

Department of Planning and Budget 2017 Fiscal Impact Statement

1. **Bill Number:** HB1566

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Michael J. Webert

3. **Committee:** House General Laws - Subcommittee #4 Committee

4. **Title:** Professions and occupations; active supervision of regulatory boards.

5. **Summary:** Professions and occupations; active supervision of regulatory boards. Establishes a statewide policy for the regulation of professions and occupations specifying criteria for government regulation with the objective of increasing opportunities, promoting competition, encouraging innovation, protecting consumers, and complying with applicable federal antitrust laws. In addition, the bill establishes a process for the active supervision of state regulatory boards pursuant to the U.S. Supreme Court decision in North Carolina State Board of Dental Examiners v. Federal Trade Commission, in which the Court held that a state regulatory board that includes active market participants among its board membership must be actively supervised by the state in order for such board and its members to be entitled to immunity for federal antitrust violations. The bill also (i) creates the Division of Supervision of Regulatory Boards in the Office of the Attorney General to be responsible for the active supervision of regulatory boards and (ii) establishes the position of professional and occupational regulatory analyst within the Division of Legislative Services to review legislation establishing or modifying an occupational regulation to determine whether the legislation meets the state policy of using the least restrictive regulation necessary to protect or preserve the public health, safety, and welfare.

6. **Budget Amendment Necessary:** Yes.

7. **Fiscal Impact Estimates:** Preliminary.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2017	\$310,090	11	GF
2018	\$1,240,362	11	GF
2019	\$1,240,362	11	GF
2020	\$1,240,362	11	GF
2021	\$1,240,362	11	GF
2022	\$1,240,362	11	GF
2023	\$1,240,362	11	GF

- 8. Fiscal Implications:** The provisions of the bill are not expected to create a cost to the Department of Professional and Occupational Regulation (DPOR).

The Division of Legislative Services (DLS) indicates that the bill requires a regulatory analyst employed by DLS to review and evaluate all professions and occupations regulated by regulatory boards over five year cycles. DLS estimates there are 65 professions and occupations, which will need to be evaluated every five years. This averages to 13 professions and occupations each year. Because (i) review of the medical professions, accountancy professions, architectural professions, and similar technical professions likely will require more than a one-year review by themselves, which may make it difficult to adequately review 13 professions and occupations in a single year and (ii) DLS expects that much input will need to be received from stakeholders including the regulated community, regulatory boards, and impacted consumers in any review, DLS will need 2 additional full-time regulatory analysts to implement this legislation, with an estimated general fund cost of \$200,000 per year.

The Attorney General and Department of Law (OAG) indicates that given the bill's current breadth of the decisions needing review by OAG and the number of regulatory boards to which the bill appears to apply, they estimate that the new Division and the impact on other Divisions would require: 1) 4-6 attorneys to perform the substantive reviews, gather needed data and information from which to make market impact determinations, and then to write up recommendations; 2) 1-2 paralegals to document and assign to the attorneys the incoming decisions needing review and to provide research and support for reviewing market data, economic studies, and any other relevant information needed to make a determination of whether the proposed rule adversely impacts competition; and 3) 1 administrative assistant.

OAG estimates a general fund cost of \$1,040,362 per year for 9 additional FTEs, including salary and non-salary costs for 6 attorneys, 2 paralegals, and 1 administrative assistant. This would include support for Consumer, Department of Health Professions and DPOR but is only an estimate and could require more staffing.

Fiscal year 2017 estimated expenditures have been prorated, anticipating an impact during the last three months of the of the year. Therefore, the fiscal year 2017 amount is one quarter of the annual cost of \$200,000 for DLS and \$1,040,362 for OAG.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Professional and Occupational Regulation, Division of Legislative Services, and Attorney General and Department of Law

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** HB1937 is similar.

Date: 1/16/17

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