

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1301 Session of
1977

INTRODUCED BY LINCOLN, COWELL, DiCARLO, DUFFY, ZEARFOSS, BURNS,
WILT, HASKELL, CALTAGIRONE, POTT, ZORD, MILLER, SHUMAN, NOYE,
ZWIKL, O'KEEFE, DOYLE, TRELLO, D. S. HAYES, GEESEY, HOPKINS,
GLEESON, GARZIA, LYNCH, E. Z. TAYLOR, GAMBLE, KLINGAMAN,
SALVATORE AND WAGNER, JUNE 13, 1977

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 13, 1977

AN ACT

1 Providing for the periodic expiration of selected agencies and
2 establishing a system for periodic review to determine which
3 shall be reestablished.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the "Sunset Act."

8 Section 2. Definition.

9 The following word when used in this act shall have, unless
10 the context clearly indicates otherwise, the meaning given to it
11 in this section:

12 "Agency." Any agency, board, commission, council, bureau,
13 authority or office which has regulatory or administrative
14 responsibilities involving the utilization of State funds or
15 Federal funds and is specifically listed in section 4.

16 Section 3. Legislative intent.

17 The General Assembly finds that State Government in

1 Pennsylvania has produced an increase in numbers of agencies,
2 growth of programs, and proliferation of rules and regulations
3 and that the whole process developed without adequate
4 accountability or legislative oversight. The General Assembly
5 declares its intent to establish a reasonable and orderly
6 mechanism for the review of the public need for the continued
7 existence of those agencies.

8 Section 4. Termination of agencies.

9 All agencies shall be divided into six groups. Each of the
10 six groups shall be scheduled to expire at the end of a
11 different fiscal year over a six-year period. The following
12 agencies shall wind up their affairs and go out of existence
13 according to the following schedule:

14 1. On June 30, 1978:

15 State Lottery Commission;
16 Bicentennial Commission of Pennsylvania;
17 State Farm Products Show Commission;
18 Milk Marketing Board;
19 Professional Standards and Practices Commission;
20 State Board of Cosmetology;
21 State Board of Barber Examiners;
22 State Board of Motor Vehicle Manufacturers, Dealers
23 and Salesmen;
24 State Real Estate Commission;
25 Pennsylvania Securities Commission;
26 Sanitary Water Board; and
27 State Veterans Commission.

28 2. On June 30, 1979:

29 State Harness Racing Commission;
30 State Horse Racing Commission;

Pennsylvania Fish Commission;
Pennsylvania Game Commission;
State Board of Examiners of Architects;
State Board of Landscape Architects;
State Board of Auctioneer Examiners;
State Board of Private Academic Schools;
State Board of Private Business Schools;
State Board of Private Correspondence Schools;
State Board of Private Trade Schools;
Mine Inspectors;
Citizens Advisory Council (DER);
Environmental Quality Board; and
Environmental Hearing Board.

3. On June 30, 1980:

Pennsylvania Liquor Control Board;
Pennsylvania Public Utilities Commission;
Pennsylvania Drug, Device, and Cosmetic Board;
State Board of Pharmacy;
State Board of Optometrical Examiners;
State Board of Osteopathic Examiners;
State Board of Nurse Examiners;
State Board of Examiners of Nursing Home
Administrators;
Pennsylvania Turnpike Commission;
Highway Professional Personnel Board;
Hazardous Substances Transportation Board;
State Transportation Commission;
State Board for the Examination of Public
Accountants;
State Civil Service Commission; and

1 State Board of Public Welfare.

2 4. On June 30, 1981:

3 State Conservation Commission;
4 Flood Control Commission;
5 Governor's Energy Council;
6 State Athletic Commission;
7 State Board of Education;
8 Board of State College and University Directors;
9 Commission on Charitable Organizations;
10 State Council of Civil Defense;
11 Public Safety Commission;
12 Pennsylvania Commission for Women; and
13 Governor's Council on Drug and Alcohol Abuse.

14 5. On June 30, 1982:

15 State Board of Chiropractic Examiners;
16 State Board of Podiatry Examiners;
17 State Board of Veterinary Medical Examiners;
18 Pennsylvania Board of Psychologist Examiners;
19 Mobile Home Standards Advisory Commission;
20 State Registration Board for Professional Engineers;
21 State Board of Funeral Directors;
22 State Board for Certification of Sewage Treatment
23 Plant and Waterworks Operators;
24 State Board for Certification of Sewage Enforcement
25 Officers;
26 Pennsylvania Labor Relations Board;
27 Pennsylvania Human Relations Commission;
28 State Board of Vocational Rehabilitation;
29 Pennsylvania Industrial Development Authority;
30 Industrial Board; and

Banking Board.

6. On June 30, 1983:

Pennsylvania Historical and Museum Commission;

State Art Commission;

State Planning Board;

Pennsylvania Parkway Commission;

Advisory Health Board;

Advisory Committee for Clinical Laboratories;

Comprehensive Health Planning Advisory Council;

State Dental Council and Examining Board;

State Board of Medical Education and Licensure;

State Board of Undertakers;

Board of Property;

Building and Loan Board; and

Governor's Justice Commission.

Section 5. Terms of office for members of agencies.

Notwithstanding any law presently or hereafter enacted, except as to agencies reestablished or recreated by act of Assembly hereafter approved, the terms of all officers and members of any agency shall end on the same date as the agency set forth in section 4.

Section 6. Limited continuation after expiration.

Upon expiration, each agency shall continue in existence until the end of the next succeeding fiscal year for the purpose of winding up its affairs.

Section 7. The Standing Committee of the General Assembly.

(a) At the commencement of each fiscal year, a group consisting of the Majority Leader of the House, Majority Leader of the Senate, Minority Leader of the House, and Minority Leader of the Senate or their designated alternates shall study the

1 Standing Committee oversight structure, recommend any necessary
2 changes to that structure, and assign the responsibility for the
3 review and evaluation of each agency scheduled for termination
4 at the end of that fiscal year to an appropriate Standing
5 Committee of the House of Representatives and the Senate, which
6 will act jointly to implement this act.

7 (b) The appropriate Standing Committee, in conjunction with
8 representatives of the agency being evaluated, the Governor's
9 Budget Office, the Auditor General's Office, the legislative
10 service agencies, and the staff of the Appropriations Committee,
11 shall develop a plan for the review and evaluation of each
12 agency. The results of any recent audits, reviews, or budget
13 reports on the agency shall be made available to the Standing
14 Committee at this time.

15 (c) The joint Standing Committee shall first consider the
16 need for the continued existence of the agency by evaluating the
17 agency with respect to the following criteria:

18 (1) Would the absence of the agency significantly harm
19 or endanger the public health, safety or welfare?

20 (2) Is there an alternative, less restrictive way of
21 adequately protecting the public?

22 (3) Does the existence of the agency have the effect of
23 directly or indirectly increasing the cost of any goods or
24 services involved, and if so, to what degree?

25 (4) Is the increase in cost, if applicable, more harmful
26 to the public than the harm which could result from the
27 absence of the agency?

28 (5) Does the agency operate in a manner designed solely
29 for the purpose of, and having as its primary effect, the
30 protection of the public?

1 (d) If the Standing Committees are convinced that a need for
2 the agency exists or are undecided about that need as a result
3 of its evaluation of the agency in section 7(c), then it should
4 evaluate the following additional criteria:

5 (1) Are all rules and regulations promulgated by the
6 agency consistent with the legislative mandate? Are any of
7 the rules likely to have the effect of restricting
8 competition or serving the interests of special interest
9 groups rather than those of the public?

10 (2) Has the agency actively sought to involve the public
11 in its rule making and standard setting? How responsive has
12 the agency been to the views expressed at such hearings?

13 (3) Has the agency been accountable? Has it regularly
14 filed required reports of its activities? Have these reports
15 been informative and oriented toward serving the public
16 interest? Has the agency made an effort to keep the
17 Legislature, the press and the public informed of its
18 activities and invited the public to come in with its
19 problems? Has it proposed legislative changes to enable it to
20 better serve the public or have such changes been directed
21 toward serving the interests of the occupational group?

22 (e) If the agency oversees licensing or credentialing
23 functions, then the following criteria should also be considered
24 in the evaluation specified in section 7(d):

25 (1) Are all requirements for licensure clearly related
26 to safe and effective practice or are some unnecessarily
27 restrictive or exclusionary?

28 (2) Are the written and performance examinations based
29 on an up-to-date job analysis? Do the procedures used in
30 developing, administering, scoring and determining pass

1 points on tests meet accepted professional standards? Is
2 there evidence that these tests and other screening
3 procedures are objective, reliable and valid?

4 (3) How responsive has the agency been to complaints of
5 consumers? What action has the agency taken to resolve
6 complaints that might properly come within its jurisdiction?
7 What has been the record of the agency with respect to the
8 disciplining of practitioners? How many licenses have been
9 revoked over the past three years for reasons of fraud,
10 incompetence, or unethical practices?

11 (4) What steps has the agency taken to insure an
12 adequate supply of practitioners? What policy does the agency
13 pursue with respect to out-of-state and foreign trained
14 applicants? Are these policies unfairly exclusionary?

15 (f) The Standing Committees shall hold joint public hearings
16 to obtain information from the agency itself, other entities of
17 the State Government with relevant information, and the public.
18 They shall have the power to subpoena any people or documents
19 for use in these public hearings.

20 (g) Not less than 90 days prior to the conclusion of the
21 fiscal year, but subsequent to the completion of public
22 hearings, the appropriate Standing Committees shall issue a
23 joint final report recommending the continuation, modification,
24 reorganization, or termination of the agency and, unless
25 termination is recommended, including a bill to implement those
26 recommendations.

27 Section 8. Reestablishment of agencies.

28 Any agency scheduled for termination under this act may be
29 reestablished by the General Assembly for periods not to exceed
30 six years.

1 Section 9. Legislation for the reestablishment of agencies.

2 No more than one agency shall be reestablished or terminated
3 in any bill and such agency shall be mentioned on the bill's
4 title. A bill to reestablish may specify the conditions, if any,
5 for modification or reorganization of the agency's operation.

6 Section 10. Terms of office of appointees to agencies.

7 The terms of office of appointees to agencies shall expire
8 with the termination of their respective agencies, but the terms
9 of appointees who were appointed before termination to terms
10 which would run beyond the termination but for this section
11 shall not expire if the agency is reestablished.

12 Section 11. Causes of action.

13 This act shall not cause the dismissal of any claim or right
14 of a citizen against any agency or any claim or right of any
15 agency terminating under this act which is subject to
16 litigation.

17 Section 12. Effective date.

18 This act shall take effect immediately.