



Sen. Pamela J. Althoff

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1 AMENDMENT TO HOUSE BILL 5212

2 AMENDMENT NO. _____. Amend House Bill 5212 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Regulatory Sunrise Review Act.

6 Section 5. Findings and intent.

7 (a) It is the General Assembly's intent that no profession
8 or occupation be subject to regulation by the State unless the
9 regulation is necessary to protect the public health, safety,
10 or welfare of the people of this State. If the need for new
11 regulation is identified, the State may adopt the least
12 restrictive form of regulation necessary to protect the public
13 interest.

14 (b) The General Assembly finds that the regulatory
15 environment in Illinois has grown overly burdensome and has
16 become a strain on both the regulatory authority of the State

1 and the ability of the people of Illinois to enter into and
2 work in various regulated professions. This Act is a means to
3 promote economic growth and decrease barriers to entry into
4 various professions in the State.

5 (c) This Act establishes a system to investigate and review
6 the necessity of new State regulation over a previously
7 unregulated profession or occupation. The Act further provides
8 for a process to investigate what level of regulation is
9 necessary in order to protect the public health, safety, or
10 welfare.

11 Section 10. Definitions. In this Act:

12 "Applicant" means a professional group or organization, an
13 individual, or any other interested party that proposes that a
14 profession or occupation not licensed by the Department before
15 January 1, 2018 be regulated through the licensure process.

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 Section 15. Policy. The General Assembly may not act upon
19 legislation that proposes to license and regulate a profession
20 or occupation not licensed by the Department before January 1,
21 2018 until a report as provided in this Act has been prepared
22 and submitted to the Secretary of State.

23 Section 20. Resolution; petition for regulation; fee;

1 process of obtaining cost-benefit report.

2 (a) The General Assembly shall commence the process
3 established by this Act to investigate and review the necessity
4 of new State regulation over a previously unregulated
5 profession or occupation by passage of a resolution.

6 (b) Upon passage by the General Assembly of the resolution,
7 an applicant that proposes legislation to license and regulate
8 a profession or occupation by the Department for which no
9 Department licensure or regulation exists shall submit a
10 petition for licensure, on forms provided by the Department,
11 and a non-refundable petition fee of \$1,000 to the Department
12 within 30 days after introduction of the legislation. The
13 petition for licensure shall request that a report be prepared
14 assessing the need for the proposed new licensure. The petition
15 fee shall be deposited in the General Professions Dedicated
16 Fund and shall be appropriated to the Department for the
17 ordinary and contingent expenses of the Department in the
18 administration of this Act.

19 (c) Upon receipt of a complete petition and petition fee,
20 the Department shall contract for the preparation of an
21 independent report assessing the need for the proposed new
22 licensure. The report shall be principally authored by a labor
23 market economist with a doctoral degree currently associated
24 with an Illinois post-secondary educational institution or by a
25 person with an advanced quantitative degree and an expertise in
26 cost-benefit analysis currently associated with an Illinois

1 post-secondary educational institution. If the Department is
2 unable to contract with a person meeting the qualifications
3 described in this subsection for the preparation of the
4 independent report, the Department may contract with a person
5 whose qualifications are substantially similar to those
6 described in this subsection. If the Department is unable to
7 enter into a contract for preparation of the independent report
8 for a sum not to exceed \$1,000, the Department may utilize
9 existing funds to supplement the \$1,000 fee collected.

10 (d) The report shall address the social and economic costs
11 and benefits of licensure, as well as the impact on the labor
12 market, impact on prices, and the rationale for policy
13 intervention. The report shall use modern cost-benefit
14 methods, including the following:

15 (1) defining the proposed licensed population,
16 including estimated number of participants, the users of
17 the services in question, and the Illinois economy
18 statewide;

19 (2) assessing a portfolio of alternatives to
20 licensing, as well as the impact of licensure;

21 (3) cataloging the potential impacts and selected
22 measurement indicators of licensure;

23 (4) predicting the quantitative impacts over the life
24 of the proposed license;

25 (5) monetizing all impacts;

26 (6) calculating the net present value;

1 (7) identifying the distribution of costs and
2 benefits; and

3 (8) performing sensitivity testing.

4 (e) The report shall also address each of the factors and
5 consider the criteria and standards described in Section 25,
6 and shall make a recommendation regarding licensure or other
7 applicable alternatives.

8 (f) A preliminary copy of the report shall be submitted to
9 the Department for its review and comment for a period of at
10 least 30 days. Any comments made by the Department shall be
11 included in the report.

12 (g) The report, including any Department comments, shall be
13 completed within 12 months after the effective date of the
14 Department's contract for the report's creation. The completed
15 report shall be filed with the Secretary of State.

16 (h) After the report is filed with the Secretary of State
17 and after due consideration by the General Assembly, the bill
18 proposing licensure of the profession or occupation may proceed
19 for consideration by the General Assembly.

20 (i) Nothing in this Act shall interfere with the General
21 Assembly otherwise considering legislation on any regulatory
22 matter.

23 Section 25. List of factors; criteria and standards.

24 (a) The following factors shall be considered in the report
25 submitted with a petition for proposed licensure and regulation

1 by the Department:

2 (1) whether regulation is necessary or beneficial,
3 including any potential harm or threat to the public if the
4 profession or occupation is not regulated or specific
5 examples of the harm or threat identified, if any;

6 (2) the extent to which the public will benefit from a
7 method of regulation that permits identification of
8 competent practitioners;

9 (3) the extent to which practitioners are autonomous,
10 as indicated by:

11 (A) the degree to which the profession or
12 occupation requires the use of independent judgment
13 and the skill or experience required in making such
14 judgment; and

15 (B) the degree to which practitioners are
16 supervised;

17 (4) the efforts that have been made to address any
18 concerns that give rise to the need for regulation,
19 including:

20 (A) voluntary efforts, if any, by members of the
21 profession or occupation to:

22 (i) establish a code of ethics;

23 (ii) help resolve disputes between
24 practitioners and consumers; and

25 (iii) establish requirements for continuing
26 education;

1 (B) the existence of any national accreditation or
2 national certification systems for the profession or
3 occupation;

4 (C) recourse to and the extent of use of existing
5 law; and

6 (D) any prior attempts to regulate the profession
7 or occupation in Illinois;

8 (5) whether the following alternatives to licensure
9 would be adequate to protect the public interest:

10 (A) existing, new, or stronger civil remedies or
11 criminal sanctions;

12 (B) regulation of the service rather than the
13 individual practitioners;

14 (C) registration of all practitioners;

15 (D) market competition and third-party or
16 consumer-created ratings and reviews;

17 (E) voluntary or mandatory bonding or insurance;

18 (F) other alternatives;

19 (6) the benefit to the public if licensure is required,
20 including:

21 (A) whether regulation will result in reduction or
22 elimination of the harms or threats identified under
23 paragraph (1) of this subsection;

24 (B) the extent to which the public can be confident
25 that a practitioner is competent;

26 (C) whether renewal will be based only upon payment

1 of a fee or whether renewal will require completion of
2 continuing education or any other requirements;

3 (D) the standards for registration or licensure as
4 compared with the standards of other jurisdictions;
5 and

6 (E) the nature and duration of the educational
7 requirement, if any, including: whether the
8 educational requirement includes a substantial amount
9 of supervised field experience; whether educational
10 programs exist in this State; whether there will be an
11 experience requirement; whether the experience must be
12 acquired under a registered, certified, or licensed
13 practitioner; whether there are alternative routes of
14 entry or methods of satisfying the eligibility
15 requirements and qualifications; whether all
16 applicants will be required to pass an examination;
17 and, if an examination is required, by whom it will be
18 developed and how the costs of development will be met;

19 (7) the extent to which regulation might harm the
20 public, including:

21 (A) whether regulation will restrict entry into
22 the profession or occupation, including:

23 (i) whether the standards are the least
24 restrictive necessary to ensure safe and effective
25 performance; and

26 (ii) whether persons who are registered or

1 licensed in another jurisdiction that has
2 requirements that are substantially equivalent to
3 those of this State will be eligible for
4 endorsement or some form of reciprocity; and

5 (B) whether there are similar professions or
6 occupations that should be included or portions of the
7 profession or occupation that should be excluded from
8 regulation;

9 (8) how the standards of the profession or occupation
10 will be maintained, including:

11 (A) whether effective quality assurance standards
12 exist in the profession or occupation, such as legal
13 requirements associated with specific programs that
14 define or enforce standards or a code of ethics; and

15 (B) how the proposed form of regulation will ensure
16 quality, including:

17 (i) the extent to which a code of ethics, if
18 any, will be adopted; and

19 (ii) the grounds for suspension, revocation,
20 or refusal to renew registration, certification,
21 or licensure;

22 (9) how the additional cost that the Department will
23 incur in licensing the profession or occupation will be
24 recouped through licensing application and renewal fees;

25 (10) a profile of the practitioners in this State,
26 including a list of associations, organizations, and other

1 groups representing the practitioners and including an
2 estimate of the number of practitioners in each group; and

3 (11) whether the profession or occupation is currently
4 regulated in any other state and what methods of regulation
5 each state utilizes.

6 (b) A profession or occupation shall be regulated by the
7 State only when the following criteria are met:

8 (1) it can be demonstrated that the unregulated
9 practice of the profession or occupation can clearly harm
10 or endanger the health, safety, or welfare of the public
11 and the potential for the harm is recognizable and not
12 remote or speculative;

13 (2) the public can reasonably be expected to benefit
14 from an assurance of initial and continuing professional
15 ability;

16 (3) the public cannot be effectively protected by other
17 means; and

18 (4) regulation of the profession does not impose
19 significant new economic hardships on the public,
20 significantly diminish the supply of qualified
21 practitioners, or otherwise create barriers to service
22 that are not consistent with the public welfare or
23 interest.

24 Section 30. Review by the General Assembly. After
25 evaluating the petition, report, and Department comments and

1 considering governmental and societal costs and benefits, if
2 the General Assembly finds that it is necessary to regulate a
3 profession or occupation, the least restrictive method of
4 regulation may be imposed, consistent with the public interest
5 and this Section. In addition, the items in the following list
6 shall be considered in the following numbered order before
7 making a determination:

8 (1) If existing common law and statutory civil remedies
9 and criminal sanctions are insufficient to reduce or
10 eliminate existing harm, regulation shall occur through
11 enactment of stronger civil remedies and criminal
12 sanctions.

13 (2) If there exists a national accreditation or
14 certification system for the profession or occupation that
15 adequately ensures quality and protects the public health,
16 safety, and welfare, regulation by the State shall be
17 restricted to addressing those concerns that are not
18 covered by the national program.

19 (3) If the threat to the public health, safety, or
20 welfare is insufficiently large to justify licensure,
21 regulation shall be through a system of registration.

22 (4) If it is apparent that the public cannot be
23 adequately protected by any other means, a system of
24 licensure shall be imposed.

25 Section 35. Severability. If any part of the application of

1 this Act is held invalid, the remainder of its application to
2 other situations, groups, or persons shall not be affected.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".