

1 SB503
2 169837-1
3 By Senators Holley and Waggoner
4 RFD: Governmental Affairs
5 First Read: 21-MAY-15

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8 SYNOPSIS: Under existing law, the board of an agency
9 that regulates a business or profession which is
10 controlled by active market participants in the
11 business or profession, do not have state immunity
12 from federal anti-trust law unless the board is
13 subject to active state supervision.

14 Also under existing law, administrative
15 rules of agencies that regulate a business or
16 profession are subject to review by the Joint
17 Committee on Administrative Regulation Review prior
18 to becoming effective. The committee may approve,
19 disapprove, disapprove with a suggested amendment,
20 or allow the agency to withdraw the rule for
21 revision. A rule on which the committee takes no
22 action is deemed approved.

23 This bill would require certified rules of
24 the Board of Medical Examiners and the Medical
25 Licensure Commission to be reviewed by the
26 Legislative Reference Service to determine whether
27 the rule constitutes an anticompetitive and unfair

1 method of competition. If the Legislative Reference
2 Service makes such a determination, the committee
3 would be required to meet to review the rule and
4 determine whether the rule should be approved,
5 disapproved, disapproved with a suggested
6 amendment, or withdrawn. The bill would also
7 authorize the board and commission to submit
8 previously adopted rules for a similar review and
9 require the board or commission to propose an
10 amendment to a rule or the repeal of a rule if the
11 committee determines the rule is an anticompetitive
12 and unfair method of competition.

13 The bill would allow the Legislative
14 Reference Service to impose a fee for providing the
15 review.

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17 A BILL
18 TO BE ENTITLED
19 AN ACT
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21 To add Section 41-22-22.1 to the Code of Alabama
22 1975; to provide for further review of rules of the Board of
23 Medical Examiners and the Medical Licensure Commission by
24 Legislative Reference Service and by the Joint Committee on
25 Administrative Regulation Review under certain conditions and
26 to provide for certain fees to cover the costs of the review.
27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 41-22-22.1 is added to the Code
2 of Alabama 1975 to read as follows:

3 §41-22-22.1.

4 (a) The Legislative Reference Service shall review
5 each rule certified by the Board of Medical Examiners and the
6 Medical Licensure Commission to determine whether the rule
7 constitutes an anticompetitive and unfair method of
8 competition.

9 (b) If the Legislative Reference Service determines
10 there is probable cause to believe a rule subject to
11 subsection (a) constitutes an anticompetitive and unfair
12 method of competition, it shall certify that fact to the
13 committee. Upon receipt of a certification under this
14 subsection, the chair of the committee shall call a meeting of
15 the committee to review the rule and proceed under Section
16 41-22-23.

17 (c) The Board of Medical Examiners and the Medical
18 Licensure Commission may submit a previously adopted rule to
19 the Legislative Reference Service for a determination of
20 whether the previously adopted rule constitutes an
21 anticompetitive and unfair method of competition. If the
22 Legislative Reference Service determines there is probable
23 cause to believe the previously adopted rule constitutes an
24 anticompetitive and unfair method of competition, it shall
25 certify that fact to the committee. Upon receipt of a
26 certification under this subsection, the chair of the
27 committee shall call a meeting of the committee to review the

1 rule. If the committee determines the rule constitutes an
2 anticompetitive and unfair method of competition, the board or
3 commission shall propose an amendment to the rule to eliminate
4 the anticompetitive and unfair portions of the rule or, if
5 appropriate, shall propose the repeal of the rule.

6 (d) In addition to the fee levied under Section
7 41-22-7(i), the Legislative Reference Service shall charge the
8 board or commission that submits a rule under subsection (a)
9 or (c) a fee in the amount necessary to recover the costs of
10 the Legislative Reference Service in complying with this
11 section.

12 Section 2. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.