

By: Callegari

H.B. No. 1618

Substitute the following for H.B. No. 1618:

By: Frullo

C.S.H.B. No. 1618

A BILL TO BE ENTITLED

AN ACT

relating to the criteria for review by the Sunset Advisory Commission of an agency that licenses an occupation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 325, Government Code, is amended by adding Section 325.0115 to read as follows:

Sec. 325.0115. CRITERIA FOR REVIEW OF CERTAIN AGENCIES.

(a) In this section:

(1) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular occupation or profession.

(2) "Public interest" means protection from a present and recognizable harm to public health, safety, or welfare. The term does not include speculative threats, or other non-demonstrable menaces to public health, safety, or welfare. For the purposes of this subdivision, the term "welfare" includes the financial health of the public when the absence of governmental regulation unreasonably increases risk and liability to broad classes of consumers.

(b) In an assessment of an agency that licenses an occupation or profession, the commission and its staff shall consider:

(1) whether the occupational licensing program:

1 (A) serves a meaningful, defined public
2 interest; and

3 (B) provides the least restrictive form of
4 regulation that will adequately protect the public interest;

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

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

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

18 SECTION 2. Chapter 325, Government Code, is amended by
19 adding Section 325.023 to read as follows:

20 Sec. 325.023. PREVIEW OF PROPOSED LEGISLATION REGULATING AN
21 OCCUPATION. (a) A member of the legislature may submit proposed
22 legislation that would create an occupational licensing program or
23 significantly affect an existing occupational licensing program to
24 the commission for review and analysis. A request under this
25 section must be submitted not later than December 31 of an
26 odd-numbered year. The commission's chair may, on the
27 recommendation of the executive director, deny a request for review

1 under this section.

2 (b) If the commission reviews and analyzes legislation
3 proposing the regulation of an occupation, the commission shall
4 submit a report to the legislature before the start of the next
5 legislative session regarding the commission's findings on the need
6 for regulating the occupation and the type of regulation
7 recommended, if any.

8 (c) In analyzing legislation proposing the creation of an
9 occupational licensing program, the commission shall determine
10 whether:

11 (1) the unregulated practice of the occupation would
12 be inconsistent with the public interest as defined by Section
13 325.0115;

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

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

19 (d) If the commission reviews and analyzes proposed
20 legislation amending an existing occupational licensing program,
21 the commission shall submit a report to the legislature before the
22 start of the next legislative session regarding the commission's
23 findings on the need for the proposed legislation.

24 SECTION 3. This Act takes effect September 1, 2011.