| **House Bill 86**Senate AmendmentsSection-by-Section Analysis |
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| HOUSE VERSION | SENATE VERSION (CS) | CONFERENCE |
| 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:(A) serves a meaningful, defined public interest; and(B) 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 1. Same as House version. |  |
| SECTION 2. Chapter 325, Government Code, is amended by adding Section 325.023 to read as follows:Sec. 325.023. PREVIEW OF PROPOSED LEGISLATION REGULATING AN OCCUPATION. (a) A member of the legislature may submit proposed legislation that would create an occupational licensing program or significantly affect an existing occupational licensing program to the commission for review and analysis. A request under this section must be submitted not later than December 31 of an odd-numbered year. The commission's chair may, on the recommendation of the executive director, deny a request for review under this section.(b) If the commission reviews and analyzes legislation proposing the regulation of an occupation, the commission shall submit a report to the legislature before the start of the next legislative session regarding the commission's findings on the need for regulating the occupation and the type of regulation recommended, if any.(c) In analyzing legislation proposing the creation of an occupational licensing program, the commission shall 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) If the commission reviews and analyzes proposed legislation amending an existing occupational licensing program, the commission shall submit a report to the legislature before the start of the next legislative session regarding the commission's findings on the need for the proposed legislation. | SECTION 2. Chapter 325, Government Code, is amended by adding Section 325.023 to read as follows:Sec. 325.023. REVIEW OF PROPOSED LEGISLATION REGULATING AN OCCUPATION. (a) Not later than December 31 of an odd-numbered year, a member of the legislature may submit proposed legislation that would create an occupational licensing program or significantly affect an existing occupational licensing program to the commission for review and analysis. A request under this section may be submitted after December 31 of an odd-numbered year on the approval of the commission's chair based on the recommendation of the executive director. The commission's chair may, on the recommendation of the executive director, deny a request for review under this section.(b) If the commission reviews and analyzes legislation proposing the regulation of an occupation, the commission shall submit a report to the legislature before the start of the next legislative session regarding the commission's findings on the need for regulating the occupation and the type of regulation recommended, if any.(c) In analyzing legislation proposing the creation of an occupational licensing program, the commission shall 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) If the commission reviews and analyzes proposed legislation amending an existing occupational licensing program, the commission shall submit a report to the legislature before the start of the next legislative session regarding the commission's findings on the need for the proposed legislation. |  |
| SECTION 3. This Act takes effect September 1, 2013. | SECTION 3. Same as House version. |  |