

BILL ANALYSIS

Senate Research Center
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S.B. 1250
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the past three regular legislative sessions, the legislature has considered dozens of proposals to regulate certain occupations. These proposals are in addition to the thorough regulatory scheme that the state has already implemented to regulate occupations as diverse as doctors, air conditioning and refrigeration contractors, cosmetologists, and private investigators. Through the Texas Department of Licensing and Regulation (TDLR) alone, the state issues over 150 different occupational licenses. In addition to TDLR, the Texas Department of Public Safety, the Texas Medical Board, the State Board of Dental Examiners, the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas State Board of Plumbing Examiners are some of the other agencies that oversee occupational regulation in the state.

As the legislature concluded in Section 318.001, Government Code, "state government actions have produced a substantial increase in the number of regulatory programs." In addition, the legislature concluded that the state should not impose regulatory burdens when they are not required to protect public health, safety, or welfare. In light of these findings, a mechanism to review proposed regulatory programs and regulatory practices generally could strengthen the state's ability to ensure that it is operating as efficiently as possible and not imposing unnecessary regulatory burdens on private industries.

S.B. 1250 provides this mechanism through an Office of Regulatory Best Practices (office), which will be created within TDLR. The office will be charged with operating a clearinghouse of efficient regulatory practices that TDLR can share with other state agencies. These practices can provide significant cost savings to the state as well as improve customer service. In addition, the office will be charged with evaluating occupational regulatory enhancements that a member of the legislature wishes to introduce as a bill (or amend onto a bill). The office will collect information from the member, evaluate the proposal, and issue a report "outlining the anticipated costs and benefits to the state, including impacts to public health, safety, and welfare."

As proposed, S.B. 1250 amends current law relating to the creation of an office of regulatory best practices in the Texas Department of Licensing and Regulation and the evaluation by the office of proposals by members of the legislature to regulate occupations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 51, Occupations Code, by adding Subchapters J and K, as follows:

SUBCHAPTER J. OFFICE OF REGULATORY BEST PRACTICES

Sec. 51.501. DEFINITIONS. Defines "license," "office," "regulatory agency," "regulatory best practice," and "regulatory practice" in this subchapter.

Sec. 51.502. OFFICE ESTABLISHED. Requires the Texas Department of Licensing and Regulation (TDLR) to establish, maintain, and administer the office of regulatory best practices.

Sec. 51.503. DUTIES OF OFFICE. Requires the office of regulatory best practices in TDLR (office) to:

- (1) operate the clearinghouse under Section 51.504;
- (2) collect, review, and analyze regulatory practices to determine if they are regulatory best practices;
- (3) identify innovative, efficient, and cost-saving practices and procedures used at state agencies and businesses and determine if they are regulatory best practices;
- (4) identify practices that reduce regulatory burdens, improve services to the public, and improve consumer protection and determine if they are regulatory best practices;
- (5) foster collaboration among regulatory agencies through an electronic interface through which regulatory agencies can access the office's findings, submit regulatory practices for consideration by the office, and report the use of regulatory agencies' best practices and results; and
- (6) review and analyze proposals by members of the legislature under Subchapter K.

Sec. 51.504. CLEARINGHOUSE. (a) Requires the office to establish and maintain a clearinghouse to serve as a central repository for the collection, classification, and distribution of regulatory best practices and the steps a regulatory agency may take to implement those regulatory best practices.

(b) Requires the office to:

- (1) recognize state agencies and businesses whose regulatory best practices are included in the clearinghouse; and
- (2) periodically report findings related to the development and maintenance of the clearinghouse to the governor, the lieutenant governor, the speaker of the house of representatives, committees of each house of the legislature having jurisdiction over appropriations, the state auditor's office, and the Sunset Advisory Commission.

Sec. 51.505. ACCESS TO REGULATORY AGENCY INFORMATION. Requires a state agency that receives an appropriation under the article of the General Appropriations Act that makes appropriations to regulatory state agencies (regulatory agency) to provide the office access to the regulatory agency's financial, statistical, performance, and personnel data. Authorizes TDLR to enter into a memorandum of understanding with the regulatory agency to maintain the confidentiality of information that is confidential under Chapter 552 (Public Information), Government Code.

SUBCHAPTER K. REVIEW OF PROPOSALS BY MEMBERS OF LEGISLATURE TO REGULATE OCCUPATIONS

Sec. 51.551. DEFINITIONS. Defines "license" and "office" in this subchapter.

Sec. 51.552. SUBMISSION OF PROPOSAL BY MEMBER OF THE LEGISLATURE. (a) Authorizes a member of the legislature, not later than January 1 of the even-numbered year preceding a regular legislative session, to submit to the office a written proposal to:

- (1) impose a statewide licensing requirement or other regulation on an occupation or profession that is currently unregulated by the state; or
- (2) increase the regulatory requirements imposed on an occupation or profession that is currently regulated statewide.

(b) Requires that a written proposal under Subsection (a) include:

- (1) a description of the occupation or profession subject to the proposed regulation, including a list of associations, organizations, or other groups representing persons who practice the occupation or profession in this state and an estimate of the number of members of each association, organization, or group;
- (2) a statement of the problem or problems addressed by the proposed regulation;
- (3) a description of the proposed licensing requirement or regulation;
- (4) a statement of support for the proposed regulation signed by at least:
 - (A) 25 individuals who are members of an association, organization, or group described by Subdivision (1); or
 - (B) 25 individuals who are not members of an association, organization, or group described by Subdivision (1);
- (5) a statement of the reasons why the license requirement or other type of regulation is proposed and not another type of regulatory requirement; and
- (6) a statement of the expected benefit to the public that will result from the proposed regulation.

Sec. 51.553. EVALUATION AND REPORT BY OFFICE. (a) Requires the office, except as provided by Subsection (b), to evaluate each proposal submitted under Section 51.552 and issue a report outlining the anticipated costs and benefits to the state, including impacts to public health, safety, and welfare. Requires the office, when evaluating a proposal to regulate an occupation or profession that is not currently regulated, to consider the factors under Chapter 318 (Review of Regulatory Programs), Government Code, any factors the executive director of TDLR recommends, and any reports or findings by the attorney general regarding the occupation or profession.

(b) Authorizes the office, instead of evaluating a proposal and issuing a new report, to reissue an existing report described by this subsection in response to a proposal under Section 51.552 if the office:

- (1) previously evaluated a proposal to regulate the occupation or profession that is the subject of the current proposal;
- (2) issued a report under Subsection (a) or reissued a report under this subsection in connection with the proposal described by Subdivision (1) not more than 36 months before the date the current proposal was submitted; and
- (3) finds that the current proposal contains no new or additional information that would cause the office to alter or modify the report described by Subdivision (2).

(c) Requires the office, not later than October 15 of the year in which a proposal is due under Section 51.552(a), to issue or reissue a report on the proposal under

Subsection (a) or (b) to the member of the legislature who submitted the proposal, the speaker of the house of representatives, the lieutenant governor, and the governor.

(d) Provides that only a report issued or reissued under this section not more than four years before the date a bill is introduced or an amendment is offered satisfies the requirement of an evaluation and report for purposes of Section 30a, Article III, Texas Constitution.

SECTION 2. Requires the Texas Commission of Licensing and Regulation, not later than March 31, 2014, to adopt any rules necessary to implement the changes in law made by this Act.

SECTION 3. Effective date, Section 51.553(d), Occupations Code, as added by this Act: contingent upon approval by the voters of the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, to require a member of the legislature to obtain and file a report on the costs and benefits of a bill or amendment to impose or increase an occupational regulation.

SECTION 4. Effective date, except as otherwise provided by this Act: September 1, 2013.