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 the first legislative committee to which such legislation is referred to evaluate the legislation and make certain determinations; providing an exception; requiring such state agency to provide certain information to the Legislature within a certain time period; providing an exception; revising information that such 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
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 add a new regulatory category to, or expand the scope of practice for current practitioners of, a profession or occupation.
(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.
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.

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 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 evaluation analysis of the proposed legislation.

(7) (a) The first legislative committee to which legislation subject to this section is referred shall evaluate the proposed legislation, determine whether the requirements in this section have been met, and, except as provided in paragraph (b), determine whether the proposed regulation meets the criteria in this section. The committee may request from the proponents of the legislation or the state agency that is proposed to have jurisdiction over the regulation any other information it considers relevant to the evaluation of the proposed regulation.

(b) The committee may decline to evaluate and determine whether the proposed regulation meets the criteria in this section if:

1. Such committee has conducted an evaluation of and made a determination regarding the proposed regulation in the

CODING: Words struck are deletions; words underlined are additions.
preceeding 3 years; and

2. No new information was submitted that would alter or modify the committee's previous determination.

(8) 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 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 evaluation of the proposed regulation.

(9) If the state agency that is proposed to have
jurisdiction over the regulation is unable to provide the
information required by subsection (8), 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.

(10) When making a recommendation concerning proposed legislation providing for new regulation of a profession or occupation, the 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 (8) of 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.