OHIO LEGISLATIVE SERVICE COMMISSION

Edward M. Millane

Fiscal Note & Local Impact Statement

Bill: H.B. 289 of the 132nd G.A. **Status:** As Introduced

Sponsor: Reps. Hood and McColley **Local Impact Statement Procedure Required:** No

Subject: Occupational licensing board review and regulation

State & Local Fiscal Highlights

- The bill requires the Legislative Service Commission (LSC) to perform (1) an assessment of all bills introduced in the General Assembly that propose to substantially change or enact occupational regulations and (2) an assessment of 20% of the occupations regulated by the state each calendar year (CY), beginning in CY 2018. As a result of these additional duties, the agency will likely need to hire one staff person. The annual salary and benefits for an entry-level staff person range from $70,490 to $73,150.
- The bill requires all occupational licensing boards to produce reports containing specified information to certain standing committees of the General Assembly at least once every five years as part of the bill's systematic review of occupational regulation. As a result, the workload of occupational licensing boards may increase to meet the bill's reporting requirements.
- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Overview

The bill establishes a statewide policy on occupational regulation, requires all occupational licensing boards to be renewed at least once every five years by the General Assembly, requires the Director of the Legislative Service Commission (LSC) to assess all bills introduced in the General Assembly that propose to substantially change or enact occupational regulations and 20% of the occupations regulated by the state each calendar year (CY), beginning in CY 2018, and requires the Common Sense Initiative Office (CSIO) to review and approve or disapprove certain board actions or proposed actions concerning occupation or industry regulation that may have antitrust implications. Those provisions of the bill with fiscal effects are discussed below in more detail. For a discussion of all of the bill's provisions, please see the LSC Bill Analysis.

LSC assessments

The bill requires LSC to perform two types of assessments. First, it requires LSC to perform an assessment of all bills introduced in the General Assembly that propose to substantially change or enact occupational regulations, with the purpose of determining whether the regulatory scheme proposed in the legislation is consistent with the proposed statewide policy on occupational regulation. While performing this assessment, LSC is required to consider the potential consequence of the legislation with respect to the following: (1) opportunities for employment within the occupation, (2) consumer choices and costs, (3) market competition, and (4) cost to government. The bill requires LSC to complete this assessment in a timely manner and specifies that a proposed bill substantially changing or enacting an occupational regulation cannot be reported out of committee until the assessment has been received and considered, unless two-thirds of the committee members vote to favorably report the bill without the assessment.

Second, the bill requires LSC to assess, beginning in 2018, 20% of the occupations regulated by the state each calendar year and specifies that all occupations be assessed at least once before 2022, and at least once every five years thereafter. Similar to the above assessment, LSC is required to determine whether the current regulatory scheme is consistent with the proposed statewide policy on occupational regulation while performing these assessments. Under the bill, LSC must issue a report containing all completed assessments performed during a calendar year by December 1 of each year and submit that report to the General Assembly and the Attorney General. The reports must include instructions to describe how the current regulatory scheme could be improved in order to more consistently align with the statewide policy on occupational regulation.

LSC will likely need to hire one additional staff person to conduct these assessments. An entry-level staff person receives a salary of approximately $53,000 to $55,000 per year. Assuming benefit costs of 33%, the total cost is between $70,490 ($53,000 x 1.33) and $73,150 ($55,000 x 1.33).

Expiration of occupational licensing boards; General Assembly review

The bill requires the state's approximately 40 occupational licensing boards to be renewed at least once every five years by the General Assembly, and terminates the board if it is not renewed within a five-year period from its creation or last renewal.[1] In order for these renewals to occur, the bill establishes a process by which the Speaker of the House of Representatives and the President of the Senate each will direct certain standing committees of the House of Representatives and the Senate, respectively, to

[1] LSC provides an annual report on occupational licensing and regulatory boards, generally those regulated under Title 47 of the Revised Code. The 2017 report includes various financial and active license data for 41 such boards and commissions. The report is accessible online at https://www.lsc.ohio.gov/pages/budget/documents/occupationallicensing.aspx?Year=2017.

hold hearings to review those boards that are scheduled to expire in that calendar year, such that approximately 20% of the boards are reviewed each year and all such boards are reviewed at least once every five years. The Speaker of the House and the Senate President also may direct those standing committees to review a board that does not expire in that year but for which LSC has performed a review.

The boards under review must submit a report to the appropriate standing committee that contains the following information: (1) the board or commission's primary purpose, (2) its past and anticipated workload, the number of staff required to complete that workload, and the total number of current staff, (3) its past and anticipated budgets and its sources of funding, and (4) the number of members of its governing board and their compensation. The board must also demonstrate to the standing committee "a public need for its continued existence." To meet this determination, the bill requires the standing committee to consider a series of 24 different criteria. Overall, the workload of occupational licensing boards may increase to meet these reporting requirements.

The bill creates a process for winding up the affairs of an expired board. If an occupational licensing board expires, any person may engage in the profession or activity that was formerly licensed by the board without a license, notwithstanding any other state law to the contrary. The General Assembly also may enact laws to conclude a board's operations in an orderly fashion, including the transfer of some or all of the functions of an expired board to a successor agency, board, or officer.

Common Sense Initiative Office testimony

The bill also requires the Senate President and the Speaker of the House to notify the Chief of the Common Sense Initiative Office (CSIO) when an occupational licensing board is identified to be reviewed by a standing committee. CSIO must appear before the committee and testify, with respect to the board, about at least all of the following: (1) whether CSIO has, within the past five years, received commentary related to the board under CSIO's process for adverse impact review, (2) whether CSIO has, within the past five years, received advice from the Small Business Advisory Council related to the board, and (3) any other information the Chief believes will address the board's effectiveness and efficiency, and in particular, the quality of customer service the board provides. Compiling the information required by this provision may increase CSIO's workload.

Antitrust review by Common Sense Initiative Office

The bill includes provisions that require CSIO to review and approve or disapprove certain board or commission actions with antitrust implications that have been referred to CSIO. These provisions do not appear to have a fiscal effect, as substantially similar provisions were enacted in H.B. 49 of the 132nd General Assembly and became effective January 21, 2018.

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