the sunset commission, if the sunset commission reviews and analyzes legislation proposing the regulation of an occupation, to submit a report to the legislature before the start of the next legislative session regarding the sunset commission's findings on the need for regulating the occupation and the type of regulation recommended, if any.

(c) Requires the sunset commission, in analyzing legislation proposing the creation of an occupational licensing program, to determine whether:

(1) the unregulated practice of the occupation would be inconsistent with the public interest as defined by Section 325.0115;

(2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional skill sets or competencies; and

(3) the public can be more effectively protected by means other than state regulation.

(d) Requires the sunset commission to submit a report to the legislature before the start of the next legislative session regarding the sunset commission's findings on the need for the proposed legislation if the sunset commission reviews and analyzes proposed legislation amending an existing occupational licensing program.

SECTION 3. Effective date: September 1, 2013.