

# HB124 INTRODUCED



1 HB124  
2 I1UXWWW-1  
3 By Representative Wilcox  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 04-Feb-25  
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SYNOPSIS:

Under existing law, termination dates are established for enumerated state agencies. The agencies are periodically reviewed by the Alabama Sunset Committee. After the review process is completed, the committee prepares its recommendation for the agencies to the Legislature in the form of sunset bills which either continue, terminate, or continue with modification each agency reviewed.

This bill would provide for the continuance of the Alabama Board of Optometry until October 1, 2029, with the following changes: To further provide for the issuance of a limited license; to increase the per diem paid to board members; to permit multiple methods of board communication with licensees; to remove the secretary's registry's status as the official book of records; and to create the Alabama Board of Optometry Fund in the State Treasury and provide for the fund's operation.

A BILL  
TO BE ENTITLED  
AN ACT



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29 Relating to the Alabama Sunset Law; to continue the  
30 existence and functioning of the Alabama Board of Optometry  
31 until October 1, 2029, with certain modifications; to amend  
32 Sections 34-22-5, 34-22-8, 34-22-22, 34-22-40, 34-22-41, and  
33 34-22-43, Code of Alabama 1975, to further provide for the  
34 issuance of a limited license; to increase the per diem paid  
35 to board members; to permit multiple methods of board  
36 communication with licensees; to remove the secretary's  
37 registry's status as the official book of records; and to  
38 create the Alabama Board of Optometry Fund in the State  
39 Treasury and provide for the fund's operation.

40 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

41 Section 1. Pursuant to the Alabama Sunset Law, the  
42 Sunset Committee recommends the continuance of the Alabama  
43 Board of Optometry until October 1, 2029, with additional  
44 recommendations for statutory change as set out in Section 3.

45 Section 2. The existence and functioning of the Alabama  
46 Board of Optometry, created and functioning pursuant to  
47 Sections 34-22-1 to 34-22-110, inclusive, Code of Alabama  
48 1975, is continued until October 1, 2029, and those code  
49 sections are expressly preserved.

50 Section 3. Sections 34-22-5, 34-22-8, 34-22-22,  
51 34-22-40, 34-22-41, and 34-22-43, Code of Alabama 1975, are  
52 amended to read as follows:

53 "§34-22-5

54 (a) The board, by rule, may, ~~under rules and~~  
55 ~~regulations to be promulgated by the board~~, issue a limited  
56 teaching license ~~licenses, in the case of teachers, to persons~~



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57 to teachers who hold an optometric degree ~~where such persons~~  
58 and are not licensed and registered to practice optometry in  
59 this state. The board may also issue a limited resident  
60 license to student residents at a school of optometry approved  
61 by the board. The dean of any school of optometry within ~~the~~  
62 ~~State of Alabama which~~ this state that has been approved by  
63 the board shall ~~be required to~~ annually certify to the board  
64 the names and addresses of the members of the faculty and  
65 student residents of the school who are not licensed and  
66 registered to practice optometry in ~~the~~ this state and shall  
67 ~~be required to~~ promptly notify the board of any change in  
68 personnel on the faculty. The board may issue limited licenses  
69 to applicants upon the certification of the dean of any school  
70 of optometry setting forth that the applicant is a bona fide  
71 member of the faculty or a student resident of the school. ~~The~~  
72 A limited license shall be valid so long as the holder thereof  
73 remains a member of the faculty or a student resident of the  
74 school and abides by the rules ~~and regulations~~ under which the  
75 ~~same~~ limited license is issued. The holder of a limited  
76 license shall be subject to ~~all provisions of~~ this chapter  
77 regulating the practice of optometry in this state and ~~shall~~  
78 ~~be entitled to~~ may perform all services which a person  
79 licensed to practice optometry in this state would be entitled  
80 to perform, subject to the following limitations:

81 (1) A limited teaching licensee may only practice  
82 optometry, ~~but only~~ as a part of ~~the~~ a program of the school  
83 and as an adjunct to his or her teaching functions in the  
84 school.



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85           (2) A limited resident licensee may only practice  
86 optometry as a part of a program of the school, as an adjunct  
87 to the learning functions prescribed by the school, and under  
88 the supervision of the faculty of the school.

89           (b) A fee of one hundred dollars (\$100) shall be paid  
90 by ~~the~~ an applicant to the board for the issuance of a limited  
91 license. ~~Limited license holders who are not members of a~~  
92 ~~residency program at a school of optometry shall be subject to~~  
93 ~~the same annual license renewal fees and other requirements as~~  
94 ~~required of holders of regular licenses.~~"

95           "§34-22-8

96           (a) Any person, including a licensed optometrist, may  
97 initiate a charge of violation of ~~the provisions of~~ this  
98 chapter or a charge of misconduct by a licensed optometrist by  
99 filing with the secretary of the board a written statement  
100 under oath of the charge ~~or charges~~ against the accused. If a  
101 member of the board files a charge, the member shall not  
102 participate in the hearing or disposition of the charge,  
103 except to the extent of giving testimony in connection with  
104 the charge. The member filing the charge shall not be present  
105 during the hearing or deliberation of the charge except to  
106 give testimony. A discreet preliminary investigation into the  
107 charge ~~or charges~~ shall be made by the board, after which, if  
108 the board is reasonably satisfied that the charge ~~or charges~~  
109 are is not frivolous, the board shall hear the charge ~~or~~  
110 charges under rules of procedure ~~to be established~~ adopted by  
111 the board. A quorum of the board shall be present at all times  
112 during the hearing and deliberation and action thereon. A time



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113 and place, either within the City of Montgomery, Alabama, or  
114 the county in which the accused resides for the hearing of the  
115 charge ~~or charges~~ shall be fixed by the board as soon as  
116 convenient. A copy of the charge ~~or charges~~, together with a  
117 written notice of the time and place of the hearing, and a  
118 copy of the rules of procedure adopted by the board for the  
119 hearing shall be served on the accused at least 20 days before  
120 the date fixed for the hearing, by leaving a copy thereof at  
121 his or her last recorded ~~and usual~~ place of residence, by  
122 personal service upon the accused, ~~or by forwarding~~  
123 transmitting a copy to the accused via ~~United States~~  
124 registered mail or other common carrier approved by the board,  
125 with ~~a~~ return receipt requested, ~~addressed to him or her at to~~  
126 his or her last ~~known~~ mailing address of record, if a resident  
127 of ~~the State of Alabama~~ this state, or by electronic mail at  
128 his or her last electronic mail address of record with  
129 electronic mail delivery receipt. If the accused is not a  
130 resident of ~~Alabama~~ this state or has departed from ~~the State~~  
131 ~~of Alabama~~ this state, ~~then~~ notice of the time and place of  
132 the hearing shall be published in a newspaper of general  
133 circulation in the county where the accused is last known to  
134 have resided, three weeks prior to the hearing, setting out  
135 the time and place of the hearing. At least five days before  
136 the time of the hearing, the accused shall file with the  
137 secretary of the board an answer to the ~~written charges~~ charge  
138 together with a list of witnesses which the accused desires to  
139 be subpoenaed for the hearing. At the hearing, witnesses may  
140 be examined respecting the charge ~~or charges~~. The board or the



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141 accused, or both, may require the attendance of witnesses, the  
142 production of books, records, and papers pertinent to the  
143 issues, and, either or both may require the secretary of the  
144 board to issue a subpoena for any witnesses or a subpoena  
145 duces tecum to compel the production of any books, records,  
146 papers, or documents, which shall be directed to the sheriff  
147 of the county where the witness resides or is to be found. The  
148 subpoena shall be served and returned in the same manner as  
149 subpoenas in civil cases in the circuit court are served and  
150 returned. If any person is subpoenaed to appear before the  
151 board and fails to obey the subpoena without reasonable cause,  
152 or if any witness upon any hearing before the board refuses to  
153 be sworn, or to be examined, or to produce a book, record,  
154 paper, or document, as ordered by the board, this fact shall  
155 be certified by the board to the circuit court or the judge  
156 thereof in the county where the witness resides, and the  
157 witness shall be ordered and directed by the court to appear  
158 before the board and testify or produce such books, papers,  
159 records, or documents as are ordered by the board. At the  
160 hearing, the accused may cross-examine the witnesses against  
161 him or her, produce witnesses in his or her defense, appear  
162 personally or by counsel, or both, and have the testimony  
163 taken down by a stenographer, but the expense of counsel and  
164 stenographer shall be borne by the accused. A majority of the  
165 quorum of members of the board conducting the hearings shall  
166 render a decision on the merits of the charge ~~or charges~~ and,  
167 if warranted by the evidence, impose appropriate sanctions.

168 (b) In all cases of suspension or revocation of



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169 ~~licenses~~ a license or of other disciplinary sanctions imposed  
170 by the board, the accused may appeal only to the Circuit Court  
171 of Montgomery County, Alabama, notwithstanding any other  
172 provision of law to the contrary. Except as otherwise provided  
173 ~~herein in this chapter~~, judicial review of the orders and  
174 decisions of the board shall be governed by ~~the provisions of~~  
175 ~~Sections 41-22-1 to 41-22-27, inclusive~~, the Alabama  
176 Administrative Procedure Act, Chapter 22 of Title 41.

177 (c) Members of the board, and the members of any  
178 committee of optometrists impaneled by the board, and any  
179 other optometrist and individual making any report, ~~or~~  
180 rendering any opinion, ~~or~~ or service, ~~or~~ supplying any evidence  
181 or information, or offering any testimony to the board in  
182 connection with a disciplinary investigation or proceeding as  
183 authorized in this chapter shall be immune from suit for any  
184 conduct with respect to the ~~investigations, actions, hearings,~~  
185 ~~and proceedings~~ investigation, action, hearing, or  
186 proceeding."

187 "§34-22-22

188 (a) All registered optometrists licensed in ~~the State~~  
189 ~~of Alabama~~ this state are required to take annual courses of  
190 study in subjects relating to the practice of optometry. The  
191 length of study shall be prescribed by the board but shall not  
192 exceed 25 ~~clock~~ hours in any calendar year. Licensees approved  
193 by the board to use pharmaceutical agents shall be required to  
194 take not less than 20 nor more than 25 hours of continuing  
195 education, half of which shall be in subjects relating to the  
196 diagnosis, treatment, and management of disease of the human





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197 eye and its adjacent structures. Attendance shall be at a  
198 course or courses approved by the board.

199 (b) Continuing education requirements shall be  
200 completed between October 1 and September 30 of each fiscal  
201 year prior to the time for license renewal for the next fiscal  
202 year. Upon the failure of any licensee to certify compliance  
203 with continuing education requirements for the fiscal year on  
204 or before the first day of November, the board shall notify  
205 the licensee by registered mail or other common carrier  
206 approved by the board with return receipt requested or  
207 electronic mail with electronic mail delivery receipt  
208 ~~addressed to his or her last address of record~~ that  
209 certification has not been received and unless certification  
210 is received on or before the first day of January, his or her  
211 license and license certificate shall be automatically  
212 suspended. Notification by common carrier shall be transmitted  
213 to the licensee's last mailing address of record. Notification  
214 by electronic mail shall be transmitted to the licensee's last  
215 electronic mail address of record. If the certification  
216 demonstrating compliance with continuing education  
217 requirements is not received by the board on or before January  
218 1, the license and license certificate of the licensee ~~which~~  
219 that was previously granted shall automatically be suspended.  
220 Notwithstanding the foregoing, between October 1 and December  
221 31 of each year, the licensee shall be permitted to complete  
222 continuing education requirements ~~which~~ that he or she has  
223 failed to complete prior to the end of the fiscal year on  
224 September 30.



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225 (c) The license and license certificate shall be  
226 reinstated only upon the provision of satisfactory evidence to  
227 the board, in a form acceptable to the board, that the  
228 continuing education requirements for the ~~one~~ fiscal year next  
229 preceding the proposed reinstatement have been satisfied and  
230 upon the payment of all fees required to be paid under this  
231 chapter.

232 (d) Every licensed optometrist who desires to continue  
233 the practice of optometry in ~~the~~ this state shall annually, on  
234 or before ~~the first day of~~ October 1, pay to the secretary of  
235 the board a renewal fee of one hundred sixty dollars (\$160),  
236 for which the licensee shall receive a renewal of the  
237 registration. Every licensed optometrist approved by the board  
238 to use pharmaceutical agents shall pay an additional fee of  
239 one hundred dollars (\$100). The licensee shall sign and  
240 verify, either physically or electronically, the accuracy of  
241 the registration and certify his or her compliance with the  
242 continuing education requirements of the board for renewal on  
243 a form provided by the board either physically or  
244 electronically. Upon submission of the completed ~~form~~  
245 ~~prescribed~~ verification provided by the board, together with  
246 the aforementioned fee, the licensee shall receive the current  
247 annual registration certificate authorizing him or her to  
248 continue the practice of optometry in this state for a period  
249 of one year.

250 (e) Any license and license certificate previously  
251 granted shall ~~automatically~~ be suspended automatically if the  
252 holder fails to secure the annual registration certificate by



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253 January 1 each year. Any optometrist whose license is  
254 ~~automatically~~ suspended automatically by reason of failure,  
255 neglect, or refusal to secure the annual registration  
256 certificate shall be reinstated by the board upon payment of a  
257 penalty fee of two hundred dollars (\$200) plus all accrued  
258 annual registration fees accompanied with the prescribed form  
259 for annual registration of the license.

260 (f) Upon the failure of any licensee to file an  
261 application for the annual registration certificate and pay  
262 the annual registration fee on or before ~~the first day of~~  
263 November 1 each year, the board shall notify the licensee by  
264 certified or registered mail or other common carrier approved  
265 by the board with return receipt requested or electronic mail  
266 with electronic mail delivery receipt ~~addressed to his or her~~  
267 ~~last address of record~~ that the application and fee have not  
268 been received and that, unless the application and fee are  
269 received on or before the first day of January of the  
270 following year, the license and license certificate shall be  
271 automatically suspended. Notification by common carrier shall  
272 be transmitted to the licensee's last mailing address of  
273 record. Notification by electronic mail shall be transmitted  
274 to the licensee's last electronic mail address of record.

275 (g) The board may waive annual registration and the  
276 payment of fees while any licensee is prevented from  
277 practicing optometry by reason of physical disability,  
278 temporary active duty with any of the Armed Forces of the  
279 United States, or while any licensee is completely retired  
280 from the practice of optometry. The waiver of fees shall be



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281 effective so long as the disability, temporary active duty, or  
282 complete retirement continues.

283 (h) The board shall ~~promulgate~~ adopt rules ~~for the~~  
284 ~~administration of~~ to administer this section."

285 "§34-22-40

286 (a) In order to accomplish the purposes and to provide  
287 for the enforcement of this chapter, there is created the  
288 Alabama Board of Optometry. The board may implement and  
289 enforce this chapter. On October 10, 1975, the State Board of  
290 Optometry as then constituted shall be abolished, but the  
291 members thereof shall serve as members of the Alabama Board of  
292 Optometry created by this section and shall continue to serve  
293 until their present terms of appointment expire, as set out  
294 below. The membership of the board shall be inclusive and  
295 reflect the racial, gender, geographic, ~~urban/rural~~ urban,  
296 rural, and economic diversity of the state. Until October 1,  
297 1992, the Alabama Board of Optometry shall consist of five  
298 ~~persons~~ individuals, no two of whom shall reside in the same  
299 ~~U.S.~~ United States Congressional District. On October 1, 1993,  
300 two additional members shall be appointed to the board. The  
301 board shall than be composed of seven members, one from each  
302 United States Congressional District as follows:

303 The members shall be ~~persons~~ individuals licensed to  
304 practice optometry in this state, each of whom shall be a  
305 citizen and resident of this state, who shall have been  
306 actively engaged in the practice of optometry for at least  
307 five years next preceding the date of their appointment. The  
308 term of one member of the board shall expire October 1, 1975,



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309 and every fifth year thereafter; the term of one member shall  
310 expire October 1, 1976, and every fifth year thereafter; the  
311 term of one member shall expire October 1, 1977, and every  
312 fifth year thereafter; the term of one member shall expire  
313 October 1, 1978, and every fifth year thereafter; the term of  
314 one member shall expire October 1, 1979, and every fifth year  
315 thereafter; the term of two additional members shall begin on  
316 October 1, 1993, and expire October 1, 1998, and every fifth  
317 year thereafter. Each member of the board shall be appointed  
318 by the Governor from a list of five names of qualified ~~persons~~  
319 individuals certified to him or her by the board.

320 (b) When the term of any member of the board expires,  
321 that ~~person~~ individual shall continue to serve until his or  
322 her successor is appointed and qualified. No individual may  
323 serve more than two consecutive terms on the board

324 (c) For the purpose of preparing the list of five  
325 names, the board shall conduct an annual meeting at least 30  
326 days prior to October 1 of each year, at which all  
327 optometrists licensed to practice and holding a current annual  
328 registration certificate pursuant to this chapter may attend,  
329 nominate, and vote. The board may regulate and prescribe the  
330 place and hour of the meeting, the method of nomination, and  
331 the manner of voting. Each optometrist in attendance may vote  
332 for those ~~persons~~ individuals duly nominated, and no  
333 cumulative or proxy voting shall be permitted. Each  
334 optometrist voting shall vote for five nominees in order for  
335 his or her ballot to be valid, and any ballot indicating votes  
336 for more or less than five nominees shall be ~~null and~~ void.



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337 The five ~~persons~~ individuals receiving the greatest number of  
338 votes of those in attendance at the meeting shall be the five  
339 ~~persons~~ individuals whose names shall be certified to the  
340 Governor for appointment to the board, without substitution.  
341 In order for ~~a person~~ an individual to withdraw from the list,  
342 the ~~person~~ individual must do so in writing and present it to  
343 the secretary of the board prior to the submission of the list  
344 to the Governor, after eliminating the ~~person~~ individual  
345 withdrawing from the list, and the list shall be composed  
346 solely of those names remaining. At least 30 days prior to the  
347 meeting the board shall ~~mail~~ transmit notices to each  
348 optometrist licensed to practice and holding a current annual  
349 registration certificate pursuant to this chapter at the  
350 mailing address or electronic mail address shown on his or her  
351 current registration notifying each optometrist of the exact  
352 date, place, and hour of the meeting, the purpose of the  
353 meeting, and of the right to attend and vote. In the event of  
354 a vacancy prior to the next annual meeting, the Governor shall  
355 fill the vacancy from the remaining names on the list. The  
356 Governor may remove any member for neglect of duty,  
357 incompetency, improper or unprofessional conduct, or having  
358 his or her license revoked or suspended.

359 ~~(d) Effective October 1, 1984, no person may serve more~~  
360 ~~than two consecutive terms on the board. Time served on the~~  
361 ~~board prior to October 1, 1984, shall not count toward this~~  
362 ~~limitation."~~

363 "§34-22-41

364 (a) The board shall choose annually one of its members



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365 as president, one as ~~vice-president~~ vice president, and one as  
366 secretary-treasurer, who each may administer oaths and take  
367 affidavits, certifying thereto under their hand and the common  
368 seal of the board.

369 (b) The board shall meet at least once ~~in~~ each year in  
370 the City of Montgomery or in a place designated by the  
371 president and, in addition thereto, whenever and wherever the  
372 president thereof calls a meeting. A majority of the board  
373 shall at all times constitute a quorum. The secretary of the  
374 board shall keep a full record of the proceedings of the  
375 board, which shall at all reasonable times be open to public  
376 inspection.

377 (c) Each member of the board shall be reimbursed at the  
378 same per diem and travel allowance amounts paid by law to  
379 state employees for each day of attendance upon the business  
380 of the board ~~and,~~ and in addition thereto, the sum of ~~two~~  
381 ~~hundred fifty dollars (\$250)~~ four hundred dollars (\$400) per  
382 diem for each day actually spent by each member upon the  
383 business of the board. All expenses and per diem shall be paid  
384 out of the receipts of the board under this chapter. The  
385 secretary shall receive compensation as fixed by the board and  
386 shall be the custodian of all records and the official seal of  
387 the board.

388 (d) All money received by the board shall be deposited  
389 ~~to the credit of the board in a bank selected by its members~~  
390 in the Alabama Board of Optometry Fund which is created in the  
391 State Treasury for the use of the board, and the execution and  
392 enforcement of this chapter and the payments of salaries,



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393 expenses, and other authorized costs ~~shall be paid by checks~~  
394 ~~drawn by the treasurer and countersigned by the president or~~  
395 ~~executive director~~ of the board. Receipts deposited into the  
396 fund shall be disbursed only by warrant of the Comptroller  
397 drawn upon the State Treasury on itemized vouchers by the  
398 executive director of the board. No funds may be withdrawn or  
399 expended except as budgeted and allotted according to Sections  
400 41-4-80 to 41-4-96, inclusive, and Sections  
401 41-19-1 to 41-19-12, inclusive, and only in amounts as  
402 stipulated in the general appropriations act, other  
403 appropriation acts, or this section. At the end of each fiscal  
404 year, any unencumbered balance shall not revert to  
405 the State General Fund under Section 41-4-93, but shall carry  
406 over to the next fiscal year within the Alabama Board of  
407 Optometry Fund.

408 (e) The president, executive director, and treasurer  
409 shall give such bonds as the board from time to time directs.

410 (f) The board shall make an annual report of its  
411 proceedings to the Governor on the first Monday of January of  
412 each year."

413 "§34-22-43

414 (a) The secretary of the board shall keep a registry in  
415 which shall be entered the names of all persons to whom  
416 temporary licenses, limited licenses, license certificates,  
417 approvals for the use of pharmaceutical agents, and annual  
418 registration certificates have been granted under this  
419 chapter, the numbers of the license certificates and annual  
420 registration certificates, the dates of granting the same, and





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421 other matters of record and shall keep a true and correct copy  
422 of the minutes of all board meetings, ~~and the book so provided~~  
423 ~~and kept shall be the official book of records.~~

424 (b) A ~~photostatic copy~~ photograph of the records, or a  
425 copy of the records certified by the secretary and under the  
426 seal of the board, shall be admitted in any of the courts of  
427 this state as prima facie evidence of the facts contained in  
428 the records and in lieu of the original records.

429 (c) A certificate under the hand of the secretary and  
430 the seal of the board that there is not entered in the record  
431 books the name, number of, and date of granting ~~the~~ a license  
432 certificate or renewal license certificate to a person charged  
433 with a violation of ~~any of the provisions of~~ this chapter  
434 shall be prima facie evidence of the facts contained therein.  
435 The certificates shall be admitted in any of the courts of  
436 this state in lieu of the records of the board.

437 (d) The original books, records, and papers of the  
438 board shall be kept at the office of the secretary of the  
439 board, which office shall be at a place designated by the  
440 board.

441 (e) Upon the payment of a reasonable fee established  
442 ~~from time to time~~ by the board, the secretary of the board  
443 shall ~~mail~~ transmit a copy of the most recent registry to any  
444 person requesting it."

445 Section 4. The Legislature concurs in the  
446 recommendations of the Sunset Committee as provided in  
447 Sections 1, 2, and 3.

448 Section 5. This act shall become effective on June 1,



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449 2025.