

Summary of the Finance-Related Provisions of
S.220 As Recommended by Senate Gov Ops
An act relating to professional regulation

Prepared for the Senate Committee on Finance
 See also [this section-by-section summary](#)

General summary. This bill sets forth the 2020 OPR Bill. It also incorporates the following two bills with recommended amendments thereto: [S.220](#) (educating specified professionals on the State’s energy goals) and [S.270](#) (professional regulation of massage therapy).

Substantive topics covered. In addition to technical corrections and general statutory clean-up, this bill covers the following substantive topics:

- *OPR authority over boards.* Sec. 2, 3 V.S.A. § 123(i) provides greater OPR authority over board actions (except disciplinary actions) the Director finds are inconsistent with State policy.
- *Private investigator and security services; board to advisor model.* Secs. 3 and 17 convert the private investigator and security services profession from a board model (in which a board regulates the profession) to an advisor model (in which advisor appointees provide advice to the Director on regulating the profession).
- *General OPR regulatory authority.* Sec. 4 allows the Director of OPR to appoint a hearing officer to conduct hearings otherwise heard by a board and to consolidate hearings, and applies discipline imposed on all a licensee’s licenses, unless an order otherwise provides.
- *Embalmer licensure.* Sec. 6 provides apprenticeship as an alternative pathway to licensure for embalmers.
- *Nursing regulation.* Sec. 7 removes U.S. citizenship as a qualification for membership on the Board of Nursing and sets forth in statute – rather than rule – standards for nursing education programs and clinical facilities.
- *Pharmacy clinical prescribing.* Sec. 11, 26 V.S.A. §§ 2022-23 allow clinical pharmacy prescribing, with certain restrictions on permitted prescriptions, and 1) by collaborative practice agreement; 2) by State protocol; 3) of accessory devices; 4) to substitute drugs in the same therapeutic class; 5) of over-the-counter drugs; and 6) for short-term extensions.
- *Sunrise review of proposed changes to scope of practice.* Sec. 16, 26 V.S.A. § 3108 provides a new process for OPR to conduct a preliminary assessment (a.k.a. “sunrise review”) of a proposed change to a profession’s scope of practice, similar to that of OPR’s current sunrise review of a proposal to regulate a profession.

- *License renewal for appraisal management companies.* Sec. 18 requires an appraisal management company to renew its license annually (rather than biennially), in compliance with federal law.
- *Pollution abatement facility operator license.* Sec. 26 eliminates the requirement that a pollution abatement facility operator have a high school diploma or GED.
- *Regulation of massage therapists, bodyworkers, and touch professionals.* Sec. 29 requires massage therapists, bodyworkers, and touch professionals to be registered in order to practice; establishes the professional regulation of these professions as an OPR advisor model; allows OPR to inspect establishments where these professions are practiced; and sets forth what constitutes unprofessional conduct for these professions. Sec. 34 provides that this professional regulation will begin on Nov. 1, 2020.
- *Continuing education re: climate change, State energy goals.* Sec. 33 requires a report on the continuing education that is and should be offered to specified professions re: climate change and the State's energy goals and how the professions address their role re: those topics.
- *License fees.* The decrease of license fees for certain professions, described in further detail below.

Effect on State revenue. The portions of the bill affecting or relating to the revenues of the State are as follows:

- ***Pro rata adjustment of fees.*** Sec. 2, 3 V.S.A. § 123(a)(12)(A) eliminates language allowing OPR to make an appropriate pro rata adjustment of fees when issuing and renewing licenses.
 - 3 V.S.A. § 123(a)(12)(B) still provides that a person whose initial license is issued within 90 days before the set renewal date will not be required to renew until the first full biennial license period following initial licensure.
- ***Private investigator and security services; board to advisor model.*** Secs. 3 and 17 convert this profession from a board to advisor model, but without fee change.
 - In doing so, all of the profession's fees that are currently set forth in the profession's chapter in T.26 are moved to OPR's general law in Sec. 3's 3 V.S.A. § 125 (fees).
 - This is standard OPR statutory structure: board professions have their fees set in the profession's T.26 chapter, whereas advisor professions have their fees set forth in 3 V.S.A. § 125.
 - Here, none of the fees are changing in this profession's conversion from board to advisor model. They are only being moved from T.26 to T.3.
- ***Optometry; license renewal fee reduction.*** Sec. 9, 26 V.S.A. § 1718 reduces optometrists' biennial license renewal fee from **\$425** to **\$350**.

- ***Osteopathy; license renewal fee reduction.*** Sec. 9, 26 V.S.A. § reduces osteopaths' biennial license renewal fee from **\$350** to **\$300**.
- ***Veterinary medicine; license renewal fee reduction.*** Sec. 14, 26 V.S.A. § 2414 reduces veterinarians' biennial license renewal fee from **\$200** to **\$175**.
- ***Appraisal management companies; biennial to annual renewal.*** Sec. 18, 26 V.S.A. § 3321 changes appraisal management companies' license renewal from biennial to annual in compliance with federal law.
 - However, [3 V.S.A. § 125\(b\)\(4\)\(J\)](#) provides the “biennial renewal for . . . [a]ppraisal management company registration” is \$600.
- ***Massage therapy, bodywork, and touch professions; establishing fees.*** In order to regulate these new professions by registration, Sec. 29, 26 V.S.A. § 5426 requires these professionals to pay the standard advisor profession fee set forth in [3 V.S.A. § 125\(b\)](#), which is **\$75** for initial registration and **\$240** for biennial renewal.
 - Sec. 29, 26 V.S.A. § 5423 provides that OPR shall not charge fees to inspect massage establishments.
 - Via Sec. 31, two new positions would be created within OPR along with the professional regulation of these professions: one in licensing and one in enforcement. As with other OPR expenses, funding necessary to support these positions would be derived from OPR's Professional Regulatory Fee Fund.
- ***Technical corrections without fee impact.*** The following amendments relate to fees, but are only technical corrections:
 - Sec. 5, 26 V.S.A. § 56 deletes reference to accountant foreign firm temporary registration fees, since the authority for those fees was repealed in the 2019 OPR Act.
 - Sec. 19, 26 V.S.A. § 3387 deletes a cross-reference to a dietician fee statute that was repealed in 1998 and replaces it with a general reference to “the required fee,” which is 3 V.S.A. § 125 (fees).
 - Sec. 23, 26 V.S.A. § 4404 eliminates reference to a reinspection fee for electrologists as a technical correction because the reinspection fee authority cross-referenced – 26 V.S.A. § 4410 – does not provide for those fees, nor does OPR charge a reinspection fee.
 - Sec. 27, 24 V.S.A. § 183 repeals a statute containing reference to a notary public fee. The statute is outdated now that the regulation of notaries public has been transferred from the counties to OPR.