



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0198/1
TJD:ahc

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 541**

January 24, 2020 - Offered by Senator KAPENGA.

- 1 **AN ACT** *to create* 13.0963 of the statutes; **relating to:** reports on bills requiring
2 occupational credentials.

Analysis by the Legislative Reference Bureau

This bill requires the Legislative Audit Bureau to submit a report to the legislature when a bill is introduced that requires a new occupational credential. LAB must include in the report all of the following: an evaluation of whether unregulated practice of the profession, occupation, or field recognizably harms or endangers the health, safety, or welfare of the public; the specific identification of any harm or endangerment including any credible evidence and the degree to which the harm or endangerment is remote or speculative; an analysis made following the procedure under the bill and any recommendations of the least restrictive alternatives to manage or mitigate the harm to the public with the fewest negative effects; an estimate of the number of individuals, businesses, or organizations that would be affected by the requirements in the proposal or bill; an evaluation of the negative effects of the proposal or bill on the public, the occupation, or any other occupation or business; and the estimate of the total additional financial burden that would be imposed on an individual as a result of the credential requirement.

A bill that creates a new occupational credential requires a report to be completed by LAB and that requirement is noted on the bill's jacket. Once the bill is introduced, the Legislative Reference Bureau submits a copy of the bill to LAB for completion of the report. A legislator may direct the LRB to submit a copy of a

legislative proposal to the LAB before introduction. No later than 270 days after the introduction of the bill, the LAB must submit the report to the chief clerk of the house of the legislature in which the bill is introduced. The chief clerk must ensure that the LAB's report is printed as an appendix to the bill, distributed in the same manner as amendments, and distributed and made available to the public at the times specified in the bill. The LAB and the legislature must publish the LAB's report on their Internet sites. Under the bill, a bill that requires the LAB's report may not receive a hearing or be voted on by either house or a standing committee before the report is distributed. This procedure is similar to other requirements for reports on introduced bills under current law such as the requirement that a social and financial impact report be completed by the Office of the Commissioner of Insurance for any bill that contains a health insurance mandate.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.0963 of the statutes is created to read:

2 **13.0963 Review of bills creating occupational or business credentials.**

3 **(1) DEFINITIONS.** In this section:

4 (a) "Agency" has the meaning given in s. 13.172 (1).

5 (b) "Occupational credential" means any license, permit, certificate, approval,
6 registration, charter, or similar form of permission that is nontransferable, is
7 granted by an agency to an individual that meets any personal qualifications
8 established by law, and is required by law in order to engage in a particular
9 profession or occupation.

10 **(2) REPORT ON BILLS CREATING OCCUPATIONAL LICENSES.** (a) A bill that creates a
11 new occupational credential requires a report under this section and shall have that
12 report requirement noted on its jacket when the jacket is prepared. When a bill that
13 requires a report under this section is introduced, the legislative reference bureau
14 shall submit a copy of the bill to the legislative audit bureau. A legislator may direct

1 the legislative reference bureau to submit a copy of a legislative proposal to the
2 legislative audit bureau before the proposal is introduced.

3 (b) No later than 270 days after the bill is introduced, the legislative audit
4 bureau shall submit the report as described under sub. (3) to the chief clerk of the
5 house of the legislature in which the bill is introduced. After receiving the report
6 from the legislative audit bureau, the chief clerk shall ensure all of the following:

7 1. The report prepared under this section is printed as an appendix to the
8 applicable bill and is distributed in the same manner as amendments.

9 2. The report is distributed, and is made available to the public, before any vote
10 is taken on the bill by either house of the legislature if the bill is not referred to a
11 standing committee, or before any public hearing is held before any standing
12 committee or, if no public hearing is held, before any vote is taken by the committee.
13 No bill requiring a report under this section may receive a hearing or be voted on by
14 either house or a standing committee before the report is distributed under this
15 subdivision. The legislative audit bureau and the legislature shall publish the report
16 on their Internet sites.

17 **(3) PREPARATION OF REPORT.** (a) The legislative audit bureau shall include all
18 of the following in a report required under sub. (2):

19 1. An evaluation of whether the unregulated practice of the profession,
20 occupation, or field recognizably harms or endangers the health, safety, or welfare
21 of the public.

22 2. A specific identification of any harm or endangerment described under subd.
23 1., any credible evidence of the harm or endangerment to consumers, and the degree
24 to which the harm or endangerment is remote or speculative.

1 3. An analysis completed in accordance with the procedure described in sub.
2 (4) and any recommendations of the least restrictive alternatives to manage or
3 mitigate the harm or endangerment to the public that have the least detrimental
4 negative effects.

5 4. An estimate of the number of individuals, businesses, or organizations that
6 would be affected by the requirements in the proposal or bill.

7 5. An evaluation of whether the proposal or bill may have a negative effect on
8 the public, the occupation for which the credential is being issued, or any other
9 occupation or business. If the proposal or bill is expected to have a negative effect,
10 the report shall include a description of the nature and magnitude of any negative
11 effect.

12 6. An estimate of the total additional financial burden that will be imposed on
13 an individual as a result of the credential requirement, including education or
14 training costs, examination fees, private credential fees, credential fees imposed by
15 the agency, and other costs that the individual will have to incur in order to obtain
16 the credential.

17 (b) The legislative audit bureau shall request information from any individual,
18 business, or organization that the legislative audit bureau considers likely to be
19 affected by the proposed credential requirement to assist in the completion of the
20 report under this subsection. The legislative audit bureau may request a statement
21 or analysis from the agency that would be required to administer the occupational
22 credential. The legislative audit bureau may include in its report under this
23 subsection any statement or analysis from the agency that would be required to
24 administer the occupational credential. Individuals, businesses, organizations, and

1 agencies shall comply with requests by the legislative audit bureau for information
2 that is reasonably necessary for the legislative audit bureau to prepare the report.

3 (4) ANALYSIS PROCEDURE. All of the following apply to the preparation of the
4 analysis that is required to be included in the report under sub. (3) (a) 3.:

5 (a) If the legislative audit bureau determines that any of the following apply,
6 it shall recommend that the legislature take no action on the proposal or bill:

7 1. After making the evaluation under sub. (3) (a) and (b), there is insufficient
8 credible evidence of harm or endangerment to the public or any harm or
9 endangerment identified is remote or speculative.

10 2. Any harm or endangerment identified in sub. (3) (a) 2. is manageable or may
11 be eliminated by market competition and any laws or rules in effect on the date the
12 legislative audit bureau begins its analysis. The legislative audit bureau shall
13 evaluate as an aspect of market competition under this subdivision whether any
14 private organization issues a credential, accreditation, or other recognition of
15 proficiency for the occupation or profession.

16 (b) If harm or endangerment identified in sub. (3) (a) 2. is present as
17 demonstrated by credible evidence and cannot be managed or mitigated by market
18 competition or any laws or rules in effect on the date the legislative audit bureau
19 begins its analysis, the legislative audit bureau shall analyze the benefits and
20 negative effects of regulatory alternatives to the bill or proposal, including an
21 analysis of, at least, all of the following alternatives, which are in the order of least
22 to most restrictive:

23 1. Requiring an individual or business to provide a notice to consumers so that
24 consumers may avoid the harm or endangerment.

1 2. Recognizing a credential or accreditation for an individual that is issued by
2 a private organization.

3 3. Allowing consumers to bring a specific private civil cause of action to remedy
4 a harm to the consumers.

5 4. Designating a particular practice as unprofessional conduct or unfair trade.

6 5. Regulating an aspect of the process of providing the specific goods or services
7 to consumers.

8 6. Requiring a governmental agency to inspect a business or practice location.

9 7. Requiring an individual or a business that employs the individual to take out
10 a bond, carry insurance, or meet another financial stability requirement.

11 8. Issuing a voluntary credential by a governmental agency to indicate that an
12 individual has met certain criteria.

13 9. Requiring an occupational credential as in the proposal or bill described in
14 sub. (2) but that has fewer or less stringent criteria for obtaining or maintaining the
15 credential than are required in the proposal or bill.

16 10. Requiring the occupational credential as proposed in the proposal or bill.

17 (c) In conducting its evaluation under par. (b), the legislative audit bureau shall
18 review and consider regulatory and credential requirements for that profession,
19 occupation, or field in other states. The legislative audit bureau shall include in its
20 report under sub. (3) a summary of any requirements reviewed under this
21 paragraph.

22 **SECTION 2. Initial applicability.**

