

SUBJECT: Tolling term of license during judicial review

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 7 ayes — Kubiak, Brimer, Dear, Goolsby, Pickett, Torres, Yarbrough
0 nays
2 absent — Wilson, D. Jones

SENATE VOTE: On final passage, April 26 — 31-0

WITNESSES: None

BACKGROUND: Government Code sec. 2001.054 prescribes administrative procedures concerning contested cases regarding the granting, denial, or renewal of a license that is required to be preceded by notice and opportunity for hearing. This section has broad applicability since many state agencies, boards, commissions and departments issue licenses.

DIGEST: SB 1443 would require that a contested license remain valid unless it expires without timely application for renewal, is amended, revoked, suspended, annulled or withdrawn or the denial of a renewal application becomes final.

The term of the license would be tolled (the term would be suspended) during a period when it was subject to judicial review, unless the licensee engaged in the activity for which the license was issued.

The bill would take effect September 1, 1995.

SUPPORTERS SAY: SB 1443 would give a license holder the full use of the time on a license, even if a hiatus in ability to use the license occurs because of judicial review of the status of the license. Occasionally, a license is issued to a person and then the issuance is contested by a third party. For example, a permit to build a cement plant that draws opposition from neighboring residents may go through the necessary administrative review process and then be subjected to judicial review.

Under current law, the permit or license could expire during the possible two-year judicial review period, with the license holder never actually able to engage in the licensed activity. This seems inequitable given the expense of acquiring a license. SB 1443 would suspend the running of the term of the license during the judicial review process, so that if the license is sustained, the person would be able to perform the licensed activity for the length of time remaining on the license before judicial review began. If, however, the license holder engaged in the licensed activity while review was pending, the license term would not be tolled, and the clock would run.

OPPONENTS
SAY:

No apparent opposition