



Legislative
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SB 18-193

FISCAL NOTE

Drafting Number: LLS 18-1074
Prime Sponsors: Sen. Coram

Date: March 14, 2018
Bill Status: Senate Business
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Bill Topic: LIMIT STATE AGENCY OCCUPATIONAL REGULATIONS

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure (<i>increase</i>)	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires state agencies to review occupational regulations. It will increase state expenditures and workload on an ongoing basis.

Appropriation Summary: Although an appropriation is indicated, including an increase in FTE, it has not been estimated as of this writing.

Fiscal Note Status: The fiscal note reflects the introduced bill. It is a preliminary analysis and will be updated as more information becomes available.

Summary of Legislation

The bill prohibits state agencies from imposing an occupational regulation unless it is demonstrably necessary and narrowly tailored to achieve a specific, legitimate public health, safety, or welfare objective. Each state agency must conduct a comprehensive review and analysis of every occupational regulation it has promulgated and determine whether each regulation should be repealed or amended. This comprehensive review and analysis must be conducted by July 1, 2019, followed by a report to the General Assembly by January 1, 2020, recommending statutory repeals or amendments where applicable.

As a result of this process, every rule promulgated by an agency must include:

- specific public health, safety, or welfare objectives of the regulation;
- the reasons the regulation is necessary to meet these specified objectives;
- the regulation's impact on opportunities for employment, consumer choices and costs, market competition, governmental costs, and any other significant impact;
- a comparison of the regulation to similar regulations of other states; and
- if the occupational regulation is required by statute, the specific statutory provisions authorizing or requiring the occupational regulation.

The bill authorizes a person to file a petition with an agency to request a repeal, amendment, or cessation of the administration of an occupational regulation. Within 90 days, the agency must repeal, amend, cease administration of, or issue a statement regarding the regulation.

A person may also file a civil action in district court challenging an occupational regulation, regardless of whether a petition is filed with the agency. If that person prevails, the court must enforce the regulation change with the agency, and must award the plaintiff reasonable attorney fees and costs.

State Expenditures

This bill creates two significant expenditure increases for state agencies, that have not been determined as of this writing.

Rule review. Agencies that regulate or certify individuals for any aspect of their occupational practice will be required to perform a review of all related rules. The Department of Regulatory Agencies is expected to have the most significant impact, with over 2,300 rules to be reviewed in its professions and occupations, insurance, and real estate divisions. The Department of Education, the Department of Public Health and Environment, and the Department of Revenue will also have significant expenditure impacts as a result of the bill. These agencies will receive legal services from the Department of Law during this process.

Legal costs. The bill creates a cause of action against state agencies and does not allow the state to recoup attorney fees and costs. When litigation occurs, appropriations will be requested through the annual budget process by the relevant state agency and reappropriated to the Department of Law.

Judicial Department. This bill allows a petitioner to prevail if a preponderance of evidence proves that the challenged occupational regulation imposes a burden on entry to a profession or occupation. As a result, the bill may be used to challenge decisions by departments in district civil courts that would be otherwise unchallenged under current law.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, have not been estimated as of writing.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State Appropriations

The appropriation amount required by the bill has not been estimated as of writing.

State and Local Government Contacts

All State Agencies