By Senator Diaz

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 adopting the
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 that would have jurisdiction over the proposed
regulation and to the Legislature by a certain date;
requiring such state agency to provide certain
information to the Legislature within a specified
timeframe; providing an exception; revising the
information a legislative committee must consider when
determining whether 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 a no profession or an occupation may not 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 a profession or an occupation may not 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 an 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) In order to ensure that the Legislature adopts only those regulations that are necessary to protect the public and are the least restrictive regulatory alternatives consistent with the public interest, the requirements of this section must be met before the adoption of:

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

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

(6) The proponents of legislation, including any individual, group, or entity, that proposes that provides for the regulation of an unregulated profession or occupation or the substantial expansion of regulation of a regulated 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, to the President of the
Senate, and to 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
are not 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 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 all of 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 on small counties and small cities as those terms are defined in s. 120.52.

(e) The anticipated impact on business competitiveness, including the ability of persons doing business in this 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 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, 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 proposed to have jurisdiction over the regulation is unable to provide the information required by subsection (7), such state agency must 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)(6) 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, 2022.