



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1756

Introduced 2/15/2019, by Sen. Jennifer Bertino-Tarrant

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 the 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 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 utilize existing funds 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. Provides that if the General Assembly finds that it is necessary to regulate a profession or occupation, the least restrictive method of regulation may be imposed. Provides a list of factors for the General Assembly to consider when making determinations. Effective immediately.

LRB101 09296 JRG 54390 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 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
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, 2019 be regulated through the licensure process.

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

11 Section 15. Policy. The General Assembly may 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 2019 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 utilize
2 existing funds to supplement the \$1,000 fee collected.

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

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

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

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

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

18 (5) monetizing all impacts;

19 (6) calculating the net present value;

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

22 (8) performing sensitivity testing.

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

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

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

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

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

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

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

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

24 (2) the extent to which the public will benefit from a
25 method of regulation that permits identification of

1 competent practitioners;

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

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

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

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

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

15 (i) establish a code of ethics;

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

18 (iii) establish requirements for continuing
19 education;

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

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

25 (D) any prior attempts to regulate the profession
26 or occupation in Illinois;

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

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

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

7 (C) registration of all practitioners;

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

10 (E) voluntary or mandatory bonding or insurance;

11 (F) other alternatives;

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

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

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

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

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

25 (E) the nature and duration of the educational
26 requirement, if any, including: whether the

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

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

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

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

24 (B) whether there are similar professions or
25 occupations that should be included or portions of the
26 profession or occupation that should be excluded from

1 regulation;

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

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

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

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

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

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

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

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

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

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

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

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

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

17 Section 30. Review by the General Assembly. After
18 evaluating the petition, report, and Department comments and
19 considering governmental and societal costs and benefits, if
20 the General Assembly finds that it is necessary to regulate a
21 profession or occupation, the least restrictive method of
22 regulation may be imposed, consistent with the public interest
23 and this Section. In addition, the items in the following list
24 shall be considered in the following numbered order before
25 making a determination:

1 (1) If existing common law and statutory civil remedies
2 and criminal sanctions are insufficient to reduce or
3 eliminate existing harm, regulation shall occur through
4 enactment of stronger civil remedies and criminal
5 sanctions.

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

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

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

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

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