

By Senator Diaz

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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 adopting the  
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 that would have jurisdiction over the proposed  
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 the  
16          information a legislative committee must consider when  
17          determining whether regulation is justified; providing  
18          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 ~~no~~ profession or an occupation may not be  
29           subject to regulation by the state unless the regulation is

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

34 (b) That a ~~no~~ profession or an 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 an occupation by regulating an activity that is not regulated  
43 by 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 adopts only  
72 those regulations that are necessary to protect the public and  
73 are the least restrictive regulatory alternatives consistent  
74 with the public interest, the requirements of this section must  
75 be 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, that 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 all of the  
139 following 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 on small counties and small cities as those  
156 terms are defined in s. 120.52.

157 (e) The anticipated impact on business competitiveness,  
158 including the ability of persons doing business in this 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 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, required to comply with the proposed  
174 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 proposed to have jurisdiction over  
178 the regulation is unable to provide the information required by  
179 subsection (7), such state agency must notify the proponents of  
180 the legislation, the President of the Senate, and the Speaker of  
181 the House of Representatives that the agency was unable to  
182 acquire sufficient information to comply with that subsection.

183       (9)~~(6)~~ When making a recommendation concerning proposed  
184 legislation providing for new regulation of a profession or  
185 occupation, a legislative committee shall determine:

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

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

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

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