

1 A bill to be entitled
2 An act relating to legislative review of proposed
3 regulation of unregulated functions; amending s.
4 11.62, F.S.; defining terms; providing that certain
5 requirements must be met before the adoption of a
6 regulation of an unregulated profession or occupation
7 or the substantial expansion of regulation of a
8 regulated profession or occupation; requiring the
9 proponents of legislation that proposes such
10 regulation to provide certain information to the state
11 agency proposed to have jurisdiction over the
12 regulation and the Legislature by a certain date;
13 requiring such state agency to provide certain
14 information to the Legislature within a certain time
15 period; providing an exception; revising information
16 that a legislative committee must consider when
17 determining whether a regulation is justified;
18 providing an effective date.

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

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

24 11.62 Legislative review of proposed regulation of
25 unregulated functions.—

26 (1) This section may be cited as the "Sunrise Act."

27 (2) It is the intent of the Legislature:

28 (a) That no profession or occupation be subject to
 29 regulation by the state unless the regulation is necessary to
 30 protect the public health, safety, or welfare from significant
 31 and discernible harm or damage and that the police power of the
 32 state be exercised only to the extent necessary for that
 33 purpose; and

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

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

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

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

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

51 factors:

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

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

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

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

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

71 (5) In order to ensure that the Legislature only adopts
72 those regulations that are necessary to protect the public, and
73 are the least restrictive regulatory alternative consistent with
74 the public interest, the requirements of this section must be
75 met before the adoption of:

76 (a) Any regulation of a profession or occupation not
 77 already expressly subject to state regulation; or

78 (b) Any regulation that substantially expands the
 79 regulation of a regulated profession or occupation.

80 (6)(4) The proponents of legislation, including any
 81 individual, group, or entity, that proposes ~~provides for~~ the
 82 regulation of an unregulated profession or occupation or the
 83 substantial expansion of regulation of a regulated profession or
 84 occupation ~~not already expressly subject to state regulation~~
 85 shall provide, ~~upon request,~~ the following information in
 86 writing to the state agency that is proposed to have
 87 jurisdiction over the regulation, the President of the Senate,
 88 and the Speaker of the House of Representatives at least 30 days
 89 before the regular session of the Legislature in which the
 90 legislation is to be filed ~~and to the legislative committees to~~
 91 ~~which the legislation is referred:~~

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

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

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

100 (d)(e) Documentation of the nature and extent of the harm

101 to the public caused by the unregulated practice of the
102 profession or occupation, including a description of any
103 complaints that have been lodged against persons who have
104 practiced the profession or occupation in this state during the
105 preceding 3 years;

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

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

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

117 (h)~~(g)~~ A copy of any federal legislation mandating
118 regulation;

119 (i)~~(h)~~ An explanation of the reasons why other types of
120 less restrictive regulation would not effectively protect the
121 public;

122 (j)~~(i)~~ The cost, availability, and appropriateness of
123 training and examination requirements;

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

126 (1)~~(k)~~ The cost imposed on applicants or practitioners or
 127 on employers of applicants or practitioners as a result of the
 128 regulation;

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

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

136 (7)~~(5)~~ The state agency proposed to have jurisdiction over
 137 the regulation shall provide the President of the Senate and the
 138 Speaker of the House of Representatives with the following
 139 information within 25 days after the proponents of the
 140 legislation submit the draft legislation to the state agency in
 141 accordance with subsection (6) ~~The agency shall provide the~~
 142 ~~Legislature with information concerning the effect of proposed~~
 143 ~~legislation that provides for new regulation of a profession or~~
 144 ~~occupation regarding:~~

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

150 (b) Whether additional statutory or rulemaking authority

151 is necessary to implement and enforce the proposed regulation.

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

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

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

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

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

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

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

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

175 (k) Any other information the state agency determines

176 relevant to the analysis of the proposed regulation.

177 (8) If the state agency that is proposed to have
178 jurisdiction over the regulation is unable to provide the
179 information required by subsection (7), such state agency shall
180 notify the proponents of the legislation, the President of the
181 Senate, and the Speaker of the House of Representatives that the
182 agency was unable to acquire sufficient information to comply
183 with that subsection.

184 (9)~~(6)~~ When making a recommendation concerning proposed
185 legislation providing for new regulation of a profession or
186 occupation, a legislative committee shall determine:

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

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

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

196 Section 2. This act shall take effect July 1, 2020.