

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 221*
Committee Substitute Favorable 4/6/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H221-PCS50722-RO-49

Short Title: Oversight of Licensing Boards.

(Public)

Sponsors:

Referred to:

February 19, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE
3 OVERSIGHT COMMITTEE TO REVIEW THE ACTIVITIES OF OCCUPATIONAL
4 LICENSING BOARDS, TO REQUIRE THAT CERTAIN LICENSING BOARDS BE
5 AUDITED ANNUALLY, TO SPECIFY A DATE FOR FILING OF REPORTS, TO
6 ESTABLISH SANCTIONS FOR FAILURE TO FILE REPORTS, AND TO REQUIRE
7 THAT BOARD MEMBERS RECEIVE TRAINING, AS RECOMMENDED BY THE
8 JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. G.S. 120-70.101 reads as rewritten:

11 "§ 120-70.101. Purpose and powers of Committee.

12 The Joint Legislative Administrative Procedure Oversight Committee has the following
13 powers and duties:

- 14 (1) To review rules to which the Rules Review Commission has objected to
15 determine if statutory changes are needed to enable the agency to fulfill the
16 intent of the General Assembly.
- 17 (2) To receive reports prepared by the Rules Review Commission containing the
18 text and a summary of each rule approved by the Commission.
- 19 ~~(3) To prepare a notebook that contains the administrative rules that have been~~
20 ~~approved by the Rules Review Commission and reported to the Committee~~
21 ~~and to notify each member of the General Assembly of the availability of the~~
22 ~~notebook.~~
- 23 (3a) To review the activities of State occupational licensing boards to determine
24 if the boards are operating in accordance with statutory requirements and if
25 the boards are still necessary to achieve the purposes for which they were
26 created. This review shall not include decisions concerning board personnel
27 matters or determinations on individual licensing applications or individual
28 disciplinary actions.
- 29 (4) To review State regulatory programs to determine if the programs overlap,
30 have conflicting goals, or could be simplified and still achieve the purpose of
31 the regulation.
- 32 (5) To review existing rules to determine if the rules are necessary or if the rules
33 can be streamlined.



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1 (6) To review the rule-making process to determine if the procedures for
2 adopting rules give the public adequate notice of and information about
3 proposed rules.

4 (7) To review any other concerns about administrative law to determine if
5 statutory changes are needed.

6 (8) To report to the General Assembly from time to time concerning the
7 Committee's activities and any recommendations for statutory changes."

8 **SECTION 2.** G.S. 93B-2 reads as rewritten:

9 **"§ 93B-2. Annual reports required; contents; open to inspection; ~~inspection; sanction for~~**
10 **failure to report.**

11 (a) ~~Each~~ No later than October 31 of each year, each occupational licensing board shall
12 file with the Secretary of State, the Attorney General, and the Joint Legislative Administrative
13 Procedure Oversight Committee an annual report containing all of the following information:

14 (1) The address of the board, and the names of its members and officers.

15 (2) The number of persons who applied to the board for examination.

16 (3) The number who were refused examination.

17 (4) The number who took the examination.

18 (5) The number to whom initial licenses were issued.

19 (6) The number who applied for license by reciprocity or comity.

20 (7) The number who were granted licenses by reciprocity or comity.

21 (7a) The number of official complaints received involving licensed and
22 unlicensed activities.

23 (7b) The number of disciplinary actions taken against licensees, or other actions
24 taken against nonlicensees, including injunctive relief.

25 (8) The number of licenses suspended or revoked.

26 (9) The number of licenses terminated for any reason other than failure to pay
27 the required renewal fee.

28 (10) The substance of any anticipated request by the occupational licensing board
29 to the General Assembly to amend statutes related to the occupational
30 licensing board.

31 (11) The substance of any anticipated change in rules adopted by the
32 occupational licensing board or the substance of any anticipated adoption of
33 new rules by the occupational licensing board.

34 (b) ~~Each~~ No later than October 31 of each year, each occupational licensing board shall
35 file with the Secretary of State, the Attorney General, the Office of State Budget and
36 Management, and the Joint Legislative Administrative Procedure Oversight Committee a
37 financial report that includes the source and amount of all funds credited to the occupational
38 licensing board and the purpose and amount of all funds disbursed by the occupational
39 licensing board during the previous ~~12-month period.~~ fiscal year.

40 (c) The reports required by this section shall be open to public inspection.

41 (d) Failure of a board to comply with the reporting requirements of this section by
42 October 31 of each year shall result in a suspension of the board's authority to expend any
43 funds until such time as the board files the required reports. Suspension of a board's authority to
44 expend funds under this subsection shall not affect the board's duty to issue and renew licenses
45 or the validity of any application or license for which fees have been tendered in accordance
46 with law. Each board shall adopt rules establishing a procedure for implementing this
47 subsection and shall maintain an escrow account into which any fees tendered during a board's
48 period of suspension under this subsection shall be deposited."

49 **SECTION 3.** G.S. 93B-4 reads as rewritten:

50 **"§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.**

1 (a) The State Auditor shall audit occupational licensing boards from time to time to
2 ensure their proper operation. The books, records, and operations of each occupational
3 licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of
4 Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor
5 may contract with independent professionals to meet the requirements of this section.

6 The cost of all audits shall be paid from funds of the occupational licensing board audited.

7 (b) Each occupational licensing board with a budget of at least fifty thousand dollars
8 (\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the
9 State Auditor."

10 **SECTION 4.** G.S. 93B-5 reads as rewritten:

11 **"§ 93B-5. ~~Compensation and employment~~ Compensation, employment, and training of**
12 **board members.**

13 (a) Board members shall receive as compensation for their services per diem not to
14 exceed one hundred dollars (\$100.00) for each day during which they are engaged in the
15 official business of the board.

16 (b) Board members shall be reimbursed for all necessary travel expenses in an amount
17 not to exceed that authorized under G.S. 138-6(a) for officers and employees of State
18 departments. Actual expenditures of board members in excess of the maximum amounts set
19 forth in G.S. 138-6(a) for travel and subsistence may be reimbursed if the prior approval of the
20 State Director of Budget is obtained and such approved expenditures are within the established
21 and published uniform standards and criteria of the State Director of Budget authorized under
22 G.S. 138-7 for extraordinary charges for hotels, meals, and convention registration for State
23 officers and employees, whenever such charges are the result of required official business of
24 the Board.

25 (c) Repealed by Session Laws 1981, c. 757, s. 2.

26 (d) Except as provided herein board members shall not be paid a salary or receive any
27 additional compensation for services rendered as members of the board.

28 (e) Board members shall not be permanent, salaried employees of said board.

29 (f) Repealed by Session Laws 1975, c. 765, s. 1.

30 (g) Within six months of a board member's initial appointment to the board, and at least
31 once within every two calendar years thereafter, a board member shall receive training, either
32 from the board's staff, including its legal advisor, or from an outside educational institution
33 such as the School of Government of the University of North Carolina, on the statutes
34 governing the board and rules adopted by the board, as well as the following State laws, in
35 order to better understand the obligations and limitations of a State agency:

36 (1) Chapter 150B, The Administrative Procedure Act.

37 (2) Chapter 132, The Public Records Law.

38 (3) Article 33C of Chapter 143, The Open Meetings Act.

39 (4) Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The
40 Defense of State Employees Law.

41 (5) Chapter 138A, The State Government Ethics Act.

42 (6) Chapter 120C, Lobbying.

43 Completion of the training requirements contained in Chapter 138A and Chapter 120C of
44 the General Statutes satisfies the requirements of subdivisions (5) and (6) of this subsection."

45 **SECTION 5.** G.S. 120-70.103 is repealed.

46 **SECTION 6.** This act becomes effective October 1, 2009.