

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 1124

INTRODUCER: Senator Diaz

SUBJECT: Legislative Review of Occupational Regulations

DATE: February 14, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | McVaney | McVaney | GO | Pre-meeting |
| 2. | _____ | _____ | AP | _____ |
| 3. | _____ | _____ | RC | _____ |

I. Summary:

SB 1124 repeals over 100 occupational regulatory programs currently administered in Florida. The bill states that it is the intent of the legislature to review each program before the scheduled effective date of the repeal of the program to determine whether (a) to allow the program to expire under the terms of this bill, (b) to enact another law to save the program from repeal and to renew the program with or without modifications, or (c) to provide for other appropriate actions.

If an occupational regulatory program expires through the repeal of the program by this act, the agency positions responsible for administering the program are abolished and any appropriations for the program revert. Any remaining unencumbered revenue collected under the program must be refunded on a pro rata basis if the refund is requested within one year of the repeal. Any causes of action pending upon repeal of the program are transferred to the Department of Legal Affairs to be prosecuted or defended.

The bill preempts to the state the regulation of any occupation related to an occupational regulatory program repealed by this act.

State agencies who administer occupational regulatory programs that are repealed by this act will experience a reduction in revenues associated with the repealed regulatory fees and licenses. On the other hand, these same agencies will experience a reduction in expenditures associated with the ceased administration of the occupation regulatory programs.

In some instances, the regulatory revenues associated with the administration of the occupation regulatory programs are subject to the general revenue service charge imposed by s. 215.20, F.S. To the extent the regulatory fees subject to the service charge expire, the distributions to the General Revenue Fund will be reduced.

The bill provides that, except as otherwise provided in the act, the act takes effect upon becoming a law.

II. Present Situation:

Occupational Licensing

An occupational or professional license is a form of regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain permission from the government to perform the work. Generally, an individual obtains such permission by demonstrating that they have the designated knowledge, skills, and abilities to perform the work by meeting pre-determined criteria established by the government, such as work experience and examinations. If the individual successfully completes the pre-determined criteria, the government issues the individual a license, which allows them to perform the work.

Various governmental entities and agencies in Florida license and regulate such individuals practicing in a wide range of professions, including:

- Department of Business and Professional Regulation (DBPR),
- Department of Health (DOH),
- Department of Financial Services (DFS),
- Department of Agriculture and Consumer Services (DACS),
- Florida Supreme Court (FSC),
- Department of Environmental Protection (DEP),
- Agency for Healthcare Administration (AHCA),
- Department of Children and Families (DCF),
- Department of Elder Affairs (DEA),
- Department of Highway Safety and Motor Vehicles (DHSMV), and
- Office of Financial Regulation (OFR).

Sunset Reviews of Occupations and Professions

A sunset review is a clause within a statute or regulation requiring the statute or regulation to expire on a certain date unless the legislature takes action to renew the statute or regulation. A sunset review allows regulations to be periodically examined to determine if they are necessary or if the need to be changed, improved, or reduced. Sunset reviews can be useful, because even if a regulation was justified when first introduced, technological and economic advancements may have made the regulation unnecessary or overly burdensome.¹ Thirty-six states have some form of sunset process for existing occupational licensing laws, ranging from automatic program

¹ White House Report, *supra* note 1 at 48-49; *Improving Occupational Licensing with Sunrise and Sunset Reviews*, National Conference of State Legislatures, (July 2018), <http://www.ncsl.org/research/labor-and-employment/improving-occupational-licensing-with-sunrise-and-sunset-reviews.aspx> (last visited Dec. 30, 2019); Council on Licensure & Regulation, *Sunrise, Sunset and State Agency Audits*, <https://www.clearhq.org/page-486181> (last visited Dec. 30, 2019); Brian Baugus & Feler Bose, *Sunset Legislation in the States: Balancing the Legislature and the Executive*, Mercatus Center, 3 (August 2015).

reviews and repeals, to sunset recommendations made from a commission to the state legislature.²

Sunset Reviews of Occupations and Professions in Florida

In 1976, the Florida Legislature enacted The Regulatory Reform Act.³ The Act set up a sunset review process which called for a systematic, cyclical review and repeal of statutes related to the regulatory functions of the executive branch, including statutes regulating professions, occupations, businesses, and industries. In 1978, The Sundown Act was enacted as a supplement to the sunset review law to set up a review for boards of trustees, commissions, and advisory bodies which were connected to executive agency functions.⁴

The law required certain committees within the Legislature to perform an in-depth review and make a recommendation for the continuation, modification, or repeal of certain occupational regulatory programs. The recommendation needed to consider the following criteria:⁵

- Would the absence of the regulation significantly harm or endanger the public health, safety, or welfare?
- Is there a reasonable relationship between the exercise of the police power of the state and the protection of the public health, safety, and welfare?
- Is there a less restrictive method of regulation available that would adequately protect the public?
- Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved, and, if so, to what degree?
- Is the increase in cost more harmful to the public than the harm that would result from the absence of regulation?
- Are any facets of the regulatory process designed for the purpose of benefitting, and do they have as their primary effect the benefit of, their regulated entity?

During the sunset review process, if any program was allowed to expire, the personnel positions which were responsible for carrying out the program and all unexpended balances of appropriations, allocations, or other funds for such program were to be reverted to the fund from which they were appropriated, or, if that fund was abolished, to the General Revenue Fund. Any remaining unencumbered revenue collected under a repealed occupational regulatory program were to be refunded on a pro rata basis by the Comptroller (now the Chief Financial Officer), upon request of the person or entity who paid, if such request was made within 1 year after the repeal of the program.⁶

The Act also provided that any cause of action pending on the date any program was repealed, or any cause of action brought thereafter, was to be prosecuted or defended in the name of the state

² *Improving Occupational Licensing with Sunrise and Sunset Reviews*, National Conference of State Legislatures, (July 2018), <http://www.ncsl.org/research/labor-and-employment/improving-occupational-licensing-with-sunrise-and-sunset-reviews.aspx> (last visited Dec. 30, 2019).

³ Chapter 1976-168, L.O.F. (codified as s. 11.61, F.S.)

⁴ Chapter 1978-323, L.O.F. (codified as s. 11.611, F.S.)

⁵ Section 11.61(6), F.S. (1991).

⁶ Section 11.61(7)-(8), F.S. (1991).

by the Department of Legal Affairs. All regulatory activities related to the repealed program were to cease after the date of repeal.⁷

In 1991, the Senate Committee on Government Operations (SCGO) performed a review of the sunset and sundown laws. SCGO found that between 1977 and 1991, 240 program sunset reviews were completed. During that time period, an estimated 20 regulatory laws were repealed, and 50 new ones were created. Based on the mandatory nature of the in-depth review process, it was found that the costs of the sunset reviews were high in terms of legislative and executive agency staff time. The SCGO report also found that the initial reviews of regulatory programs were more useful than any second or subsequent reviews.⁸

In light of the SCGO findings, the sunset reviews for occupations, professions, businesses, and industries under the Regulatory Reform Act, and entities under The Sundown Act, were repealed in 1991. There has not been a comprehensive sunset review process specifically for occupational licensing schemes since.⁹

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies it precludes a local government from exercising authority in that particular area.¹⁰

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.¹¹ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.¹² In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.¹³ Implied preemption is “a more difficult concept.”¹⁴ Implied preemption will be found to exist in those circumstances where the state “legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature.”¹⁵ Thus, implied preemption is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.¹⁶ Implied preemption is generally disfavored by courts and the

⁷ Section 11.61(9), F.S. (1991).

⁸ Florida Senate Committee on Government Operations, Staff Analysis of 1991 Senate Bill 28-D, note 8, at 3 (Dec. 11, 1991).

⁹ Ch. 91-429, Laws of Fla. Between 2006 and 2011, there was another systematic and scheduled sunset review process which included occupational regulatory programs, but that review process was applicable to every aspect of state agencies as a whole. That process was repealed in 2011. Ch. 2011-35, Laws of Fla.

¹⁰ Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

¹¹ See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

¹² *Mulligan*, 934 So.2d at 1243.

¹³ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).

¹⁴ *Tallahassee Mem'l Reg'l Med. Ctr., Inc. v. Tallahassee Med. Ctr., Inc.*, 681 So. 2d 826, 831 (Fla. 1st DCA 1996).

¹⁵ *Id.* (citations omitted)

¹⁶ *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

Supreme Court has emphasized that it can be found only “so long as it is clear that the legislature has clearly preempted local regulation of the subject.”¹⁷ In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.¹⁸ Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.¹⁹

III. Effect of Proposed Changes:

The bill repeals specified occupational regulatory programs, over four years, beginning July 1, 2021, and ending July 1, 2024. The bill impacts over 100 professions and occupations.

The bill states that it is the intent of the legislature to complete a systematic review of the costs and benefits of certain occupational regulatory programs prior to the date set for repeal to determine whether the program should be allowed to expire, be fully renewed, or be renewed with modifications.

The bill provides:

“There is established a schedule for systematic review of the costs and benefits of occupational regulatory programs. The Legislature intends to review each program before the scheduled date on which each occupational regulatory program is set to expire through scheduled repeal to determine whether to allow the program to expire, renew the program without modifications, renew the program with modifications, or provide for other appropriate actions.”

The bill defines the following terms:

- "Occupational regulatory program" or "program" means any statutory regulatory provision or scheme which places a condition on practicing an occupation, including, but not limited to, programs that require a license, certification, registration, or credential.
- "Local government" means a county, municipality, special district, or political subdivision of the state.
- "Occupation" means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.

When an occupational regulatory program is allowed to expire or is repealed, the bill requires:

- The personnel positions which are responsible for carrying out the program to be abolished, and all unexpended balances of appropriations, allocations, or other funds for such program revert to the fund from which they were appropriated, or, if that fund is abolished, to the General Revenue Fund, within 60 days;
- Any remaining unencumbered revenue collected under a repealed occupational regulatory program to be refunded on a pro rata basis by the Chief Financial Officer, upon request of the

¹⁷ Mulligan 934 So.2d at 1243.

¹⁸ See, e.g., *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

¹⁹ *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.

person or entity who paid, if such request is made within 1 year after the repeal of the program;

- Any cause of action pending on the date the occupational regulatory program was repealed, or any cause of action brought thereafter, to be prosecuted or defended in the name of the state by the Department of Legal Affairs, if prior to repeal such action would have been prosecuted or defended by the occupational regulatory program repealed by this act; and
- All regulatory activities related to the repealed program cease after the date of repeal, except as otherwise authorized.

The bill prohibits any local government from regulating any occupation or profession of any repealed occupational regulatory program, and preempts such regulation to the state, unless local regulation of such occupation is expressly authorized by law.

If after the effective date of the bill a law scheduled for review under the bill is amended or transferred, such action does not eliminate the scheduled repeal of such law, unless otherwise expressly provided in law.

Section 1 provides that this act may be cited as the “Occupational Regulation Sunset Act.”

Section 2 creates s. 11.65, F.S., to provide legislative intent that each occupational regulatory program be reviewed before the effective date of the repeal of a program.

Section 3 repeals the following regulatory statutes on July 1, 2021:

- Sections 25.383 and 25.386, F.S., authorizing the Florida Supreme Court to regulate Court Reporters and Foreign Language Court Interpreters;
- Ch. 310, F.S., authorizing the Department of Business and Professional Regulation (DBPR) to regulate harbor pilots;
- Section 320.8249, F.S., authorizing the Department of Highway Safety and Motor Vehicles (HSMV) to regulate mobile home installers;
- Ch. 326, F.S., authorizing DBPR to regulate yacht and ship brokers;
- Sections 401.27, and 401.271 – 401.273, 401.465, F.S., authorizing the Department of Health (DOH) to regulate paramedics, emergency medical technicians, and 911 operators;
- Part VI of ch. 468, F.S., authorizing the DBPR to regulate auctioneers and auctioneer apprentices;
- Part VII of ch. 468, F.S., authorizing the DBPR to regulate talent agencies;
- Part VIII of ch. 468, F.S., authorizing the DBPR to regulate community association managers;
- Part IX of ch. 468, F.S., authorizing the DBPR to regulate athlete agents;
- Part X of ch. 468, F.S., authorizing the DOH to regulate dietitians, nutritionists, and nutrition counselors;
- Part XIII of ch. 468, F.S., authorizing the DOH to regulate athlete trainers;
- Part XIV of ch. 468, F.S., authorizing the DOH to regulate orthotists, orthotic fitters, orthotic fitter assistants, prosthetists, and pedorthists;
- Chapter 478, F.S., authorizing the DOH to regulate electrologists;
- Chapter 480, F.S., authorizing the DOH to regulate massage therapists;
- Chapter 488, F.S., authorizing the DHSMV to regulate commercial driving schools;

- Sections 554.104 and 554.114(1)(d), F.S., authorizing the Department of Financial Services (DFS) to regulate Boiler Safety Inspectors; and
- Sections 627.7015(4) and 627.7074(1)(a), F.S., authorizing the DFS to regulate property insurance mediators and neutral evaluators.

Section 4 repeals the following regulatory statutes on July 1, 2022:

- Section 61.125, F.S., authorizing the Florida Supreme Court to regulate parenting coordinators;
- Part III of ch. 373, F.S., authorizing the Department of Environmental Protection (DEP) to regulate water wells and water well contractors;
- Section 399.01(16), F.S., authorizing the DBPR to regulate elevator safety professionals;
- Chapter 457, F.S., authorizing the DOH to regulate acupuncturists;
- Chapter 458, F.S., authorizing the DOH to regulate medical doctors, physician assistants, anesthesiologist assistants, and medical assistants;
- Chapter 459, F.S., (except s. 459.0137, relating to pain-management clinics), authorizing the DOH to regulate osteopathic doctors, physician assistants, and anesthesiologist assistants;
- Part I of ch. 468, F.S., authorizing the DOH to regulate audiologists and speech-language pathologists;
- Part II of ch. 468, F.S., authorizing the DOH to regulate nursing home administrators;
- Part III of ch. 468, F.S., authorizing the DOH to regulate occupational therapists and occupational therapist assistants;
- Part IV of ch. 468, F.S., authorizing the DOH to regulate radiographers, radiological technologists, radiology assistants, and x-ray machine operators;
- Part V of ch. 468, F.S., authorizing the DOH to regulate respiratory therapists and respiratory therapy assistants;
- Part XI of ch. 468, F.S., authorizing the DBPR to regulate employee leasing companies;
- Part XV of ch. 468, F.S., authorizing the DBPR to regulate home inspectors;
- Part XVI of ch. 468, F.S., authorizing the DBPR to regulate mold-related services professionals;
- Sections 497.144, 497.145, 497.147, 497.148, 497.168, 497.554, 497.602, 497.603, and 497.605, and Part III of ch. 497, F.S., (except ss. 497.380-.389 and 497.391-.393), authorizing the DFS to regulate funeral directors and embalmers, monument establishment sales representatives, and direct disposers;
- Sections 501.605, 501.607, 501.608, 501.609, 501.612, and 501.616(2) and (4), F.S., authorizing the Department of Agriculture and Consumer Services (DACS) to regulate commercial telephone sellers and entities;
- Chapter 507, F.S., authorizing the DACS to regulate intrastate movers and moving brokers;
- Section 517.12(1) and (4), F.S., authorizing the DFS to regulate associated persons of a securities dealer and associated persons of a state-registered investment advisor or federal covered advisor;
- Section 548.003, F.S., establishing the Florida State Boxing Commission;
- Section 548.017, F.S., requiring certain persons involved in a match to be licensed; and
- Sections 634.171, 634.318, 634.320, and 634.420, F.S., authorizing the DFS to regulate service warranty sales representatives, motor vehicle service agreement salespersons, and home warranty sales representatives.

Section 5 repeals the following regulatory statutes on July 1, 2023:

- Section 44.106, F.S., authorizing the Florida Supreme Court to regulate mediators and arbitrators;
- Section 450.30, F.S., authorizing the DBPR to regulate farm labor contractors;
- Chapter 460, F.S., authorizing the DOH to regulate chiropractic physicians, physician assistants, and registered chiropractic assistants;
- Chapter 461, F.S., authorizing the DOH to regulate podiatric physicians and certified podiatric x-ray assistants;
- Chapter 462, F.S., authorizing the DOH to regulate naturopaths;
- Chapter 463, F.S., authorizing the DOH to regulate certified optometrists and licensed optometric professionals;
- Chapter 473, F.S., authorizing the DBPR to regulate certified public accountants;
- Chapter 474, F.S., authorizing the DBPR to regulate veterinarians;
- Part I of ch. 475, F.S., authorizing the DBPR to regulate real estate brokers and salespersons;
- Chapter 476, F.S., authorizing the DBPR to regulate barbers;
- Chapter 477, F.S., authorizing the DBPR to regulate cosmetologists and specialists;
- Part II of ch. 483, F.S., authorizing the DOH to regulate clinical laboratory personnel;
- Part III of ch. 483, F.S., authorizing the DOH to regulate medical physicists;
- Sections 484.002, 484.007(3) and (4), 484.013, 484.014, 484.015, and 484.018(3), F.S., authorizing the DOH to regulate opticians;
- Chapter 486, F.S., authorizing the DOH to regulate physical therapists and physical therapist assistants;
- Section 496.4101, F.S., authorizing the DACS to regulate professional solicitors and certain employees of a professional solicitor;
- Part IX of ch. 559, F.S., authorizing the DACS to regulate motor vehicle repair shops;
- Part XI of ch. 559, F.S., authorizing the DACS to regulate sellers of travel;
- Sections 633.132, 633.216, 633.304, 633.316, 633.318, 633.324, 633.328, 633.332, 633.336, 633.338, 633.406, 633.408, 633.412, 633.414, 633.416, 633.418, 633.424, and 633.426, F.S., authorizing the DFS to regulate firefighters, fire protection systems contractors, fire equipment dealers, firesafety inspectors, and volunteer firefighters; and
- Chapter 648, F.S., authorizing the DFS to regulate professional bail bond agents and limited surety bail bond agents.

Section 6 repeals the following regulatory statutes on July 1, 2024:

- Sections 381.0075-.00777, 381.00781-.00791, and 381.0101, F.S., authorizing the DOH to regulate body piercing salons, tattoo artists, tattoo establishments, and certified environmental health professionals;
- Section 395.10973, F.S., authorizing the Agency for Health Care Administration to regulate health care risk managers;
- Section 397.4871, F.S., authorizing the Department of Children and Families (DCF) to regulate recovery residence administrators;
- Section 402.305, F.S., authorizing the DCF to regulate child and family care personnel operators and employees;

- Section 429.52(11) and (12), F.S. authorizing the Department for Elderly Affairs to regulate registered core trainers;
- Chapter 464, F.S., authorizing the DOH to regulate registered nurses, advanced registered nurse practitioners, and certified nurse assistants;
- Sections in Ch. 465, F.S., authorizing the DOH to regulate pharmacists, pharmacist interns, and pharmacist technicians;
- Chapter 466, F.S., (except ss. 466.031-.039, relating to dental laboratories), authorizing the DOH to regulate dentists and dental hygienists;
- Chapter 467, F.S., authorizing the DOH to regulate licensed midwives;
- Part XII of ch. 468, F.S., authorizing the DBPR to regulate building code administrators and inspectors and plan examiners;
- Chapter 471, F.S., authorizing the DBPR to regulate engineers;
- Chapter 472, F.S., authorizing the DACS to regulate land surveyors and mappers;
- Chapter 481, F.S., authorizing the DBPR to regulate architects, interior designers, and landscape architects;
- Chapter 482, F.S., authorizing the DACS to regulate pest control professionals;
- Chapter 485, F.S., authorizing the DOH to regulate hypnosis;
- Part I of ch. 487, F.S., authorizing the DACS to regulate pesticides and pesticide application professionals;
- Part I of ch. 489, F.S., authorizing the DBPR to regulate construction contractors;
- Part II of ch. 489, F.S., authorizing the DBPR to regulate electrical contractors;
- Part III of ch. 489, F.S., authorizing the DOH to regulate septic tank contractors;
- Chapter 490, F.S., authorizing the DOH to regulate psychologists and school psychologists;
- Chapter 491, F.S., authorizing the DOH to regulate licensed clinical social workers, marriage and family therapists, mental health counselors, psychotherapists, and certified master social workers;
- Chapter 492, F.S., authorizing the DBPR to regulate professional geologists;
- Sections of ch. 626, F.S., authorizing the DFS to regulate property and casualty agents, health and life insurance agents, title agents, portable electronic agents, credit insurance agents, in-transit and storage personal property insurance agents, legal expense sales representatives, managing general agents, motor vehicle rental insurance agents, individual reinsurance brokers and managers, service representatives, travel insurance agents, all-lines adjusters, emergency adjusters, public adjusters and apprentices, health agents, viatical settlement providers and brokers, ACA navigators, and motor vehicle physical damage and mechanical breakdown agents.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Section 6 of Art. III of the State Constitution provides that “Every law shall embrace but one subject and matter properly connected therewith...” This bill is an act relating to “legislative review of occupational regulations.” The bill provides a statement of legislative intent that each occupation regulatory program will be reviewed prior to its respective repeal date, repeals the regulatory statutes relating to over 100 occupations or professions over a 4-year period, directs the distribution and refund of regulatory fees collected for repealed programs, appears to modify later-enacted general appropriations acts regarding the funding and personnel of repealed programs, and preempts the regulation of these occupations and professions to the state.

It is unclear whether the substance of this bill violates the constitutional “single subject” requirement. If a court of competent jurisdiction finds that it is in violation, the entire act may be voided.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill repeals, over a four year period, numerous statutes imposing regulatory fees and licenses. At this time, it is unknown the value of the regulatory fees and licenses repealed each year.

It is unknown to what extent local governments currently regulate any of the occupations impacted by this bill. A local government will be preempted from regulating any occupation for which the state regulation of that occupation expires, unless the local regulation is expressly authorized by law.

B. Private Sector Impact:

Persons or entities licensed, certified, registered, or credentialed under the occupation regulatory programs repealed by this bill may see a reduction in costs associated with the repeal of the regulatory fees over the four year period.

C. Government Sector Impact:

State agencies who administer occupational regulatory programs that are repealed by this act will experience a reduction in revenues associated with the regulatory fees and licenses. On the other hand, these same agencies will experience a reduction in expenditures associated with the administration of the occupation regulatory programs.

In some instances, the regulatory revenues associated with the administration of the occupation regulatory programs are subject to the general revenue service charge imposed by s. 215.20, F.S. To the extent the regulatory fees subject to the service charge expire, the distributions to the General Revenue Fund will be reduced.

Local governments that regulate occupations also regulated by the state may experience reductions in revenues and expenditures to the extent that the local regulation of these occupations are preempted to the state.

VI. Technical Deficiencies:

The Legislature may want to consider amending the title to be more broad and inclusive of the provisions in the bill. An example of a title that may be appropriate is “an act relating to occupational regulatory programs”.

VII. Related Issues:

The bill repeals over 100 occupational regulatory programs over the next four years without any further action by the legislature. However, the bill states that it is the intent of the legislature to review each occupational regulatory program before the scheduled effective date of the repeal of the program to determine whether (a) to allow the program to expire under the terms of this bill, (b) to enact another law to save the program from repeal and to renew the program with or without modifications, or (c) to provide for other appropriate actions. In order to achieve this legislative review, the legislature should consider certain constitutional requirements that may be applicable.

Section 19, Art. VII of the State Constitution limits the authority of the legislature to enact legislation that imposes or raises a state tax or fee by requiring such legislation to be approved by a 2/3 vote of each chamber of the legislature. Such state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject. For purposes of this limitation, the term “fee” is defined, in pertinent part, to mean any charge or payment required by law, including . . . fee or cost for licenses, and charge for service.

If the occupational regulatory program (including the associated statutory fee provisions) is repealed by this bill and a future legislature enacts a new regulatory structure with fees after the effective date of the repeal, the fee bill associated with that regulatory program must be in a separate bill and will require a 2/3 vote of each chamber of the legislature. This means that a new regulatory program with fees will require a 2/3 vote or the use of monies from existing trust fund or the General Revenue Fund.

If an occupational regulatory program (including the associated statutory fee provisions) is repealed by this bill but a future legislature saves the program (and statutory fee provisions) from repeal before the scheduled repeal date, it is unclear whether the bill extending the imposition of the fees beyond the repeal date established in SB 1124 must be in a separate bill and will require a 2/3 vote of each chamber of the legislature. If the requirements of Section 19, Art. VII of the State Constitution must be met even though the effective date of the repeal has not passed, a decision by a future legislature to continue the occupational regulatory program without modification will require a 2/3 vote of each chamber of the legislature.

To address the unknown aspect of the application of this constitutional requirement, the Legislature may want to consider excluding the statutory fee provisions from repeal. A future legislature, after the intended review of each program, may repeal those fee provisions that are rendered unnecessary by the repeal of the regulatory program.

VIII. Statutes Affected:

This bill creates the section 11.65 of the Florida Statutes.

This bill repeals the following sections, parts, and chapters of the Florida Statutes: 25.383, 25.386, 44.106, 61.125, ch. 310, 320.8249, and ch. 326, part III of ch. 373, ss. 381.0075-.00777, 381.00781-.00791, 381.0101, 395.10973, 397.4871, 399.01(16), 401.27, 401.271 – 401.273, 401.465, 402.305, 429.52(11) and (12), 450.30, ch. 457, 458, 459 (except s. 459.0137), 460, 461, 462, 463, and 464, ss. 465.002, 465.007, 465.0075, 465.008, 465.009, 465.012, 465.0125, 465.0126, 465.013, 465.014, 465.0155, 465.0252, 465.0255, 465.026, 465.0275, 465.0276, 465.186, 465.187, 465.188, 465.189, 465.1893, and 465.1901, ch. 466, (except ss. 466.031-.039), 467, 468, 471, 472, 473, and 474, part I of ch. 475, ch. 476, 477, 478, 480, 481, and 482, parts II and III of ch. 483, ss. 484.002, 484.007(3) and (4), 484.013, 484.014, 484.015, and 484.018(3), ch. 485 and 486, part I of ch. 487, ch. 488, 489, 490, 491, and 492, ss. 496.4101, 497.144, 497.145, 497.147, 497.148, 497.168, 497.554, 497.602, 497.603, and 497.605, part III of ch. 497, F.S., (except ss. 497.380-.389 and 497.391-.393), ss. 501.605, 501.607, 501.608, 501.609, 501.612, and 501.616(2) and (4), ch.507, ss. 517.12(1) and (4), 548.003, 548.017, 554.104 and 554.114(1)(d); parts IX and XI of ch. 559, ss. 626.011, 626.015, 626.016, 626.022, 626.025, 626.0428, 626.112, 626.141, 626.161, 626.171, 626.172, 626.175, 626.181, 626.191, 626.201, 626.202, 626.207, 626.211, 626.221, 626.231, 626.241, 626.2415, 626.251, 626.261, 626.266, 626.271, 626.281, 626.2815, 626.2816, 626.2817, 626.291, 626.292, 626.301, 626.311, 626.321, 626.322, 626.331, 626.341, 626.342, 626.371, 626.381, 626.382, 626.431, 626.441, 626.451, 626.461, 626.471, 626.511, 626.536, 626.541, 626.551, 626.561, 626.571, 626.5715, 626.572, 626.593, 626.601, 626.602, 626.611, 626.6115, 626.621, 626.6215, 626.631, 626.641, 626.651, 626.6515, 626.661, 626.681, 626.691, 626.692, 626.711, 626.726, 626.727, 626.728, 626.729, 626.730, 626.731, 626.7315, 626.732, 626.733, 626.734, 626.7351, 626.7352, 626.7353, 626.7354, 626.741, 626.742, 626.743, 626.744, 626.745, 626.7451, 626.7452, 626.7453, 626.7454, 626.7455, 626.748, 626.7491, 626.7492, 626.752, 626.753, 626.754, 626.776, 626.777, 626.778, 626.779, 626.780, 626.781, 626.782, 626.783, 626.784, 626.7845, 626.785, 626.7851, 626.788, 626.789, 626.792, 626.793, 626.794, 626.795, 626.796, 626.797, 626.798, 626.826, 626.827, 626.828, 626.829, 626.830, 626.8305, 626.831, 626.8311, 626.833, 626.834, 626.835, 626.836, 626.837, 626.8373, 626.838, 626.839, 626.841, 626.8411, 626.8412, 626.8413, 626.8414, 626.8417, 626.8418, 626.8419, 626.84195, 626.842, 626.84201, 626.8421,

626.8423, 626.8427, 626.843, 626.8433, 626.8437, 626.844, 626.8443, 626.8447, 626.845, 626.8453, 626.8457, 626.846, 626.8463, 626.8467, 626.847, 626.8473, 626.851, 626.852, 626.853, 626.854, 626.8548, 626.855, 626.856, 626.8561, 626.8582, 626.8584, 626.859, 626.860, 626.861, 626.862, 626.863, 626.864, 626.865, 626.8651, 626.866, 626.8685, 626.869, 626.8695, 626.8696, 626.8697, 626.8698, 626.870, 626.871, 626.8732, 626.8734, 626.8736, 626.8737, 626.8738, 626.874, 626.875, 626.876, 626.877, 626.878, 626.8795, 626.8796, 626.8797, 626.927, 626.9271, 626.9272, 626.9912, 626.9916, 626.995, 626.9951, 626.9952, 626.9953, 626.9954, 626.9955, 626.9956, 626.9957, 626.9958, 627.7015(4), 627.7074(1)(a), 633.132, 633.216, 633.304, 633.316, 633.318, 633.324, 633.328, 633.332, 633.336, 633.338, 633.406, 633.408, 633.412, 633.414, 633.416, 633.418, 633.424, 633.426, 634.171, 634.318, 634.320, and 634.420, and ch. 648.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.