

45:8B-91 to 45:8B-103
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2019 **CHAPTER:** 337
NJSA: 45:8B-91 to 45:8B-103 ("Applied Behavior Analyst Licensing Act")
BILL NO: A4608 (Substituted for S3099)
SPONSOR(S) Andrew Zwicker and others
DATE INTRODUCED: 10/18/2018

COMMITTEE: **ASSEMBLY:** Regulated Professions
SENATE: Commerce
Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 12/16/2019
SENATE: 12/16/2019

DATE OF APPROVAL: 1/13/2020

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted) Yes

A4608

SPONSOR'S STATEMENT: (Begins on page 7 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Regulated Professions

SENATE: Yes Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 2/5/2019
12/16/2019

S3099

SPONSOR'S STATEMENT: (Begins on page 7 of introduced bill) Yes

COMMITTEE STATEMENT:

ASSEMBLY: No

SENATE: Yes Commerce
Budget &
Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 12/9/2019
12/16/2019

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

Rwh/cl

P.L. 2019, CHAPTER 337, *approved January 13, 2020*
Assembly, No. 4608 (*First Reprint*)

1 AN ACT providing for the licensure of ¹applied¹ behavior analysts
2 and supplementing Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. This act shall be known and may be cited as the “¹Applied¹
8 Behavior Analyst Licensing Act.”

9
10 2. The practice of applied behavior analysis in the State of New
11 Jersey is determined to affect the public safety and welfare, and to
12 be subject to regulation and control in the public interest in order to
13 protect the public by setting standards of qualification, education,
14 training, and experience for those persons seeking to practice and
15 be licensed as ¹applied¹ behavior analysts and assistant ¹applied¹
16 behavior analysts.

17
18 3. As used in this act:

19 “Board” means the State Board of ¹Applied¹ Behavior Analyst
20 Examiners.

21 “¹**[Behavior]** Applied behavior¹ analysis” means the practice of
22 designing, implementing, and evaluating instructional and
23 environmental modifications to produce socially significant
24 improvements in human behavior, including the empirical
25 identification of functional relations between behavior and
26 environmental factors, known as functional assessment and
27 analysis. ¹**[Behavior]** Applied behavior¹ analysis interventions are
28 based on scientific research and direct and indirect observation and
29 measurement of behavior and environment. ¹**[Behavior]** Applied
30 behavior¹ analysts utilize contextual factors, motivating operations,
31 antecedent stimuli, positive reinforcement, and other procedures to
32 help individuals develop new behaviors, increase or decrease
33 existing behaviors, and emit behaviors under specific environmental
34 conditions. The practice of behavior analysis does not include
35 psychological testing, diagnosis of mental ¹**[or]** ¹ physical ¹, or
36 speech language, hearing, and other communication and
37 swallowing¹ disorders, neuropsychology, psychotherapy, cognitive

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted December 5, 2019.

1 therapy, sex therapy, psychoanalysis, hypnotherapy, and counseling
2 as treatment modalities.

3 ¹“Certifying entity” means the Behavior Analyst Certification
4 Board, Incorporated, or any successor organization whose programs
5 to certify professional practitioners of behavior analysis are
6 accredited by the National Commission on Certifying Agencies or
7 the American National Standards Institute.”¹

8 “Director” means the Director of the Division of Consumer
9 Affairs in the Department of Law and Public Safety.

10 “Licensed assistant ¹applied¹ behavior analyst” means a person
11 who holds a current, valid license ¹“as a licensed assistant behavior
12 analyst pursuant to this act, who is certified by the certifying entity
13 as a Board Certified Assistant Behavior Analyst, and who
14 practices” to practice applied¹ behavior analysis under the ongoing
15 supervision of a licensed ¹applied¹ behavior analyst ¹pursuant to this
16 act¹ .

17 “Licensed ¹applied¹ behavior analyst” means a person who holds
18 a current, valid license ¹“as a licensed behavior analyst” to practice
19 applied behavior analysis¹ pursuant to this act ¹“, and who is
20 certified by the certifying entity as a Board Certified Behavior
21 Analyst or Board Certified Behavior Analyst – Doctoral”¹ .

22
23 4. There is created within the Division of Consumer Affairs in
24 the Department of Law and Public Safety the State Board of
25 ¹Applied¹ Behavior Analyst Examiners. The board shall consist of
26 seven members who are residents of this State and who shall be
27 appointed by the Governor, as follows: two shall be public members
28 to represent the interests of the public, pursuant to the provisions of
29 subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2); one
30 member shall be from a department in the Executive Branch of
31 State Government, pursuant to the provisions of subsection c. of
32 section 2 of P.L.1971, c.60 (C.45:1-2.2); three members shall be ¹“,
33 except for the members first appointed,”¹ licensed ¹applied¹
34 behavior analysts ¹, except for the members first appointed, who shall
35 be Board Certified Behavior Analysts or Board Certified Behavior
36 Analysts-Doctoral¹ ; and one member shall be ¹“, except for the
37 member first appointed,”¹ a licensed assistant ¹applied¹ behavior
38 analyst ¹, except for the member first appointed, who shall be a Board
39 Certified Assistant Behavior Analyst¹. The Governor shall appoint
40 each member, other than the State executive department member,
41 for terms of four years, except that of the members first appointed,
42 two shall serve for a term of four years, two shall serve for a term
43 of three years, and two shall serve for a term of two years. Any
44 vacancy in the membership of the board shall be filled for the
45 unexpired term in the manner provided for the original appointment.
46 No member of the board may serve more than two successive terms

1 in addition to any unexpired term to which the member has been
2 appointed.

3
4 5. The board shall organize within 30 days after the
5 appointment of its members and shall annually elect from among its
6 members a chairperson and vice-chairperson, and shall appoint a
7 secretary who need not be a member of the board. The board shall
8 meet twice a year and may hold additional meetings as necessary to
9 discharge its duties. A majority of the board membership shall
10 constitute a quorum.

11
12 6. The board shall:
13 a. adopt a seal to authenticate its records and proceedings;
14 b. prescribe rules pertaining to the requirements of qualification
15 for licensure, including education, professional experience, and the
16 types and methods of examination of applicants for licensure
17 consistent with procedures established by the certifying entity;
18 c. examine and pass on the qualifications of applicants for
19 licensure under this act, and issue a license to each qualified and
20 successful applicant, attesting to the applicant's professional
21 qualification to practice as a licensed applied behavior analyst or
22 licensed assistant applied behavior analyst;
23 d. keep records of its proceedings and a register of all persons
24 to whom licenses have been issued, and a record of all license
25 renewals, suspensions and revocations;
26 e. maintain records of expenses incurred by members of the
27 board in the performance of their duties;
28 f. take disciplinary action, in accordance with P.L.1978, c.73
29 (C.45:1-14 et seq.), against any licensed applied behavior analyst
30 or licensed assistant applied behavior analyst who violates the
31 provisions of this act or any regulation promulgated hereunder;
32 g. adopt rules and regulations pursuant to the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it deems
34 necessary to administer the provisions of this act; and
35 h. pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.), prescribe or
36 change the charges for licensure, renewal and other services
37 performed.

38
39 7. There shall be an Executive Director of the board appointed
40 by the director who shall serve at the director's pleasure. The salary
41 of the Executive Director shall be determined by the director within
42 the limits of available funds. The director may, within the limits of
43 available funds, hire any assistants as are necessary to administer
44 this act.

45
46 8. a. No person shall practice, attempt to practice, or make any
47 representation as being able to practice as a licensed behavior

1 analyst or licensed assistant behavior analyst] applied behavior
2 analysis¹ unless the person is licensed in accordance with the
3 provisions of this act.

4 b. No person shall use the title “licensed behavior analyst ^{1,1}”
5 ¹[or] ¹ “licensed assistant behavior analyst ^{1,1}” ¹“licensed applied
6 behavior analyst,” “licensed assistant applied behavior analyst,”¹ or
7 the abbreviation “LBA” or “LABA” or any other title, designation,
8 words, letters, abbreviations or insignia, except for those persons
9 exempted pursuant to section 13 of this act, indicating the practice
10 of ¹applied¹ behavior analysis unless licensed pursuant to the
11 provisions of this act.

12
13 9. To be eligible to be licensed as a licensed ¹applied¹ behavior
14 analyst, an applicant shall fulfill the following requirements:

15 a. be at least 21 years of age;

16 b. be of good moral character; ¹[and]¹

17 c. have a current certification ¹[as a Board Certified Behavior
18 Analyst or Board Certified Behavior Analyst – Doctoral verified by
19 the certifying entity] from a nonprofit organization accredited by
20 the National Commission for Certifying Agencies, the American
21 National Standards Institute, or a substantial equivalent to
22 credential professional practitioners of applied behavior analysis
23 related to the principles and practice of the profession of applied
24 behavior analysis that is approved by the board; and

25 d. submit proof that the applicant holds a graduate degree from
26 an accredited university or other institution of higher learning.¹

27
28 10. To be eligible to be licensed as a licensed assistant ¹applied¹
29 behavior analyst, an applicant shall fulfill the following
30 requirements:

31 a. be at least 21 years of age;

32 b. be of good moral character;

33 c. have a current certification ¹[as a Board Certified Assistant
34 Behavior Analyst verified by the certifying entity; and] from a
35 nonprofit organization accredited by the National Commission for
36 Certifying Agencies, the American National Standards Institute, or
37 a substantial equivalent to credential professional practitioners of
38 applied behavior analysis related to the principles and practice of
39 the profession of applied behavior analysis that is approved by the
40 board;¹

41 d. ¹submit proof that the applicant holds an undergraduate degree
42 from an accredited university or other institution of higher learning;
43 and

44 e.¹ submit proof satisfactory to the board of ongoing
45 supervision by a licensed ¹applied¹ behavior analyst in accordance

1 with the ¹["certifying entity's"] board's¹ requirements ¹["for Board
2 Certified Assistant Behavior Analysts"]¹.

3

4 11. a. All licenses shall be issued for a two-year period and
5 shall be renewed upon filing a renewal application. A license shall
6 not be renewed until the license holder submits satisfactory
7 evidence to the board that the license holder continues to ¹["be
8 certified by the certifying entity"] fulfill the requirements for
9 licensure¹.

10 b. All applicants shall pay a fee for licensure and renewal for
11 licensure under this act. Fees shall be determined by the board and
12 established by regulation. The revenue generated from these fees
13 shall not exceed the operating costs incurred by the board in
14 administering this act.

15

16 12. Upon payment to the board of a fee and the submission of a
17 written application provided by the board, the board shall issue a
18 license to any person who holds a valid license issued by another
19 state or possession of the United States or the District of Columbia
20 which has standards substantially equivalent to those of this State,
21 as determined by the board.

22

23 13. Nothing in this act shall be construed to apply to:

24 a. the practice, activities, and services of qualified members of
25 other professions, including physicians, psychologists,
26 psychoanalysts, marriage and family therapists, social workers,
27 professional or rehabilitation counselors, ¹speech-language
28 pathologists or audiologists,¹ or any other profession licensed by
29 the State, provided that:

30 (1) qualified members of other professions do not hold
31 themselves out to the public as possessing a license issued pursuant
32 to this act or represent themselves by any professional title
33 regulated by this act; ¹and¹

34 (2) ¹["applied behavior analysis is in the scope of practice of the
35 other profession as defined by law; and

36 (3)]¹ the services provided by qualified members of other
37 professions are within the boundaries of the licensed professional's
38 education, training, and competence; and

39 b. provided they do not represent themselves as possessing a
40 license issued pursuant to this act or represent themselves by any
41 professional title regulated by this act:

42 (1) family members of recipients of applied behavior analysis
43 services who implement ¹applied¹ behavior analysis treatment plans
44 with the recipients under the extended authority and direction of a
45 licensed ¹applied¹ behavior analyst or a licensed assistant ¹applied¹
46 behavior analyst;

- 1 (2) paraprofessional technicians who deliver applied behavior
2 analysis services under the extended authority and direction of a
3 licensed 'applied' behavior analyst '[or] ' licensed assistant
4 'applied' behavior analyst, provided that such paraprofessional
5 technicians use titles that indicate their nonprofessional status;
- 6 (3) 'applied' behavior analysts who practice with nonhumans,
7 and who may use the title “ 'applied' behavior analyst,” including
8 applied animal behaviorists and animal trainers;
- 9 (4) professionals who provide general applied behavior analysis
10 services to organizations, and who may use the title “ 'applied'
11 behavior analyst,” if those services are for the benefit of the
12 organizations and do not involve direct services to individuals;
- 13 (5) matriculated college or university students whose applied
14 behavior analysis activities are part of a defined program of study,
15 course, practicum, internship, or postdoctoral fellowship, if the
16 applied behavior analysis activities under this exemption are
17 directly supervised by a licensed 'applied' behavior analyst ' ,
18 psychologist or exempt professional' in this State, an instructor in a
19 course sequence approved by the '[certifying entity] board' , or
20 another qualified faculty member, provided that such students use
21 titles that indicate their nonprofessional status;
- 22 (6) unlicensed persons pursuing experience in applied behavior
23 analysis consistent with the experience requirements of the
24 '[certifying entity] board' , if the experience is supervised in
25 accordance with the requirements of the '[certifying entity] board';
- 26 (7) persons who teach 'applied' behavior analysis or conduct
27 behavior analytic research, and who may use the title “ 'applied'
28 behavior analyst,” if the teaching or research does not involve the
29 direct delivery of applied behavior analysis services to individuals;
- 30 (8) 'applied' behavior analysts '[licensed in another jurisdiction
31 or certified by the certifying entity to practice independently and]
32 or applied assistant behavior analysts' who work in this State not
33 more than 10 consecutive business days, or not more than 15
34 intermittent business days, in any 90-day period ' , if the analyst
35 resides outside, and the analyst's major practice is outside of, the State
36 of New Jersey, and the analyst gives the board a summary of
37 qualifications and a minimum of 10 days written notice of the
38 analyst's intention to practice in the State under this section, provided
39 the analyst: (a) is certified or licensed in another state under
40 substantially equivalent requirements as an applied behavior analyst
41 under this act; (b) is a Board Certified Behavior Analyst, Board
42 Certified Behavior Analyst-Doctoral, or Board Certified Assistant
43 Behavior Analyst; or (c) resides in a state which does not certify or
44 license applied behavior analysts and the board considers the analyst's
45 professional qualifications to be substantially equivalent to the

1 requirements for licensing under this act; and is not adjudged and
2 notified by the board to be ineligible for licensing under this act¹;

3 (9) employees of a school district, charter school, education
4 services commission, or private school in the performance of
5 regular employment duties, if the provision of applied behavior
6 analysis services is only on behalf of the school employer and
7 remuneration for the provision of those services is provided solely
8 by the school employer; ¹~~and~~¹

9 (10) ¹~~with respect to the three years following the effective date~~
10 ~~of this act,~~¹ persons who are working under the authority of ¹or
11 under contract with¹ the Division of Developmental Disabilities, in
12 the Department of Human Services, if the provision of applied
13 behavior analysis services is only on behalf of ¹or under contract
14 with¹ the Division of Developmental Disabilities and remuneration
15 for the provision of those services is provided solely by the
16 Division of Developmental Disabilities ¹or one of its contracted
17 providers. This paragraph shall be in effect only during the first
18 three years after the effective date of this act; and

19 (11) persons who are working under the authority of and under
20 contract with the New Jersey Early Intervention Program, in the
21 Department of Health, if the provision of applied behavior analysis
22 services is only on behalf of or under contract with the New Jersey
23 Early Intervention Program or one of its contracted providers. This
24 paragraph shall be in effect only during the first five years after the
25 effective date of this act¹.

26
27 14. This act shall take effect on the 180th day next following
28 enactment.

29

30

31

32

33

“Applied Behavior Analyst Licensing Act.”

ASSEMBLY, No. 4608

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 18, 2018

Sponsored by:

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Co-Sponsored by:

Assemblywoman Murphy, Assemblymen Mejia and Giblin

SYNOPSIS

“Behavior Analyst Licensing Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/18/2019)

1 AN ACT providing for the licensure of behavior analysts and
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Behavior
8 Analyst Licensing Act.”

9

10 2. The practice of applied behavior analysis in the State of New
11 Jersey is determined to affect the public safety and welfare, and to
12 be subject to regulation and control in the public interest in order to
13 protect the public by setting standards of qualification, education,
14 training, and experience for those persons seeking to practice and
15 be licensed as behavior analysts and assistant behavior analysts.

16

17 3. As used in this act:

18 “Board” means the State Board of Behavior Analyst Examiners.

19 “Behavior analysis” means the practice of designing,
20 implementing, and evaluating instructional and environmental
21 modifications to produce socially significant improvements in
22 human behavior, including the empirical identification of functional
23 relations between behavior and environmental factors, known as
24 functional assessment and analysis. Behavior analysis interventions
25 are based on scientific research and direct and indirect observation
26 and measurement of behavior and environment. Behavior analysts
27 utilize contextual factors, motivating operations, antecedent stimuli,
28 positive reinforcement, and other procedures to help individuals
29 develop new behaviors, increase or decrease existing behaviors, and
30 emit behaviors under specific environmental conditions. The
31 practice of behavior analysis does not include psychological testing,
32 diagnosis of mental or physical disorders, neuropsychology,
33 psychotherapy, cognitive therapy, sex therapy, psychoanalysis,
34 hypnotherapy, and counseling as treatment modalities.

35 “Certifying entity” means the Behavior Analyst Certification
36 Board, Incorporated, or any successor organization whose programs
37 to certify professional practitioners of behavior analysis are
38 accredited by the National Commission on Certifying Agencies or
39 the American National Standards Institute.

40 “Director” means the Director of the Division of Consumer
41 Affairs in the Department of Law and Public Safety.

42 “Licensed assistant behavior analyst” means a person who holds
43 a current, valid license as a licensed assistant behavior analyst
44 pursuant to this act, who is certified by the certifying entity as a
45 Board Certified Assistant Behavior Analyst, and who practices
46 behavior analysis under the ongoing supervision of a licensed
47 behavior analyst.

1 “Licensed behavior analyst” means a person who holds a current,
2 valid license as a licensed behavior analyst pursuant to this act, and
3 who is certified by the certifying entity as a Board Certified
4 Behavior Analyst or Board Certified Behavior Analyst – Doctoral.

5
6 4. There is created within the Division of Consumer Affairs in
7 the Department of Law and Public Safety the State Board of
8 Behavior Analyst Examiners. The board shall consist of seven
9 members who are residents of this State and who shall be appointed
10 by the Governor, as follows: two shall be public members to
11 represent the interests of the public, pursuant to the provisions of
12 subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2); one
13 member shall be from a department in the Executive Branch of
14 State Government, pursuant to the provisions of subsection c. of
15 section 2 of P.L.1971, c.60 (C.45:1-2.2); three members shall be,
16 except for the members first appointed, licensed behavior analysts;
17 and one member shall be, except for the member first appointed, a
18 licensed assistant behavior analyst. The Governor shall appoint
19 each member, other than the State executive department member,
20 for terms of four years, except that of the members first appointed,
21 two shall serve for a term of four years, two shall serve for a term
22 of three years, and two shall serve for a term of two years. Any
23 vacancy in the membership of the board shall be filled for the
24 unexpired term in the manner provided for the original appointment.
25 No member of the board may serve more than two successive terms
26 in addition to any unexpired term to which the member has been
27 appointed.

28
29 5. The board shall organize within 30 days after the
30 appointment of its members and shall annually elect from among its
31 members a chairperson and vice-chairperson, and shall appoint a
32 secretary who need not be a member of the board. The board shall
33 meet twice a year and may hold additional meetings as necessary to
34 discharge its duties. A majority of the board membership shall
35 constitute a quorum.

36
37 6. The board shall:

- 38 a. adopt a seal to authenticate its records and proceedings;
- 39 b. prescribe rules pertaining to types and methods of
40 examination of applicants for licensure consistent with procedures
41 established by the certifying entity;
- 42 c. examine and pass on the qualifications of applicants for
43 licensure under this act, and issue a license to each qualified and
44 successful applicant, attesting to the applicant’s professional
45 qualification to practice as a licensed behavior analyst or licensed
46 assistant behavior analyst;

- 1 d. keep records of its proceedings and a register of all persons
2 to whom licenses have been issued, and a record of all license
3 renewals, suspensions and revocations;
- 4 e. maintain records of expenses incurred by members of the
5 board in the performance of their duties;
- 6 f. take disciplinary action, in accordance with P.L.1978, c.73
7 (C.45:1-14 et seq.), against any licensed behavior analyst or
8 licensed assistant behavior analyst who violates the provisions of
9 this act or any regulation promulgated hereunder;
- 10 g. adopt rules and regulations pursuant to the “Administrative
11 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) as it deems
12 necessary to administer the provisions of this act; and
- 13 h. pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.), prescribe or
14 change the charges for licensure, renewal and other services
15 performed.

16

17 7. There shall be an Executive Director of the board appointed
18 by the director who shall serve at the director's pleasure. The salary
19 of the Executive Director shall be determined by the director within
20 the limits of available funds. The director may, within the limits of
21 available funds, hire any assistants as are necessary to administer
22 this act.

23

24 8. a. No person shall practice, attempt to practice, or make any
25 representation as being able to practice as a licensed behavior
26 analyst or licensed assistant behavior analyst unless the person is
27 licensed in accordance with the provisions of this act.

28 b. No person shall use the title “licensed behavior analyst” or
29 “licensed assistant behavior analyst” or the abbreviation “LBA” or
30 “LABA” or any other title, designation, words, letters,
31 abbreviations or insignia, except for those persons exempted
32 pursuant to section 13 of this act, indicating the practice of behavior
33 analysis unless licensed pursuant to the provisions of this act.

34

35 9. To be eligible to be licensed as a licensed behavior analyst,
36 an applicant shall fulfill the following requirements:

- 37 a. be at least 21 years of age;
- 38 b. be of good moral character; and
- 39 c. have a current certification as a Board Certified Behavior
40 Analyst or Board Certified Behavior Analyst – Doctoral verified by
41 the certifying entity.

42

43 10. To be eligible to be licensed as a licensed assistant behavior
44 analyst, an applicant shall fulfill the following requirements:

- 45 a. be at least 21 years of age;
- 46 b. be of good moral character;
- 47 c. have a current certification as a Board Certified Assistant
48 Behavior Analyst verified by the certifying entity; and

1 d. submit proof satisfactory to the board of ongoing
2 supervision by a licensed behavior analyst in accordance with the
3 certifying entity's requirements for Board Certified Assistant
4 Behavior Analysts.

5
6 11. a. All licenses shall be issued for a two-year period and
7 shall be renewed upon filing a renewal application. A license shall
8 not be renewed until the license holder submits satisfactory
9 evidence to the board that the license holder continues to be
10 certified by the certifying entity.

11 b. All applicants shall pay a fee for licensure and renewal for
12 licensure under this act. Fees shall be determined by the board and
13 established by regulation. The revenue generated from these fees
14 shall not exceed the operating costs incurred by the board in
15 administering this act.

16
17 12. Upon payment to the board of a fee and the submission of a
18 written application provided by the board, the board shall issue a
19 license to any person who holds a valid license issued by another
20 state or possession of the United States or the District of Columbia
21 which has standards substantially equivalent to those of this State,
22 as determined by the board.

23
24 13. Nothing in this act shall be construed to apply to:

25 a. the practice, activities, and services of qualified members of
26 other professions, including physicians, psychologists,
27 psychoanalysts, marriage and family therapists, social workers,
28 professional or rehabilitation counselors, or any other profession
29 licensed by the State, provided that:

30 (1) qualified members of other professions do not hold
31 themselves out to the public as possessing a license issued pursuant
32 to this act or represent themselves by any professional title
33 regulated by this act;

34 (2) applied behavior analysis is in the scope of practice of the
35 other profession as defined by law; and

36 (3) the services provided by qualified members of other
37 professions are within the boundaries of the licensed professional's
38 education, training, and competence; and

39 b. provided they do not represent themselves as possessing a
40 license issued pursuant to this act or represent themselves by any
41 professional title regulated by this act:

42 (1) family members of recipients of applied behavior analysis
43 services who implement behavior analysis treatment plans with the
44 recipients under the extended authority and direction of a licensed
45 behavior analyst or a licensed assistant behavior analyst;

46 (2) paraprofessional technicians who deliver applied behavior
47 analysis services under the extended authority and direction of a
48 licensed behavior analyst or licensed assistant behavior analyst,

1 provided that such paraprofessional technicians use titles that
2 indicate their nonprofessional status;

3 (3) behavior analysts who practice with nonhumans, and who
4 may use the title “behavior analyst,” including applied animal
5 behaviorists and animal trainers;

6 (4) professionals who provide general applied behavior analysis
7 services to organizations, and who may use the title “behavior
8 analyst,” if those services are for the benefit of the organizations
9 and do not involve direct services to individuals;

10 (5) matriculated college or university students whose applied
11 behavior analysis activities are part of a defined program of study,
12 course, practicum, internship, or postdoctoral fellowship, if the
13 applied behavior analysis activities under this exemption are
14 directly supervised by a licensed behavior analyst in this State, an
15 instructor in a course sequence approved by the certifying entity, or
16 another qualified faculty member, provided that such students use
17 titles that indicate their nonprofessional status;

18 (6) unlicensed persons pursuing experience in applied behavior
19 analysis consistent with the experience requirements of the
20 certifying entity, if the experience is supervised in accordance with
21 the requirements of the certifying entity;

22 (7) persons who teach behavior analysis or conduct behavior
23 analytic research, and who may use the title “behavior analyst,” if
24 the teaching or research does not involve the direct delivery of
25 applied behavior analysis services to individuals;

26 (8) behavior analysts licensed in another jurisdiction or certified
27 by the certifying entity to practice independently and who work in
28 this State not more than 10 consecutive business days, or not more
29 than 15 intermittent business days, in any 90-day period;

30 (9) employees of a school district, charter school, education
31 services commission, or private school in the performance of
32 regular employment duties, if the provision of applied behavior
33 analysis services is only on behalf of the school employer and
34 remuneration for the provision of those services is provided solely
35 by the school employer; and

36 (10) with respect to the three years following the effective date
37 of this act, persons who are working under the authority of the
38 Division of Developmental Disabilities, in the Department of
39 Human Services, if the provision of applied behavior analysis
40 services is only on behalf of the Division of Developmental
41 Disabilities and remuneration for the provision of those services is
42 provided solely by the Division of Developmental Disabilities.

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44 14. This act shall take effect on the 180th day next following
45 enactment.

STATEMENT

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This bill provides for the regulation and licensing of behavior analysts. The bill establishes the State Board of Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, which will consist of seven members. Two members will be public members; three members will be licensed behavior analysts, except for the members first appointed; one member will be a licensed assistant behavior analyst, except for the member first appointed; and one member will be a State Executive Department member.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed behavior analyst or licensed assistant behavior analyst unless the person is licensed in accordance with the provisions of the bill. Additionally, the bill prohibits persons from using the title “licensed behavior analyst” or “licensed assistant behavior analyst” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of behavior analysis unless licensed pursuant to this provisions of the bill.

To be eligible to be licensed as a licensed behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; and have a current certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst – Doctoral verified by the certifying entity.

To be eligible to be licensed as a licensed assistant behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; have a current certification as a Board Certified Assistant Behavior Analyst verified by the certifying entity; and submit proof satisfactory to the board of ongoing supervision by a licensed behavior analyst in accordance with the certifying entity’s requirements for Board Certified Assistant Behavior Analysts.

Currently, certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst – Doctoral requires completion of a graduate degree, completion of hours of applied experience, and passing an examination. Similarly, current requirements for certification as a Board Certified Assistant Behavior Analyst include completion of an undergraduate degree, completion of hours of applied experience, and passing an examination.

Under the bill, “certifying entity” is defined as the Behavior Analyst Certification Board, Incorporated, or any successor

1 organization whose programs to certify professional practitioners of
2 behavior analysis are accredited by the National Commission on
3 Certifying Agencies or the American National Standards Institute.

4 The bill provides for licenses to be issued for a two-year period,
5 which may be renewed upon filing a renewal application. A license
6 will not be renewed until the license holder submits satisfactory
7 evidence to the board that the license holder continues to be
8 certified by the certifying entity. The bill also provides that, upon
9 payment to the board of a fee and the submission of a written
10 application provided by the board, the board will issue a license to
11 any person who holds a valid license issued by another state or
12 possession of the United States or the District of Columbia which
13 has standards substantially equivalent to those of this State, as
14 determined by the board.

15 Finally, the bill provides an exemption to the licensure
16 requirements for any other profession licensed by the State,
17 provided that: qualified members of other professions do not hold
18 themselves out to the public as possessing a license issued pursuant
19 to this bill or represent themselves by any professional title
20 regulated by this bill; applied behavior analysis is in the scope of
21 practice of the other profession as defined by law; and the services
22 provided by qualified members of other professions are within the
23 boundaries of the licensed professional's education, training, and
24 competence. The exemption to the licensure requirements also
25 apply to various persons under certain circumstances, provided that
26 they do not represent themselves as possessing a license issued
27 pursuant to this bill or represent themselves by any professional
28 title regulated by this bill.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4608

STATE OF NEW JERSEY

DATED: JANUARY 24, 2019

The Assembly Regulated Professions Committee reports favorably Assembly Bill No. 4608.

This bill provides for the regulation and licensing of behavior analysts. The bill establishes the State Board of Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, which will consist of seven members. Two members will be public members; three members will be licensed behavior analysts, except for the members first appointed; one member will be a licensed assistant behavior analyst, except for the member first appointed; and one member will be a State Executive Department member.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed behavior analyst or licensed assistant behavior analyst unless the person is licensed in accordance with the provisions of the bill. Additionally, the bill prohibits persons from using the title “licensed behavior analyst” or “licensed assistant behavior analyst” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of behavior analysis unless licensed pursuant to the provisions of the bill.

To be eligible to be licensed as a licensed behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; and have a current certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst – Doctoral verified by the certifying entity.

To be eligible to be licensed as a licensed assistant behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; have a current certification as a Board Certified Assistant Behavior Analyst verified by the certifying entity; and submit proof satisfactory to the board of ongoing supervision by a licensed behavior analyst in accordance with the certifying entity’s requirements for Board Certified Assistant Behavior Analysts.

Currently, certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst – Doctoral requires completion of a graduate degree, completion of hours of applied experience, and passing an examination. Similarly, current requirements for certification as a Board Certified Assistant Behavior Analyst include completion of an undergraduate degree, completion of hours of applied experience, and passing an examination.

Under the bill, “certifying entity” is defined as the Behavior Analyst Certification Board, Incorporated, or any successor organization whose programs to certify professional practitioners of behavior analysis are accredited by the National Commission on Certifying Agencies or the American National Standards Institute.

The bill provides for licenses to be issued for a two-year period, which may be renewed upon filing a renewal application. A license will not be renewed until the license holder submits satisfactory evidence to the board that the license holder continues to be certified by the certifying entity. The bill also provides that, upon payment to the board of a fee and the submission of a written application provided by the board, the board will issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

Finally, the bill provides an exemption to the licensure requirements for any other profession licensed by the State, provided that: qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill; applied behavior analysis is in the scope of practice of the other profession as defined by law; and the services provided by qualified members of other professions are within the boundaries of the licensed professional’s education, training, and competence. The exemption to the licensure requirements also apply to various persons under certain circumstances, provided that they do not represent themselves as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO ASSEMBLY, No. 4608

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 5, 2019

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 4608, with committee amendments.

As amended, this bill provides for the regulation and licensing of applied behavior analysts. The bill establishes the State Board of Applied Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety. The board shall consist of seven members who are residents of this State and who shall be appointed by the Governor, as follows: two shall be public members to represent the interests of the public; one member shall be from a department in the Executive Branch of State Government; three members shall be licensed applied behavior analysts, except for the members first appointed, who shall be Board Certified Behavior Analysts or Board Certified Behavior Analysts-Doctoral; and one member shall be a licensed assistant applied behavior analyst, except for the member first appointed, who shall be a Board Certified Assistant Behavior Analyst.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed applied behavior analyst or licensed assistant applied behavior analyst unless the person is licensed in accordance with the provisions of the bill. Additionally, the bill prohibits persons from using the title “licensed behavior analyst,” “licensed assistant behavior analyst,” “licensed applied behavior analyst,” “licensed assistant applied behavior analyst,” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of applied behavior analysis unless licensed pursuant to the provisions of the bill.

To be eligible to be licensed as a licensed applied behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; have a current certification from a nonprofit organization

accredited by the National Commission for Certifying Agencies, the American National Standards Institute, or a substantial equivalent to credential professional practitioners of applied behavior analysis related to the principles and practice of the profession of applied behavior analysis that is approved by the board; and submit proof that the applicant holds a graduate degree from an accredited university or other institution of higher learning.

To be eligible to be licensed as a licensed assistant applied behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; have a current certification from a nonprofit organization accredited by the National Commission for Certifying Agencies, the American National Standards Institute, or a substantial equivalent to credential professional practitioners of applied behavior analysis related to the principles and practice of the profession of applied behavior analysis that is approved by the board; submit proof that the applicant holds an undergraduate degree from an accredited university or other institution of higher learning; submit proof satisfactory to the board of ongoing supervision by a licensed applied behavior analyst in accordance with the board's requirements.

The bill provides for licenses to be issued for a two-year period, which may be renewed upon filing a renewal application. A license will not be renewed until the license holder submits satisfactory evidence to the board that the license holder continues to be certified by the certifying entity. The bill also provides that, upon payment to the board of a fee and the submission of a written application provided by the board, the board will issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

Finally, the bill provides an exemption to the licensure requirements for any other profession licensed by the State, provided that: qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill; applied behavior analysis is in the scope of practice of the other profession as defined by law; and the services provided by qualified members of other professions are within the boundaries of the licensed professional's education, training, and competence. The exemption to the licensure requirements also apply to various persons under certain circumstances, provided that they do not represent themselves as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill.

As amended and reported, this bill is identical to the Senate Committee Substitute for Senate Bill No. 3099 (1R), as also reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments:

specify that the bill provides for the licensure of practitioners of “applied behavior analysis” rather than “behavior analysis”;

specify that the practice of applied behavior analysis does not include the diagnosis of speech language, hearing, and other communication and swallowing disorders;

make changes to the requirements for licensure by removing references to a certification verified by the certifying entity;

add “licensed applied behavior analyst” and “licensed assistant applied behavior analyst” to the list of prohibited titles for persons not properly licensed;

make changes to the requirements to be eligible to be licensed under the bill; and

modify the qualifications for exemption from the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that this bill will increase annual State expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating applied behavior analysts and on future license fee and penalty collections.

The State will incur an indeterminate annual increase in operating expenditures associated with the licensure and regulation of applied behavior analysts and assistant applied behavior analysts, including the cost of establishing and operating the new State Board of Applied Behavior Analyst Examiners.

The bill requires an Executive Director of the board to be appointed and paid within the limits of available funds.

Additional annual State revenue will accrue from indeterminate fee payments for the new applied behavior analyst licenses and renewals and indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed profession.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4608
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: FEBRUARY 5, 2019

SUMMARY

Synopsis: "Behavior Analyst Licensing Act"

Type of Impact: Annual State revenue and expenditure increases to the General Fund.

Agencies Affected: Division of Community Affairs in the Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Annual State Expenditure Increase		Indeterminate	
Annual State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) anticipates that this bill will increase annual State expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating behavior analysts and on future license fee and penalty collections.
- The State will incur an indeterminate annual increase in operating expenditures associated with the licensure and regulation of behavior analysts and assistant behavior analysts, including the cost of establishing and operating the new State Board of Behavior Analyst Examiners.
- The bill requires an Executive Director of the board to be appointed and paid within the limits of available funds.
- Additional annual State revenue will accrue from indeterminate fee payments for the new behavior analyst licenses and renewals and indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed profession.

BILL DESCRIPTION

This bill provides for the regulation and licensing of behavior analysts by the new State Board of Behavior Analyst Examiners.

The bill establishes the State Board of Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, which will consist of seven members. The bill requires an Executive Director of the board to be appointed and to be paid within the limits of available funds.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill provides for licenses to be issued for a two-year period, which may be renewed upon filing a renewal application. The bill also provides that, upon payment to the board of a fee and the submission of a written application provided by the board, the board will issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed behavior analyst or licensed assistant behavior analyst. Additionally, the bill prohibits persons from using the title "licensed behavior analyst" or "licensed assistant behavior analyst" or the abbreviation "LBA" or "LABA" or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of behavior analysis unless licensed pursuant to the provisions of the bill.

Finally, the bill provides an exemption to the licensure requirements for any other profession licensed by the State, provided that: qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill; applied behavior analysis is in the scope of practice of the other profession as defined by law; and the services provided by qualified members of other professions are within the boundaries of the licensed professional's education, training, and competence. The exemption to the licensure requirements also apply to various persons under certain circumstances, provided they do not represent themselves as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that this bill will increase annual State General Fund expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating behavior analysts and on future license fee and penalty collections.

State Revenue Increase: The bill will increase annual State revenue collections from licensure fees, fines, and penalties by indeterminate amounts.

The OLS cannot quantify the licensure fee payments the board will collect from the biennial licensing requirement, because the bill leaves the setting of the fee levels to the board's discretion.

The Association of Professional Behavior Analysts cites 30 states that have adopted similar licensure laws regulating behavior analysts, including New York. The New Jersey Association of Professional Behavior Analysts informed the OLS that an estimated 350 New Jersey members qualify for a license under the provisions of this bill as of January 2019. The association representative noted there are at least 100 more individuals that may require licensing, however are not currently members. In addition the OLS is unable to quantify the number of out-of-state behavior analysts who would choose to become licensed in New Jersey.

Moreover, the OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed professions. The OLS, however, cannot project the amount the State will collect because the bill does not specify the level of any fines or penalties and because the OLS has no information on which to base an estimate of the number and magnitude of future penalty assessments and payments.

State Expenditure Increase: The bill newly establishes the seven-member State Board of Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety to newly regulate behavior analysts. The board's regulatory activities will increase annual division operating expenses. The OLS, however, cannot determine the increase's magnitude on account of uncertainty regarding the number of professionals who will be regulated and operational decisions the board will make to implement the bill. In any event, six of the seven board members will serve without compensation and will only be reimbursed for the expenses they incur in the performance of their duties.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4608

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: DECEMBER 16, 2019

SUMMARY

- Synopsis:** "Applied Behavior Analyst Licensing Act"
- Type of Impact:** Annual State revenue and expenditure increases to the General Fund.
- Agencies Affected:** Division of Consumer Affairs in the Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Annual State Expenditure Increase		Indeterminate	
Annual State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) anticipates that this bill will increase annual State expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating applied behavior analysts and on future license fee and penalty collections.
- The State will incur an indeterminate annual increase in operating expenditures associated with the licensure and regulation of applied behavior analysts and assistant applied behavior analysts, including the cost of establishing and operating the new State Board of Applied Behavior Analyst Examiners.
- The bill requires an Executive Director of the board to be appointed and paid within the limits of available funds.
- Annual State revenue will accrue from indeterminate fee payments for the new applied behavior analyst licenses and renewals and indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed profession.

BILL DESCRIPTION

This bill provides for the regulation and licensing of applied behavior analysts by the new State Board of Applied Behavior Analyst Examiners.

The bill establishes the State Board of Applied Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, which will consist of seven members. The bill requires an Executive Director of the board to be appointed and to be paid within the limits of available funds.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill provides for licenses to be issued for a two-year period, which may be renewed upon filing a renewal application. The bill also provides that, upon payment to the board of a fee and the submission of a written application provided by the board, the board will issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed applied behavior analyst or licensed assistant applied behavior analyst unless licensed pursuant to the provisions of the bill. Additionally, the bill prohibits persons from using the title “licensed behavior analyst,” “licensed assistant behavior analyst,” “licensed applied behavior analyst” or “licensed assistant applied behavior analyst” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of applied behavior analysis unless licensed pursuant to the provisions of the bill.

Finally, the bill provides an exemption to the licensure requirements for any other profession licensed by the State, provided that: qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill; applied behavior analysis is in the scope of practice of the other profession as defined by law; and the services provided by qualified members of other professions are within the boundaries of the licensed professional’s education, training, and competence. The exemption to the licensure requirements also apply to various persons under certain circumstances, provided they do not represent themselves as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that this bill will increase annual State General Fund expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating applied behavior analysts and on future license fee and penalty collections.

State Revenue Increase: The bill will increase annual State revenue collections from licensure fees, fines, and penalties by indeterminate amounts.

The OLS cannot quantify the licensure fee payments the board will collect from the biennial licensing requirement, because the bill leaves the setting of the fee levels to the board's discretion.

The Association of Professional Behavior Analysts cites 30 states that have adopted similar licensure laws regulating behavior analysts, including New York. The New Jersey Association of Professional Behavior Analysts informed the OLS that an estimated 350 New Jersey members qualify for a license under the provisions of this bill as of January 2019. The association representative noted there are at least 100 more individuals that may require licensing who are not currently members. In addition, the OLS is unable to quantify the number of out-of-state behavior analysts who would choose to become licensed in New Jersey.

Moreover, the OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed professions. The OLS, however, cannot project the amount the State will collect because the bill does not specify the level of any fines or penalties and because the OLS has no information on which to base an estimate of the number and magnitude of future penalty assessments and payments.

State Expenditure Increase: The bill newly establishes the seven-member State Board of Applied Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety to newly regulate applied behavior analysts. The board's regulatory activities will increase annual division operating expenses. The OLS, however, cannot determine the increase's magnitude on account of uncertainty regarding the number of professionals who will be regulated and operational decisions the board will make to implement the bill. In any event, six of the seven board members will serve without compensation and will only be reimbursed for the expenses they incur in the performance of their duties.

Section: Law and Public Safety
Analyst: Kristin Brunner Santos
Senior Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3099

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 18, 2018

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

Senator Singleton

SYNOPSIS

“Behavior Analyst Licensing Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/30/2018)

1 AN ACT providing for the licensure of behavior analysts and
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Behavior
8 Analyst Licensing Act.”

9

10 2. The practice of applied behavior analysis in the State of New
11 Jersey is determined to affect the public safety and welfare, and to
12 be subject to regulation and control in the public interest in order to
13 protect the public by setting standards of qualification, education,
14 training, and experience for those persons seeking to practice and
15 be licensed as behavior analysts and assistant behavior analysts.

16

17 3. As used in this act:

18 “Board” means the State Board of Behavior Analyst Examiners.

19 “Behavior analysis” means the practice of designing,
20 implementing, and evaluating instructional and environmental
21 modifications to produce socially significant improvements in
22 human behavior, including the empirical identification of functional
23 relations between behavior and environmental factors, known as
24 functional assessment and analysis. Behavior analysis interventions
25 are based on scientific research and direct and indirect observation
26 and measurement of behavior and environment. Behavior analysts
27 utilize contextual factors, motivating operations, antecedent stimuli,
28 positive reinforcement, and other procedures to help individuals
29 develop new behaviors, increase or decrease existing behaviors, and
30 emit behaviors under specific environmental conditions. The
31 practice of behavior analysis does not include psychological testing,
32 diagnosis of mental or physical disorders, neuropsychology,
33 psychotherapy, cognitive therapy, sex therapy, psychoanalysis,
34 hypnotherapy, and counseling as treatment modalities.

35 “Certifying entity” means the Behavior Analyst Certification
36 Board, Incorporated, or any successor organization whose programs
37 to certify professional practitioners of behavior analysis are
38 accredited by the National Commission on Certifying Agencies or
39 the American National Standards Institute.

40 “Director” means the Director of the Division of Consumer
41 Affairs in the Department of Law and Public Safety.

42 “Licensed assistant behavior analyst” means a person who holds
43 a current, valid license as a licensed assistant behavior analyst
44 pursuant to this act, who is certified by the certifying entity as a
45 Board Certified Assistant Behavior Analyst, and who practices
46 behavior analysis under the ongoing supervision of a licensed
47 behavior analyst.

1 “Licensed behavior analyst” means a person who holds a current,
2 valid license as a licensed behavior analyst pursuant to this act, and
3 who is certified by the certifying entity as a Board Certified
4 Behavior Analyst or Board Certified Behavior Analyst – Doctoral.

5
6 4. There is created within the Division of Consumer Affairs in
7 the Department of Law and Public Safety the State Board of
8 Behavior Analyst Examiners. The board shall consist of seven
9 members who are residents of this State and who shall be appointed
10 by the Governor, as follows: two shall be public members to
11 represent the interests of the public, pursuant to the provisions of
12 subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2); one
13 member shall be from a department in the Executive Branch of
14 State Government, pursuant to the provisions of subsection c. of
15 section 2 of P.L.1971, c.60 (C.45:1-2.2); three members shall be,
16 except for the members first appointed, licensed behavior analysts;
17 and one member shall be, except for the member first appointed, a
18 licensed assistant behavior analyst. The Governor shall appoint
19 each member, other than the State executive department member,
20 for terms of four years, except that of the members first appointed,
21 two shall serve for a term of four years, two shall serve for a term
22 of three years, and two shall serve for a term of two years. Any
23 vacancy in the membership of the board shall be filled for the
24 unexpired term in the manner provided for the original appointment.
25 No member of the board may serve more than two successive terms
26 in addition to any unexpired term to which the member has been
27 appointed.

28
29 5. The board shall organize within 30 days after the
30 appointment of its members and shall annually elect from among its
31 members a chairperson and vice-chairperson, and shall appoint a
32 secretary who need not be a member of the board. The board shall
33 meet twice a year and may hold additional meetings as necessary to
34 discharge its duties. A majority of the board membership shall
35 constitute a quorum.

36
37 6. The board shall:

- 38 a. adopt a seal to authenticate its records and proceedings;
39 b. prescribe rules pertaining to types and methods of
40 examination of applicants for licensure consistent with procedures
41 established by the certifying entity;
42 c. examine and pass on the qualifications of applicants for
43 licensure under this act, and issue a license to each qualified and
44 successful applicant, attesting to the applicant’s professional
45 qualification to practice as a licensed behavior analyst or licensed
46 assistant behavior analyst;

- 1 d. keep records of its proceedings and a register of all persons
2 to whom licenses have been issued, and a record of all license
3 renewals, suspensions and revocations;
- 4 e. maintain records of expenses incurred by members of the
5 board in the performance of their duties;
- 6 f. take disciplinary action, in accordance with P.L.1978, c.73
7 (C.45:1-14 et seq.), against any licensed behavior analyst or
8 licensed assistant behavior analyst who violates the provisions of
9 this act or any regulation promulgated hereunder;
- 10 g. adopt rules and regulations pursuant to the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it deems
12 necessary to administer the provisions of this act; and
- 13 h. pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.), prescribe or
14 change the charges for licensure, renewal and other services
15 performed.

16

17 7. There shall be an Executive Director of the board appointed
18 by the director who shall serve at the director's pleasure. The salary
19 of the Executive Director shall be determined by the director within
20 the limits of available funds. The director may, within the limits of
21 available funds, hire any assistants as are necessary to administer
22 this act.

23

24 8. a. No person shall practice, attempt to practice, or make any
25 representation as being able to practice as a licensed behavior
26 analyst or licensed assistant behavior analyst unless the person is
27 licensed in accordance with the provisions of this act.

28 b. No person shall use the title "licensed behavior analyst" or
29 "licensed assistant behavior analyst" or the abbreviation "LBA" or
30 "LABA" or any other title, designation, words, letters,
31 abbreviations or insignia, except for those persons exempted
32 pursuant to section 13 of this act, indicating the practice of behavior
33 analysis unless licensed pursuant to the provisions of this act.

34

35 9. To be eligible to be licensed as a licensed behavior analyst,
36 an applicant shall fulfill the following requirements:

- 37 a. be at least 21 years of age;
- 38 b. be of good moral character; and
- 39 c. have a current certification as a Board Certified Behavior
40 Analyst or Board Certified Behavior Analyst – Doctoral verified by
41 the certifying entity.

42

43 10. To be eligible to be licensed as a licensed assistant behavior
44 analyst, an applicant shall fulfill the following requirements:

- 45 a. be at least 21 years of age;
- 46 b. be of good moral character;
- 47 c. have a current certification as a Board Certified Assistant
48 Behavior Analyst verified by the certifying entity; and

1 d. submit proof satisfactory to the board of ongoing
2 supervision by a licensed behavior analyst in accordance with the
3 certifying entity's requirements for Board Certified Assistant
4 Behavior Analysts.

5
6 11. a. All licenses shall be issued for a two-year period and
7 shall be renewed upon filing a renewal application. A license shall
8 not be renewed until the license holder submits satisfactory
9 evidence to the board that the license holder continues to be
10 certified by the certifying entity.

11 b. All applicants shall pay a fee for licensure and renewal for
12 licensure under this act. Fees shall be determined by the board and
13 established by regulation. The revenue generated from these fees
14 shall not exceed the operating costs incurred by the board in
15 administering this act.

16
17 12. Upon payment to the board of a fee and the submission of a
18 written application provided by the board, the board shall issue a
19 license to any person who holds a valid license issued by another
20 state or possession of the United States or the District of Columbia
21 which has standards substantially equivalent to those of this State,
22 as determined by the board.

23
24 13. Nothing in this act shall be construed to apply to:

25 a. the practice, activities, and services of qualified members of
26 other professions, including physicians, psychologists,
27 psychoanalysts, marriage and family therapists, social workers,
28 professional or rehabilitation counselors, or any other profession
29 licensed by the State, provided that:

30 (1) qualified members of other professions do not hold
31 themselves out to the public as possessing a license issued pursuant
32 to this act or represent themselves by any professional title
33 regulated by this act;

34 (2) applied behavior analysis is in the scope of practice of the
35 other profession as defined by law; and

36 (3) the services provided by qualified members of other
37 professions are within the boundaries of the licensed professional's
38 education, training, and competence; and

39 b. provided they do not represent themselves as possessing a
40 license issued pursuant to this act or represent themselves by any
41 professional title regulated by this act:

42 (1) family members of recipients of applied behavior analysis
43 services who implement behavior analysis treatment plans with the
44 recipients under the extended authority and direction of a licensed
45 behavior analyst or a licensed assistant behavior analyst;

46 (2) paraprofessional technicians who deliver applied behavior
47 analysis services under the extended authority and direction of a
48 licensed behavior analyst or licensed assistant behavior analyst,

1 provided that such paraprofessional technicians use titles that
2 indicate their nonprofessional status;

3 (3) behavior analysts who practice with nonhumans, and who
4 may use the title "behavior analyst," including applied animal
5 behaviorists and animal trainers;

6 (4) professionals who provide general applied behavior analysis
7 services to organizations, and who may use the title "behavior
8 analyst," if those services are for the benefit of the organizations
9 and do not involve direct services to individuals;

10 (5) matriculated college or university students whose applied
11 behavior analysis activities are part of a defined program of study,
12 course, practicum, internship, or postdoctoral fellowship, if the
13 applied behavior analysis activities under this exemption are
14 directly supervised by a licensed behavior analyst in this State, an
15 instructor in a course sequence approved by the certifying entity, or
16 another qualified faculty member, provided that such students use
17 titles that indicate their nonprofessional status;

18 (6) unlicensed persons pursuing experience in applied behavior
19 analysis consistent with the experience requirements of the
20 certifying entity, if the experience is supervised in accordance with
21 the requirements of the certifying entity;

22 (7) persons who teach behavior analysis or conduct behavior
23 analytic research, and who may use the title "behavior analyst," if
24 the teaching or research does not involve the direct delivery of
25 applied behavior analysis services to individuals;

26 (8) behavior analysts licensed in another jurisdiction or certified
27 by the certifying entity to practice independently and who work in
28 this State not more than 10 consecutive business days, or not more
29 than 15 intermittent business days, in any 90-day period;

30 (9) employees of a school district, charter school, education
31 services commission, or private school in the performance of
32 regular employment duties, if the provision of applied behavior
33 analysis services is only on behalf of the school employer and
34 remuneration for the provision of those services is provided solely
35 by the school employer; and

36 (10)with respect to the three years following the effective date of
37 this act, persons who are working under the authority of the
38 Division of Developmental Disabilities, in the Department of
39 Human Services, if the provision of applied behavior analysis
40 services is only on behalf of the Division of Developmental
41 Disabilities and remuneration for the provision of those services is
42 provided solely by the Division of Developmental Disabilities.

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44 14. This act shall take effect on the 180th day next following
45 enactment.

STATEMENT

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This bill provides for the regulation and licensing of behavior analysts. The bill establishes the State Board of Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, which will consist of seven members. Two members will be public members; three members will be licensed behavior analysts, except for the members first appointed; one member will be a licensed assistant behavior analyst, except for the member first appointed; and one member will be a State Executive Department member.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed behavior analyst or licensed assistant behavior analyst unless the person is licensed in accordance with the provisions of the bill. Additionally, the bill prohibits persons from using the title “licensed behavior analyst” or “licensed assistant behavior analyst” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of behavior analysis unless licensed pursuant to this provisions of the bill.

To be eligible to be licensed as a licensed behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; and have a current certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst – Doctoral verified by the certifying entity.

To be eligible to be licensed as a licensed assistant behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; have a current certification as a Board Certified Assistant Behavior Analyst verified by the certifying entity; and submit proof satisfactory to the board of ongoing supervision by a licensed behavior analyst in accordance with the certifying entity’s requirements for Board Certified Assistant Behavior Analysts.

Currently, certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst – Doctoral requires completion of a graduate degree, completion of hours of applied experience, and passing an examination. Similarly, current requirements for certification as a Board Certified Assistant Behavior Analyst include completion of an undergraduate degree, completion of hours of applied experience, and passing an examination.

Under the bill, “certifying entity” is defined as the Behavior Analyst Certification Board, Incorporated, or any successor

1 organization whose programs to certify professional practitioners of
2 behavior analysis are accredited by the National Commission on
3 Certifying Agencies or the American National Standards Institute.

4 The bill provides for licenses to be issued for a two-year period,
5 which may be renewed upon filing a renewal application. A license
6 will not be renewed until the license holder submits satisfactory
7 evidence to the board that the license holder continues to be
8 certified by the certifying entity. The bill also provides that, upon
9 payment to the board of a fee and the submission of a written
10 application provided by the board, the board will issue a license to
11 any person who holds a valid license issued by another state or
12 possession of the United States or the District of Columbia which
13 has standards substantially equivalent to those of this State, as
14 determined by the board.

15 Finally, the bill provides an exemption to the licensure
16 requirements for any other profession licensed by the State,
17 provided that: qualified members of other professions do not hold
18 themselves out to the public as possessing a license issued pursuant
19 to this bill or represent themselves by any professional title
20 regulated by this bill; applied behavior analysis is in the scope of
21 practice of the other profession as defined by law; and the services
22 provided by qualified members of other professions are within the
23 boundaries of the licensed professional's education, training, and
24 competence. The exemption to the licensure requirements also
25 apply to various persons under certain circumstances, provided that
26 they do not represent themselves as possessing a license issued
27 pursuant to this bill or represent themselves by any professional
28 title regulated by this bill.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 3099

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2018

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 3099.

This bill, as amended, provides for the regulation and licensing of behavior analysts. The bill establishes the State Board of Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, which will consist of seven members. Two members will be public members; three members will be licensed behavior analysts, except for the members first appointed; one member will be a licensed assistant behavior analyst, except for the member first appointed; and one member will be a State Executive Department member.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed behavior analyst or licensed assistant behavior analyst unless the person is licensed in accordance with the provisions of the bill. Additionally, the bill prohibits persons from using the title “licensed behavior analyst” or “licensed assistant behavior analyst” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of behavior analysis unless licensed pursuant to this provisions of the bill.

To be eligible to be licensed as a licensed behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; and have a current certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst – Doctoral verified by the certifying entity.

To be eligible to be licensed as a licensed assistant behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; have a current certification as a Board Certified

Assistant Behavior Analyst verified by the certifying entity; and submit proof satisfactory to the board of ongoing supervision by a licensed behavior analyst in accordance with the certifying entity's requirements for Board Certified Assistant Behavior Analysts.

Currently, certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst – Doctoral requires completion of a graduate degree, completion of hours of applied experience, and passing an examination. Similarly, current requirements for certification as a Board Certified Assistant Behavior Analyst include completion of an undergraduate degree, completion of hours of applied experience, and passing an examination.

Under the bill, "certifying entity" is defined as the Behavior Analyst Certification Board, Incorporated, or any successor organization whose programs to certify professional practitioners of behavior analysis are accredited by the National Commission on Certifying Agencies or the American National Standards Institute.

The bill provides for licenses to be issued for a two-year period, which may be renewed upon filing a renewal application. A license will not be renewed until the license holder submits satisfactory evidence to the board that the license holder continues to be certified by the certifying entity. The bill also provides that, upon payment to the board of a fee and the submission of a written application provided by the board, the board will issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

The bill provides an exemption to the licensure requirements for any other profession licensed by the State, provided that: qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill; applied behavior analysis is in the scope of practice of the other profession as defined by law; and the services provided by qualified members of other professions are within the boundaries of the licensed professional's education, training, and competence.

The exemption to the licensure requirements also applies to various persons under certain circumstances, provided that they do not represent themselves as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill. Among these persons are those who provide behavior analysis services through a provider that contracts with the Division of Developmental Disabilities, in the Department of Human Services, to provide those services. The exemption for providers that contract with the Division of Developmental Disabilities is in effect only during the first three years after the bill's effective date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1. Clarify that the duties of the board include the issuance and renewal of licenses; and
2. Exempt from the provisions of the bill certain persons who provide behavior analysis services through a provider that contracts with the Division of Developmental Disabilities, in the Department of Human Services, to provide those services. This exemption is in effect only during the first three years after the bill's effective date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 3099**

STATE OF NEW JERSEY

DATED: DECEMBER 5, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Committee Substitute for Senate Bill No. 3099.

This Senate Committee Substitute provides for the regulation and licensing of applied behavior analysts. The committee substitute establishes the State Board of Applied Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety. The board shall consist of seven members who are residents of this State and who shall be appointed by the Governor, as follows: two shall be public members to represent the interests of the public; one member shall be from a department in the Executive Branch of State Government; three members shall be licensed applied behavior analysts, except for the members first appointed, who shall be Board Certified Behavior Analysts or Board Certified Behavior Analysts-Doctoral; and one member shall be a licensed assistant applied behavior analyst, except for the member first appointed, who shall be a Board Certified Assistant Behavior Analyst.

The committee substitute permits the board to establish fees for those licensed under the substitute and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The committee substitute also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed applied behavior analyst or licensed assistant applied behavior analyst unless the person is licensed in accordance with the provisions of the substitute bill. Additionally, the substitute prohibits persons from using the title “licensed behavior analyst,” “licensed assistant behavior analyst,” “licensed applied behavior analyst,” “licensed assistant applied behavior analyst,” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the substitute bill, indicating the practice of applied behavior analysis unless licensed pursuant to the provisions of the substitute bill.

To be eligible to be licensed as a licensed applied behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; have a current certification from a nonprofit organization accredited by the National Commission for Certifying Agencies, the American National Standards Institute, or a substantial equivalent to credential professional practitioners of applied behavior analysis related to the principles and practice of the profession of applied behavior analysis that is approved by the board; and submit proof that the applicant holds a graduate degree from an accredited university or other institution of higher learning.

To be eligible to be licensed as a licensed assistant applied behavior analyst, an applicant shall: be at least 21 years of age; be of good moral character; have a current certification from a nonprofit organization accredited by the National Commission for Certifying Agencies, the American National Standards Institute, or a substantial equivalent to credential professional practitioners of applied behavior analysis related to the principles and practice of the profession of applied behavior analysis that is approved by the board; submit proof that the applicant holds an undergraduate degree from an accredited university or other institution of higher learning; submit proof satisfactory to the board of ongoing supervision by a licensed applied behavior analyst in accordance with the board's requirements.

The substitute bill provides for licenses to be issued for a two-year period, which may be renewed upon filing a renewal application. A license will not be renewed until the license holder submits satisfactory evidence to the board that the license holder continues to be certified by the certifying entity. The substitute bill also provides that, upon payment to the board of a fee and the submission of a written application provided by the board, the board will issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

Finally, the substitute bill provides an exemption to the licensure requirements for any other profession licensed by the State, provided that: qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this substitute bill or represent themselves by any professional title regulated by this substitute bill; applied behavior analysis is in the scope of practice of the other profession as defined by law; and the services provided by qualified members of other professions are within the boundaries of the licensed professional's education, training, and competence. The exemption to the licensure requirements also apply to various persons under certain circumstances, provided that they do not represent themselves as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this substitute bill.

As reported, this substitute bill is identical to Assembly Bill No. 4608, as amended and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that this substitute bill will increase annual State expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating applied behavior analysts and on future license fee and penalty collections.

The State will incur an indeterminate annual increase in operating expenditures associated with the licensure and regulation of applied behavior analysts and assistant applied behavior analysts, including the cost of establishing and operating the new State Board of Applied Behavior Analyst Examiners.

The substitute bill requires an Executive Director of the board to be appointed and paid within the limits of available funds.

Additional annual State revenue will accrue from indeterminate fee payments for the new applied behavior analyst licenses and renewals and indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed profession.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3099 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: DECEMBER 9, 2019

SUMMARY

Synopsis: "Behavior Analyst Licensing Act"

Type of Impact: Annual State revenue and expenditure increases to the General Fund.

Agencies Affected: Division of Consumer Affairs in the Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Annual State Expenditure Increase		Indeterminate	
Annual State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) anticipates that this bill will increase annual State expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating behavior analysts and on future license fee and penalty collections.
- The State will incur an indeterminate annual increase in operating expenditures associated with the licensure and regulation of behavior analysts and assistant behavior analysts, including the cost of establishing and operating the new State Board of Behavior Analyst Examiners.
- The bill requires an Executive Director of the board to be appointed and paid within the limits of available funds.
- Annual State revenue will accrue from indeterminate fee payments for the new behavior analyst licenses and renewals and indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed profession.

BILL DESCRIPTION

This bill provides for the regulation and licensing of behavior analysts by the new State Board of Behavior Analyst Examiners.

The bill establishes the State Board of Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, which will consist of seven members. The bill requires an Executive Director of the board to be appointed and to be paid within the limits of available funds.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill provides for licenses to be issued for a two-year period, which may be renewed upon filing a renewal application. The bill also provides that, upon payment to the board of a fee and the submission of a written application provided by the board, the board will issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed behavior analyst or licensed assistant behavior analyst unless licensed pursuant to the provisions of the bill. Additionally, the bill prohibits persons from using the title “licensed behavior analyst” or “licensed assistant behavior analyst” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of behavior analysis unless licensed pursuant to the provisions of the bill.

Finally, the bill provides an exemption to the licensure requirements for any other profession licensed by the State, provided that: qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill; applied behavior analysis is in the scope of practice of the other profession as defined by law; and the services provided by qualified members of other professions are within the boundaries of the licensed professional’s education, training, and competence. The exemption to the licensure requirements also apply to various persons under certain circumstances, provided they do not represent themselves as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that this bill will increase annual State General Fund expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating behavior analysts and on future license fee and penalty collections.

State Revenue Increase: The bill will increase annual State revenue collections from licensure fees, fines, and penalties by indeterminate amounts.

The OLS cannot quantify the licensure fee payments the board will collect from the biennial licensing requirement, because the bill leaves the setting of the fee levels to the board’s discretion.

The Association of Professional Behavior Analysts cites 30 states that have adopted similar licensure laws regulating behavior analysts, including New York. The New Jersey Association of Professional Behavior Analysts informed the OLS that an estimated 350 New Jersey members qualify for a license under the provisions of this bill as of January 2019. The association representative noted there are at least 100 more individuals that may require licensing who are not currently members. In addition, the OLS is unable to quantify the number of out-of-state behavior analysts who would choose to become licensed in New Jersey.

Moreover, the OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed professions. The OLS, however, cannot project the amount the State will collect because the bill does not specify the level of any fines or penalties and because the OLS has no information on which to base an estimate of the number and magnitude of future penalty assessments and payments.

State Expenditure Increase: The bill newly establishes the seven-member State Board of Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety to newly regulate behavior analysts. The board's regulatory activities will increase annual division operating expenses. The OLS, however, cannot determine the increase's magnitude on account of uncertainty regarding the number of professionals who will be regulated and operational decisions the board will make to implement the bill. In any event, six of the seven board members will serve without compensation and will only be reimbursed for the expenses they incur in the performance of their duties.

Section: Law and Public Safety
Analyst: Kristin Brunner Santos
Senior Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3099
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: DECEMBER 16, 2019

SUMMARY

Synopsis: "Applied Behavior Analyst Licensing Act"

Type of Impact: Annual State revenue and expenditure increases to the General Fund.

Agencies Affected: Division of Consumer Affairs in the Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Annual State Expenditure Increase		Indeterminate	
Annual State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) anticipates that this bill will increase annual State expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating applied behavior analysts and on future license fee and penalty collections.
- The State will incur an indeterminate annual increase in operating expenditures associated with the licensure and regulation of applied behavior analysts and assistant applied behavior analysts, including the cost of establishing and operating the new State Board of Applied Behavior Analyst Examiners.
- The bill requires an Executive Director of the board to be appointed and paid within the limits of available funds.
- Annual State revenue will accrue from indeterminate fee payments for the new applied behavior analyst licenses and renewals and indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed profession.

BILL DESCRIPTION

This bill provides for the regulation and licensing of applied behavior analysts by the new State Board of Applied Behavior Analyst Examiners.

The bill establishes the State Board of Applied Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, which will consist of seven members. The bill requires an Executive Director of the board to be appointed and to be paid within the limits of available funds.

The bill permits the board to establish fees for those licensed under the bill and incorporates the terms of the law on fees of professional boards, P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of standards and punishment of violations.

The bill provides for licenses to be issued for a two-year period, which may be renewed upon filing a renewal application. The bill also provides that, upon payment to the board of a fee and the submission of a written application provided by the board, the board will issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

The bill also prohibits persons from practicing, attempting to practice, or making any representation as being able to practice as a licensed applied behavior analyst or licensed assistant applied behavior analyst unless licensed pursuant to the provisions of the bill. Additionally, the bill prohibits persons from using the title “licensed behavior analyst,” “licensed assistant behavior analyst,” “licensed applied behavior analyst” or “licensed assistant applied behavior analyst” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons specifically exempted under the bill, indicating the practice of applied behavior analysis unless licensed pursuant to the provisions of the bill.

Finally, the bill provides an exemption to the licensure requirements for any other profession licensed by the State, provided that: qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill; applied behavior analysis is in the scope of practice of the other profession as defined by law; and the services provided by qualified members of other professions are within the boundaries of the licensed professional’s education, training, and competence. The exemption to the licensure requirements also apply to various persons under certain circumstances, provided they do not represent themselves as possessing a license issued pursuant to this bill or represent themselves by any professional title regulated by this bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that this bill will increase annual State General Fund expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of licensing and regulating applied behavior analysts and on future license fee and penalty collections.

State Revenue Increase: The bill will increase annual State revenue collections from licensure fees, fines, and penalties by indeterminate amounts.

The OLS cannot quantify the licensure fee payments the board will collect from the biennial licensing requirement, because the bill leaves the setting of the fee levels to the board's discretion.

The Association of Professional Behavior Analysts cites 30 states that have adopted similar licensure laws regulating behavior analysts, including New York. The New Jersey Association of Professional Behavior Analysts informed the OLS that an estimated 350 New Jersey members qualify for a license under the provisions of this bill as of January 2019. The association representative noted there are at least 100 more individuals that may require licensing who are not currently members. In addition, the OLS is unable to quantify the number of out-of-state behavior analysts who would choose to become licensed in New Jersey.

Moreover, the OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed professions. The OLS, however, cannot project the amount the State will collect because the bill does not specify the level of any fines or penalties and because the OLS has no information on which to base an estimate of the number and magnitude of future penalty assessments and payments.

State Expenditure Increase: The bill newly establishes the seven-member State Board of Applied Behavior Analyst Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety to newly regulate applied behavior analysts. The board's regulatory activities will increase annual division operating expenses. The OLS, however, cannot determine the increase's magnitude on account of uncertainty regarding the number of professionals who will be regulated and operational decisions the board will make to implement the bill. In any event, six of the seven board members will serve without compensation and will only be reimbursed for the expenses they incur in the performance of their duties.

Section: Law and Public Safety
Analyst: Kristin Brunner Santos
Senior Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

01/13/2020

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

A268 (Kean, Egan, Holley/Singer, Gopal) - "P.I.C.K. Awareness Act"; authorizes issuance of special support recovery license plates.

A790 (Andrzejczak, Land, Mosquera, Mukherji, Downey, Zwicker, Mazzeo/Connors, Singleton) - "Combat to College Act"; grants priority course registration to military service members and veterans attending public institutions of higher education.

A791 (Andrzejczak, Land, Mosquera, Danielsen, Mukherji, Downey, Zwicker/Van Drew, Brown) - Requires institution of higher education to award appropriate credit for student's military service.

A1212 (McKeon, Gusciora, Vainieri Huttel/Sweeney, Smith, Bateman, Greenstein) - Clarifies intent of P.L.2007, c.340 regarding NJ's required participation in Regional Greenhouse Gas Initiative.

A1305 (Greenwald/Rice) - Renames Mountainview Youth Correctional Facility as "William H. Fauver Youth Correctional Facility."

A1576 (Conaway, Giblin/Vitale) - Requires certain health care facilities to provide, and employees to receive, annual influenza vaccination.

A1582 (Conaway, Moriarty, Mosquera, Benson, Pinkin, Giblin, Quijano/Weinberg, Ruiz) - Establishes "Dietetics and Nutrition Licensing Act".

A1991 (Sumter, Munoz, Mukherji/Singer, Gordon) - Requires students at institutions of higher education to receive immunization for meningitis in accordance with recommendations of Advisory Committee on Immunization Practices.

A3101 (Egan Jones, Benson, Land/Singleton) - Increases minimum annual amounts for appropriation for certain arts, historical heritage, and tourism purposes from hotel and motel occupancy fee revenues.

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A3160 (Lampitt, Giblin, Murphy/Beach) - Permits cosmetology and hairstyling school clinics to charge certain fees for services rendered to general public.

A3832 (Mukherji, McKnight, Chiaravalloti/Cryan, Stack) - Authorizes municipal tax levy through public question for certain purposes; clarifies ability of local government entities to issue non-recourse bonds; appropriates \$100,000.

A4493 (Pinkin, Conaway, Vainieri Huttel/Vitale) - Authorizes expedited partner therapy, under which sexual partners or patients diagnosed with sexually transmitted disease are treated without prior clinical examination.

A4608 (Zwicker, Downey/Weinberg, Kean) - " Applied Behavior Analyst Licensing Act."

A4710 (Lampitt, Zwicker, Vainieri Huttel/Beach,Turner) - "Strengthening Gifted and Talented Education Act"; establishes school district responsibilities in educating gifted and talented students.

A5037 (Pintor Marin, Speight, Vainieri Huttel/Andrzejczak, Greenstein) - Enhances penalties related to counterfeit drugs.

A5091 (McKeon, Vainieri Huttel, Pinkin/Pou, Singleton) - Establishes "Safeguarding Against Financial Exploitation Act."

A5263 (Tully, Armato/Corrado) - Requires four-year public institution of higher education to award college credits to firefighters for certain courses completed at county fire academies.

A5277 (DeAngelo, Houghtaling/Greenstein) - Eliminates term limits for members of State Board of Examiners of Master Plumbers and State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors.

A5624 (Pintor Marin, Munoz, Lampitt/Weinberg, Corrado) - Requires that State employee serve as Equal Employment Opportunity and Affirmative Action officer for gubernatorial transitions.

A5625 (Pintor Marin, Munoz, Lampitt/Weinberg, Corrado) - Requires payment of expenses related to background investigations for certain gubernatorial transition positions.

A5628 (Pintor Marin, Munoz, McKnight/Weinberg, Corrado) - Requires Civil Service Commission establish standardize recordkeeping and retention requirements with regard to unclassified State employees.

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A5631 (Pintor Marin, Munoz, Pinkin/Weinberg, Corrado) - Specifies certain requirements for State agency review of complaint of workplace discrimination.

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A5632 (Pintor Marin, Munoz, Reynolds-Jackson/Weinberg) - Requires certain public employees receive additional training to manage harassment or discrimination complaints.

A5917 (Chiaravalloti, McKnight/Cunningham, Weinberg) - Expands DOH oversight of hospital finances.

A6007 (McKeon/Pou) - Requires insurers and insurance groups to submit corporate governance annual disclosure to DOBI Commissioner.

S463 (Singer, Greenstein/Dancer, Calabrese, DeAngelo) - Provides for voluntary contributions by taxpayers on gross income tax returns for Meals on Wheels.

S538 (Oroho, Stack/Wirths, Vaineri Huttie, Bucco) - Allows long term tax exemption extension for certain low-income housing.

S775 (Cunningham, Sacco/Sumter, Caride, Vainieri Huttie) - Establishes Tuition Aid Grant Study Commission to examine New Jersey's Tuition Aid Grant Program and make recommendations regarding improvements to program.

S778 (Cunningham, Kean/Quijano, Jasey, Pintor Marin) - Establishes Campus Sexual Assault Commission.

S1493 (Stack, Singleton/Quijano, Chaparro, Timberlake) - Prohibits landlords from requiring residential tenants to pay rent and other related charges through electronic funds transfer; requires landlords to provide receipts for cash payments.

S1508 (Turner, Singleton/Reynolds-Jackson, Sumter, Wimberly) - Eliminates motor vehicle surcharges following retirement of bonds and debts tied to surcharges.

S1834 (Ruiz, Cunningham/Quijano, Murphy) - Requires each public institution of higher education to post its budget on the institution's website.

S1953 (Oroho, Cruz-Perez/Space, Andrzejcack, Wirths) - Directs Dept. of Agriculture to authorize and advise food hubs.

S1966 (Sweeney, Singleton/Taliaferro) - Increases death benefit of active member of PFRS and SPRS to 50 percent of final compensation for surviving child or children.

S2527 (Ruiz, Turner/Lampitt, Quijano, Timberlake) - Requires Department of Agriculture to promote school meal programs.

S2533 (Greenstein, Cruz-Perez/Vainieri Huttie, Lopez, Timberlake) - Requires Office of Victim-Witness Advocacy to provide services to certain inmates.

S2898 (Madden, Sarlo/Murphy, Mosquera, Vainieri Huttie) - Establishes "New Jersey Fire and EMS Crisis Intervention Services" telephone hotline; provides funding for hotline through fire inspection fees and penalties.

S2980 (Ruiz/Lampitt, McKnight) - Provides that school district may not condition student enrollment in district on fact that MVC does not have name or address of parent or guardian on file.

S2982 (Ruiz/Lampitt, Mukherji, Lopez) - Clarifies that child may not be excluded from public school based on membership in protected category under "Law Against Discrimination" or immigration status.

S2998 (Ruiz/Freiman, Downey) - Requires creditors to make certain disclosures regarding collateral protection insurance to consumer debtors.

S3064 (Ruiz, Singleton/Armato, Conaway, Swain) - Establishes task force to develop State-wide plan to diversify apprenticeships.

S3066 (Ruiz, Singleton/Lampitt, Mukherji, Benson) - Creates five year High-Growth Industry Regional Apprenticeship Development Grant Pilot Program.

S3118 (Ruiz/Speight, Munoz, Tucker) - Establishes public awareness campaign to promote early conversations about advance care planning and end-of-life care.

S3124 (Stack/Mukherji) - Requires landlords to allow tenants to pay rent up to three business days after eviction order or lockout is executed and accept rent payments by any means.

S3206 (Pou, Cruz-Perez/Lopez, McKeon, Murphy) - Establishes "Unbanked and Underbanked Consumers Study Commission."

S3215 (Greenstein, Singleton/Zwicker, Mukherji, Swain) - Requires State to use 20-year time horizon and most recent Intergovernmental Panel on Climate Change Assessment Report when calculating global warming potential to measure global warming impact of greenhouse gases.

S3246 (Sarlo, Singleton, Oroho, Bucco/Benson, Bucco, Freiman) - Establishes elective pass-through entity business alternative income tax and allows corresponding refundable gross income tax and corporation business tax credit.

S3327 (Ruiz, Cruz-Perez/Lopez, Timberlake) - Establishes Commission on Latino and Hispanic Heritage in DOE.

S3348 (Weinberg/Vainieri Huttle, McKnight) - Requires home health agencies and specialty pharmacies providing services related to bleeding episodes associated with hemophilia to comply with certain minimum practice standards.

S3528 (Scutari, Codey/Vainieri Huttle, Quijano, Kennedy) - Establishes process to obtain judgement of adoption for civil union partner or spouse of natural or legal parent of child when that person is named as parent on child's birth certificate.

S3574 (Scutari, Kean, Cryan/Carter, Kennedy, Freiman) - Requires NJT to conduct feasibility study on restoring one-seat ride to Manhattan on Raritan Valley Line.

Governor Murphy conditionally vetoed the following bills:

A2431 (Benson, Jimenez, DeCroce, Eustace/Weinberg, Kean) – Requires health insurers to provide plans that limit patient cost-sharing concerning certain prescription drug coverage.

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A4978 (Timberlake, Zwicker, Vainieri Huttle/Greenstein, Cryan) – Prohibits online education services from using and disclosing certain information, engaging in targeted advertising, and requires deletion of certain information in certain circumstances.

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S3920 (Pou/Wimberly, Sumter) – Concerns provision of energy to certain manufacturing facilities by providing exemptions to certain energy related taxes.

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Governor Murphy absolute vetoed the following bill:

S4139 (Greenstein/Benson) - Makes Fiscal Year 2020 supplemental appropriation of \$250,000 to Rutgers University - New Brunswick for School of Dental Medicine - Special Care Treatment Center.

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