

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: December 3, 1997 Revised: _____

Subject: Regulation of Professions and Occupations

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Masterton</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill requires the Legislature to evaluate proposals for new or increased regulation of professions or occupations to determine the impact of the regulation on job creation and retention and on employment opportunities in the state.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 11.62, 455.201, and 455.517.

II. Present Situation:

Section 11.62, F.S., is commonly referred to as the "Sunrise Act." The act provides a mechanism for reviewing proposals for the regulation of previously unregulated professions or occupations to determine if the need to protect the public through regulation outweighs the attendant restrictions on competition and costs of regulation.

The Sunrise Act contains criteria for evaluating new regulatory proposals, including:

- whether there is a substantial threat of harm to the public from the unregulated practice of the profession or occupation,
- whether the practice of the profession or occupation requires specialized skill or training and whether this skill or training is readily measurable,
- whether any means other than regulation exists to effectively protect the public, and
- whether the overall cost and competitive impact of a regulatory scheme are favorable.

The Sunrise evaluation process is administered by staff of the Senate and House substantive committees to which legislation proposing new regulation is referred, typically the Senate Committees on Regulated Industries and Health Care and the House Committees on Business & Consumer Services and Health Care & Regulatory Reform. Proponents of new regulation may be required to submit information regarding a proposal to the Legislature and to the state agency that would be charged with implementing the regulation. The state agency that would be charged with implementing the regulation provides the Legislature with information about the costs of the regulation and suggestions of any less restrictive or more cost-effective regulatory alternatives.

Section 455.201, F.S., provides legislative intent regarding the regulation of professions and occupations by the Department of Business and Professional Regulation and the regulatory boards under the department's jurisdiction. Section 455.517, F.S., provides identical language for the Department of Health and its regulatory boards. The sections provide that professions should be regulated only to the extent necessary to protect the public health, safety and welfare and when the potential for harm from no regulation outweighs any anti-competitive impact of the regulation. The sections further state that the Department of Business and Professional Regulation, the Department of Health, and the boards may not create "unreasonably restrictive and extraordinary standards" that will deter entry into a profession. Because sections 455.201 and 455.517, F.S., are couched as legislative intent, they have been interpreted as advisory only, and have not been formally applied to the analysis of proposed legislation or proposed administrative rules by the departments or boards.

III. Effect of Proposed Changes:

The bill amends s. 11.62, F.S., to add the impact of the regulation on job creation or retention and the ability of practitioners to obtain employment as criteria for evaluating proposals for new professional or occupational regulation. In addition, s. 11.62, F.S., is amended to require proponents of new regulation to include the cost, availability, and appropriateness of training and examination requirements and the cost the regulation imposes on practitioners or employers with the information they provide to the Legislature.

The bill also amends ss. 455.201 and 455.517, F.S., to prohibit increased regulation of already regulated professions and occupations if the regulation will have an unreasonable effect on job creation or retention or will place unreasonable restrictions on the ability of practitioners to find employment. In addition, the sections are amended to require the Legislature to evaluate proposals that increase regulation of already regulated professions or occupations to determine their effect on job creation or retention and employment opportunities.

The bill takes effect on October 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill should have a positive economic impact on the private sector by decreasing regulation that negatively effects job creation or retention and employment opportunities.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill reflects the recommendations contained in Interim Project Report 97-P-07 by the Senate Regulated Industries Committee.

VIII. Amendments:

None.