

1 HB90
2 195708-2
3 By Representative Shedd
4 RFD: Boards, Agencies and Commissions
5 First Read: 05-MAR-19

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8 SYNOPSIS: Under existing law, the expenditures of
9 self-sustaining state professional licensing
10 boards, agencies, and commissions are not required
11 to be published on the searchable public Internet
12 database maintained by the Comptroller.

13 This bill would require those
14 self-sustaining state professional licensing
15 boards, agencies, and commissions to either publish
16 their expenditure information on the Internet
17 database maintained by the Comptroller or on the
18 public website of the board, agency, or commission.

19 Also under existing law, the Alabama Sunset
20 Committee is responsible for periodically reviewing
21 state professional licensing boards, agencies, and
22 commissions.

23 This bill would create the Alabama Sunrise
24 Act and would require the Sunset Committee to
25 review proposals for the regulation of additional
26 professions or occupations and the necessity and
27 cost-effectiveness of the proposed regulation to

1 protect the public health, safety, or welfare from
2 significant and discernible harm or damage.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 To amend Section 41-4-65 of the Code of Alabama
9 1975, relating to the online database of state expenditures
10 maintained by the Comptroller; to require each self-sustaining
11 professional licensing board, agency, or commission previously
12 exempted from posting expenditures through the online database
13 to either post the information on the online database of the
14 Comptroller or post the information on the public website of
15 the board, agency, or commission; and to add Section 41-20-4.1
16 to the Code of Alabama 1975, to create the Alabama Sunrise
17 Act; to require the Sunset Committee to review proposals for
18 the regulation of additional professions or occupations and
19 the necessity and cost-effectiveness of the proposed
20 regulation to protect the public health, safety, or welfare
21 from significant and discernible harm or damage.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 41-4-65 of the Code of Alabama
24 1975, is amended to read as follows:

25 "§41-4-65.

26 "(a) In this section, state entity shall mean, the
27 State of Alabama, a political subdivision, an agency, board,

1 commission, or department of the state, the State Board of
2 Education, a public college or trade school, or a public
3 university, except that the term shall not mean a county, a
4 municipal corporation, a county board of education, a city
5 board of education, or, unless otherwise provided in Section 2
6 of the act adding this amendatory language, a professional
7 licensure agency board that is self-sustaining by its own
8 revenues and fees.

9 "(b) The Comptroller shall establish and post on the
10 Internet a database of state expenditures, including contracts
11 and grants, that are electronically searchable by the public,
12 except as provided by subsection (d). The database shall
13 include all of the following:

14 "(1) The amount, date, payor, and payee of
15 expenditures.

16 "(2) A listing of state expenditures by each of the
17 following:

18 "a. The object of the expense with links to the
19 warrant or check register level.

20 "b. To the extent maintained by the state entity
21 accounting systems in a reportable format, class and item
22 levels.

23 "(c) To the extent possible, the Comptroller shall
24 present information in the database established under this
25 section in a manner that is searchable and intuitive to users.
26 The Comptroller shall enhance and organize the presentation of
27 the information through the use of graphical representations,

1 such as pie charts, as the Comptroller considers appropriate.
2 At a minimum, the database shall allow users to:

3 "(1) Search state funding by any element of the
4 information.

5 "(2) Ascertain through a single search the total
6 amount of state funding awarded to a person by a state entity.

7 "(3) Download information yielded by a search of the
8 database.

9 "(d) The Comptroller may not allow public access
10 under this section to a payee's address, except that the
11 Comptroller may allow public access under this section to
12 information identifying the county in which the payee is
13 located. The Comptroller may not allow public access under
14 this section to information that is identified by a state
15 entity as excepted from required disclosure as confidential.
16 The Comptroller, or an officer or employee of the
17 Comptroller's office, shall be immune from any civil liability
18 for posting confidential information under this section if the
19 Comptroller, officer, or employee posted the information in
20 reliance on a determination made by a state entity about the
21 confidentiality of information relating to the expenditures of
22 the agency.

23 "(e) To the extent any information required to be in
24 the database is already being collected or maintained by a
25 state entity, the state entity shall provide that information
26 to the Comptroller for inclusion in the database.

1 "(f) The Comptroller may not charge a fee to the
2 public to access the database.

3 "(g) Except as provided by subsection (h), a state
4 entity shall cooperate with and provide information to the
5 Comptroller as necessary to implement and administer this
6 section.

7 "(h) This section does not require a state entity to
8 record information or expend resources for the purpose of
9 computer programming or other additional actions necessary to
10 make information reportable under this section.

11 "(i) The Alabama Department of Finance, after
12 consultation with the Comptroller, shall prominently include a
13 link to the database established under this section on the
14 public home page of the State of Alabama.

15 "(j) Each state entity that maintains a generally
16 accessible Internet site or for which a generally accessible
17 Internet site is maintained shall include a link on the
18 entity's Internet site to the state expenditure database
19 established by this section.

20 "(k) The Comptroller shall establish procedures and
21 adopt rules to implement and administer this section.

22 "(l) Any vendor, contractor, or other supplier to
23 any state entity may notify the Comptroller in writing that
24 its prices or costs, or both, should be held confidential.
25 Upon receipt of such written notification, the Comptroller
26 shall not post the prices or costs, or both, specified in the
27 notification unless and until the Comptroller shall

1 investigate whether the prices or costs, or both, claimed in
2 the notification to be confidential should be protected from
3 posting. Such investigation shall include a hearing where the
4 vendor, contractor, or other supplier can present
5 justification for holding the information confidential. The
6 Comptroller's ruling on confidentiality shall be based on a
7 standard of reasonableness. The Comptroller's ruling shall be
8 subject to review by the courts."

9 Section 2. (a) For the purposes of this section, a
10 licensing board is a state professional licensing board,
11 agency, or commission that is self-sustaining by its own
12 revenues and fees. The expenditures of each licensing board,
13 at the option of the licensing board, shall either be
14 published on the searchable public Internet database
15 maintained by the Comptroller pursuant to Section 41-4-65,
16 Code of Alabama 1975, or on the website of the licensing board
17 pursuant to subsection (b). The option of the licensing board
18 shall be made annually and entered upon the minutes of the
19 board.

20 (b) (1) In any year that a licensing board does not
21 opt to publish expenditures on the searchable public Internet
22 database maintained by the Comptroller pursuant to Section
23 41-4-65, Code of Alabama 1975, the expenditures, including
24 contracts and grants, of that licensing board shall be
25 published on the website of the licensing board. The published
26 expenditures shall be electronically searchable by the public,

1 except as provided by subdivision (3), and shall include all
2 of the following:

3 a. The amount, date, payor, and payee of
4 expenditures.

5 b. A listing of state expenditures by both of the
6 following:

7 1. The object of the expense with links to the
8 warrant or check register level.

9 2. To the extent maintained by the licensing board
10 accounting systems in a reportable format, class and item
11 levels.

12 (2) To the extent possible, the licensing board
13 shall present expenditure information in a manner that is
14 searchable and intuitive to users and shall enhance and
15 organize the presentation of the information through the use
16 of graphical representations, such as pie charts, as the
17 licensing board considers appropriate.

18 (3) The licensing board may not allow public access
19 under this subsection to the address of a payee, except that
20 the licensing board may allow public access under this
21 subsection to information identifying the county in which the
22 payee is located. The licensing board may not allow public
23 access under this subsection to information that is identified
24 by the licensing board as exempt from required disclosure as
25 confidential. The licensing board, or an officer or employee
26 of the licensing board, shall be immune from any civil
27 liability for posting confidential information under this

1 subsection if the licensing board, or officer or employee of
2 the licensing board, posted the information in reliance on a
3 determination made by the licensing board about the
4 confidentiality of information relating to the expenditures of
5 the licensing board.

6 (4) To the extent any information required to be
7 published on the website is already being collected or
8 maintained by the licensing board, the licensing board shall
9 include that information on the website.

10 (5) The licensing board may not charge a fee to the
11 public to access any information required to be published on
12 the licensing board website pursuant to this subsection.

13 (6) The Alabama Department of Finance, after
14 consultation with each licensing board, shall prominently
15 include a link to that portion of the website of each
16 licensing board, that includes the expenditure information
17 required to be published by this subsection on the public home
18 page of the State of Alabama.

19 (7) The home page of the website of each licensing
20 board shall include a prominent link to the expenditure
21 information required to be published by this subsection.

22 (8) Each licensing board may adopt rules to
23 implement and administer this subsection.

24 (9) Any vendor, contractor, or other supplier to any
25 licensing board may notify the licensing board in writing that
26 its prices or costs, or both, should be held confidential.
27 Upon receipt of such written notification, the licensing board

1 may not post the prices or costs, or both, specified in the
2 notification unless and until the licensing board investigates
3 whether the prices or costs, or both, claimed in the
4 notification to be confidential should be protected from
5 posting. The investigation shall include a hearing where the
6 vendor, contractor, or other supplier may present
7 justification for holding the information confidential. The
8 ruling of the licensing board on confidentiality shall be
9 based on a standard of reasonableness and shall be subject to
10 review by the courts.

11 Section 3. Section 41-20-4.1 is added to the Code of
12 Alabama 1975, to read as follows:

13 §41-20-4.1.

14 (a) This section shall be known and may be cited as
15 the Alabama Sunrise Act.

16 (b) The Legislature finds and declares all of the
17 following:

18 (1) That no profession or occupation be subject to
19 regulation by the state unless the regulation is necessary to
20 protect the public health, safety, or welfare from significant
21 and discernible harm or damage and that the police power of
22 the state be exercised only to the extent necessary for that
23 purpose.

24 (2) That no profession or occupation be regulated by
25 the state in a manner that unnecessarily restricts entry into
26 the practice of the profession or occupation or adversely

1 affects the availability of the professional or occupational
2 services to the public.

3 (c) In determining whether to regulate a profession
4 or occupation, the Legislature shall consider all of the
5 following factors:

6 (1) Whether the unregulated practice of the
7 profession or occupation will substantially harm or endanger
8 the public health, safety, or welfare, and whether the
9 potential for harm is recognizable and not remote.

10 (2) Whether the practice of the profession or
11 occupation requires specialized skill or training, and whether
12 that skill or training is readily measurable or quantifiable
13 so that examination or training requirements would reasonably
14 assure initial and continuing professional or occupational
15 ability.

16 (3) Whether the regulation will have an unreasonable
17 effect on job creation or job retention in the state or will
18 place unreasonable restrictions on the ability of individuals
19 who seek to practice or who are practicing a given profession
20 or occupation to find employment.

21 (4) Whether the public is or can be effectively
22 protected by other means.

23 (5) Whether the overall cost-effectiveness and
24 economic impact of the proposed regulation, including the
25 indirect costs to consumers, will be favorable.

26 (d) The proponents of legislation that provides for
27 the regulation of a profession or occupation not already

1 expressly subject to state regulation, upon request, shall
2 provide all of the following information in writing to the
3 Sunset Committee:

4 (1) The number of individuals or businesses that
5 would be subject to the regulation.

6 (2) The name of each association that represents
7 members of the profession or occupation, together with a copy
8 of its code of ethics or conduct.

9 (3) Documentation of the nature and extent of the
10 harm to the public caused by the unregulated practice of the
11 profession or occupation, including a description of any
12 complaints that have been lodged against persons who have
13 practiced the profession or occupation in this state during
14 the preceding three years.

15 (4) A list of states that regulate the profession or
16 occupation, and the dates of enactment of each law providing
17 for that regulation and a copy of each law.

18 (5) A list and description of state and federal laws
19 that have been enacted to protect the public with respect to
20 the profession or occupation and a statement of the reasons
21 why these laws have not proven adequate to protect the public.

22 (6) A description of the voluntary efforts made by
23 members of the profession or occupation to protect the public
24 and a statement of the reasons why these efforts are not
25 adequate to protect the public.

26 (7) A copy of any federal legislation mandating
27 regulation.

1 (8) An explanation of the reasons why other types of
2 less restrictive regulation would not effectively protect the
3 public.

4 (9) The cost, availability, and appropriateness of
5 training and examination requirements.

6 (10) The cost of regulation, including the indirect
7 cost to consumers, and the method proposed to finance the
8 regulation.

9 (11) The cost imposed on applicants or practitioners
10 or on employers of applicants or practitioners as a result of
11 the regulation.

12 (12) The details of any previous efforts in this
13 state to implement regulation of the profession or occupation.

14 (13) Any other information the Sunset Committee
15 considers relevant to the analysis of the proposed
16 legislation.

17 (e) The Sunset Committee shall provide the
18 Legislature with information concerning the effect of proposed
19 legislation that provides for new regulation of a profession
20 or occupation regarding all of the following:

21 (1) The departmental resources necessary to
22 implement and enforce the proposed regulation.

23 (2) The technical sufficiency of the proposal for
24 regulation, including its consistency with the regulation of
25 other professions and occupations under existing law.

1 (3) If applicable, any alternatives to the proposed
2 regulation which may result in a less restrictive or more
3 cost-effective regulatory scheme.

4 (f) When making a recommendation concerning proposed
5 legislation providing for new regulation of a profession or
6 occupation, the Sunset Committee shall determine all of the
7 following:

8 (1) Whether the regulation is justified based on the
9 criteria specified in subsection (c), the information
10 submitted pursuant to request under subsection (d), and the
11 information provided under subsection (e).

12 (2) The least restrictive and most cost-effective
13 regulatory scheme that will adequately protect the public.

14 (3) The technical sufficiency of the proposed
15 legislation, including its consistency with the regulation of
16 other professions and occupations under existing law.

17 (g) The Department of Examiners of Public Accounts
18 and the Legal and Fiscal Divisions of the Legislative Services
19 Agency shall provide assistance to the Sunset Committee in
20 completing the sunrise process specified in this section.

21 Section 4. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.