

1 State of Arkansas
2 94th General Assembly
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4

A Bill

HOUSE BILL 1322

5 By: Representatives Cavanaugh, Wardlaw
6 By: Senator K. Hammer
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE REDUCTION
10 OF CERTAIN REGULATORY FEES AND CHARGES; TO DECLARE AN
11 EMERGENCY; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND ARKANSAS LAW CONCERNING THE
16 REDUCTION OF CERTAIN REGULATORY FEES AND
17 CHARGES; AND TO DECLARE AN EMERGENCY.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code Title 25, Chapter 43, Subchapter 8, is
23 amended to add an additional section to read as follows:

24 25-43-813. Reduction of regulatory fees and charges.

25 (a)(1)(A) Except as otherwise provided in this section, the Secretary
26 of the Department of Health shall implement a reduction of one (1) or more
27 regulatory fees or charges of a board or commission whose administrative
28 functions have been transferred to the Department of Health under § 25-43-802
29 when the board or commission accumulates a fund balance that is at least
30 three (3) times greater than the board or commission's annual average
31 operating expenses.

32 (B) A reduction of a regulatory fee or charge under
33 subdivision (a)(1)(A) of this section shall not exceed ninety-five percent
34 (95%) of the required amount of the regulatory fee or charge.

35 (2) Regulatory fees and charges that may be reduced under this
36 section include without limitation:



- 1 (A) License fees;
- 2 (B) Examination fees;
- 3 (C) Assessment rates or fees;
- 4 (D) Association dues or fees;
- 5 (E) Renewal fees or charges;
- 6 (F) Application fees;
- 7 (G) Certification fees;
- 8 (H) Inspection fees;
- 9 (I) Permit fees;
- 10 (J) Fees or charges authorized by Arkansas law;
- 11 (K) Fees or charges authorized by rule; and
- 12 (L) Any other collections by the board or commission not
 13 implemented as a penalty or fine.

14 (3) All penalties or fines assessed by a board or commission
 15 associated with violations shall remain in effect and shall continue to be
 16 enforced and collected at the required amount regardless of whether the
 17 secretary has reduced the regulatory charges and fees of a board or
 18 commission under this section.

19 (b)(1) The secretary shall reduce the regulatory fees and charges of a
 20 board or commission under this section if he or she determines:

21 (A) The board or commission has a fund balance that is at
 22 least three (3) times greater than its annual average operating expenses as
 23 determined by the secretary;

24 (B) A reduction of regulatory fees and charges under this
 25 section will not result in the fund balance of the board or commission
 26 dropping below a balance three (3) times greater than its annual average
 27 operating expenses as determined by the secretary; and

28 (C)(i) Valid reasons do not exist for allowing the board
 29 or commission to continue to charge its required amount of regulatory fees
 30 and charges while having a fund balance that is at least three (3) times
 31 greater than its annual average operating expenses.

32 (ii) Valid reasons under this subdivision (b)(1)(C)
 33 include without limitation accumulating funds for a future construction
 34 project or other capital project that the secretary deems necessary for the
 35 board or commission.

36 (2) If the secretary determines a reduction of fees is required

1 under this section, he or she shall identify:

2 (A) One (1) or more regulatory fees and charges that shall
3 be reduced; and

4 (B) The amount of the reduction that should be applied to
5 each regulatory fee and charge.

6 (c) The secretary shall submit a written notice of a reduction of
7 regulatory fees and charges under this section to the Chief Fiscal Officer of
8 the State and the persons expected to submit regulatory fees and charges to
9 the board or commission, which shall include without limitation:

10 (1) The specific regulatory fees and charges of the board or
11 commission that shall be reduced;

12 (2)(A) The amount of each specific regulatory fee and charge in
13 light of the reduction.

14 (B) A reduced regulatory fee or charge under this section
15 shall be rounded to the nearest whole dollar so that:

16 (i) If the actual reduced regulatory fee or charge
17 is a dollar amount plus forty-nine cents (49¢) or less, the rate of the
18 regulatory fee or charge shall be the next lowest whole dollar amount; and

19 (ii) If the actual reduced regulatory fee or charge
20 is a dollar amount plus fifty cents (50¢) or more, the rate of the regulatory
21 fee or charge shall be the next highest whole dollar amount;

22 (3)(A) The dates on which the reduction of each regulatory fee
23 and charge shall begin and end.

24 (B) A reduction of a regulatory fee and charge shall be
25 effective on the beginning date specified in the written notice under this
26 subsection and shall terminate on the end date specified in the written
27 notice under this subsection.

28 (C) A reduction of a regulatory fee or charge under this
29 section shall not exceed one (1) year or one (1) collection cycle for the
30 regulatory fee or charge at issue, whichever is deemed appropriate by the
31 secretary; and

32 (4) If the secretary anticipates reducing one (1) or more
33 regulatory fees and charges in successive years based on the fund balance of
34 the board or commission, the projected date at which the secretary
35 anticipates each regulatory fee or charge will return to its required amount.

36 (d) The secretary may reduce regulatory fees and charges under this

1 section in successive years if the required criteria under this section are
2 met.

3 (e) When notifying persons of regulatory fees and charges that are
4 payable to a board or commission during the period of a reduction of
5 regulatory fees and charges under this section, the board or commission shall
6 include in the notification conspicuous language that the regulatory fees and
7 charges have been reduced in light of the fund balance accumulated by the
8 board or commission and the reduction may or may not apply in future years.

9 (f)(1) If the secretary determines during the period of a reduction of
10 regulatory fees and charges under this section that the reduction will result
11 in the fund balance of a board or commission falling below three (3) times
12 the annual operating expenses of the board or commission during the time
13 period of the reduction, and the reduction is no longer in the best financial
14 interest of the board or commission, he or she may terminate the reduction of
15 regulatory fees and charges upon obtaining the approval of the Legislative
16 Council or, if the General Assembly is in regular, fiscal, or extraordinary
17 session, the Joint Budget Committee.

18 (2) The board or commission may collect all or a portion of the
19 balance of regulatory fees and charges that would have been payable but for
20 the reduction of the regulatory fees and charges if the:

21 (A) Secretary determines that such a collection is in the
22 best financial interest of the board or commission; and

23 (B) Legislative Council or, if the General Assembly is in
24 regular, fiscal, or extraordinary session, the Joint Budget Committee
25 approves the collection of all or a portion of the balance of the regulatory
26 fees and charges.

27 (3) If the Legislative Council or, if the General Assembly is in
28 regular, fiscal, or extraordinary session, the Joint Budget Committee
29 approves the termination of a reduction of regulatory fees and charges under
30 this subsection, the secretary shall submit a written notice of the
31 termination to the Chief Fiscal Officer of the State and the persons expected
32 to submit regulatory fees and charges to the board or commission, which shall
33 include without limitation:

34 (A)(i) The date the reduction of regulatory fees and
35 charges shall be terminated.

36 (ii) A termination of a reduction of regulatory fees

1 and charges shall be effective on the date specified in the written notice
2 under this subsection; and

3 (B) Whether the board or commission will collect all or a
4 portion of the balance of regulatory fees and charges that would have been
5 payable but for the reduction of regulatory fees and charges and, if so, the
6 timeline for the payment of the regulatory fees and charges.

7 (g) The secretary shall submit a report to the Legislative Council
8 during pre-session budget hearings prior to a regular session of the General
9 Assembly for the budget presentation of the boards and commissions whose
10 administrative functions have been transferred to the Department of Health
11 under § 25-43-802, which shall include the following information:

12 (1) The current fund balance of each board or commission;

13 (2) The average expenditures of each board or commission for the
14 preceding three (3) fiscal years;

15 (3)(A) Whether each board or commission has reduced regulatory
16 fees and charges under this section in the preceding three (3) years and, if
17 so, the projected time period for the reduction of the regulatory fees and
18 charges.

19 (B) If the secretary anticipates continuing the reduction
20 of one (1) or more regulatory fees and charges in future years based on the
21 fund balance of the board or commission, the report shall include the
22 projected date on which the secretary anticipates the regulatory fee or
23 charge will return to its required amount;

24 (4) If a board or commission was eligible for a reduction of
25 regulatory fees and charges under this section but the secretary determined
26 there were valid reasons to not do so, an explanation of the reasons for
27 declining to implement a reduction of regulatory fees and charges for the
28 board or commission; and

29 (5) If a board or commission reduced regulatory fees and charges
30 under this section in the preceding three (3) years, whether the board or
31 commission terminated a reduction of regulatory fees and charges under
32 subsection (f) of this section.

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34 SECTION 2. Arkansas Code Title 25, Chapter 43, Subchapter 11, is
35 amended to add an additional section to read as follows:

36 25-43-1107. Reduction of regulatory fees and charges.

1 (a)(1)(A) Except as otherwise provided in this section, the Secretary
 2 of the Department of Labor and Licensing shall implement a reduction of one
 3 (1) or more regulatory fees or charges of a board or commission whose
 4 administrative functions have been transferred to the Department of Labor and
 5 Licensing under § 25-43-1102 when the board or commission accumulates a fund
 6 balance that is at least three (3) times greater than the board or
 7 commission's annual average operating expenses.

8 (B) A reduction of a regulatory fee or charge under
 9 subdivision (a)(1)(A) of this section shall not exceed ninety-five percent
 10 (95%) of the required amount of the regulatory fee or charge.

11 (2) Regulatory fees and charges that may be reduced under this
 12 section include without limitation:

- 13 (A) License fees;
- 14 (B) Examination fees;
- 15 (C) Assessment rates or fees;
- 16 (D) Association dues or fees;
- 17 (E) Renewal fees or charges;
- 18 (F) Application fees;
- 19 (G) Certification fees;
- 20 (H) Inspection fees;
- 21 (I) Permit fees;
- 22 (J) Fees or charges authorized by Arkansas law;
- 23 (K) Fees or charges authorized by rule; and
- 24 (L) Any other collections by the board or commission not
 25 implemented as a penalty or fine.

26 (3) All penalties or fines assessed by a board or commission
 27 associated with violations shall remain in effect and shall continue to be
 28 enforced and collected at the required amount regardless of whether the
 29 secretary has reduced the regulatory charges and fees of a board or
 30 commission under this section.

31 (b)(1) The secretary shall reduce the regulatory fees and charges of a
 32 board or commission under this section if he or she determines:

- 33 (A) The board or commission has a fund balance that is at
 34 least three (3) times greater than its annual average operating expenses as
 35 determined by the secretary;
- 36 (B) A reduction of regulatory fees and charges under this

1 section will not result in the fund balance of the board or commission
2 dropping below a balance three (3) times greater than its annual average
3 operating expenses as determined by the secretary; and

4 (C)(i) Valid reasons do not exist for allowing the board
5 or commission to continue to charge its required amount of regulatory fees
6 and charges while having a fund balance that is at least three (3) times
7 greater than its annual average operating expenses.

8 (ii) Valid reasons under this subdivision (b)(1)(C)
9 include without limitation accumulating funds for a future construction
10 project or other capital project that the secretary deems necessary for the
11 board or commission.

12 (2) If the secretary determines a reduction of fees is required
13 under this section, he or she shall identify:

14 (A) One (1) or more regulatory fees and charges that shall
15 be reduced; and

16 (B) The amount of the reduction that should be applied to
17 each regulatory fee and charge.

18 (c) The secretary shall submit a written notice of a reduction of
19 regulatory fees and charges under this section to the Chief Fiscal Officer of
20 the State and the persons expected to submit regulatory fees and charges to
21 the board or commission, which shall include without limitation:

22 (1) The specific regulatory fees and charges of the board or
23 commission that shall be reduced;

24 (2)(A) The amount of each specific regulatory fee and charge in
25 light of the reduction.

26 (B) A reduced regulatory fee or charge under this section
27 shall be rounded to the nearest whole dollar so that:

28 (i) If the actual reduced regulatory fee or charge
29 is a dollar amount plus forty-nine cents (49¢) or less, the rate of the
30 regulatory fee or charge shall be the next lowest whole dollar amount; and

31 (ii) If the actual reduced regulatory fee or charge
32 is a dollar amount plus fifty cents (50¢) or more, the rate of the regulatory
33 fee or charge shall be the next highest whole dollar amount;

34 (3)(A) The dates on which the reduction of each regulatory fee
35 and charge shall begin and end.

36 (B) A reduction of a regulatory fee and charge shall be

1 effective on the beginning date specified in the written notice under this
2 subsection and shall terminate on the end date specified in the written
3 notice under this subsection.

4 (C) A reduction of a regulatory fee or charge under this
5 section shall not exceed one (1) year or one (1) collection cycle for the
6 regulatory fee or charge at issue, whichever is deemed appropriate by the
7 secretary; and

8 (4) If the secretary anticipates reducing one (1) or more
9 regulatory fees and charges in successive years based on the fund balance of
10 the board or commission, the projected date at which the secretary
11 anticipates each regulatory fee or charge will return to its required amount.

12 (d) The secretary may reduce regulatory fees and charges under this
13 section in successive years if the required criteria under this section are
14 met.

15 (e) When notifying persons of regulatory fees and charges that are
16 payable to a board or commission during the period of a reduction of
17 regulatory fees and charges under this section, the board or commission shall
18 include in the notification conspicuous language that the regulatory fees and
19 charges have been reduced in light of the fund balance accumulated by the
20 board or commission and the reduction may or may not apply in future years.

21 (f)(1) If the secretary determines during the period of a reduction of
22 regulatory fees and charges under this section that the reduction will result
23 in the fund balance of a board or commission falling below three (3) times
24 the annual operating expenses of the board or commission during the time
25 period of the reduction, and the reduction is no longer in the best financial
26 interest of the board or commission, he or she may terminate the reduction of
27 regulatory fees and charges upon obtaining the approval of the Legislative
28 Council or, if the General Assembly is in regular, fiscal, or extraordinary
29 session, the Joint Budget Committee.

30 (2) The board or commission may collect all or a portion of the
31 balance of regulatory fees and charges that would have been payable but for
32 the reduction of the regulatory fees and charges if the:

33 (A) Secretary determines that such a collection is in the
34 best financial interest of the board or commission; and

35 (B) Legislative Council or, if the General Assembly is in
36 regular, fiscal, or extraordinary session, the Joint Budget Committee

1 approves the collection of all or a portion of the balance of the regulatory
2 fees and charges.

3 (3) If the Legislative Council or, if the General Assembly is in
4 regular, fiscal, or extraordinary session, the Joint Budget Committee
5 approves the termination of a reduction of regulatory fees and charges under
6 this subsection, the secretary shall submit a written notice of the
7 termination to the Chief Fiscal Officer of the State and the persons expected
8 to submit regulatory fees and charges to the board or commission, which shall
9 include without limitation:

10 (A)(i) The date the reduction of regulatory fees and
11 charges shall be terminated.

12 (ii) A termination of a reduction of regulatory fees
13 and charges shall be effective on the date specified in the written notice
14 under this subsection; and

15 (B) Whether the board or commission will collect all or a
16 portion of the balance of regulatory fees and charges that would have been
17 payable but for the reduction of regulatory fees and charges and, if so, the
18 timeline for the payment of the regulatory fees and charges.

19 (g) The secretary shall submit a report to the Legislative Council
20 during pre-session budget hearings prior to a regular session of the General
21 Assembly for the budget presentation of the boards and commissions whose
22 administrative functions have been transferred to the Department of Labor and
23 Licensing under § 25-43-1102, which shall include the following information:

24 (1) The current fund balance of each board or commission;

25 (2) The average expenditures of each board or commission for the
26 preceding three (3) fiscal years;

27 (3)(A) Whether each board or commission has reduced regulatory
28 fees and charges under this section in the preceding three (3) years and, if
29 so, the projected time period for the reduction of the regulatory fees and
30 charges.

31 (B) If the secretary anticipates continuing the reduction
32 of one (1) or more regulatory fees and charges in future years based on the
33 fund balance of the board or commission, the report shall include the
34 projected date on which the secretary anticipates the regulatory fee or
35 charge will return to its required amount;

36 (4) If a board or commission was eligible for a reduction of

1 regulatory fees and charges under this section but the secretary determined
2 there were valid reasons to not do so, an explanation of the reasons for
3 declining to implement a reduction of regulatory fees and charges for the
4 board or commission; and

5 (5) If a board or commission reduced regulatory fees and charges
6 under this section in the preceding three (3) years, whether the board or
7 commission terminated a reduction of regulatory fees and charges under
8 subsection (f) of this section.

9
10 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
11 General Assembly of the State of Arkansas that it is of critical importance
12 to the public peace, health, and safety that state funds are collected in an
13 appropriate manner; it is likewise of critical importance that the regulatory
14 fees and charges of certain regulatory boards and commissions be charged at
15 appropriate levels to promote the economic health of the state; that the
16 collection of unnecessary regulatory fees and charges by boards and
17 commissions which have accumulated a large fund balance negatively impact the
18 public peace, health, and safety by placing unnecessary financial burdens on
19 regulated entities; and that this act should become effective at the
20 beginning of the state's fiscal year to provide financial relief to certain
21 regulated entities and advance the economic health of the state. Therefore,
22 an emergency is declared to exist, and this act being necessary for the
23 preservation of the public peace, health, and safety shall become effective
24 on July 1, 2023.

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