

SENATE BILL 443

IN THE SENATE

February 10, 1979	Introduced and referred to Committee on State Administration.
February 13, 1979	Fiscal note requested.
February 19, 1979	Fiscal note returned.
April 20, 1979	Died in Committee.

1 *Act* BILL NO. *443*
 2 INTRODUCED BY *Jerguson Jim Whelan*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A DIVISION OF
 5 PROFESSIONAL AND OCCUPATIONAL LICENSING WITHIN THE
 6 DEPARTMENT OF BUSINESS REGULATION, TO TRANSFER TO THE
 7 DIVISION THE FUNCTIONS AND DUTIES OF THE DEPARTMENT OF
 8 PROFESSIONAL AND OCCUPATIONAL LICENSING, AND TO TERMINATE
 9 THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING;
 10 AMENDING SECTIONS 2-15-104 AND 37-1-101 THROUGH 37-1-103,
 11 MCA; AND REPEALING SECTION 2-15-1601, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Division of professional and
 15 occupational licensing. There is a division of professional
 16 and occupational licensing within the department of business
 17 regulation. Professional and occupational licensing boards
 18 may be allocated to the division for administrative purposes
 19 only as provided in 2-15-121.

20 Section 2. Termination of department of professional
 21 and occupational licensing. (1) The department of
 22 professional and occupational licensing is terminated, and
 23 the functions and duties of the department are transferred
 24 to the division of professional and occupational licensing
 25 created in [section 1].

1 (2) The code commissioner is authorized and instructed
 2 to change references to the department of professional and
 3 occupational licensing to the division of professional and
 4 occupational licensing and to make any other changes in
 5 internal references required to give effect to this act.

6 Section 3. Section 2-15-104, MCA, is amended to read:

7 "2-15-104. Structure of executive branch. (1) In
 8 accordance with the constitution, all executive and
 9 administrative offices, boards, commissions, agencies, and
 10 instrumentalities of the executive branch of state
 11 government and their respective functions are allocated by
 12 this chapter among and within the following departments or
 13 entities:

- 14 (a) department of administration;
- 15 (b) department of community affairs;
- 16 (c) department of military affairs;
- 17 (d) department of revenue;
- 18 (e) state board of education;
- 19 ~~ff) department of professional and occupational~~
- 20 ~~licensing;~~
- 21 ~~fg)fl~~ department of labor and industry;
- 22 ~~th)gl~~ department of business regulation;
- 23 ~~tt)hl~~ department of justice;
- 24 ~~tj)il~~ department of health and environmental
- 25 sciences;

1 ~~(k)(j)~~ department of social and rehabilitation
 2 services;
 3 ~~(k)(k)~~ department of institutions;
 4 ~~(k)(l)~~ department of highways;
 5 ~~(k)(m)~~ department of public service regulation;
 6 ~~(k)(n)~~ department of agriculture;
 7 ~~(k)(o)~~ department of livestock;
 8 ~~(k)(p)~~ department of state lands;
 9 ~~(k)(q)~~ department of natural resources and
 10 conservation;
 11 ~~(k)(r)~~ department of fish and game.
 12 (2) For its internal structure, each department shall
 13 adhere to the following standard terms:
 14 (a) The principal unit of a department is a division.
 15 Each division shall be headed by an administrator.
 16 (b) The principal unit of a division is a bureau. Each
 17 bureau shall be headed by a chief.
 18 (c) The principal unit of a bureau is a section. Each
 19 section shall be headed by a supervisor."
 20 Section 4. Section 37-1-101, MCA, is amended to read:
 21 "37-1-101. Duties of department division. In addition
 22 to the provisions of 2-15-121, the department division of
 23 professional and occupational licensing shall:
 24 (1) provide all the administrative and clerical
 25 services needed by the boards within the department

1 division, including corresponding, taking applications for
 2 licenses, issuing licenses granted by the boards, renewing
 3 licenses, registering, taking minutes of board meetings and
 4 hearings, and filing;
 5 (2) standardize and keep in Helena all official
 6 records of the boards;
 7 (3) make arrangements and provide facilities in Helena
 8 for the meetings, hearings, and examinations of each board
 9 or elsewhere in the state if requested by the board;
 10 (4) administer and grade examinations required by each
 11 board or by law for licensing, unless the board determines
 12 that experts or professionals are necessary to administer or
 13 grade a particular examination;
 14 (5) at the request of a board, investigate complaints
 15 received by the department division of illegal or unethical
 16 conduct of a member of the profession or occupation under
 17 the jurisdiction of a board within the department division;
 18 (6) assess the costs of the department division to the
 19 boards on a pro rata basis according to the number of
 20 man-days and the actual operating costs of the department
 21 division for each board."
 22 Section 5. Section 37-1-102, MCA, is amended to read:
 23 "37-1-102. Duties of director administrator. In
 24 addition to his powers and duties under 2-15-112 and
 25 2-15-121, the director administrator of the division of

1 professional and occupational licensing shall:

2 (1) appoint impartial legal counsel to conduct
3 hearings before each board within the department division
4 whenever any board holds a hearing. The legal counsel
5 appointed shall see that hearings are conducted in a proper
6 and legal manner.

7 (2) whenever the department division conducts an
8 investigation of a complaint of illegal or unethical conduct
9 of a member of a particular profession or occupation as
10 prescribed in 37-1-101(5) and if requested by the
11 appropriate board, appoint an impartial member of that
12 profession or occupation to assist the department division
13 in its investigation. The member so appointed may not be a
14 member of the board having jurisdiction over the particular
15 profession or occupation.

16 (3) hire all personnel to perform the administrative
17 and clerical functions of the department division for the
18 boards. Boards within the department division have no
19 authority to hire personnel.

20 (4) approve all contracts and expenditures by boards
21 within the department division. No board within the
22 department division may enter into a contract or expend
23 funds without the approval of the director administrator of
24 the division."

25 Section 6. Section 37-1-103, MCA, is amended to read:

1 "37-1-103. Duties of boards. Each board within the
2 department division shall:

3 (1) set and enforce standards and rules governing the
4 licensing, certification, registration, and conduct of the
5 members of the particular profession or occupation within
6 its jurisdiction;

7 (2) sit in judgment in hearings for the suspension,
8 revocation, or denial of a license of an actual or potential
9 member of the particular profession or occupation within its
10 jurisdiction. The hearings shall be conducted by the legal
11 counsel appointed under 37-1-102(1).

12 (3) pay to the department division its pro rata share
13 of the assessed costs of the department division under
14 37-1-101(6)."

15 Section 7. Repealer. Section 2-15-1601, MCA, is
16 repealed.

-End-

STATE OF MONTANA

REQUEST NO. 338-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 19 79, there is hereby submitted a Fiscal Note for SB 443 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

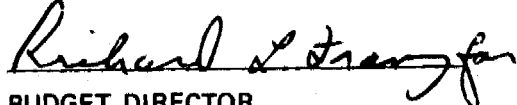
An act to create a Division of Professional and Occupational Licensing within the Department of Business Regulation.

ASSUMPTIONS:

The Department will be transferred in its entirety and all funding and expenditure data contained in the Executive Budget will apply.

FISCAL IMPACT:

None.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/19/79