

Testimony Opposing SB 10 by the Kansas State Board of Technical Professions

Chairman and Honorable Committee Members

I am Larry Karns, Executive Director of the Kansas State Board of Technical Professions (KSBTP). Technical Professions licenses and authorizes Professional Architects, Professional Engineers, Professional Geologists, Professional Land Surveyors and Professional Landscape Architects to practice their professions in Kansas. Of the nearly 30,000 individuals we license over 50% are out of state residents holding reciprocal license. Likewise, many of our Kansas licensed professionals hold licenses in other jurisdictions. The board was created to have experienced professionals oversee these technical professions. Licensees are required to have advanced degrees, pass standard examinations and have years of supervised experience before being authorized to practice in Kansas. Board Members are appointed from each of the fields we regulate. Members can be appointed for a maximum of three terms of four years each.

SB10 establishes the “right to earn a living act”. It requires agencies such as the KSBTP that license and regulate occupations and professions to review their rules and regulations and to provide a detailed report to the legislature explaining the health safety and welfare reason why the rules and regulations are necessary. The report is to be an extremely comprehensive review and is to articulate the health, safety or welfare objectives served by each rule or regulation; articulate the reasons why the rule or regulation serves the specified objectives; analyze the effects of the rule or regulation on opportunities for workers, consumer choices and costs, general unemployment, market competition, government costs and other effects and compare the rule and regulation to whether and how other states (assume all 50) regulate the business or profession.

These standards are vague and do not provide a clear expectation as to the broad analysis to be performed.

Any regulations that cannot be supported are to be revoked. It allows any person to petition the agency to repeal or modify a challenged rule or regulation. The agency within 90 days must either repeal or modify the regulation or state in writing the basis of the agency reasons that the

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rule or regulation meets the standards created by the act. It also creates a private civil cause of action for any individual to challenge the necessity of an occupational rule or regulation. The agency or other entity creating the rule or regulation has the burden of proof to establish the need for the rule or regulation. If the party prevails on their court action challenging the rule or regulation they are awarded reasonable attorney fees and costs. It does not appear that the person bringing the challenge would be required to show that they are impacted by the rule or regulation.

The bill places the burden on licensing agencies to review and justify regulations to a standard that cannot be defined, that is, to be the least restrictive, and exposes the agencies to legal expenses and liability if the regulations do not meet this standard.

KSBTP opposes SB 10. It would essentially eliminate the ability of the KSBTP to regulate the practice of technical professions in Kansas forcing the board to establish that every regulation is the least restrictive rule needed to achieve the health, safety or welfare objectives to be served by the regulation. Often individuals with varying economic interests may disagree on what amount of regulation is needed or necessary and what may be the least restrictive yet able to accomplish the needed objective. Means to challenge unreasonable regulations already exist under Kansas law, the Kansas Judicial Review Act, for persons with standing that are actually impacted by the regulation.

Thank you for your time today. I would be pleased to respond to any questions.

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