



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1286

Introduced 2/7/2019, by Sen. Jason Plummer

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Regulatory Sunrise Review Act. Establishes a system to investigate and review the necessity of new State regulation over a previously unregulated profession or occupation. Provides a process to investigate what level of regulation is necessary in order to protect the public health, safety, or welfare. Provides that the General Assembly shall commence the process established by this Act to investigate and review the necessity of new State regulation over a previously unregulated profession by passage of a resolution. Requires that an applicant that proposes legislation to license a profession or occupation submit a petition for licensure on forms provided by the Department of Financial and Professional Regulation and pay a fee of \$1,000 within 30 days after introduction of the proposed professional regulation legislation. Provides that the Department shall prepare a report within 12 months assessing the need for the proposed new licensure upon receipt of a complete petition and petition fee. Provides that the report shall be principally authored by persons with specified qualifications or by persons whose qualifications are substantially similar to specified qualifications. Provides that if the Department is unable to enter into a contract for preparation of the report for a sum not to exceed \$1,000, the Department may seek and the General Assembly may approve an appropriation from the general revenue fund to supplement the \$1,000 fee collected. Provides the various requirements, factors, criteria, and standards that must be included in a report. Provides that a report must be filed with the Secretary of State. Effective immediately.

LRB101 09378 JRG 54476 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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 shall 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  
17 and the ability of the people of Illinois to enter into and  
18 work in various regulated professions. This Act is a means to  
19 promote economic growth and decrease barriers to entry into  
20 various professions in the State.

21 (c) This Act establishes a system to investigate and review  
22 the necessity of new State regulation over a previously  
23 unregulated profession or occupation. The Act further provides

1 for a process to investigate what level of regulation is  
2 necessary in order to protect the public health, safety, or  
3 welfare.

4 Section 10. Definitions. In this Act:

5 "Applicant" means a professional group or organization, an  
6 individual, or any other interested party that proposes that a  
7 profession or occupation not licensed by the Department before  
8 January 1, 2020 be regulated through the licensure process.

9 "Department" means the Department of Financial and  
10 Professional Regulation.

11 Section 15. Policy. The General Assembly shall not act upon  
12 legislation that proposes to license and regulate a profession  
13 or occupation not licensed by the Department before January 1,  
14 2020 until a report as provided in this Act has been prepared  
15 and submitted to the Secretary of State.

16 Section 20. Resolution; petition for regulation; fee;  
17 process of obtaining cost-benefit report.

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

22 (b) Upon passage by the General Assembly of the resolution,  
23 an applicant that proposes legislation to license and regulate

1 a profession or occupation by the Department for which no  
2 Department licensure or regulation exists shall submit a  
3 petition for licensure, on forms provided by the Department,  
4 and a non-refundable petition fee of \$1,000 to the Department  
5 within 30 days after introduction of the legislation. The  
6 petition for licensure shall request that a report be prepared  
7 assessing the need for the proposed new licensure. The petition  
8 fee shall be deposited in the General Professions Dedicated  
9 Fund and shall be appropriated to the Department for the  
10 ordinary and contingent expenses of the Department in the  
11 administration of this Act.

12 (c) Upon receipt of a complete petition and petition fee,  
13 the Department shall contract for the preparation of an  
14 independent report assessing the need for the proposed new  
15 licensure. The report shall be principally authored by a labor  
16 market economist with a doctoral degree currently associated  
17 with an Illinois post-secondary educational institution or by a  
18 person with an advanced quantitative degree and an expertise in  
19 cost-benefit analysis currently associated with an Illinois  
20 post-secondary educational institution. If the Department is  
21 unable to contract with a person meeting the qualifications  
22 described in this subsection for the preparation of the  
23 independent report, the Department may contract with a person  
24 whose qualifications are substantially similar to those  
25 described in this subsection. If the Department is unable to  
26 enter into a contract for preparation of the independent report

1 for a sum not to exceed \$1,000, the Department may seek and the  
2 General Assembly may approve an appropriation from the General  
3 Revenue Fund to supplement the \$1,000 fee collected.

4 (d) The report shall address the social and economic costs  
5 and benefits of licensure, as well as the impact on the labor  
6 market, impact on prices, and the rationale for policy  
7 intervention. The report shall use modern cost-benefit  
8 methods, including the following:

9 (1) defining the proposed licensed population,  
10 including estimated number of participants, the users of  
11 the services in question, and the Illinois economy  
12 statewide;

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

15 (3) cataloging the potential impacts and selected  
16 measurement indicators of licensure;

17 (4) predicting the quantitative impacts over the life  
18 of the proposed license;

19 (5) monetizing all impacts;

20 (6) calculating the net present value;

21 (7) identifying the distribution of costs and  
22 benefits; and

23 (8) performing sensitivity testing.

24 (e) The report shall also address each of the factors and  
25 consider the criteria and standards described in Section 25,  
26 and shall make a recommendation regarding licensure or other

1 applicable alternatives.

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

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

10 (h) After the report is filed with the Secretary of State  
11 and after due consideration by the General Assembly, the bill  
12 proposing licensure of the profession or occupation may proceed  
13 for consideration by the General Assembly.

14 (i) Nothing in this Act shall interfere with the General  
15 Assembly otherwise considering legislation on any regulatory  
16 matter.

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

18 (a) The following factors shall be considered in the report  
19 submitted with a petition for proposed licensure and regulation  
20 by the Department:

21 (1) whether regulation is necessary or beneficial,  
22 including any potential harm or threat to the public if the  
23 profession or occupation is not regulated or specific  
24 examples of the harm or threat identified, if any;

25 (2) the extent to which the public will benefit from a

1 method of regulation that permits identification of  
2 competent practitioners;

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

5 (A) the degree to which the profession or  
6 occupation requires the use of independent judgment  
7 and the skill or experience required in making such  
8 judgment; and

9 (B) the degree to which practitioners are  
10 supervised;

11 (4) the efforts that have been made to address any  
12 concerns that give rise to the need for regulation,  
13 including:

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

16 (i) establish a code of ethics;

17 (ii) help resolve disputes between  
18 practitioners and consumers; and

19 (iii) establish requirements for continuing  
20 education;

21 (B) the existence of any national accreditation or  
22 national certification systems for the profession or  
23 occupation;

24 (C) recourse to and the extent of use of existing  
25 law; and

26 (D) any prior attempts to regulate the profession

1 or occupation in Illinois;

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

4 (A) existing, new, or stronger civil remedies or  
5 criminal sanctions;

6 (B) regulation of the service rather than the  
7 individual practitioners;

8 (C) registration of all practitioners;

9 (D) market competition and third-party or  
10 consumer-created ratings and reviews;

11 (E) voluntary or mandatory bonding or insurance;

12 (F) other alternatives;

13 (6) the benefit to the public if licensure is required,  
14 including:

15 (A) whether regulation will result in reduction or  
16 elimination of the harms or threats identified under  
17 paragraph (1) of this subsection;

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

20 (C) whether renewal will be based only upon payment  
21 of a fee or whether renewal will require completion of  
22 continuing education or any other requirements;

23 (D) the standards for registration or licensure as  
24 compared with the standards of other jurisdictions;  
25 and

26 (E) the nature and duration of the educational



1 requirement, if any, including: whether the  
2 educational requirement includes a substantial amount  
3 of supervised field experience; whether educational  
4 programs exist in this State; whether there will be an  
5 experience requirement; whether the experience must be  
6 acquired under a registered, certified, or licensed  
7 practitioner; whether there are alternative routes of  
8 entry or methods of satisfying the eligibility  
9 requirements and qualifications; whether all  
10 applicants will be required to pass an examination;  
11 and, if an examination is required, by whom it will be  
12 developed and how the costs of development will be met;  
13 (7) the extent to which regulation might harm the  
14 public, including:

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

17 (i) whether the standards are the least  
18 restrictive necessary to ensure safe and effective  
19 performance; and

20 (ii) whether persons who are registered or  
21 licensed in another jurisdiction that has  
22 requirements that are substantially equivalent to  
23 those of this State will be eligible for  
24 endorsement or some form of reciprocity; and

25 (B) whether there are similar professions or  
26 occupations that should be included or portions of the

1 profession or occupation that should be excluded from  
2 regulation;

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

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

9 (B) how the proposed form of regulation will ensure  
10 quality, including:

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

13 (ii) the grounds for suspension, revocation,  
14 or refusal to renew registration, certification,  
15 or licensure;

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

19 (10) a profile of the practitioners in this State,  
20 including a list of associations, organizations, and other  
21 groups representing the practitioners and including an  
22 estimate of the number of practitioners in each group; and

23 (11) whether the profession or occupation is currently  
24 regulated in any other state and what methods of regulation  
25 each state utilizes.

26 (b) A profession or occupation shall be regulated by the

1 State only when the following criteria are met:

2 (1) it can be demonstrated that the unregulated  
3 practice of the profession or occupation can clearly harm  
4 or endanger the health, safety, or welfare of the public  
5 and the potential for the harm is recognizable and not  
6 remote or speculative;

7 (2) the public can reasonably be expected to benefit  
8 from an assurance of initial and continuing professional  
9 ability;

10 (3) the public cannot be effectively protected by other  
11 means; and

12 (4) regulation of the profession does not impose  
13 significant new economic hardships on the public,  
14 significantly diminish the supply of qualified  
15 practitioners, or otherwise create barriers to service  
16 that are not consistent with the public welfare or  
17 interest.

18 Section 30. Review by the General Assembly. After  
19 evaluating the petition, report, and Department comments and  
20 considering governmental and societal costs and benefits, if  
21 the General Assembly finds that it is necessary to regulate a  
22 profession or occupation, the least restrictive method of  
23 regulation shall be imposed, consistent with the public  
24 interest and this Section.

25 (1) If existing common law and statutory civil remedies

1 and criminal sanctions are insufficient to reduce or  
2 eliminate existing harm, regulation shall occur through  
3 enactment of stronger civil remedies and criminal  
4 sanctions.

5 (2) If there exists a national accreditation or  
6 certification system for the profession or occupation that  
7 adequately ensures quality and protects the public health,  
8 safety, and welfare, regulation by the State shall be  
9 restricted to addressing those concerns that are not  
10 covered by the national program.

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

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

17 Section 35. Severability. If any part of the application of  
18 this Act is held invalid, the remainder of its application to  
19 other situations, groups, or persons shall not be affected.

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.