

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 the 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 the Legislature by a certain date;
13 requiring such state agency to provide certain
14 information to the Legislature within a certain time
15 period; providing an exception; revising information
16 that a legislative committee must consider when
17 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 a ~~ne~~ profession or occupation may not be subject
 29 to regulation by the state unless the regulation is necessary to
 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 shall be exercised only to the extent necessary for that
 33 purpose. ~~;~~ and
 34 (b) That a ~~ne~~ profession or occupation may not be
 35 regulated by the state in a manner that unnecessarily restricts
 36 entry into the practice of the profession or occupation or
 37 adversely affects the availability of the professional or
 38 occupational services to 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
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
62 effect on job creation or job retention in the state or will
63 place unreasonable restrictions on the ability of individuals
64 who seek 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 occupation that is
 77 not 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, that proposes ~~provides for~~ the
 82 regulation of an unregulated profession or occupation or the
 83 substantial expansion of the regulation of a regulated
 84 profession or occupation ~~not already expressly subject to state~~
 85 ~~regulation~~ shall provide, upon request, the following
 86 information in writing to the state agency that is proposed to
 87 have jurisdiction over the regulation, the President of the
 88 Senate, and the Speaker of the House of Representatives at least
 89 30 days before the regular session of the Legislature in which
 90 the legislation is to be filed ~~and to the legislative committees~~
 91 ~~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 the regulation of a regulated profession or
 95 occupation.

96 (b)(a) The number of individuals or businesses that would
 97 be subject to the regulation.†

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

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

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

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

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

118 (h)~~(g)~~ A copy of any federal legislation mandating
 119 regulation.†

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

123 (j)~~(i)~~ The cost, availability, and appropriateness of
 124 training and examination requirements.†

125 (k)~~(j)~~ The cost of regulation, including the indirect cost

126 to consumers, and the method proposed to finance the
127 regulation.~~;~~

128 ~~(1)(k)~~ The cost imposed on applicants or practitioners or
129 on employers of applicants or practitioners as a result of the
130 regulation.~~;~~

131 ~~(m)(1)~~ The details of any previous efforts in this state
132 to implement regulation of the profession or occupation,
133 including a summary of bills filed in the Legislature on the
134 same subject in the preceding 5 years.~~;~~ and

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

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

147 (a) The departmental resources necessary to implement and
148 enforce the proposed regulation, including, but not limited to,
149 the anticipated costs to implement and enforce the proposed
150 regulation and any anticipated license fees necessary to cover

151 the anticipated costs.

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

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

156 (d) The anticipated impact on small businesses as defined
157 in s. 288.703 and small counties and small cities as those terms
158 are defined in s. 120.52.

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

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

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

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

171 (i) A good faith estimate of the number of persons who
172 would be subject to the proposed regulation.

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

176 | the proposed regulation.

177 | (k) Any other information the state agency determines
 178 | relevant to the analysis of the proposed regulation.

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

186 | (9)-(6) When making a recommendation concerning proposed
 187 | legislation providing for new or expanded regulation of a
 188 | profession or occupation, a legislative committee shall
 189 | determine:

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

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

196 | (c) The technical sufficiency of the proposed legislation,
 197 | including its consistency with the regulation of other
 198 | professions and occupations under existing law.

199 | Section 2. This act shall take effect July 1, 2022.