

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1322

By: Representatives Cavanaugh, Wardlaw

By: Senator K. Hammer

## For An Act To Be Entitled

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

## Subtitle

TO AMEND ARKANSAS LAW CONCERNING THE REDUCTION OF CERTAIN REGULATORY FEES AND CHARGES; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

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

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

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

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



(A) License fees;  
(B) Examination fees;  
(C) Assessment rates or fees;  
(D) Association dues or fees;  
(E) Renewal fees or charges;  
(F) Application fees;  
(G) Certification fees;  
(H) Inspection fees;  
(I) Permit fees;  
(J) Fees or charges authorized by Arkansas law;  
(K) Fees or charges authorized by rule; and  
(L) Any other collections by the board or commission not implemented as a penalty or fine.

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

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

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

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

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

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

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

under this section, he or she shall identify:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) A termination of a reduction of regulatory fees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) License fees;

(B) Examination fees;

(C) Assessment rates or fees;

(D) Association dues or fees;

(E) Renewal fees or charges;

(F) Application fees;

(G) Certification fees;

(H) Inspection fees;

(I) Permit fees;

(J) Fees or charges authorized by Arkansas law;

(K) Fees or charges authorized by rule; and

(L) Any other collections by the board or commission not implemented as a penalty or fine.

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

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

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

(B) A reduction of regulatory fees and charges under this

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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