

## HOUSE SUBSTITUTE TO SENATE BILL 148

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and  
2 business, so as to provide for review of existing regulatory entities to determine the need for  
3 change to their current regulations; to provide for the evaluation of the regulations of existing  
4 regulatory entities; to amend Chapter 4 of Title 50 of the Official Code of Georgia  
5 Annotated, relating to the organization of the executive branch generally, so as to establish  
6 the "Georgia Government Accountability Act"; to provide for the duties and responsibilities  
7 of the appropriations committees; to authorize the committees to review and evaluate state  
8 agencies' productivity, efficiency, and responsiveness; to provide for the automatic abolition  
9 of certain state agencies; to provide for exceptions; to provide for related matters; to repeal  
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
14 is amended by revising Chapter 1A, relating to occupational regulation legislation review,  
15 as follows:

16 style="text-align:center">"CHAPTER 1A

17 43-1A-1.

18 This chapter shall be known and may be cited as the 'Georgia Occupational Regulation  
19 Review Law.'

20 43-1A-2.

21 The General Assembly finds that the need for and the effectiveness of establishing  
 22 occupational licensure and certification in this state has not been systematically evaluated.  
 23 It is the purpose of this chapter to ensure that no programs of licensure and certification  
 24 shall hereafter be imposed upon any profession or business unless required for the safety  
 25 and well-being of the citizens of ~~the~~ this state. It is the further purpose of this chapter to  
 26 authorize the periodic review of existing regulatory entities to ensure that the authority of  
 27 such regulatory entities is applicable and necessary with relation to the current professional  
 28 and business conditions of this state. Any actions of the council pursuant to this chapter  
 29 are solely recommendations and shall be nonbinding.

30 43-1A-3.

31 As used in this chapter, the term:

32 (1) 'Applicant group' means any business or professional group or organization, any  
 33 individual, or any other interested party which proposes that any business or professional  
 34 group not presently regulated be regulated by the state.

35 (2) 'Certificate' or 'certification' means a voluntary process by which a statutory  
 36 regulatory entity grants recognition to an individual who has met certain prerequisite  
 37 qualifications specified by that regulatory entity and who may assume or use 'certified'  
 38 in the title or designation to perform prescribed occupational tasks.

39 (3) 'Council' means the Georgia Occupational Regulation Review Council.

40 (4) 'Grandfather clause' means a provision in a regulatory statute applicable to  
 41 individuals engaged in the regulated business or profession prior to the effective date of  
 42 the regulatory statute which exempts the individuals from meeting prerequisite  
 43 qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

44 (5) 'Legislative committee of reference' means the standing legislative committee  
 45 designated by the Speaker of the House of Representatives or the President of the Senate  
 46 to consider proposed legislation introduced in their respective houses of the General  
 47 Assembly to regulate any business or occupation not previously regulated.

48 (6) 'License,' 'licensing,' or 'licensure' means authorization to engage in a business or  
 49 profession which would otherwise be unlawful in the state in the absence of  
 50 authorization. A license is granted to those individuals who meet prerequisite  
 51 qualifications to perform prescribed business or professional tasks, who use a particular  
 52 title, or who perform those tasks and use a particular title.

53 (7) 'Regulate' or 'regulation' means the process of licensure or certification as defined in  
 54 this Code section.

55 (8) 'Regulatory entity' means any state agency which regulates one or more professions,  
56 occupations, industries, businesses, or other endeavors in this state.

57 (9) 'State agency' means each state board, bureau, commission, department, division,  
58 office, or other separate unit of state government created or established by law.

59 43-1A-4.

60 (a) There is created the Georgia Occupational Regulation Review Council.

61 (b) The council shall consist of ten members:

62 (1) The Comptroller General or his or her designee;

63 (2) The Secretary of State or his or her designee;

64 (3) The commissioner of human resources or his designee services, commissioner of  
65 community health, or the executive director of the Georgia Composite Medical Board or  
66 his or her designee, as deemed most appropriate by the chairperson of the council to  
67 address the issues raised by the prospective regulation of the applicant group;

68 (4) The director of the Office of Planning and Budget or his or her designee;

69 (5) The commissioner of natural resources or his or her designee;

70 (6) The state revenue commissioner or his or her designee;

71 (7) The Commissioner of Agriculture or his or her designee;

72 (8) The administrator of the 'Fair Business Practices Act of 1975' or his or her designee;

73 (9) The chairperson of the legislative committee of reference or that person's designee  
74 from that committee, but only when legislation referred by such committee is being  
75 considered by the council; and

76 (10) The chairperson of that standing committee of the General Assembly appointed by  
77 the presiding officer thereof pursuant to subsection (b) of Code Section 43-1A-5 or that  
78 chairperson's designee from that committee, but only when legislation of which that  
79 presiding officer was notified under subsection (b) of Code Section 43-1A-5 is being  
80 considered by the council.

81 (c) The director of the Office of Planning and Budget or his or her designee shall serve as  
82 chairperson of the council.

83 (d) Legislative members of the council appointed thereto pursuant to paragraphs (9) and  
84 (10) of subsection (b) of this Code section shall receive for their attendance of meetings of  
85 the council the same expense and mileage allowance authorized for legislative members  
86 of interim legislative committees.

87 43-1A-5.

88 (a) It shall be the duty of the council to:

89 (1) Review ~~review~~ all bills introduced in the General Assembly to license or certify a  
90 profession or business, which is not currently licensed or certified by the state, based on  
91 the criteria outlined in Code Section 43-1A-6; and  
92 (2) Review each existing regulatory entity that is currently regulated pursuant to this title  
93 to determine the applicability and necessity of such regulatory entity's authority with  
94 relation to the current professional and business conditions of this state. The council shall  
95 conduct such review a minimum of once every seven years. All council meetings relating  
96 to a review of an existing regulatory entity pursuant to this paragraph shall be conducted  
97 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

98 (b) The chairperson of the legislative committee of reference shall provide written  
99 notification to the council of any proposed legislation introduced in that house of the  
100 General Assembly of which that committee is a standing committee if that legislation  
101 provides for the licensure or certification of a business or profession not currently licensed  
102 or certified by the state. That chairperson at the same time shall provide written notification  
103 of that legislation to the presiding officer of the house of the General Assembly in which  
104 that legislation was not introduced, and that presiding officer shall then appoint the  
105 chairperson of a standing committee of that house to serve as a member of the council for  
106 the purpose of considering that legislation, except that the chairperson so appointed may  
107 instead designate another member of that standing committee to serve as a member of the  
108 council for that purpose. Within a period of time not to exceed nine months from the date  
109 of such notification to the council, but in no event later than the convening date of the next  
110 succeeding regular session of the General Assembly, the council shall provide a formal  
111 report evaluating the need to regulate the business or profession based on the factors and  
112 information provided under Code Section 43-1A-7 to the chairperson of the legislative  
113 committee of reference, the committee chairperson appointed to the council pursuant to  
114 paragraph (10) of subsection (b) of Code Section 43-1A-4, the presiding officers of the  
115 House of Representatives and the Senate, and the legislative counsel. If, subsequent to a  
116 review pursuant to paragraph (2) of subsection (a) of this Code section, the council  
117 concludes changes are needed to the regulations of an existing regulatory entity, or that a  
118 regulatory entity's existence is no longer necessary or in the interests of the state, a formal  
119 report recommending such changes shall be completed and distributed in the same manner  
120 described previously herein. If the council determines a need for regulation, the report  
121 shall recommend an appropriate type of regulation and an appropriate state agency to  
122 oversee the regulation.

123 (c) The council shall work with the applicant group, the legislative committee of reference,  
124 and other interested parties in formulating its formal report.

125 (d) The head of a regulatory entity subject to review pursuant to paragraph (2) of  
 126 subsection (a) of this Code section shall have the right to testify to the council to contribute  
 127 its perspective and recommendations regarding potential changes to how such regulatory  
 128 entity is regulated.

129 43-1A-6.

130 All bills introduced in the General Assembly to newly regulate a profession or business  
 131 ~~should~~ and all reviews of existing regulatory entities pursuant to paragraph (2) of  
 132 subsection (a) of Code Section 43-1A-5 shall be reviewed according to the following  
 133 criteria. In evaluating how or whether a profession or business shall hereafter be regulated,  
 134 the following factors shall be considered:

135 (1) Whether the unregulated practice of ~~an~~ the occupation may harm or endanger the  
 136 health, safety, and welfare of citizens of ~~the~~ this state and whether the potential for harm  
 137 is recognizable and not remote;

138 (2) Whether the practice of ~~an~~ the occupation requires specialized skill or training and  
 139 whether the public needs and will benefit by assurances of initial and continuing  
 140 occupational ability;

141 (3) Whether the citizens of this state are or may be effectively protected by other means;  
 142 ~~and~~

143 (4) Whether the overall cost effectiveness and economic impact would be positive for  
 144 citizens of ~~the state~~ this state; and

145 (5) Whether there are means other than state regulation to protect the interests of the  
 146 state.

147 43-1A-7.

148 ~~After July 1, 1986, applicant~~ Applicant groups and other interested parties shall explain in  
 149 writing each of the following factors to the extent requested by the council and the  
 150 legislative committee of reference:

151 (1) A definition of the problem and why regulation is necessary:

152 (A) The nature of the potential harm to the public if the business or profession is not  
 153 regulated, and the extent to which there is a threat to public health and safety; and

154 (B) The extent to which consumers need and will benefit from a method of regulation  
 155 identifying competent individuals engaged in the business or profession;

156 (2) The efforts made to address the problem:

157 (A) Voluntary efforts, if any, by members of the business or profession to establish a  
 158 code of ethics or help resolve disputes between the business or professional group and  
 159 consumers; and

- 160 (B) Recourse to and the extent of use of applicable law and whether it could be  
161 strengthened to control the problem;
- 162 (3) The alternatives considered:
- 163 (A) Regulation of business or professional employers rather than employees;  
164 (B) Regulation of the program or service rather than the individuals;  
165 (C) Registration of all individuals;  
166 (D) Certification of all individuals;  
167 (E) Other alternatives;  
168 (F) Why the use of the alternatives specified in this paragraph would not be adequate  
169 to protect the public interest; and  
170 (G) Why licensure would serve to protect the public interest;
- 171 (4) The benefit to the public if regulation is granted:
- 172 (A) The extent to which the incidence of specific problems present in the unregulated  
173 business or profession can reasonably be expected to be reduced by regulation;  
174 (B) Whether the public can identify qualified individuals;  
175 (C) The extent to which the public can be confident that regulated individuals are  
176 competent:
- 177 (i) Whether the proposed regulatory entity would be a board composed of members  
178 of the profession and public members, or a state agency, or both and, if appropriate,  
179 their respective responsibilities in administering the system of certification or  
180 licensure, including the composition of the board; the powers and duties of the board  
181 or state agency regarding examinations, investigations, and the disciplining of  
182 certified or licensed individuals; the promulgation of rules and a code of ethics; and  
183 how fees would be levied and collected to cover the expenses of administering and  
184 operating the regulatory system;
- 185 (ii) If there is a grandfather clause, whether such individuals will be required to meet  
186 the prerequisite qualifications established by the regulatory entity at a later date;
- 187 (iii) The nature of the standards proposed for certification or licensure as compared  
188 with the standards of other jurisdictions;
- 189 (iv) Whether the regulatory entity would be authorized to enter into reciprocity  
190 agreements with other jurisdictions; and  
191 (v) The nature and duration of any training and whether applicants will be required  
192 to pass an examination; and, if an examination is required, by whom it will be  
193 developed and how the cost of development will be met; and
- 194 (D) Assurance to the public that regulated individuals have maintained their  
195 competence:
- 196 (i) Whether the certification or license will carry an expiration date; and

- 197 (ii) Whether renewal will be based only upon payment of a fee or whether renewal  
 198 will involve reexamination, satisfactory completion of continuing education, peer  
 199 review, or other enforcement;
- 200 (5) The extent to which regulation might harm the public:
- 201 (A) The extent to which regulation might restrict entry into the business or profession  
 202 and whether the proposed standards are more restrictive than necessary to ensure safe  
 203 and effective performance; and
- 204 (B) Whether there are similar professions to that of the applicant group which should  
 205 be included in, or portions of the applicant group which should be excluded from, the  
 206 proposed legislation;
- 207 (6) A description of the group proposed for regulation, including a list of associations,  
 208 organizations, and other groups representing the business or profession in this state, an  
 209 estimate of the number of individuals in each group, and whether the groups represent  
 210 different levels of business or professional activity;
- 211 (7) The expected cost of regulation:
- 212 (A) The impact regulation might have on the costs of service to the public;
- 213 (B) The impact regulation might have on various types of insurance; and
- 214 (C) The initial and long-term cost to the state and to the general public of  
 215 implementing the proposed legislation; and
- 216 (8) Any additional information requested by the council or the legislative committee of  
 217 reference.

218 43-1A-8.

- 219 (a) After evaluating the report of the council and any other desired information based on  
 220 the criteria outlined in Code Section 43-1A-6 and considering governmental and societal  
 221 costs and benefits, if the General Assembly finds that it is necessary to regulate a business  
 222 or profession not previously regulated by law, the most appropriate alternative method of  
 223 regulation should be implemented, consistent with the public interest and this Code section:
- 224 (1) Where the consumer may have a substantial basis for relying on the services of a  
 225 profession or business, a system of certification should be implemented;
- 226 (2) Where apparent that adequate regulation cannot be achieved by means other than  
 227 licensing, a system of licensing should be implemented; or
- 228 (3) Where regulation as defined in this chapter is deemed too restrictive and unnecessary  
 229 to protect the public health and welfare, a less restrictive means of ensuring public  
 230 protection, including, but not limited to, stricter civil action or criminal penalties,  
 231 inspection requirements, or a system of registration, may be considered.

232 (b) With regard to an existing regulatory entity, after evaluating the report of the council  
 233 and any other desired information based on the criteria outlined in Code Section 43-1A-6  
 234 and considering governmental and societal costs and benefits, the General Assembly shall:

235 (1) Take no action if it has determined that such existing regulatory agency is efficiently  
 236 regulated and that no action is necessary in the interests of the state;

237 (2) Amend the enabling legislation of such existing regulatory entity if it has determined  
 238 that making such amendments shall more efficiently regulate such regulatory entity in a  
 239 manner that is in the best interests of the state; or

240 (3) Repeal the enabling legislation of such existing regulatory entity if it has determined  
 241 that the continuing regulation of such regulatory entity is no longer in the interests of the  
 242 state.

243 43-1A-9.

244 Nothing in this chapter shall be construed to limit the authority of the General Assembly  
 245 to legislate as authorized by the Constitution."

246 **SECTION 2.**

247 Chapter 4 of Title 50 of the Official Code of Georgia Annotated, relating to the organization  
 248 of the executive branch generally, is amended by designating Code Sections 50-4-1 through  
 249 50-4-7 as Article 1 and by adding a new article to read as follows:

250 "ARTICLE 2

251 50-4-20.

252 This article shall be known and may be cited as the 'Georgia Government Accountability  
 253 Act.' It is the intent of the General Assembly to establish a method by which the efficiency  
 254 of state government shall be reviewed and the productivity of each agency evaluated. This  
 255 article is meant to ensure that the valuable resources of the state are best utilized and that  
 256 state agencies are held accountable for their service to the public and responsiveness to the  
 257 needs of the citizens of this state.

258 50-4-21.

259 (a) The Senate and House appropriations committees meeting jointly shall constitute the  
 260 Legislative Sunset Committee.

261 (b) As used in this article, the term 'committee' means the Legislative Sunset Committee.

262 (c) In carrying out its function under this article, the committee may request, through the  
 263 cochairpersons, the assistance of any state agency or office. When so requested, a state

264 agency and its personnel shall assist the committee and may be required to appear before  
265 the committee. The committee or its designated staff member may inspect, review, and  
266 copy the records, documents, and files of any state agency. All information subject to  
267 public disclosure shall be made available for review and copying within three business  
268 days.

269 50-4-22.

270 (a) The committee shall review all state agencies, including all boards, departments,  
271 advisory committees, authorities, bureaus, offices, and any other state entity of the  
272 executive branch of state government regardless of its designation. The committee shall  
273 be responsible for establishing a schedule for the routine review of all such state agencies.  
274 Each agency shall be scheduled for review a minimum of once every eight years. The  
275 committee shall have the discretion to add any agency to the review schedule or to modify  
276 an agency's scheduled review.

277 (b) Except as provided by this Code section, an agency subject to review by the committee  
278 shall be abolished on July 1 following the regularly scheduled session of the General  
279 Assembly which follows the report of review issued by the committee pursuant to Code  
280 Section 50-4-24 unless the legislature by law continues the agency; however, an agency  
281 shall not be abolished unless the General Assembly finds that the laws the agency is  
282 responsible for implementing or enforcing have been repealed, revised, or reassigned to  
283 another remaining agency and that adequate provision has been made for the transfer from  
284 the abolished agency to a successor agency of all duties, debts, and obligations, including  
285 those relating to bonds, loans, promissory notes, lease-purchase agreements, installment  
286 sales contracts, financing agreements, or any other form of indebtedness such that security  
287 therefor and the rights of bondholders or holders of other indebtedness are not impaired.

288 (c) The committee shall make a report and recommendation of each agency review. If the  
289 General Assembly does not take action before the date of abolishment to continue the  
290 agency, the agency shall submit its legislative budget request consistent with the  
291 recommendations of the committee.

292 (d) Any agency established by constitutional provision shall not be subject to automatic  
293 abolishment as provided in subsection (a) of this Code section. Following the review and  
294 recommendations of the committee, the committee shall report to the General Assembly  
295 any recommended constitutional amendment needed for the reorganizing or abolishing of  
296 such constitutionally created agency.

297 (e) Any board, commission, advisory council, or similar body included in the term 'agency'  
298 as defined in Code Section 50-4-1 which has not held an open public meeting for a period  
299 of more than 12 months shall be considered automatically abolished without the need for

300 further agency review as required by this article. The committee shall be responsible for  
301 presenting legislation to repeal existing statutory provisions relating to the abolished  
302 agency.

303 (f) Except as may otherwise be expressly provided by law, abolishment of a state agency  
304 shall not affect the rights and duties that matured, penalties that were incurred, civil or  
305 criminal liabilities that arose, or proceedings that were begun before the abolishment.

306 50-4-23.

307 (a) Not later than 90 days following a request by the committee, an agency shall provide  
308 the committee with a report outlining the agency's efficiency and productivity and the  
309 extent to which the agency utilizes state resources to best meet the needs of the public.

310 (b) The report required by this Code section shall, at a minimum, include the following:

311 (1) A comprehensive list of state programs and services performed by the agency,  
312 including all special purpose activities undertaken to realize identifiable goals and  
313 objectives in order to achieve the agency's mission and legislative intent;

314 (2) An accounting of state resources spent by the agency;

315 (3) An explanation of factors that have contributed to any failure to achieve legislated  
316 standards or directives;

317 (4) The extent to which the agency has encouraged participation by the public in making  
318 its rules and decisions and the extent to which public participation has resulted in rules  
319 compatible with the objectives of the agency;

320 (5) A statement of any statutory objectives intended for each program and activity, the  
321 problem or need that the program and activity are intended to address, and the extent to  
322 which these objectives have been achieved;

323 (6) An assessment of the extent to which the jurisdiction of the agency and its programs  
324 overlap or duplicate those of other agencies and the extent to which those programs can  
325 be consolidated with those of other agencies;

326 (7) A self-examining assessment of the agency's efficiency and areas of needed  
327 improvement, including goals and objectives for improvement, and the means by which  
328 the agency intends to meet these goals and objectives;

329 (8) Recommendations for statutory or budgetary changes that would improve the  
330 agency's programs and operations, reduce costs, or improve services to state residents;

331 (9) The effect of federal intervention or loss of federal funds if the agency, or any of its  
332 programs or activities, is abolished;

333 (10) An assessment of alternative methods of providing services for which the agency  
334 is responsible which would reduce costs or improve performance while adequately  
335 protecting the public interest;

336 (11) A detailed summary of the agency's hiring and retention patterns for the previous  
 337 five years;

338 (12) An assessment of the extent to which the agency has corrected any deficiencies and  
 339 implemented recommendations contained in any state or federal audits or court decisions;

340 (13) A list of all advisory committees and boards, whether established in statute or by  
 341 the agency; their purposes, activities, composition, and expenses; and an assessment of  
 342 the extent to which their purposes have been achieved and the rationale for continuing or  
 343 eliminating each advisory committee or board;

344 (14) A list of agency programs or functions that are performed without specific statutory  
 345 authority; and

346 (15) Other information as requested by the committee or any study committee created  
 347 under the committee's direction.

348 (c) Information and data reported by the agency shall be validated by the agency's chief  
 349 executive before submission to the committee.

350 50-4-24.

351 (a) No later than six months following the committee's request for a report from an agency  
 352 pursuant to Code Section 50-4-23, the committee shall:

353 (1) Review the information submitted by or concerning the agency;

354 (2) Consult with or hear testimony from any individual, agency, private company, or  
 355 other expert as needed;

356 (3) If the committee deems necessary, hold public hearings to consider this information  
 357 as well as testimony; and

358 (4) Present a report of review on an agency reviewed by the committee. In the report of  
 359 review, the committee shall include its specific findings and recommendations regarding  
 360 each agency reviewed and indicate whether a public need exists for the continuation of  
 361 an agency or for the functions of the agency.

362 By majority vote, the committee may extend the time provided for review of an agency if  
 363 the committee determines that additional time for review is needed to adequately evaluate  
 364 an agency.

365 (b) The committee shall consider the following criteria in determining whether a public  
 366 need exists for the continuation of a state agency or agency function:

367 (1) The efficiency with which the agency operates;

368 (2) The statutory objectives of the agency and the problem or need that the agency is  
 369 intended to address, the extent to which the objectives have been achieved, and any  
 370 activities of the agency in addition to those granted by statute and the authority for these  
 371 activities;

- 372 (3) An assessment of less restrictive or alternative methods of providing any regulatory  
 373 function for which the agency is responsible while adequately protecting the public;  
 374 (4) The extent to which an advisory committee or board is needed or used;  
 375 (5) The extent to which the jurisdiction of the agency and the programs administered by  
 376 the agency overlap or duplicate those of other agencies and the extent to which the  
 377 programs administered by the agency can be consolidated with the programs of other  
 378 agencies;  
 379 (6) Whether the agency has recommended to the legislature statutory changes calculated  
 380 to be of benefit to the public;  
 381 (7) The promptness and effectiveness with which the agency responds to the public's  
 382 complaints and the extent to which the agency has encouraged participation by the public  
 383 in making its rules and decisions;  
 384 (8) The extent to which the agency has satisfied requirements of state law, safeguarded  
 385 public health, safety, and welfare, and utilized state resources;  
 386 (9) The extent to which the agency accurately reports performance measures used to  
 387 justify state spending on each of its activities, services, and programs;  
 388 (10) The effect of probable federal intervention or loss of federal funds if the agency or  
 389 an agency function is abolished; and  
 390 (11) The extent to which changes are necessary in the enabling statutes of the agency so  
 391 that the agency can adequately comply with the criteria of this article.  
 392 (c) In its report of review, the committee shall make recommendations on the abolition,  
 393 continuation, or reorganization of such agency and on the need for the continuation of the  
 394 functions of the agency. The report of review shall also make recommendations on the  
 395 consolidation, transfer, or reorganization of an agency's programs when those programs are  
 396 duplicated by another agency.  
 397 (d) It shall be the responsibility of the committee to prepare drafts of legislation necessary  
 398 to carry out the committee's recommendations.

399 50-4-25.

400 This article shall not apply to any commodity commission provided for by Chapter 8 of  
 401 Title 2, the Georgia Seed Development Commission provided for by Chapter 4 of Title 2,  
 402 or any cotton growers' organization certified for purposes of Article 5 of Chapter 7 of  
 403 Title 2."

404 **SECTION 3.**

405 All laws and parts of laws in conflict with this Act are repealed.