

By Senator Perry

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1                                   A bill to be entitled  
2       An act relating to legislative review of proposed  
3       regulation of unregulated functions; amending s.  
4       11.62, F.S.; defining terms; providing that certain  
5       requirements must be met before the adoption of a  
6       regulation of an unregulated profession or occupation  
7       or the substantial expansion of regulation of a  
8       regulated profession or occupation; requiring the  
9       proponents of legislation that proposes such  
10      regulation to provide certain information to the state  
11      agency proposed to have jurisdiction over the  
12      regulation and to the Legislature by a certain date;  
13      requiring such state agency to provide certain  
14      information to the Legislature within a specified  
15      timeframe; providing an exception; revising  
16      information that a legislative committee must consider  
17      when determining whether a regulation is justified;  
18      providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22       Section 1. Section 11.62, Florida Statutes, is amended to  
23       read:

24       11.62 Legislative review of proposed regulation of  
25       unregulated functions.—

26       (1) This section may be cited as the "Sunrise Act."

27       (2) It is the intent of the Legislature:

28       (a) That no profession or occupation be subject to  
29       regulation by the state unless the regulation is necessary to

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30 protect the public health, safety, or welfare from significant  
31 and discernible harm or damage and that the police power of the  
32 state be exercised only to the extent necessary for that  
33 purpose; and

34 (b) That no profession or occupation be regulated by the  
35 state in a manner that unnecessarily restricts entry into the  
36 practice of the profession or occupation or adversely affects  
37 the availability of the professional or occupational services to  
38 the public.

39 (3) As used in this section, the term:

40 (a) "Substantial expansion of regulation" means to expand  
41 the scope of practice for current practitioners of a profession  
42 or occupation by regulating an activity that is not regulated by  
43 the state.

44 (b) "Transactional costs" means direct costs that are  
45 ascertainable based upon standard business practices, including  
46 filing fees, license fees, regulatory compliance costs,  
47 operating costs, monitoring and reporting costs, and any other  
48 costs necessary to comply with the proposed regulation.

49 (4) In determining whether to regulate a profession or  
50 occupation, the Legislature shall consider the following  
51 factors:

52 (a) Whether the unregulated practice of the profession or  
53 occupation will substantially harm or endanger the public  
54 health, safety, or welfare, and whether the potential for harm  
55 is recognizable and not remote;

56 (b) Whether the practice of the profession or occupation  
57 requires specialized skill or training, and whether that skill  
58 or training is readily measurable or quantifiable so that

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59 examination or training requirements would reasonably assure  
60 initial and continuing professional or occupational ability;

61 (c) Whether the regulation will have an unreasonable effect  
62 on job creation or job retention in the state or will place  
63 unreasonable restrictions on the ability of individuals who seek  
64 to practice or who are practicing a given profession or  
65 occupation to find employment;

66 (d) Whether the public is or can be effectively protected  
67 by other means; and

68 (e) Whether the overall cost-effectiveness and economic  
69 impact of the proposed regulation, including the indirect costs  
70 to consumers, will be favorable.

71 (5) In order to ensure that the Legislature only adopts  
72 those regulations that are necessary to protect the public, and  
73 are the least restrictive regulatory alternative consistent with  
74 the public interest, the requirements of this section must be  
75 met before the adoption of:

76 (a) Any regulation of a profession or an occupation not  
77 already expressly subject to state regulation; or

78 (b) Any regulation that substantially expands the  
79 regulation of a regulated profession or occupation.

80 (6)-(4) The proponents of legislation, including any  
81 individual, group, or entity, which proposes that provides for  
82 the regulation of an unregulated profession or occupation or the  
83 substantial expansion of regulation of a regulated profession or  
84 occupation not already expressly subject to state regulation  
85 shall provide, upon request, the following information in  
86 writing to the state agency that is proposed to have  
87 jurisdiction over the regulation, to the President of the

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88 Senate, and to the Speaker of the House of Representatives at  
89 least 30 days before the regular session of the Legislature in  
90 which the legislation is to be filed ~~and to the legislative~~  
91 ~~committees to which the legislation is referred:~~

92 (a) A copy of the draft legislation proposing to regulate  
93 an unregulated profession or occupation or the substantial  
94 expansion of regulation of a regulated profession or occupation;

95 (b) ~~(a)~~ The number of individuals or businesses that would  
96 be subject to the regulation;

97 (c) ~~(b)~~ The name of each association that represents members  
98 of the profession or occupation, together with a copy of its  
99 codes of ethics or conduct;

100 (d) ~~(c)~~ Documentation of the nature and extent of the harm  
101 to the public caused by the unregulated practice of the  
102 profession or occupation, including a description of any  
103 complaints that have been lodged against persons who have  
104 practiced the profession or occupation in this state during the  
105 preceding 3 years;

106 (e) ~~(d)~~ A list of states that regulate the profession or  
107 occupation, and the dates of enactment of each law providing for  
108 such regulation and a copy of each law;

109 (f) ~~(e)~~ A list and description of state and federal laws  
110 that have been enacted to protect the public with respect to the  
111 profession or occupation and a statement of the reasons why  
112 these laws have not proven adequate to protect the public;

113 (g) ~~(f)~~ A description of the voluntary efforts made by  
114 members of the profession or occupation to protect the public  
115 and a statement of the reasons why these efforts have not proven  
116 ~~are not~~ adequate to protect the public;

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117        (h)~~(g)~~ A copy of any federal legislation mandating  
118 regulation;

119        (i)~~(h)~~ An explanation of the reasons why other types of  
120 less restrictive regulation would not effectively protect the  
121 public;

122        (j)~~(i)~~ The cost, availability, and appropriateness of  
123 training and examination requirements;

124        (k)~~(j)~~ The cost of regulation, including the indirect cost  
125 to consumers, and the method proposed to finance the regulation;

126        (l)~~(k)~~ The cost imposed on applicants or practitioners or  
127 on employers of applicants or practitioners as a result of the  
128 regulation;

129        (m)~~(l)~~ The details of any previous efforts in this state to  
130 implement regulation of the profession or occupation, including  
131 a summary of bills filed in the Legislature on the same subject  
132 in the preceding 5 years; and

133        (n)~~(m)~~ Any other information the proponents of the  
134 legislation consider ~~agency or the committee considers~~ relevant  
135 to the analysis of the proposed legislation.

136        (7)~~(5)~~ The state agency proposed to have jurisdiction over  
137 the regulation shall provide the President of the Senate and the  
138 Speaker of the House of Representatives with the following  
139 information within 25 days after the proponents of the  
140 legislation submit the draft legislation to the state agency in  
141 accordance with subsection (6) ~~The agency shall provide the~~  
142 ~~Legislature with information concerning the effect of proposed~~  
143 ~~legislation that provides for new regulation of a profession or~~  
144 ~~occupation regarding:~~

145        (a) The departmental resources necessary to implement and

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146 enforce the proposed regulation, including, but not limited to,  
147 the anticipated costs to implement and enforce the proposed  
148 regulation and any anticipated license fees necessary to cover  
149 the anticipated costs.~~†~~

150 (b) Whether additional statutory or rulemaking authority is  
151 necessary to implement and enforce the proposed regulation.

152 (c) A comparison of similarly situated professions and  
153 occupations regulated by the state agency.

154 (d) The anticipated impact on small businesses as defined  
155 in s. 288.703 and small counties and small cities as defined in  
156 s. 120.52.

157 (e) The anticipated impact on business competitiveness,  
158 including the ability of persons doing business in the state to  
159 compete with persons doing business in other states or domestic  
160 markets.

161 (f) The anticipated impact on economic growth and private  
162 sector job creation or employment.

163 (g) The technical sufficiency of the proposal for  
164 regulation, including its consistency with the regulation of  
165 other professions and occupations under existing law.~~†~~ and

166 (h) ~~(e)~~ If applicable, any alternatives to the proposed  
167 regulation which may result in a less restrictive or more cost-  
168 effective regulatory scheme.

169 (i) A good faith estimate of the number of individuals or  
170 businesses that would be subject to the proposed regulation.

171 (j) A good faith estimate of the transactional costs likely  
172 to be incurred by individuals and entities, including local  
173 government entities, that would be required to comply with the  
174 proposed regulation.

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175 (k) Any other information the state agency determines  
176 relevant to the analysis of the proposed regulation.

177 (8) If the state agency that is proposed to have  
178 jurisdiction over the regulation is unable to provide the  
179 information required by subsection (7), such state agency shall  
180 notify the proponents of the legislation, the President of the  
181 Senate, and the Speaker of the House of Representatives that the  
182 agency was unable to acquire sufficient information to comply  
183 with that subsection.

184 (9)~~(6)~~ When making a recommendation concerning proposed  
185 legislation providing for new regulation of a profession or  
186 occupation, a legislative committee shall determine:

187 (a) Whether the regulation is justified based on the  
188 ~~criteria specified in subsection (3), the information submitted~~  
189 ~~pursuant to request under subsection (4), and the information~~  
190 ~~provided under subsections (4), (6), and (7) subsection (5);~~

191 (b) The least restrictive and most cost-effective  
192 regulatory scheme that will adequately protect the public; and

193 (c) The technical sufficiency of the proposed legislation,  
194 including its consistency with the regulation of other  
195 professions and occupations under existing law.

196 Section 2. This act shall take effect July 1, 2020.