

By the Committee on Regulated Industries

315-322B-98

1                                   A bill to be entitled  
2           An act relating to the regulation of  
3           professions and occupations; amending s. 11.62,  
4           F.S.; providing criteria for evaluating  
5           proposals for new regulations based on the  
6           effect of such regulations on job creation or  
7           retention; amending ss. 455.201 and 455.517,  
8           F.S.; providing criteria for evaluating  
9           proposals to increase the regulation of  
10          currently regulated professions based on the  
11          effect of such regulations on job creation or  
12          retention; providing an effective date.

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

16           Section 1. Subsections (3) and (4) of section 11.62,  
17 Florida Statutes, are amended to read:

18           11.62 Legislative review of proposed regulation of  
19 unregulated functions.--

20           (3) In determining whether to regulate a profession or  
21 occupation, the Legislature shall consider the following  
22 factors:

23           (a) Whether the unregulated practice of the profession  
24 or occupation will substantially harm or endanger the public  
25 health, safety, or welfare, and whether the potential for harm  
26 is recognizable and not remote;

27           (b) Whether the practice of the profession or  
28 occupation requires specialized skill or training, and whether  
29 that skill or training is readily measurable or quantifiable  
30 so that examination or training requirements would reasonably  
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1 assure initial and continuing professional or occupational  
2 ability;

3 (c) Whether the regulation will have an unreasonable  
4 effect on job creation or job retention in the state or will  
5 place unreasonable restrictions on the ability of individuals  
6 who seek to practice or who are practicing a given profession  
7 or occupation to find employment;

8 (d)~~(c)~~ Whether the public is or can be effectively  
9 protected by other means; and

10 (e)~~(d)~~ Whether the overall cost-effectiveness and  
11 economic impact of the proposed regulation, including the  
12 indirect costs to consumers, will be favorable.

13 (4) The proponents of legislation that provides for  
14 the regulation of a profession or occupation not already  
15 expressly subject to state regulation shall provide, upon  
16 request, the following information in writing to the state  
17 agency that is proposed to have jurisdiction over the  
18 regulation and to the legislative committees to which the  
19 legislation is referred:

20 (a) The number of individuals or businesses that would  
21 be subject to the regulation;

22 (b) The name of each association that represents  
23 members of the profession or occupation, together with a copy  
24 of its codes of ethics or conduct;

25 (c) Documentation of the nature and extent of the harm  
26 to the public caused by the unregulated practice of the  
27 profession or occupation, including a description of any  
28 complaints that have been lodged against persons who have  
29 practiced the profession or occupation in this state during  
30 the preceding 3 years;

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1 (d) A list of states that regulate the profession or  
2 occupation, and the dates of enactment of each law providing  
3 for such regulation and a copy of each law;

4 (e) A list and description of state and federal laws  
5 that have been enacted to protect the public with respect to  
6 the profession or occupation and a statement of the reasons  
7 why these laws have not proven adequate to protect the public;

8 (f) A description of the voluntary efforts made by  
9 members of the profession or occupation to protect the public  
10 and a statement of the reasons why these efforts are not  
11 adequate to protect the public;

12 (g) A copy of any federal legislation mandating  
13 regulation;

14 (h) An explanation of the reasons why other types of  
15 less restrictive regulation would not effectively protect the  
16 public;

17 (i) The cost, availability, and appropriateness of  
18 training and examination requirements;

19 ~~(j)(i)~~ The cost of regulation, including the indirect  
20 cost to consumers, and the method proposed to finance the  
21 regulation;

22 (k) The cost imposed on applicants or practitioners or  
23 on employers of applicants or practitioners as a result of the  
24 regulation;

25 ~~(l)(j)~~ The details of any previous efforts in this  
26 state to implement regulation of the profession or occupation;  
27 and

28 ~~(m)(k)~~ Any other information the agency or the  
29 committee considers relevant to the analysis of the proposed  
30 legislation.

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1           Section 2. Subsection (4) of section 455.201, Florida  
2 Statutes, is amended to read:

3           455.201 Professions and occupations regulated by  
4 department; legislative intent; requirements.--

5           (4)(a) Neither the department nor any board may ~~No~~  
6 ~~board, nor the department, shall~~ create unreasonably  
7 restrictive and extraordinary standards that deter qualified  
8 persons from entering the various professions. Neither the  
9 department nor any board may ~~No board, nor the department,~~  
10 ~~shall~~ take any action that ~~which~~ tends to create or maintain  
11 an economic condition that unreasonably restricts competition,  
12 except as specifically provided by law.

13           (b) Neither the department nor any board may create a  
14 regulation that has an unreasonable effect on job creation or  
15 job retention in the state or that places unreasonable  
16 restrictions on the ability of individuals who seek to  
17 practice or who are practicing a given profession or  
18 occupation to find employment.

19           (c) The Legislature shall evaluate proposals to  
20 increase regulation of already regulated professions or  
21 occupations to determine their effect on job creation or  
22 retention and employment opportunities.

23           Section 3. Subsection (4) of section 455.517, Florida  
24 Statutes, is amended to read:

25           455.517 Professions and occupations regulated by  
26 department; legislative intent; requirements.--

27           (4)(a) Neither the department nor any board may ~~No~~  
28 ~~board, nor the department, shall~~ create unreasonably  
29 restrictive and extraordinary standards that deter qualified  
30 persons from entering the various professions. Neither the  
31 department nor any board may ~~No board, nor the department,~~

1 ~~shall~~ take any action that ~~which~~ tends to create or maintain  
2 an economic condition that unreasonably restricts competition,  
3 except as specifically provided by law.

4 (b) Neither the department nor any board may create a  
5 regulation that has an unreasonable effect on job creation or  
6 job retention in the state or that places unreasonable  
7 restrictions on the ability of individuals who seek to  
8 practice or who are practicing a profession or occupation to  
9 find employment.

10 (c) The Legislature shall evaluate proposals to  
11 increase the regulation of regulated professions or  
12 occupations to determine the effect of increased regulation on  
13 job creation or retention and employment opportunities.

14 Section 4. This act shall take effect October 1, 1998.

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17 SENATE SUMMARY

18 Provides criteria to evaluate proposals for the  
19 regulation of professions or occupations based on the  
20 effect of such regulations on job creation or retention.

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