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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 263
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 263's Bill Analysis](#)

Version: As Reported by Senate Transportation, Commerce & Workforce

Primary Sponsor: Rep. Koehler

Local Impact Statement Procedure Required: No

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Highlights

- The bill's licensing and reporting requirements are likely to increase, to varying degrees, the annual workload and related operating costs of 37 state agencies, departments, boards, and commissions. Whether all of these state entities will be able to absorb the work and costs utilizing existing staff and resources, or the degree to which the costs may be offset by the collection of additional application and licensure revenue, is indeterminate.
- The one-time and ongoing operating expenses that the Department of Administrative Services will incur to establish and maintain a system for the collection, compiling, and publishing of required licensing information are indeterminate.
- The annual cost of performing the Bureau of Criminal Identification and Investigation's criminal records check activities and services will increase to some degree, and may be more or less offset by the fees charged to conduct a criminal records check.
- The bill has no direct fiscal effect on the state's political subdivisions.

Detailed Analysis

Limitations on initial license refusal

The bill generally prohibits any state licensing authority from refusing to issue an initial license to an individual based solely on being charged with or convicted of a criminal offense or a nonspecific qualification such as "moral turpitude" or lack of "moral character." The bill does however permit a state licensing authority to refuse licensure if the offense is directly related to the duties and responsibilities of the licensed occupation.

Within 180 days of the bill's effective date, a state licensing authority is required: (1) to adopt a list of specific criminal offenses for which a conviction, judicial finding of guilt, or guilty

plea may disqualify an individual from obtaining licensure, (2) to establish an administrative hearing process for an applicant who is denied an initial license because of a specific disqualifying offense, and (3) to adopt any related necessary rules. The look-back period for a disqualifying offense that is not an offense of violence or a sexually oriented offense generally is limited to five years. If the disqualifying offense involved a breach of fiduciary duty, the look-back period is ten years.

Presumably, additional persons will become license-eligible for certain professions and occupations and subsequently granted the applicable state license. As a result, application and licensure revenue will be generated, with denials potentially resulting in some increase in administrative hearings.

LBO estimates that these licensing provisions affect up to 300 or more types of licenses issued by 37 state agencies, departments, boards, and commissions. (See the table below for the affected 37 state licensing authorities.) Four of those state entities (the departments of Agriculture, Commerce, Insurance, and Public Safety) have two or more internal licensing operations (divisions, boards, programs, offices, or bureaus) affected by the bill.

The likely annual increase in work, operating costs, and revenue generated for any given state licensing authority is indeterminate. That said, it is possible that the increased work and costs can be absorbed utilizing existing staff and resources, or that the associated costs may be offset to some degree by the additional revenue gained.

Criminal records checks

The bill will affect the workload of the Bureau of Criminal Identification and Investigation (BCII) by: (1) changing the scope of the criminal records checks conducted for certain licensed occupations, and (2) increasing the likely number of criminal records checks requested each year. While the associated increase in BCII's annual operating expenses is not readily quantifiable, it is possible that the cost increase will be more or less offset by the fees charged to conduct a criminal records check.

BCII performs state-only background checks by comparing an individual's fingerprints against a database of criminal fingerprints to determine if there is a criminal record. If requested or required, BCII also administers FBI background checks, which use a national database to search for criminal history records. Who pays for a background check varies; sometimes the employer pays and sometimes the individual who is the subject of the background check pays. Licensing entities may include the price of the background check as part of the licensure process. The base fees of the state-only and FBI background checks are \$22 and \$25.25, respectively. All of the fees are credited to the Attorney General's General Reimbursement Fund (Fund 1060),¹ with \$23.25 of the FBI background check fee subsequently disbursed to the FBI.

¹ The Attorney General uses the money credited to Fund 1060 to pay for operating expenses incurred in the provision of law enforcement services, legal representation, and overall office administration.

Reporting requirements

The bill: (1) requires each state licensing authority annually provide the Director of Administrative Services (DAS) with certain specified information for each license the authority is authorized to issue and (2) requires the Director compile the information reported by each state licensing authority and annually publish it in a searchable format on a website created and maintained by the Director. The bill specifies that the first annual report issued by a licensing authority must include the specified information for the period beginning January 1, 2016, and ending on December 31, 2020, if it is available.

Eighteen of the affected 37 state licensing authorities are fully integrated into *eLicense Ohio*, an online professional and occupational licensing management system operated by DAS. Some of the required information is currently being collected and reported to DAS through this system. However, some data fields will need to be added or modified, requiring one-time programming work. The 19 state licensing authorities that do not use *eLicense Ohio* will need to establish and then maintain a system for compiling and submitting the required information to DAS. The one-time and ongoing operating expenses that the 37 state licensing authorities and DAS will incur to comply with the annual reporting requirement are indeterminate. DAS could pay for some of the costs by adjusting the amounts that it charges state licensing authorities that use *eLicense Ohio*.

State Licensing Authorities Affected by the Bill's Requirements	
Agency Name	Agency Name
Accountancy Board*	Health**
Aging	Insurance
Agriculture	Joint Legislative Ethics Committee
Architects Board*	Landscape Architects Board*
Athletic Commission	Lottery Commission
Attorney General	Medical Board*
Career Colleges and Schools Board	Natural Resources
Casino Control Commission*	Nursing Board*
Chemical Dependency Professionals Board*	Occupational Therapy, Physical Therapy and Athletic Trainers Board*
Chiropractic Board*	Opportunities for Ohioans with Disabilities
Commerce**	Pharmacy Board*
Cosmetology and Barber Board*	Psychology Board*

State Licensing Authorities Affected by the Bill's Requirements	
Agency Name	Agency Name
Counselor, Social Worker and Marriage and Family Therapist Board*	Public Safety
Dental Board*	Secretary of State
Developmental Disabilities	Speech and Hearing Professionals Board*
Education	Transportation
Embalmers and Funeral Directors Board*	Veterinary Medical Licensing Board*
Engineers and Surveyors Board*	Vision Professionals Board*
Environmental Protection Agency	

**eLicense Ohio* user

**In the case of the departments of Commerce and Health, the only entities using *eLicense Ohio* are the Manufactured Homes Commission and the Sanitarian Registration Board, respectively. The licensing functions of other operations within those two state departments are not *eLicense Ohio* users.