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FISCAL IMPACT REPORT

SPONSOR <u>Garcia/Alcon/Borrogo/Castellano</u>	LAST UPDATED <u>2/23/23</u>
	ORIGINAL DATE <u>2/10/23</u>
SHORT TITLE <u>Extend Certain Board Sunset Dates</u>	BILL NUMBER <u>House Bill 201a/HGEIC</u>
	ANALYST <u>Anderson</u>

REVENUE* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
\$452.0	\$525.7	\$515.2	Recurring	Accountancy
\$417.2	\$498.9	\$333.1	Recurring	Architects
\$1,148.5	\$1,293.8	\$1,136.7	Recurring	Engineers & Surveyors
\$479.3	\$425.4	\$456.4	Recurring	Veterinary
\$55.6	\$64.0	\$51.7	Recurring	Athletic Commission
\$256.1	\$246.0	\$237.9	Recurring	** Real Estate Appraisers
\$532.6	\$611.1	\$585.3	Recurring	Dental Health
\$139.4	\$154.0	\$144.5	Recurring	Funeral Services
\$412.1	\$289.1	\$333.6	Recurring	**Private Investigations
\$2,499.8	\$2,593.3	\$2,400.0	Recurring	Pharmacy
\$96.0	\$118.5	\$99.4	Recurring	Optometry
\$52.4	\$55.9	\$43.4	Recurring	Podiatry
\$175.2	\$167.7	\$177.3	Recurring	Acupuncture Oriental Medicine

** Sunset Subcommittee recommended the sunset be extended.

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 83, House Bill 259, and House Bill 233
 Duplicates/Relates to Appropriation in the General Appropriation Act:

Sources of Information

LFC Files

Responses Received From

Board of Examiners for Architects

Board of Veterinary Medicine

Board of Licensure for Professional Engineers and Surveyors

Regulation Licensing Department (RLD)

No Response Received
Board of Pharmacy

SUMMARY

Synopsis of HGEIC Amendment House Bill 201

The House Government, Elections and Indian Affairs Committee amendment proposes 10 amendments to HB201.

The Board of Dental Health Care was moved from lines 12 and 13 of page one to line 16, thereby removing the board's sunset date rather than granting the board an extension of its sunset. This change reflects consistency with the removal of sunset termination dates for boards within health professions. As with all regulatory boards, there is an option for legislators to create a delayed date of termination that is beyond the typical sunset extension of six years. When the sunsets of boards are eliminated, RLD is no longer required by statute to perform periodic reviews of the boards; the boards will be fully responsible for updating statutes and streamlining their processes on an as-needed basis. However, sunset dates do not typically exist for health boards as they are considered very essential to the health and public safety of the state.

The board of Private Investigators has been added to the list of boards with a sunset extension of six years, through July 1, 2029. The Private Investigations Advisory Board adopts and enforces the rules necessary to carry out the provisions of the Private Investigations Act, including establishing professional and ethical standards. Under the provisions of the act, the board issues licenses for private investigators, private investigations employees, manager and companies, private patrol operators, manager and companies, polygraph examiners, and all levels of security guards. Should any of the boards or commissions not be continued, administrative duties for the maintenance of the board would cease. The sunset extension for the board was erroneously omitted from the original version of HB201. See *Substantive Issues* below.

On page 2, Section 1 regarding the extension date of the Board of Dental Health has been removed because the sunset termination for the board is proposed to be removed.

Further amendments strike and renumber sections succeeding Section 1 accordingly.

On page 3, Section 4 has been amended to insert the sunset extension date for the Private Investigations Advisory Board, which is proposed to be extended through July 1, 2030.

On page 4, section 6 has been amended to insert the sunset extension date for the Board of Real Estate Appraisers, which is proposed to be extended through July 1, 2030. The board licenses and regulates real estate appraisers and appraisal management companies in New Mexico. It is illegal in New Mexico to appraise real estate without a license issued by the board. The board receives and investigates complaints filed by members of the public against real estate appraisers, and holds disciplinary hearings when necessary. Should any of the boards or commissions not be continued, administrative duties for the maintenance of the board would cease. The sunset extension for the board was erroneously omitted from the original version of HB201. See *Substantive Issues* below.

Further sections were renumbered after section 6 to correspond to the amendments.

Page 5 now contains the statute for Dental Health Care, Section 61-5A-1 NMSA 1978. This corresponds with the proposal to remove the sunset date for the Board of Dental Health Care.

On page 5, Section 8, reference to Laws 1994, Chapter 55, Section 42 has been added. The statute references the termination date on July 1, 2023 for the New Mexico Board of Dental Health care. The addition is in alignment with the proposal to remove the sunset termination from the board.

Synopsis of House Bill 201

The Sunset Omnibus Bill (House Bill 201 or HB201) proposes to extend the life of six boards pursuant to the provisions of the Sunset Act with periods of extension of six years. The bill also eliminates the sunset dates for four others. The following boards and commissions would be extended should this bill be enacted: Public Accountancy Board, Board of Examiners for Architects, Board of Professional Engineers and Surveyors, Board of Veterinary Medicine, Board of Dental Health Care, and Board of Funeral Services. Termination dates would be eliminated for the following boards and commissions should this bill be enacted: Board of Optometry, Podiatry, Board of Pharmacy, and Board of Acupuncture and Oriental Medicine.

Specifically, HB201 amends state law to provide a new, extended sunset date of July 1, 2029, for the following boards or commissions that are currently scheduled to sunset as of July 1, 2023. HB201 also extends the repeal dates of the acts governing these boards to July 1, 2030, providing for the extra year in state law intended to provide the agencies time to “wind down” operations:

- New Mexico Board of Dental Health Care (61-5A-30 NMSA 1978);
- Board of Veterinary Medicine (61-14-20 NMSA 1978);
- New Mexico State Board of Examiners for Architects (61-15-13 NMSA 1978);
- New Mexico Board of Public Accountancy (61-28B-1 NMSA 1978);
- New Mexico Public Accountancy Board (61-28B Professional Engineers and Professional Surveyors (61-23-32 NMSA 1978); -29 NMSA 1978); and
- Board of Funeral Services (61-32-31 NMSA 1978).

HB201 repeals the following “termination of agency life” statutory provisions as of the date of enactment of the bill, removing them from the New Mexico Sunset Act and making each no longer subject to periodic review:

- 61-2-18 NMSA 1978 of the Optometry Act;
- 61-8-17 NMSA 1978 of the Podiatry Act;
- 61-11-29 NMSA 1978 of the Pharmacy Act; and
- 61-14A-22 NMSA 1978 of the Acupuncture and Oriental Medicine Practice Act.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

FISCAL IMPLICATIONS

Fiscal Implications HGEIC HB201

The Board of Dental Health care is expected to bring in an estimated \$585.3 thousand in revenue

for the state this year; removal of the sunset termination will ensure the board continues to generate revenue from licensing.

The Board of Private Investigators is expected to bring in an estimated \$333.6 thousand in revenue for the state this year; extension of the sunset termination will ensure the board continues to generate revenue from licensing.

The Board of Real Estate Appraisers is expected to bring in an estimated \$237.9 thousand in revenue for the state this year; extension of the sunset termination will ensure the board continues to generate revenue from licensing.

Fiscal Implications Original HB201

All of the boards named above are self-sustaining. They generate revenues from fees. RLD provided estimated revenues for FY24 based on an average of the revenue generated for the past three years.

SIGNIFICANT ISSUES

The LFC Sunset Subcommittee held a hearing on renewing the boards and commissions included in this bill, resulting in a unanimous recommendation supported by the full LFC subcommittee, that the sunset dates be extended for all six of the aforementioned boards. The purpose of these boards is to provide for control, supervision, licensure, and regulation of the practice of these professions. The subcommittee vote suggests licensure of the professions benefits New Mexicans.

There was also a unanimous recommendation to eliminate the sunsets for the boards of pharmacy, optometry, podiatry, and acupuncture and oriental medicine. Medical boards do not typically sunset, and the elimination of the sunset allows more autonomy for these RLD boards to manage updates to their respective statutes.

The LFC Sunset Subcommittee also tabled one board, the Athletic Commission. The New Mexico Athletic Commission licenses and regulates amateur and professional athletes who participate in competitive combative sports in New Mexico. The commission has been given the authority to enforce the rules and statutes as published in the New Mexico Athletic Commission Chapter 6, Boxing, Wrestling and Martial Arts. These combative events include but are not limited to boxing, kickboxing, wrestling, and mixed martial arts. The licenses include all of the athletes, corners, and trainers. The commission's statutes are found in Chapter 60 of NMSA while all other boards and commissions are within Chapter 61 of the statutes. RLD has recommended the commission could be reorganized under the Gaming Control Board because martial arts competitions typically occur on tribal land. The Athletic Commission's expenditures since 2019 have been questionable.

Regulation Licensing Department responded:

The New Mexico Real Estate Appraisers Act, §61-30-1 NMSA 1978 *et seq*, and the Real Estate Appraisers Board created pursuant to that Act, appear to have been inadvertently not included within HB 201. Both the Real Estate Appraisers Act and Board were discussed during the interim committee hearing, thus it appears the omission of the Act and Board in HB 201 were simply a mistake.

Unless HB 201 is amended to extend the repeal and sunset dates for the Real Estate Appraisers Act and the Real Estate Appraisers Board, the Act will be repealed effective July 1, 2024, and the Board will be terminated effective July 1, 2023, pursuant to §61-30-24 NMSA 1978.

Likewise, it appears the Private Investigations Act, §61-27B-1 NMSA 1978 *et seq.*, and the Private Investigations Advisory Board created pursuant to that Act, were inadvertently not included within HB 201. Both the Act and the Advisory Board were discussed during the interim committee hearing, and, again it appears a simple mistake that they were not included within HB 201. Unless HB 201 is amended to extend the repeal and sunset dates for the Private Investigations Act and Advisory Board, the Act will be repealed effective July 1, 2024, and the Advisory Board will be terminated effective July 1, 2023, pursuant to §61-27B-36 NMSA 1978.

Board of Examiners for Architects responded:

The Board of Examiners for Architects is charged with safeguarding life, health, and property and promoting the public welfare by reviewing evidence of professional qualification of any person applying to practice architecture in this state. The agency has the additional duty to regulate the architectural profession and otherwise enforce the N.M. Architectural Act. If the Architectural Act is excluded as a professional board, it could be detrimental based on the highly technical nature and complexity of the profession.

ADMINISTRATIVE IMPLICATIONS

Should any of the boards or commissions not be continued, administrative duties for the maintenance of the board would cease. Some of the boards are independent and have their own staff, while others function under the administrative attachment to the Regulation and Licensing Department or other department. When the sunsets of boards are eliminated, RLD is no longer required by statute to perform periodic reviews of the boards; the boards will be fully responsible for updating statutes and streamlining their processes on an as-needed basis.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB201 relates to HB83, which makes various changes to laws related to licensed podiatrists; HB259, which affects private investigator practices; and HB233, which reorganizes the Regulation and Licensing Department.

OTHER SUBSTANTIVE ISSUES

From RLD:

Unless House Bill 201 is amended to extend the repeal and sunset dates for the Private Investigations board and the Real Estate Appraisers board will be repealed effective July 1, 2024, and board will both be terminated effective July 1, 2023, pursuant to §61-27B-36 NMSA 1978.

ALTERNATIVES

Rather than eliminate sunsets for certain health boards, the repeal dates could be extended for an even number of years, as determined by the committee.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Public Accountancy Board, Board of Examiners for Architects, Board of Professional Engineers and Surveyors, Board of Veterinary Medicine, Board of Dental Health Care, and Board of Funeral Services would sunset July 1, 2023, and terminate June 30, 2024. The oversight of specific areas of responsibility with which the boards and commissions are tasked with would either cease or would need to be reassigned elsewhere.

Without the elimination of the termination date, the boards of Optometry, Podiatry, Pharmacy, and Acupuncture and Oriental Medicine, the sunset review would continue as required in statute.

Regulation Licensing Department responded:

Without the extension of the sunset dates, the boards and commissions listed in this statute will no longer exist, and the following Acts will be entirely repealed: the Dental Health Care Act, the Veterinary Practice Act, and Chapter 77, Article 1B NMSA 1978, the Architectural Act, the Engineering and Surveying Practice Act, the Public Accountancy Act, the Funeral Services Act, and the Private Investigations Act.

Board of Professional Surveyors and Engineers responded:

The Board currently ensures all engineers and surveyors in New Mexico are qualified to practice in their respective professions. The consequences of not enacting this bill will terminate the agency, thus failing to protect the health, safety and welfare of the general public. If this bill is not enacted, the Board will not be permitted to thoroughly address the issues of applicants with degrees from non-ABET accredited programs and those with degrees from foreign countries. In addition, not enacting this bill will hamper the ability to protect the public from business entities who do not have licensed professional engineers or surveyors on record.

Consequently, the Board's engineering and surveying scholarship program will also be eliminated along with the agency, which will adversely affect the students who receive this scholarship.

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