

1 HB88  
2 195706-2  
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 Alabama Sunset  
9 Committee is responsible for periodically reviewing  
10 state professional licensing boards, agencies, and  
11 commissions.

12 This bill would create the Alabama Sunrise  
13 Act to require the Sunset Committee to review  
14 proposals for the regulation of additional  
15 professions or occupations and the necessity and  
16 cost-effectiveness of the proposed regulation to  
17 protect the public health, safety, or welfare from  
18 significant and discernible harm or damage.

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT  
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24 To create the Alabama Sunrise Act; to add Section  
25 41-20-4.1 to the Code of Alabama 1975, to require the Sunset  
26 Committee to review proposals for the regulation of additional  
27 professions or occupations and the necessity and

1 cost-effectiveness of the proposed regulation to protect the  
2 public health, safety, or welfare from significant and  
3 discernible harm or damage.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 41-20-4.1 is added to the Code of  
6 Alabama 1975, to read as follows:

7 §41-20-4.1.

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

10 (b) The Legislature finds and declares all of the  
11 following:

12 (1) That no profession or occupation be subject to  
13 regulation by the state unless the regulation is necessary to  
14 protect the public health, safety, or welfare from significant  
15 and discernible harm or damage and that the police power of  
16 the state be exercised only to the extent necessary for that  
17 purpose.

18 (2) That no profession or occupation be regulated by  
19 the state in a manner that unnecessarily restricts entry into  
20 the practice of the profession or occupation or adversely  
21 affects the availability of the professional or occupational  
22 services to the public.

23 (c) In determining whether to regulate a profession  
24 or occupation, the Legislature shall consider all of the  
25 following factors:

26 (1) Whether the unregulated practice of the  
27 profession or occupation will substantially harm or endanger

1 the public health, safety, or welfare, and whether the  
2 potential for harm is recognizable and not remote.

3 (2) Whether the practice of the profession or  
4 occupation requires specialized skill or training, and whether  
5 that skill or training is readily measurable or quantifiable  
6 so that examination or training requirements would reasonably  
7 assure initial and continuing professional or occupational  
8 ability.

9 (3) Whether the regulation will have an unreasonable  
10 effect on job creation or job retention in the state or will  
11 place unreasonable restrictions on the ability of individuals  
12 who seek to practice or who are practicing a given profession  
13 or occupation to find employment.

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

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

19 (d) The proponents of legislation that provides for  
20 the regulation of a profession or occupation not already  
21 expressly subject to state regulation, upon request, shall  
22 provide all of the following information in writing to the  
23 Sunset Committee:

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

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

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

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

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

17          (6) A description of the voluntary efforts made by  
18 members of the profession or occupation to protect the public  
19 and a statement of the reasons why these efforts are not  
20 adequate to protect the public.

21          (7) A copy of any federal legislation mandating  
22 regulation.

23          (8) An explanation of the reasons why other types of  
24 less restrictive regulation would not effectively protect the  
25 public.

26          (9) The cost, availability, and appropriateness of  
27 training and examination requirements.

1           (10) The cost of regulation, including the indirect  
2 cost to consumers, and the method proposed to finance the  
3 regulation.

4           (11) The cost imposed on applicants or practitioners  
5 or on employers of applicants or practitioners as a result of  
6 the regulation.

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

9           (13) Any other information the Sunset Committee  
10 considers relevant to the analysis of the proposed  
11 legislation.

12           (e) The Sunset Committee shall provide the  
13 Legislature with information concerning the effect of proposed  
14 legislation that provides for new regulation of a profession  
15 or occupation regarding all of the following:

16           (1) The departmental resources necessary to  
17 implement and enforce the proposed regulation.

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

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

24           (f) When making a recommendation concerning proposed  
25 legislation providing for new regulation of a profession or  
26 occupation, the Sunset Committee shall determine all of the  
27 following:

1           (1) Whether the regulation is justified based on the  
2 criteria specified in subsection (c), the information  
3 submitted pursuant to request under subsection (d), and the  
4 information provided under subsection (e).

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

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

10           (g) The Department of Examiners of Public Accounts  
11 and the Legal and Fiscal Divisions of the Legislative Services  
12 Agency shall provide assistance to the Sunset Committee in  
13 completing the sunrise process specified in this section.

14           Section 2. This act shall become effective on the  
15 first day of the third month following its passage and  
16 approval by the Governor, or its otherwise becoming law.