

CHAPTER 238

H.B. No. 1583

An Act relating to the review of the creation of river authorities and regulatory state agencies, advisory committees, and programs.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 87, Revised Statutes, is amended by adding Article 5429k-1 to read as follows:

Art. 5429k-1. REVIEW OF REGULATORY PROGRAMS

Sec. 1. LEGISLATIVE FINDINGS. *The legislature finds that:*

- (1) *the interests of the residents of the state are served by the regulation of certain professions and other occupations;*
- (2) *state government actions have produced a substantial increase in the number of regulatory programs;*
- (3) *the legislature should review proposed regulatory programs to better evaluate the need for the programs; and*
- (4) *regulation should not be imposed on any profession or other occupation unless required for the protection of the health, safety, or welfare of the residents of the state.*

Sec. 2. CONSIDERATIONS. *In evaluating whether a profession or other occupation should be regulated, the following factors should be considered:*

- (1) *whether the unregulated practice of a profession or other occupation may significantly harm or endanger the public health, safety, or welfare and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument;*
- (2) *whether the practice of a profession or other occupation requires specialized skill or training and whether the public clearly needs and will benefit by assurances of initial and continuing competence of practitioners of the profession or occupation;*
- (3) *whether the regulation would have the effect of directly or indirectly increasing the cost of any goods or services and, if so, whether the increase would be more harmful to the public than the harm that might result from the absence of regulation;*
- (4) *whether the regulatory process would significantly reduce competition in the field and, if so, whether the reduction would be more harmful to the public than the harm that might result from the absence of regulation; and*
- (5) *whether the residents of the state are or may be effectively protected by other means.*

Sec. 3. FORMS OF REGULATION. (a) *If the legislature finds that it is necessary to impose regulation on a profession or other occupation not regulated before the effective date of this article, regulation should be implemented in the least restrictive manner available in the following order:*

- (1) *implementation of a system of registration by which practitioners of the profession or occupation register with a designated state agency, but without the imposition of prequalifications or requirements for issuance of the registration other than payment of a fee, and grounds may be established for suspension or revocation of the registration or other discipline of the registrant;*
 - (2) *implementation of a system of licensure by which a practitioner receives recognition by the state that the practitioner has met predetermined qualifications, and persons not so licensed are prohibited from practicing the licensed profession or occupation, and grounds may be established for suspension or revocation of the license or other discipline of the licensee.*
- (b) *Alternative methods of regulation should be implemented when necessary and appropriate in specific cases.*

SECTION 2. The Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes) is amended by adding Section 1.22 to read as follows:

Sec. 1.22. REVIEW OF PROPOSED LEGISLATION CREATING REGULATORY AGENCY. (a) *Each bill filed in a house of the legislature that would create a new state agency having regulatory authority or a new advisory committee to a state agency having regulatory authority shall be forwarded to the commission.*

(b) *The commission shall review the bill to determine if:*

(1) *the proposed regulatory and other functions of the agency or committee could be administered by one or more existing state agencies or advisory committees;*

(2) *the form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;*

(3) *the bill provides for adequate public input regarding any regulatory function proposed by the bill; and*

(4) *the bill provides for adequate protection against conflicts of interest within the agency or committee.*

(c) *After reviewing the bill, the commission shall forward a written comment on the legislation to the author of the bill and to the presiding officer of the committee to which the bill is referred.*

SECTION 3. Subdivision (1), Section 1.02, Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "State agency" means:

(A) an agency that is expressly made subject to this Act; ~~or~~

(B) a department, commission, board, or other agency (except a university system or an institution of higher education as defined in Section 61.003, Texas Education Code, as amended) that:

(i) is created by statute after January 1, 1977;

(ii) is part of any branch of state government; and

(iii) has authority that is not limited to a geographical portion of the state; or

(C) a river authority created under Article XVI, Section 59, of the Texas Constitution and its board of directors unless the members of the board are elected by the voters in the authority prior to September 1, 1985.

SECTION 4. The Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes) is amended by adding Section 1.23 to read as follows:

Sec. 1.23. APPLICATION OF ACT TO RIVER AUTHORITIES AND THEIR BOARDS OF DIRECTORS. (a) *The following river authorities are subject to review under this Act, but may not be abolished under this Act. The board of directors of each of the following river authorities is subject to this Act. Unless members of the board of directors are continued in office under this Act, their membership expires on the following respective dates; unless the members of the board are elected by the voters in the authority prior to September 1, 1985, in which case the board is subject only to review under this Act and shall be reviewed on the following respective dates:*

(1) *the Angelina and Neches River Authority and its board of directors, September 1, 1991;*

(2) *the Bandera County River Authority and its board of directors, September 1, 1991;*

(3) *the Brazos River Authority and its board of directors, September 1, 1991;*

(4) *the Central Colorado River Authority and its board of directors, September 1, 1991;*

(5) *the Guadalupe-Blanco River Authority and its board of directors, September 1, 1991;*

(6) *the Guadalupe River Authority and its board of directors, September 1, 1991;*

(7) *the Kimble County River Authority and its board of directors, September 1, 1991;*

(8) *the Lavaca-Navidad River Authority and its board of directors, September 1, 1991;*

(9) *the Lower Colorado River Authority and its board of directors, September 1, 1991;*

(10) *the Mason County River Authority and its board of directors, September 1, 1991;*

(11) *the Nueces River Authority and its board of directors, September 1, 1991;*

(12) *the Palo Duro River Authority and its board of directors, September 1, 1991;*

(13) *the Red River Authority of Texas and its board of directors, September 1, 1991;*

(14) *the Sabine River Authority and its board of directors, September 1, 1991;*

(15) *the San Antonio River Authority and its board of directors, September 1, 1991;*

(16) *the San Jacinto River Authority and its board of directors, September 1, 1991;*

(17) *the Trinity River Authority of Texas and its board of directors, September 1, 1991;*

(18) *the Upper Colorado River Authority and its board of directors, September 1, 1991;*

(19) *the Upper Guadalupe River Authority and its board of directors, September 1, 1991.*

(b) *When the membership of a board of directors expires, a new board of directors shall be appointed by the governor, with each new appointee serving for the unexpired term of his or her predecessor. A member whose membership has expired pursuant to Subsection (a) of this section is not eligible for reappointment under this subsection. Each director shall qualify by taking the official oath of office prescribed by the constitution or general statute of the State of Texas.*

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional

rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 7, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 1583 on May 26, 1985, by a non-record vote; passed by the Senate, with amendments, on May 24, 1985, by the following vote: Yeas 21, Nays 7.

Approved: June 3, 1985

Effective: August 26, 1985