



Sen. Pamela J. Althoff

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1 AMENDMENT TO SENATE BILL 2776

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2776 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Regulatory Sunrise Review Act.

6 Section 5. Findings and intent.

7 (a) It is the General Assembly's intent that no profession  
8 or occupation be subject to regulation by the State unless the  
9 regulation is necessary to protect the public health, safety,  
10 or welfare of the people of this State. If the need for new  
11 regulation is identified, the State shall adopt the least  
12 restrictive form of regulation necessary to protect the public  
13 interest.

14 (b) The General Assembly finds that the regulatory  
15 environment in Illinois has grown overly burdensome and has  
16 become a strain on both the regulatory authority of the State

1 and the ability of the people of Illinois to enter into and  
2 work in various regulated professions. This Act is a means to  
3 promote economic growth and decrease barriers to entry into  
4 various professions in the State.

5 (c) This Act establishes a system to investigate and review  
6 the necessity of new State regulation over a previously  
7 unregulated profession or occupation. The Act further provides  
8 for a process to investigate what level of regulation is  
9 necessary in order to protect the public health, safety, or  
10 welfare.

11 Section 10. Definitions. In this Act:

12 "Applicant" means a professional group or organization, an  
13 individual, or any other interested party that proposes that a  
14 profession or occupation not licensed by the Department before  
15 January 1, 2018 be regulated through the licensure process.

16 "Department" means the Department of Financial and  
17 Professional Regulation.

18 Section 15. Policy. The General Assembly shall not act upon  
19 legislation that proposes to license and regulate a profession  
20 or occupation not licensed by the Department before January 1,  
21 2018 until a report as provided in this Act has been prepared  
22 and submitted to the Secretary of State.

23 Section 20. Resolution; petition for regulation; fee;

1 process of obtaining cost-benefit report.

2 (a) The General Assembly shall commence the process  
3 established by this Act to investigate and review the necessity  
4 of new State regulation over a previously unregulated  
5 profession or occupation by passage of a resolution.

6 (b) Upon passage by the General Assembly of the resolution,  
7 an applicant that proposes legislation to license and regulate  
8 a profession or occupation by the Department for which no  
9 Department licensure or regulation exists shall submit a  
10 petition for licensure, on forms provided by the Department,  
11 and a non-refundable petition fee of \$1,000 to the Department  
12 within 30 days after introduction of the legislation. The  
13 petition for licensure shall request that a report be prepared  
14 assessing the need for the proposed new licensure. The petition  
15 fee shall be deposited in the General Professions Dedicated  
16 Fund and shall be appropriated to the Department for the  
17 ordinary and contingent expenses of the Department in the  
18 administration of this Act.

19 (c) Upon receipt of a complete petition and petition fee,  
20 the Department shall contract for the preparation of an  
21 independent report assessing the need for the proposed new  
22 licensure. The report shall be principally authored by a labor  
23 market economist with a doctoral degree currently associated  
24 with an Illinois post-secondary educational institution or by a  
25 person with an advanced quantitative degree and an expertise in  
26 cost-benefit analysis currently associated with an Illinois

1 post-secondary educational institution. If the Department is  
2 unable to contract with a person meeting the qualifications  
3 described in this subsection for the preparation of the  
4 independent report, the Department may contract with a person  
5 whose qualifications are substantially similar to those  
6 described in this subsection. If the Department is unable to  
7 enter into a contract for preparation of the independent report  
8 for a sum not to exceed \$1,000, the Department may seek and the  
9 General Assembly may approve an appropriation from the General  
10 Revenue Fund to supplement the \$1,000 fee collected.

11 (d) The report shall address the social and economic costs  
12 and benefits of licensure, as well as the impact on the labor  
13 market, impact on prices, and the rationale for policy  
14 intervention. The report shall use modern cost-benefit  
15 methods, including the following:

16 (1) defining the proposed licensed population,  
17 including estimated number of participants, the users of  
18 the services in question, and the Illinois economy  
19 statewide;

20 (2) assessing a portfolio of alternatives to  
21 licensing, as well as the impact of licensure;

22 (3) cataloging the potential impacts and selected  
23 measurement indicators of licensure;

24 (4) predicting the quantitative impacts over the life  
25 of the proposed license;

26 (5) monetizing all impacts;

1 (6) calculating the net present value;

2 (7) identifying the distribution of costs and  
3 benefits; and

4 (8) performing sensitivity testing.

5 (e) The report shall also address each of the factors and  
6 consider the criteria and standards described in Section 25,  
7 and shall make a recommendation regarding licensure or other  
8 applicable alternatives.

9 (f) A preliminary copy of the report shall be submitted to  
10 the Department for its review and comment for a period of at  
11 least 30 days. Any comments made by the Department shall be  
12 included in the report.

13 (g) The report, including any Department comments, shall be  
14 completed within 12 months after the effective date of the  
15 Department's contract for the report's creation. The completed  
16 report shall be filed with the Secretary of State.

17 (h) After the report is filed with the Secretary of State  
18 and after due consideration by the General Assembly, the bill  
19 proposing licensure of the profession or occupation may proceed  
20 for consideration by the General Assembly.

21 (i) Nothing in this Act shall interfere with the General  
22 Assembly otherwise considering legislation on any regulatory  
23 matter.

24 Section 25. List of factors; criteria and standards.

25 (a) The following factors shall be considered in the report

1 submitted with a petition for proposed licensure and regulation  
2 by the Department:

3 (1) whether regulation is necessary or beneficial,  
4 including any potential harm or threat to the public if the  
5 profession or occupation is not regulated or specific  
6 examples of the harm or threat identified, if any;

7 (2) the extent to which the public will benefit from a  
8 method of regulation that permits identification of  
9 competent practitioners;

10 (3) the extent to which practitioners are autonomous,  
11 as indicated by:

12 (A) the degree to which the profession or  
13 occupation requires the use of independent judgment  
14 and the skill or experience required in making such  
15 judgment; and

16 (B) the degree to which practitioners are  
17 supervised;

18 (4) the efforts that have been made to address any  
19 concerns that give rise to the need for regulation,  
20 including:

21 (A) voluntary efforts, if any, by members of the  
22 profession or occupation to:

23 (i) establish a code of ethics;

24 (ii) help resolve disputes between  
25 practitioners and consumers; and

26 (iii) establish requirements for continuing

1 education;

2 (B) the existence of any national accreditation or  
3 national certification systems for the profession or  
4 occupation;

5 (C) recourse to and the extent of use of existing  
6 law; and

7 (D) any prior attempts to regulate the profession  
8 or occupation in Illinois;

9 (5) whether the following alternatives to licensure  
10 would be adequate to protect the public interest:

11 (A) existing, new, or stronger civil remedies or  
12 criminal sanctions;

13 (B) regulation of the service rather than the  
14 individual practitioners;

15 (C) registration of all practitioners;

16 (D) market competition and third-party or  
17 consumer-created ratings and reviews;

18 (E) voluntary or mandatory bonding or insurance;

19 (F) other alternatives;

20 (6) the benefit to the public if licensure is required,  
21 including:

22 (A) whether regulation will result in reduction or  
23 elimination of the harms or threats identified under  
24 paragraph (1) of this subsection;

25 (B) the extent to which the public can be confident  
26 that a practitioner is competent;

1 (C) whether renewal will be based only upon payment  
2 of a fee or whether renewal will require completion of  
3 continuing education or any other requirements;

4 (D) the standards for registration or licensure as  
5 compared with the standards of other jurisdictions;  
6 and

7 (E) the nature and duration of the educational  
8 requirement, if any, including: whether the  
9 educational requirement includes a substantial amount  
10 of supervised field experience; whether educational  
11 programs exist in this State; whether there will be an  
12 experience requirement; whether the experience must be  
13 acquired under a registered, certified, or licensed  
14 practitioner; whether there are alternative routes of  
15 entry or methods of satisfying the eligibility  
16 requirements and qualifications; whether all  
17 applicants will be required to pass an examination;  
18 and, if an examination is required, by whom it will be  
19 developed and how the costs of development will be met;

20 (7) the extent to which regulation might harm the  
21 public, including:

22 (A) whether regulation will restrict entry into  
23 the profession or occupation, including:

24 (i) whether the standards are the least  
25 restrictive necessary to ensure safe and effective  
26 performance; and



1           (ii) whether persons who are registered or  
2           licensed in another jurisdiction that has  
3           requirements that are substantially equivalent to  
4           those of this State will be eligible for  
5           endorsement or some form of reciprocity; and

6           (B) whether there are similar professions or  
7           occupations that should be included or portions of the  
8           profession or occupation that should be excluded from  
9           regulation;

10          (8) how the standards of the profession or occupation  
11          will be maintained, including:

12               (A) whether effective quality assurance standards  
13               exist in the profession or occupation, such as legal  
14               requirements associated with specific programs that  
15               define or enforce standards or a code of ethics; and

16               (B) how the proposed form of regulation will ensure  
17               quality, including:

18                       (i) the extent to which a code of ethics, if  
19                       any, will be adopted; and

20                       (ii) the grounds for suspension, revocation,  
21                       or refusal to renew registration, certification,  
22                       or licensure;

23          (9) how the additional cost that the Department will  
24          incur in licensing the profession or occupation will be  
25          recouped through licensing application and renewal fees;

26          (10) a profile of the practitioners in this State,

1 including a list of associations, organizations, and other  
2 groups representing the practitioners and including an  
3 estimate of the number of practitioners in each group; and

4 (11) whether the profession or occupation is currently  
5 regulated in any other state and what methods of regulation  
6 each state utilizes.

7 (b) A profession or occupation shall be regulated by the  
8 State only when the following criteria are met:

9 (1) it can be demonstrated that the unregulated  
10 practice of the profession or occupation can clearly harm  
11 or endanger the health, safety, or welfare of the public  
12 and the potential for the harm is recognizable and not  
13 remote or speculative;

14 (2) the public can reasonably be expected to benefit  
15 from an assurance of initial and continuing professional  
16 ability;

17 (3) the public cannot be effectively protected by other  
18 means; and

19 (4) regulation of the profession does not impose  
20 significant new economic hardships on the public,  
21 significantly diminish the supply of qualified  
22 practitioners, or otherwise create barriers to service  
23 that are not consistent with the public welfare or  
24 interest.

25 Section 30. Review by the General Assembly. After

1 evaluating the petition, report, and Department comments and  
2 considering governmental and societal costs and benefits, if  
3 the General Assembly finds that it is necessary to regulate a  
4 profession or occupation, the least restrictive method of  
5 regulation shall be imposed, consistent with the public  
6 interest and this Section.

7 (1) If existing common law and statutory civil remedies  
8 and criminal sanctions are insufficient to reduce or  
9 eliminate existing harm, regulation shall occur through  
10 enactment of stronger civil remedies and criminal  
11 sanctions.

12 (2) If there exists a national accreditation or  
13 certification system for the profession or occupation that  
14 adequately ensures quality and protects the public health,  
15 safety, and welfare, regulation by the State shall be  
16 restricted to addressing those concerns that are not  
17 covered by the national program.

18 (3) If the threat to the public health, safety, or  
19 welfare is insufficiently large to justify licensure,  
20 regulation shall be through a system of registration.

21 (4) If it is apparent that the public cannot be  
22 adequately protected by any other means, a system of  
23 licensure shall be imposed.

24 Section 35. Severability. If any part of the application of  
25 this Act is held invalid, the remainder of its application to

1 other situations, groups, or persons shall not be affected.

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.".