



Ohio Revised Code

Section 101.63 Review hearings regarding occupational licensing boards.

Effective: April 5, 2019

Legislation: Senate Bill 255 - 132nd General Assembly

(A)(1) Not later than the first day of March in the odd-numbered year during which an occupational licensing board is scheduled to be triggered to expire the following even- numbered year under section 101.62 of the Revised Code, the speaker of the house of representatives shall direct a standing committee of the house of representatives to hold hearings to receive the testimony of the public and of the chief executive officer of the board, and otherwise to review, consider, and evaluate the usefulness, performance, and effectiveness of the board. Not later than the fifteenth day of November of that same odd-numbered year, the standing committee shall prepare and publish a report of its findings and recommendations in accordance with section 101.65 of the Revised Code. If the standing committee's report includes a bill, the house of representatives shall consider that bill for passage by the thirty-first day of December of that same odd-numbered year.

(2) Not later than the first day of March in the even- numbered year during which an occupational licensing board is scheduled to be triggered to expire under section 101.62 of the Revised Code, the president of the senate shall direct a standing committee of the senate to hold hearings to receive testimony of the public and of the chief executive officer of the board, and otherwise to review, consider, and evaluate the usefulness, performance, and effectiveness of the board and any bill considered by the house of representatives related to the expiration of that board. Not later than the fifteenth day of November of that same even-numbered year, the standing committee shall prepare and publish a report of its findings and recommendations in accordance with section 101.65 of the Revised Code. If the standing committee's report includes a bill, the senate shall consider that bill for passage by the thirty-first day of December of that same even-numbered year.

(3) The president of the senate and the speaker of the house of representatives may, in the same manner as described in divisions (A)(1) and (2) of this section, direct a standing committee to review an occupational licensing board for which the director of the legislative service commission, under section 103.27 of the Revised Code, has performed a review.

(4) The president of the senate and the speaker of the house of representatives shall direct standing



committees to review approximately thirty-three per cent of the occupational licensing boards each biennium. All occupational licensing boards shall be reviewed over a six-year period including calendar years 2019 through 2024, and also during each subsequent six-year period.

(B) Each occupational licensing board that is scheduled to be reviewed by a standing committee shall submit to the standing committee a report that contains all of the following information:

- (1) The board's primary purpose and its various goals and objectives;
- (2) The board's past and anticipated workload, the number of staff required to complete that workload, and the board's total number of staff;
- (3) The board's past and anticipated budgets and its sources of funding;
- (4) The number of members of its governing board or other governing entity and their compensation, if any.

(C) Each board shall have the burden of demonstrating to the standing committee a public need for its continued existence. In determining whether a board has demonstrated that need, the standing committee shall consider, as relevant, all of the following:

- (1) Whether or not continuation of the board is necessary to protect the health, safety, or welfare of the public, and if so, whether or not the board's authority is narrowly tailored to protect against present, recognizable, and significant harms to the health, safety, or welfare of the public;
- (2) Whether or not the public could be protected or served in an alternate or less restrictive manner;
- (3) Whether or not the board serves a specific private interest;
- (4) Whether or not rules adopted by the board are consistent with the legislative mandate of the board as expressed in the statutes that created and empowered the board;
- (5) The extent to which the board's jurisdiction and programs overlap or duplicate those of other



boards, the extent to which the board coordinates with those other boards, and the extent to which the board's programs could be consolidated with the programs of other state departments or boards;

(6) How many other states regulate the occupation, whether a license is required to engage in the occupation in other states, whether the initial licensing and license renewal requirements for the occupation are substantially equivalent in every state, and the amount of regulation exercised by the board compared to the regulation, if any, in other states;

(7) The extent to which significant changes in the board's rules could prevent an individual licensed in this state from practicing, or allow an individual licensed in this state to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction;

(8) Whether the board recognizes national uniform licensure requirements for the occupation;

(9) Whether or not private contractors could be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform these duties instead of the board;

(10) Whether or not the operation of the board has inhibited economic growth, reduced efficiency, or increased the cost of government;

(11) An assessment of the authority of the board regarding fees, inspections, enforcement, and penalties;

(12) The extent to which the board has permitted qualified applicants to serve the public;

(13) The extent to which the board has permitted individuals to practice elements of the occupation without a license;

(14) The cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present;

(15) Whether or not the board's operation has been impeded or enhanced by existing statutes and



procedures and by budgetary, resource, and personnel practices;

(16) Whether the board has recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the board, if any, and whether its recommendations and other policies have been adopted and implemented;

(17) Whether the board has required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery;

(18) Whether persons regulated by the board, if any, have been required to assess problems in their business operations that affect the public;

(19) Whether the board has encouraged public participation in its rule-making and decision-making;

(20) The efficiency with which formal public complaints filed with the board have been processed to completion;

(21) Whether the purpose for which the board was created has been fulfilled, has changed, or no longer exists;

(22) Whether federal law requires that the board be renewed in some form;

(23) An assessment of the administrative hearing process of a board if the board has an administrative hearing process, and whether or not the hearing process is consistent with due process rights;

(24) Whether the requirement for the occupational license is consistent with the policies expressed in section 4798.02 of the Revised Code, serves a meaningful, defined public interest, and provides the least restrictive form of regulation that adequately protects the public interest;

(25) The extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria



have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession;

(26) The extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services;

(27) An assessment of whether or not changes are needed in the enabling laws of the board in order for it to comply with the criteria suggested by the considerations listed in division (C) of this section.

For division (C) of this section, a government regulatory requirement protects or serves the public interest if it provides protection from present, significant, and substantiated harms to the health, safety, or welfare of the public.

(D) The legislative service commission shall provide staff services to a standing committee performing its duties under this section and section 101.65 of the Revised Code.