A bill to be entitled
An act relating to legislative review of proposed
regulation of unregulated functions; amending s.
11.62, F.S.; defining terms; providing that certain
requirements must be met before the adoption of a
regulation of an unregulated profession or occupation
or the substantial expansion of regulation of a
regulated profession or occupation; requiring the
proponents of legislation that proposes such
regulation to provide certain information to the state
agency proposed to have jurisdiction over the
regulation and the Legislature by a certain date;
requiring such state agency to provide certain
information to the Legislature within a certain time
period; providing an exception; revising information
that a legislative committee must consider when
determining whether a regulation is justified;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 11.62, Florida Statutes, is amended to
read:

11.62 Legislative review of proposed regulation of
unregulated functions.—
(1) This section may be cited as the “Sunrise Act.”
(2) It is the intent of the Legislature:
(a) That no profession or occupation be subject to
regulation by the state unless the regulation is necessary to
protect the public health, safety, or welfare from significant
and discernible harm or damage and that the police power of the
state be exercised only to the extent necessary for that
purpose; and

(b) That no profession or occupation be regulated by the
state in a manner that unnecessarily restricts entry into the
practice of the profession or occupation or adversely affects
the availability of the professional or occupational services to
the public.

(3) As used in this section, the term:

(a) “Substantial expansion of regulation” means to expand
the scope of practice for current practitioners of a profession
or occupation by regulating an activity that is not regulated by
the state.

(b) “Transactional costs” means direct costs that are
ascertainable based upon standard business practices, including
filing fees, license fees, regulatory compliance costs,
operating costs, monitoring and reporting costs, and any other
costs necessary to comply with the proposed regulation.

(4) In determining whether to regulate a profession or
occupation, the Legislature shall consider the following
factors:

(a) Whether the unregulated practice of the profession or
occupation will substantially harm or endanger the public
health, safety, or welfare, and whether the potential for harm
is recognizable and not remote;

(b) Whether the practice of the profession or occupation
requires specialized skill or training, and whether that skill
or training is readily measurable or quantifiable so that
examination or training requirements would reasonably assure
initial and continuing professional or occupational ability;

(c) Whether the regulation will have an unreasonable effect
on job creation or job retention in the state or will place
unreasonable restrictions on the ability of individuals who seek
to practice or who are practicing a given profession or
occupation to find employment;

(d) Whether the public is or can be effectively protected
by other means; and

(e) Whether the overall cost-effectiveness and economic
impact of the proposed regulation, including the indirect costs
to consumers, will be favorable.

(5) The requirements in this section must be met before the
adoption of a regulation of a profession or occupation not
already expressly subject to state regulation or the substantial
expansion of regulation of a regulated profession or occupation
in order to determine whether such regulation is necessary to
protect the public and is the least restrictive regulatory
alternative consistent with the public interest.

(6) The proponents of legislation, including any
individual, group, or entity, that proposes provides for the
regulation of an unregulated profession or occupation or the
substantial expansion of regulation of a regulated profession or
occupation a profession or occupation not already expressly
subject to state regulation shall provide, upon request, the
following information in writing to the state agency that is
proposed to have jurisdiction over the regulation, the President
of the Senate, and the Speaker of the House of Representatives
at least 30 days before the regular session of the Legislature

CODING: Words stricken are deletions; words underlined are additions.
in which the legislation is to be filed and to the legislative committees to which the legislation is referred:

(a) A copy of the draft legislation proposing to regulate an unregulated profession or occupation or the substantial expansion of regulation of a regulated profession or occupation;

(b) The number of individuals or businesses that would be subject to the regulation;

(c) The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;

(d) Documentation of the nature and extent of the harm to the public caused by the unregulated practice of the profession or occupation, including a description of any complaints that have been lodged against persons who have practiced the profession or occupation in this state during the preceding 3 years;

(e) A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;

(f) A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or occupation and a statement of the reasons why these laws have not proven adequate to protect the public;

(g) A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts have not proven adequate to protect the public;

(h) A copy of any federal legislation mandating regulation;
(i) An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;

(j) The cost, availability, and appropriateness of training and examination requirements;

(k) The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;

(l) The cost imposed on applicants or practitioners or on employers of applicants or practitioners as a result of the regulation;

(m) The details of any previous efforts in this state to implement regulation of the profession or occupation, including a summary of bills filed in the Legislature on the same subject in the preceding 5 years; and

(n) Any other information the proponents of the legislation consider agency or the committee considers relevant to the analysis of the proposed legislation.

(7) The state agency proposed to have jurisdiction over the regulation shall provide the President of the Senate and the Speaker of the House of Representatives with the following information within 25 days after the proponents of the legislation submit the draft legislation to the state agency in accordance with subsection (6) The agency shall provide the Legislature with information concerning the effect of proposed legislation that provides for new regulation of a profession or occupation regarding:

(a) The departmental resources necessary to implement and enforce the proposed regulation, including, but not limited to, the anticipated costs to implement and enforce the proposed regulation.
regulation and any anticipated license fees necessary to cover
the anticipated costs.†

(b) Whether additional statutory or rulemaking authority is
necessary to implement and enforce the proposed regulation.

(c) A comparison of similarly situated professions and
occupations regulated by the state agency.

(d) The anticipated impact on small businesses as defined
in s. 288.703 and small counties and small cities as defined in
s. 120.52.

(e) The anticipated impact on business competitiveness,
including the ability of persons doing business in the state to
compete with persons doing business in other states or domestic
markets.

(f) The anticipated impact on economic growth and private
sector job creation or employment.

(g) The technical sufficiency of the proposal for
regulation, including its consistency with the regulation of
other professions and occupations under existing law.† and

(h) If applicable, any alternatives to the proposed
regulation which may result in a less restrictive or more cost-
effective regulatory scheme.

(i) A good faith estimate of the number of individuals or
businesses that would be subject to the proposed regulation.

(j) A good faith estimate of the transactional costs likely
to be incurred by individuals and entities, including local
government entities, that would be required to comply with the
proposed regulation.

(k) Any other information the state agency determines
relevant to the analysis of the proposed regulation.
(8) If the state agency that is proposed to have jurisdiction over the regulation is unable to provide the information required by subsection (7), such state agency shall notify the proponents of the legislation, the President of the Senate, and the Speaker of the House of Representatives that the agency was unable to acquire sufficient information to comply with that subsection.

(9) When making a recommendation concerning proposed legislation providing for new regulation of a profession or occupation, a legislative committee shall determine:

(a) Whether the regulation is justified based on the criteria specified in subsection (3), the information submitted pursuant to request under subsection (4), and the information provided under subsections (4), (6), and (7) subsection (5);

(b) The least restrictive and most cost-effective regulatory scheme that will adequately protect the public; and

(c) The technical sufficiency of the proposed legislation, including its consistency with the regulation of other professions and occupations under existing law.

Section 2. This act shall take effect July 1, 2019.