STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1415 By: Hall

AS INTRODUCED

An Act relating to state government; declaring legislative intent; creating the Modernization of Agency Creation Process and Sunrise Act; defining terms; prohibiting introduction of certain bill; requiring number be printed on certain bill; providing for certain time for introduction and passing of bill; providing for consideration of certain factors; requiring certain information be provided in writing upon request; requiring legislative staff provide certain information; providing for determination of proposed legislation; requiring production of report; providing for codification; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

It is the intent of the Legislature: That no profession or occupation be subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary

for that purpose and that no profession or occupation be regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3950 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Modernization of Agency Creation Process and Sunrise Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3951 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in the Modernization of Agency Creation Process and Sunrise Act:

1. "Amendment" means any amendment, including a substitute bill, made to a bill by any committee of the House or Senate, any conference committee of the House or Senate or by the House or Senate;

2. "SR number" means that number preceded by the letters "SR" assigned to a bill by the respective staffs of the Oklahoma State Senate and the Oklahoma House of Representatives when the respective staff office prepares a bill for a member of the Legislature; and

3. “Sunrise bill” means any bill or joint resolution introduced or any bill or joint resolution amended by a member of the Oklahoma Legislature which proposes the creation of a new state agency.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3952 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. No sunrise bill shall be introduced by any member of the Legislature unless, at the time of its introduction, the bill has printed thereon in the upper right portion of each page of the bill an SR number.

B. A measure that is not a sunrise bill when introduced, but becomes amended to become a sunrise bill shall have printed thereon in the upper right corner of each page of the bill an SR number at the time the measure is deemed to be a sunrise bill.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3953 of Title 74, unless there is created a duplication in numbering, reads as follows:

Any sunrise bill may be introduced according to the applicable deadlines established by the Oklahoma State Senate and the Oklahoma House of Representatives only in any odd-numbered year during the regular session. Any such sunrise bill may be passed by the Legislature only during an even-numbered year of the regular session.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3954 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. In determining whether to regulate a profession or occupation through the approval of a sunrise bill, a legislative committee shall consider the following factors over the course of not less than twelve (12) months' time:

1. Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;

2. Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;

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

4. Whether the public is or can be effectively protected by other means; and

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

B. The proponents of legislation that provides for the creation of a new state agency or regulation of a profession or occupation not already expressly subject to state regulation shall provide, upon request, the following information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees to which the legislation is referred:

1. The number of individuals or businesses that would be subject to the regulation;

2. The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;

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

4. A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;

5. A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or

occupation and a statement of the reasons why these laws have not proven adequate to protect the public;

6. A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts are not adequate to protect the public;

7. A copy of any federal legislation mandating regulation;

8. An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;

9. The cost, availability, and appropriateness of training and examination requirements;

10. The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;

11. The cost imposed on applicants or practitioners or on employers of applicants or practitioners as a result of the regulation;

12. The details of any previous efforts in this state to implement regulation of the profession or occupation; and

13. Any other information the agency or the committee considers relevant to the analysis of the proposed legislation.

C. Legislative staff shall provide the committee with information concerning the effect of proposed legislation that provides for new regulation of a profession or occupation regarding:

1. State resources necessary to implement and enforce the proposed regulation;

2. The technical sufficiency of the proposal for regulation, including its consistency with the regulation of other professions and occupations under existing law; and

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

D. When making a recommendation concerning proposed legislation providing for new regulation of a profession or occupation, a legislative committee shall determine:

1. The least restrictive and most cost-effective regulatory scheme that will adequately protect the public; and

2. The technical sufficiency of the proposed legislation, including its consistency with the regulation of other professions and occupations under existing law.

E. Upon recommending passage of sunrise legislation, the chairman of the legislative committee shall cause to be produced a report documenting that each criteria required by this section was examined and shall detail the committee's findings.

SECTION 7. This act shall become effective November 1, 2013.

54-1-6037 LRB 01/02/13