

2024 Regular Session

SENATE BILL NO. 456

BY SENATOR PRESSLY

COMMERCIAL REGULATIONS. Creates the Louisiana Regulatory and Advisory Board Review Commission. (8/1/24)

1 AN ACT

2 To amend and reenact R.S. 37:41, 43, and 45 and to enact R.S. 37:45.1, relative to the

3 Occupational Licensing Review Commission; to provide the Louisiana Regulatory

4 and Advisory Board Review Commission; to provide for state boards and

5 commissions; to provide for reviews of state boards and commissions; to provide for

6 legislative oversight; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:41, 43, and 45 and 46 are hereby amended and reenacted and R.S.

9 37:45.1 is hereby enacted to read as follows:

10 CHAPTER 1-D. OCCUPATIONAL BOARD **AND COMMISSIONS** COMPLIANCE

11 ACT

12 §41. Short title

13 This Chapter shall be known and may be cited as the "Occupational Board

14 **and Commission** Compliance Act".

15 * * *

16 §43. Definitions

17 For purposes of this Chapter, the following words have the meaning ascribed

1 to them in this Section, unless the context clearly indicates otherwise:

2 (1) "Active market participant" means an individual or entity that is any of the
3 following:

4 (a) Licensed by an occupational licensing board.

5 (b) A provider of any service subject to the regulatory authority of an
6 occupational licensing board.

7 (c) Subject to the jurisdiction of an occupational licensing board.

8 (2) "Active supervision" includes but is not limited to the ~~Occupational~~
9 ~~Licensing~~ **Louisiana Regulatory and Advisory Board** Review Commission's
10 responsibilities to do all of the following:

11 (a) Review the substance of an occupational regulation proposed by any
12 occupational licensing board **or commission**.

13 (b) Approve or disapprove with suggested amendments, or allow an
14 occupational licensing board **or commission** to withdraw for revision an
15 occupational regulation to ensure compliance with state policy.

16 **(c) Conduct a sunset review of every state board and commission at least**
17 **once every four years in accordance with the provisions of R.S. 37:45.1.**

18 **(d) Determine whether each state board and commission issuing a license**
19 **fulfills a legitimate health, safety, welfare, or fiduciary objective.**

20 (3) "~~Commission~~" means the ~~Occupational Licensing Review Commission~~
21 ~~as provided for in R.S. 37:45.~~

22 ~~(4)~~ "Fiduciary" has the same meaning as that term is defined in R.S. 9:3801.

23 ~~(5)~~**(4)** "Least restrictive regulation" means, from least to most restrictive, all
24 of the following:

25 (a) Market competition.

26 (b) Third-party or consumer-created ratings and reviews.

27 (c) Specific private civil cause of action to remedy consumer harm as
28 provided in the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401
29 et seq.

1 (d) Regulation of the process of providing the specific goods or services to
2 consumers.

3 (e) Inspection.

4 (f) Bonding or insurance.

5 (g) Registration.

6 (h) Occupational license.

7 ~~(6)~~(5) "Occupational license" means a nontransferable authorization granted
8 by an occupational licensing board for an individual or entity meeting personal
9 qualifications, as that term is defined in this Section, in order to fulfill a legitimate
10 fiduciary, public health, safety, or welfare objective.

11 ~~(7)~~(6) "Occupational licensing board" means any state executive branch
12 board, commission, department, or other agency that is all of the following:

13 (a) Regulates the entry of persons into, or regulating the conduct of persons
14 within, a particular profession or occupation.

15 (b) Authorized to issue and revoke occupational licenses or registrations.

16 (c) Controlled by active market participants.

17 ~~(8)~~(7) "Occupational regulation" means a rule, regulation, restraint, practice,
18 or policy allowing an individual to use an occupational title or work in a lawful
19 occupation, including but not limited to registrations and occupational licenses in
20 order to fulfill a legitimate fiduciary, public health, safety, or welfare objective or a
21 financial, tax, or accounting objective. "Occupational regulation" excludes any
22 license, permit, or regulation established by a parish or municipality.

23 ~~(9)~~(8) "Personal qualifications" means the criteria related to an individual's
24 personal background and characteristics, including completion of an approved
25 educational program, satisfactory performance on an examination or other
26 assessment, work experience, other evidence of attainment of requisite skills or
27 knowledge, moral standing, criminal history, and completion of continuing
28 education.

29 **(9) "Review commission" means the Louisiana Regulatory and Advisory**

Board Review Commission.

* * *

~~§45. Occupational Licensing Review Commission~~ Louisiana Regulatory and
Advisory Board Review Commission

A.(1) There is hereby created the ~~Occupational Licensing Review Commission~~ Louisiana Regulatory and Advisory Board Review Commission to be composed of the governor or his designee, the president of the Senate or his designee, the speaker of the House of Representatives or his designee, the secretary of state or his designee, the chair of the Senate Committee on Commerce, Consumer Protection, and International Affairs or his designee, the chair of the House Committee on Commerce or his designee, the commissioner of agriculture or his designee, the commissioner of insurance or his designee, and the state treasurer or his designee. The governor shall be the chairman of the review commission and the secretary of state shall be the secretary. The review commission shall meet as needed or as called by the chair and such meetings shall be subject to the Open Meetings Law. A majority of the members constitutes a quorum at any meeting. Any final action taken by the commission requires the affirmative vote of a majority of the members.

(2) The office of the governor shall provide such support of the review commission necessary to accomplish the purposes of this Chapter, including but not limited to research and clerical assistance. Any department, division, board, bureau, commission, or agency of the state shall provide, at the request of the chair of the review commission, such assistance and data as will enable the review commission to carry out its duties.

B. The review commission is responsible for the active supervision of state executive branch occupational licensing boards controlled by active market participants to ensure compliance with state policy in the adoption of occupational regulations promulgated by an occupational licensing board. The required active supervision described in this Chapter does not extend to individual disciplinary

1 actions taken or imposed by an occupational licensing board as to any active market
2 participant subject to the jurisdiction of the occupational licensing board.

3 C.(1) An occupational licensing board shall submit any occupational
4 regulation it seeks to promulgate to the review commission prior to the board
5 submitting a notice of intent to the office of the state register if the occupational
6 regulation is subject to the Administrative Procedure Act.

7 (2) The review commission shall review each occupational regulation
8 submitted to ensure compliance with the state policy as provided in R.S. 37:44. This
9 review may include any Federal Trade Commission Guideline adopted by the
10 commission.

11 (3) Following the review, the review commission shall do either of the
12 following:

13 (a) Approve the occupational regulation and authorize the occupational
14 licensing board to initiate promulgation of the regulation in accordance with the
15 Administrative Procedure Act. This approval shall be in writing and explain the
16 rationale for the action.

17 (b)(i) Disapprove the occupational regulation with any recommended
18 amendments and require the occupational licensing board to resubmit the
19 occupational regulation for approval prior to promulgating the regulation in
20 accordance with the Administrative Procedure Act.

21 (ii) Any recommended amendments shall be provided to the occupational
22 licensing board for its further consideration within thirty days of the date the
23 occupational licensing board provides the proposed regulation to the commission for
24 review.

25 (iii) The disapproval shall be in writing and explain the rationale for the
26 action.

27 (iv) In the event the review commission elects to disapprove the regulation
28 with suggested amendments, the occupational licensing board shall not go forward
29 with promulgation of the proposed regulation until such time as the occupational

1 regulation is approved by the review commission.

2 D. Prior to submitting the notice of final regulation to the proper legislative
3 oversight committees, the occupational licensing board shall submit such notice to
4 the review commission with a summary of any changes made to the proposed
5 regulation or indicate that no changes were made to the proposed regulation. The
6 submission shall include any comments received during the comment period or a
7 recording or the minutes of any proceeding.

8 (1) If there are changes to the proposed regulation, the review commission
9 shall review the changes to the proposed regulation and take any action provided in
10 Subsection C of this Section.

11 (2) If there are no changes to the proposed regulation or the review
12 commission approves the proposed regulation with submitted changes, the
13 occupational licensing board shall submit the notice of final regulation to the proper
14 legislative oversight committees.

15 E. If the proposed occupational regulation is not subject to promulgation and
16 adoption in accordance with the Administrative Procedure Act, an occupational
17 licensing board shall submit such proposed regulation to the review commission for
18 approval prior to enforcement.

19 F.(1) Emergency rules adopted by an occupational licensing board shall not
20 be subject to the active supervision of the review commission as provided in this
21 Section.

22 (2) However, the occupational licensing board shall submit such emergency
23 rule to the review commission on the same day the rule is submitted to the office of
24 the state register.

25 G. The review commission shall issue resolutions necessary to effectuate the
26 provisions of this Chapter, including the process, procedures, and timelines that will
27 govern any submission filed in accordance with this Chapter.

28 H. Nothing in this Chapter shall be interpreted to subject the review
29 commission to any of the administrative procedures of the Administrative Procedure

1 Act.

2 §45.1. Termination and recreation of boards and commissions; review

3 A. Notwithstanding any provision of law to the contrary, all statutory
4 boards and commissions in this state shall begin to terminate their operations
5 on July 1, 2028, and all legislative authority for the existence of any board or
6 commission shall cease as of July 1, 2029.

7 B. The Louisiana Regulatory and Advisory Board Review Commission
8 shall perform the review to determine if the board or commission fulfills a
9 legitimate health, safety, welfare, or fiduciary objective and whether the board
10 or commission be continued, modified, or terminated.

11 C. The review commission shall notify the board or commission of the
12 termination dates and provide the board or commission with a tentative
13 schedule of the review. After receipt of the notice of termination and review
14 from the review commission, each board and commission shall provide the
15 review commission with the following information:

16 (1) All powers, functions, and duties currently performed by the board
17 or commission under review.

18 (2) All constitutional, statutory, or other authority under which the
19 powers, functions, and duties of the board or commission under review are
20 performed and carried out.

21 (3) Any powers, functions, or duties which, in the opinion of the board
22 or commission under review, are being performed and duplicated by another
23 board, commission, statutory entity, or political subdivision within the state
24 including the manner in which, and the extent to which, this duplication of
25 efforts is occurring and any other recommendation to eliminate the duplication.

26 (4) Any powers, functions, or duties which, in the opinion of the board
27 or commission under review, are inconsistent with current and projected public
28 needs and which should be terminated or altered.

29 (5) The identity of any problems or any programs of the board or

1 commission to which, in the opinion of the board or commission, the review
2 commission should give a particular study.

3 (6) A strategic plan, master plan, operating plan, and other planning
4 documents including performance measures.

5 (7) All performance audits or studies performed by the legislative
6 auditor within the last five years and a description of actions in response to the
7 findings of the audits or studies.

8 (8) The identity, amount, and description of each professional, personal,
9 or consulting service contract entered into by the board or commission under
10 review.

11 (9) The identity of each report the board or commission is required by
12 law to produce, including the citation of the law requiring the report, an
13 estimate of board or commission resources expended to produce the report, and
14 the opinion of the board or commission regarding the continued necessity of the
15 report.

16 (10) Any other information that the review commission in its discretion
17 feels is necessary and proper in performing its review and duties.

18 D. The reviews by the review commission shall be made, using the factors
19 set out in Subsection C of this Section, for the purpose of achieving the
20 following:

21 (1) The elimination of inactive boards or commissions.

22 (2) The elimination or consolidation of boards or commissions,
23 programs, or activities that duplicate other governmental entities, programs, or
24 activities.

25 (3) The elimination of unnecessary boards or commissions, which no
26 longer serve the public interest.

27 (4) The elimination or improvement of inefficient or ineffective boards
28 or commissions.

29 (5) The elimination or revision of boards or commissions that are

1 inconsistent with the intent of legislation authorizing the entity, program, or
2 activity.

3 E. Prior to the final adjournment of the regular legislative session
4 convening in the odd-numbered year, two years prior to the year in which the
5 applicable termination date occurs, the review commission shall conduct a
6 review as required by this Section to determine whether or not proposed
7 legislation shall be introduced to continue or modify the appropriate statutory
8 boards or commissions. The review commission shall hold public hearings to
9 receive testimony from the appropriate board or commission and from the
10 public as a part of that review. The commission shall hold the public hearings
11 in accordance with R.S. 42:11 through R.S. 42:25. At the hearings, the board or
12 commission shall have the burden of demonstrating whether the board or
13 commission fulfills a legitimate health, safety, welfare, or fiduciary objective for
14 its continued existence. It shall have the further burden of demonstrating that
15 its objectives, programs, and activities are consistent with legislative intent and
16 effectively achieve this intent. The review commission, in making a
17 determination as to whether a board or commission has demonstrated a public
18 need for the continued existence of the board or commission, shall take into
19 consideration, at a minimum, the following factors:

20 (1) The extent to which any information required to be furnished to the
21 review commission has been omitted, misstated, or refused, and the extent to
22 which conclusions reasonably drawn from the information are adverse to the
23 legislative intent inherent in the powers, functions, and duties as established in
24 the enabling legislation creating the board or commission, or are inconsistent
25 with present or projected public demands or needs.

26 (2) The extent to which the board or commission has operated in the
27 public interest and the extent to which its operation has been impeded or
28 enhanced by existing statutes, procedures, and practices and any other
29 circumstances, including budgetary, resource, and personnel matters.

1 (3) The extent to which the board or commission has recommended
2 statutory changes to the legislature that would benefit the public as opposed to
3 the board or commission itself.

4 (4) An identification of other boards or commissions, or other programs
5 or activities of state or local government having the same or similar objectives,
6 together with a comparison of the cost-effectiveness of such statutory entities,
7 programs, or activities and any duplication of the board or commission under
8 review.

9 (5) The extent to which the board or commission has encouraged
10 participation by the public in making its rules and decisions as opposed to
11 participation solely by its constituency.

12 (6) The efficiency with which formal public complaints filed with the
13 board or commission concerning matters subject to its jurisdiction have been
14 processed by the board or commission.

15 (7) The extent to which changes are necessary in the enabling laws of the
16 board or commission to adequately comply with the factors listed in this
17 Subsection.

18 (8) The extent to which the operation of a board or commission has been
19 efficient and responsive to the public needs.

20 (9) The extent to which requirements of state and federal statutes and
21 constitutions have been complied with by the board or commission or the
22 constituency it serves.

23 (10) The findings, recommendations, and responses by the board or
24 commission to any performance audits or studies conducted by the legislative
25 auditor.

26 (11) The findings and recommendations of the Department of State Civil
27 Service with respect to job descriptions and staffing of the board or commission.

28 (12) The extent of privatization of the programs, functions, or activities
29 of the board or commission through the use of professional, personal, or

1 consulting services.

2 (13) Any other relevant criteria that the review commission, in its
3 discretion, deems necessary and proper in reviewing and evaluating the
4 sufficient public need for continuance of the respective board or commission.

5 F.(1) The review commission shall submit their final report to the
6 legislature and the governor by March first before the regular legislative session
7 in the year prior to the applicable termination date.

8 (2) The report of the review commission shall include a summary of its
9 findings concerning the factors listed in Subsection E of this Section.

10 (3) The review commission making the report shall recommend
11 termination, continuation, or modification of the appropriate board or
12 commission, including any proposals for reorganization, consolidation, or
13 transfer of duties of the board or commission. If the review commission finds
14 that a board or commission should terminate as scheduled, then the
15 commission's report shall include proposed legislation, if any is necessary, to
16 conform related laws to the termination of that board or commission. If the
17 review commission finds that a board or commission shall be continued or
18 modified, then the review commission's report shall include proposed legislation
19 necessary to accomplish continuation or modification. If the review commission
20 finds that changes in a particular activity of the board or commission is needed,
21 the report shall include proposed legislation necessary to accomplish the
22 changes.

23 (4) The review commission report shall also include an evaluation of
24 whether the objectives of the entity for the next four years and measures for
25 performance for these objectives are consistent with statutory authority or
26 requirements of the entity.

27 (5) No recommendation of the review commission shall be submitted in
28 the report unless the recommendation is approved by the majority of the
29 members of the review commission.

1 **G. In the regular legislative session in the year prior to the year in which**
 2 **the applicable termination date occurs, a bill authorizing the re-creation of a**
 3 **board or commission may be introduced and shall be referred to the Senate**
 4 **Committee on Commerce, Consumer Protection and International Affairs and**
 5 **the House Committee on Commerce. The bill shall contain a termination date**
 6 **for the board or commission being re-created no more than four years from its**
 7 **effective termination date.**

8 **H. Unless the legislature enacts the bill to continue or modify the board**
 9 **or commission, the board or commission shall begin to phase out its operations**
 10 **on the date set forth in this Section and the legislative authority for the board**
 11 **or commission shall cease on the following July first.**

12 **I. If the bill authorizing re-creation of the board or commission does not**
 13 **become law, the statutes creating and continuing the board or commission shall**
 14 **be construed as repealed on the applicable termination date fixed pursuant to**
 15 **this Section.**

16 **J. No funds shall be appropriated or otherwise be made available from**
 17 **any source whatsoever to any board or commission after the applicable**
 18 **termination date of the board or commission unless it has been re-created in**
 19 **accordance with the procedure set forth in this Section.**

20 **K. The review commission conducting the review may request the**
 21 **assistance of the Legislative Fiscal Office and the legislative auditor to compile**
 22 **pertinent information about the board or commission under review.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier I. Alexander.

DIGEST

SB 456 Original 2024 Regular Session Pressly

Present law provides for the Occupational Board Compliance Act.

Proposed law changes the name of the Act in present law to the Occupational Board and Commission Compliance Act.

Proposed law creates the Louisiana Regulatory and Advisory Board Review Commission (review commission).

Present law provides that "active supervision" includes but is not limited to the Occupational Licensing Review Commission's responsibilities to do all of the following:

- (1) Review the substance of an occupational regulation proposed by any occupational licensing board.
- (2) Approve or disapprove with suggested amendments, or allow an occupational licensing board to withdraw for revision an occupational regulation to ensure compliance with state policy.

Proposed law retains present law except provides that "active supervision" includes but is not limited to review commission's responsibility to do the following:

- (1) Review the substance of an occupational regulation proposed by any occupational licensing board.
- (2) Approve or disapprove with suggested amendments, or allow an occupational licensing board to withdraw for revision an occupational regulation to ensure compliance with state policy.
- (3) Conduct a sunset review of every state board and commission at least once every four years.
- (4) Determine whether each state board or commission issuing a license fulfills a legitimate health, safety, welfare, or fiduciary objective.

Present law provides that provisions of present law are not applicable to occupational licensing boards that are not controlled by active market participants.

Proposed law retains present law as it relates to applicability.

Proposed law provides that all statutory boards and commissions in this state shall begin to terminate their operations on July 1, 2028, and all legislative authority for the existence of any board or commission shall cease as of July 1, 2029.

Proposed law provides that the review commission shall perform the review to determine if the board or commission fulfills a legitimate health, safety, welfare, or fiduciary objective and whether the board or commission be continued, modified, or terminated.

Proposed law provides that the review commission shall notify the board or commission of the termination dates and provide the board or commission with a tentative schedule of the review. Further provides that after receipt of the notice of termination and review from the review commission, each board and commission shall provide the review commission with the following information:

- (1) All powers, functions, and duties currently performed by the board or commission under review.
- (2) All constitutional, statutory, or other authority under which the powers, functions, and duties of the board or commission under review are performed and carried out.
- (3) Any powers, functions, or duties which, in the opinion of the board or commission under review, are being performed or duplicated by another board, commission, statutory entity, or political subdivision within the state, including the manner in which this duplication of efforts is occurring and any other recommendation to eliminate the duplication.
- (4) Any powers, functions, or duties which, in the opinion of the board or commission

under review, are inconsistent with current and projected public needs and which should be terminated or altered.

- (5) The identity of any problems or any programs of the board or commission to which, in the opinion of the board or commission, the review commission should give particular study.
- (6) A strategic plan, master plan, operating plan, and other planning documents including performance measures.
- (7) All performance audits or studies performed by the legislative auditor within the last five years and a description of actions in response to finding of such audits or studies.
- (8) The identity, amount, and description of each professional, personal, or consulting service contract entered into by the board or commission under review.
- (9) The identity of each report the board or commission is required by law to produce, including the citation of the law requiring the report, an estimate of board or commission resources expended to produce the report and the opinion of the board or commission regarding the continued necessity of the report.
- (10) Any other information which the review commission in its discretion feels is necessary and proper in performing its review and duties.

Proposed law provides that the review commission shall use factors set forth in proposed law for the purpose of achieving the following:

- (1) The elimination of inactive boards or commissions.
- (2) The elimination or consolidation of boards and commissions, programs, or activities that duplicate other governmental entities, programs, or activities.
- (3) The elimination of unnecessary boards or commissions, which no longer serve the public interest.
- (4) The elimination or improvement of inefficient or ineffective boards or commissions.
- (5) The elimination or revision of boards or commissions that are inconsistent with the intent of legislation authorizing the entity, program, or activity.

Proposed law provides that prior to the final adjournment of the regular legislative session convening in the odd-numbered year, two years prior to the year in which the applicable termination date occurs the review commission shall conduct a review of proposed law to determine whether or not proposed law shall be introduced to continue or modify the appropriate statutory boards or commissions.

Proposed law requires the review commission to hold public hearings to receive testimony, from the appropriate board or commission. Further provides that at the public hearing, the board or commission shall have the burden of demonstrating whether the board or commission fulfills a legitimate health, safety, welfare, or fiduciary objective for its continued existence and demonstrate that its objectives, programs, and activities are consistent with legislative intent and effectively achieve this intent.

Proposed law requires the review commission to submit their final report to the legislature and governor by March first before the regular legislative session in the year prior to the applicable termination date. Further provides that the report shall include a summary of its findings.

Proposed law provides that the report shall recommend termination, continuation, or modification of the appropriate board or commission, including proposals of reorganization, consolidation, or transfer of duties of the board or commission.

Proposed law provides that if the review commission finds that a board or commission should terminate as scheduled, then the review commission's report shall include proposed legislation to conform related laws to the termination of that board or commission.

Proposed law provides that if the review commission finds that a board or commission shall be continued or modified, then the review commission's report shall include proposed legislation necessary to accomplish continuation or modification.

Proposed law provides that if the review commission finds that changes in a particular activity of the board or commission is needed, the report shall include proposed legislation necessary to accomplish such changes.

Proposed law requires the review commission's report to include an evaluation of whether the objectives of the entity for the next four years and measures for performance for these objectives are consistent with statutory authority or requirements of the entity.

Proposed law provides that no recommendation of the review commission shall be submitted in the report unless the recommendation is approved by the majority of the members of the review commission.

Proposed law provides that a bill authorizing the re-creation of boards or commissions may be introduced and requires the bill to be referred to the Senate Committee on Commerce, Consumer Protection and International Affairs and the House Committee on Commerce. Further provides that the bill shall contain a termination date for the board or commission being re-created no more than four years from its effective termination date.

Proposed law requires the board or commission to begin to phase out its operations on the date set forth in proposed law and the legislative authority for the board or commission shall cease on the following July first, unless the legislature enacts the bill to continue or modify the board or commission.

Proposed law provides that if the bill authorizing re-creation of the board or commission does not become law, the statutes creating and continuing the board or commission shall be construed as repealed on the applicable termination date fixed pursuant to this proposed law.

Proposed law provides that no funds shall be appropriated or made available from any source to any board or commission after the applicable termination date of the board or commission, unless it has been re-created in accordance with proposed law.

Proposed law provides that the review commission may request assistance of the Legislative Fiscal Office and the legislative auditor to compile pertinent information about the board or commission under review.

Effective August 1, 2024.

(Amends R.S. 37:41, 43, and 45; adds R.S. 37:45.1)