
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 105

Session of
1981

INTRODUCED BY GALLEN, HOFFEL, KUKOVICH, SWEET, WACHOB,
KLINGAMAN, COLAFELLA, DeMEDIO, BELARDI, HAYES, B. SMITH,
BOWSER, PETRARCA, WOGAN, BOYES, SIEMINSKI, DeWEESE, JACKSON,
MURPHY, MICHLOVIC, MANMILLER, GEORGE, PITTS, COWELL, MRKONIC,
CLYMER, KOLTER, LESCOVITZ, BROWN, DAWIDA, GREENWOOD, BLAUM,
TIGUE, COSLETT, TELEK, SNYDER, PETERSON, SAURMAN, SHOWERS,
MERRY, PICCOLA, FISCHER, LEVI, CIMINI, KENNEDY, WENGER,
KANUCK, DAVIES, JOHNSON, CUNNINGHAM AND GEIST,
JANUARY 19, 1981

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 19, 1981

AN ACT

1 Requiring the termination of certain agencies of State
2 Government under certain circumstances, creating a Leadership
3 Committee and the Office of Legislative Auditor with certain
4 powers and duties.

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

7 Section 1. Short title.

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

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have, unless the context clearly indicates otherwise, the
12 meanings given to them in this section:

13 "Agency." Any statutory authority, agency, board, bureau,
14 commission, committee, council, department, division, office or
15 any similar unit of State Government.

1 "Performance audit." A written report by the Legislative
2 Auditor evaluating the management and performance of an agency
3 based on the statistics on its operations and carried out in
4 accordance with the standards for performance and financial
5 compliance auditing developed by the United States General
6 Accounting Office. It shall determine whether the agency:

7 (1) Is conducting authorized activities or programs in a
8 manner consistent with accomplishing the objectives intended
9 by the General Assembly.

10 (2) Is conducting programs and activities and expending
11 funds made available in a faithful, efficient, economical and
12 effective manner.

13 This report shall include, but not be limited to, the criteria
14 listed in section 5(d).

15 Section 3. Leadership Committee.

16 There is hereby created a joint committee of the General
17 Assembly to be known as the Leadership Committee. The Leadership
18 Committee shall be composed of the Speaker of the House of
19 Representatives, the President pro tempore of the Senate and the
20 Majority and Minority Leaders of the House of Representatives
21 and the Senate. The Speaker of the House of Representatives
22 shall serve as the temporary chairman of the committee until
23 such time as the committee shall elect a chairman. Members of
24 the Leadership Committee may designate alternate members of
25 their respective chambers who shall have the same powers and
26 duties as regular members.

27 Section 4. Powers and duties of the Leadership Committee.

28 The committee shall have the power and its duty shall be:

29 (1) To direct and coordinate the implementation of the
30 sunset review procedure.

1 (2) To assign the responsibility for the review and
2 evaluation of each agency scheduled for such review and
3 evaluation under the provisions of this act to an appropriate
4 standing committee of the Senate or the House of
5 Representatives or to appropriate standing committees of both
6 houses who shall operate jointly to review and evaluate the
7 agency, if such joint operation is authorized by the rules of
8 the House and Senate. The assignments for review and
9 evaluation shall be made in January of the year in which the
10 agency is scheduled to be terminated. If any committee which
11 has been assigned an agency for review and evaluation fails
12 to complete its duties within a reasonable period of time as
13 determined by the Leadership Committee, it shall be
14 discharged from further review or consideration of the
15 agency. The Leadership Committee shall then reassign the
16 agency to another committee for review and evaluation
17 pursuant to this act.

18 (3) To evaluate the qualifications of candidates for the
19 position of Legislative Auditor and hire a qualified person
20 for that position.

21 (4) To consider and approve the budget for the Office of
22 Legislative Auditor and recommend appropriations for that
23 office.

24 (5) If the Office of Legislative Auditor is not
25 operational in time to conduct the performance audit
26 necessary to review and evaluate agencies scheduled for
27 termination in 1983, the Leadership Committee shall utilize
28 and assign the staff of the Legislative Budget and Finance
29 Committee, for the purpose of conducting said performance
30 audit, which duty shall be the priority of the Legislative

Budget and Finance Committee.

(6) To authorize, if necessary, a postponement of the review or termination of an agency for a period not exceeding one year.

Section 5. Evaluation and review.

(a) The standing committee designated by the Leadership Committee shall develop a plan for the evaluation and review of an agency in conjunction with the Legislative Auditor and representatives of the agency being evaluated.

(b) The standing committee shall hold at least one public hearing for the evaluation and review of an agency. At the hearing, the highest ranking officer of the agency or an individual appointed by him shall bear the burden to testify concerning the need for continued existence of the agency. The committee shall receive other testimony at the public hearing as it shall deem appropriate.

(c) The standing committee shall elicit information in each evaluation and review of an agency from the Office of the Auditor General and the Offices of Budget and Administration as to the financial efficiency of the agency being reviewed. The committee may request and the subject agency shall provide such information as the committee deems pertinent to its evaluation and review.

(d) The standing committee shall make a determination in each evaluation and review as to whether the agency shall be continued, altered or terminated. The committee shall base its determination on the following criteria:

(1) Would termination significantly harm or endanger the public health, safety or welfare.

(2) Is there overlap or duplication of effort by other

1 agencies that permit the termination of the agency.

2 (3) Is there a more economical way of accomplishing the
3 objectives of the agency.

4 (4) Is there a demonstrated need, based on service to
5 the public, for the continuing existence of the agency.

6 (5) Has the operation of the agency been in the public
7 interest.

8 (6) Has the agency encouraged public participation in
9 the making of its rules and decisions or whether the agency
10 has permitted participation solely by the persons it
11 regulates.

12 (7) Is there an alternate, less restrictive method of
13 providing the same services to the public.

14 (8) Such other criteria as may be established by the
15 standing committees.

16 (e) Such standing committees shall draft a report concerning
17 each evaluation and review, stating in that report their
18 findings, their determination as to whether the agency should be
19 continued, altered or terminated, the reasons for such a
20 determination and appropriate legislation to implement the
21 committees' recommendations. The report shall be available for
22 public inspection in the Office of the Chief Clerk of the Senate
23 and of the House of Representatives. The report shall be made to
24 the General Assembly on or before the first session day of
25 September of the year in which the agency in question is
26 scheduled for termination.

27 (f) On or before March 1 of the year in which the agency in
28 question is scheduled for termination, the standing committees
29 designated by the Leadership Committee as responsible for the
30 evaluation and review of the agency shall receive:

1 (1) from the Legislative Auditor, a performance audit;
2 and

3 (2) from the Legislative Reference Bureau, a report
4 outlining all legislation, then in effect, pertaining to the
5 creation, operation, duties, powers and funding of the
6 agency.

7 Section 6. Termination of agencies.

8 (a) The following agencies together with their corresponding
9 statutory functions and duties shall terminate all activities
10 and shall go out of existence on December 31, 1983:

11 The Bicentennial Commission of Pennsylvania.

12 The State Board of Examiners of Public Accountants.

13 The State Farm Products Show Commission.

14 The State Board of Examiners of Architects.

15 The Milk Marketing Board.

16 The State Board of Auctioneer Examiners.

17 The Pennsylvania Labor Relations Board.

18 The State Board of Barber Examiners.

19 The Pennsylvania Securities Commission.

20 The State Board of Cosmetology.

21 The State Board of Funeral Directors.

22 The State Real Estate Commission.

23 The State Registration Board for Professional Engineers.

24 The State Board of Landscape Architects.

25 The State Board of Motor Vehicle Manufacturers, Dealers and
26 Salesmen.

27 The State Board of Private Trade Schools.

28 The State Workmen's Insurance Board.

29 The Citizens Advisory Council (DER).

30 The Environmental Quality Board.

1 The Banking Board.

2 The Savings Association Board.

3 The Hazardous Substance Transportation Board.

4 The Crime Victim's Compensation Board.

5 The Pennsylvania Commission on Crime and Delinquency.

6 (b) The following agencies together with their corresponding
7 statutory functions and duties shall terminate all activities
8 and shall go out of existence on December 31, 1985:

9 The Pennsylvania Liquor Control Board.

10 The State Board of Chiropractic Examiners.

11 The Pennsylvania Public Utility Commission.

12 The State Board of Medical Education and Licensure.

13 The Governor's Council on Drug and Alcohol Abuse.

14 The State Board of Nurse Examiners.

15 The Pennsylvania Drug, Device and Cosmetic Board.

16 The State Board of Examiners of Nursing Home Administrators.

17 The State Highway and Bridge Authority.

18 The State Board of Optometrical Examiners.

19 The State Transportation Commission.

20 The State Board of Osteopathic Medical Examiners.

21 The State Soil Conservation Commission.

22 The State Board of Pharmacy.

23 The State Board of Podiatry Examiners.

24 The Pennsylvania Board of Psychologist Examiners.

25 The Commission on Charitable Organizations.

26 The State Board of Veterinary Medical Examiners.

27 The State Board of Public Welfare.

28 The State Board of Physical Therapy Examiners.

29 The Pennsylvania Housing Finance Agency.

30 The State Harness Racing Commission.

1 The State Horse Racing Commission.

2 The Pennsylvania Commission on Sentencing.

3 The Pennsylvania Board of Probation and Parole.

4 The Pennsylvania Crime Commission.

5 The Pennsylvania Human Relations Commission.

6 The State Dental Council and Examining Board.

7 (c) The following agencies together with their corresponding
8 statutory functions and duties shall terminate all activities
9 and shall go out of existence on December 31, 1987:

10 The State Board of Private Academic Schools.

11 The State Board of Private Business Schools.

12 The State Board of Private Correspondence Schools.

13 The State Board of Education.

14 The State Civil Service Commission.

15 The Board of State College and University Directors.

16 The Industrial Board.

17 The State Board for Certification of Sewage Treatment Plant
18 and Waterworks Operators.

19 The State Athletic Commission.

20 The State Board of Vocational Rehabilitation.

21 The Pennsylvania Industrial Development Authority.

22 Certification Board for Sewage Enforcement Officers.

23 The Pennsylvania Minority Business Development Authority.

24 The Professional Standards and Practices Commission.

25 The State Veterans Commission.

26 The Pennsylvania Historical and Museum Commission.

27 The State Art Commission.

28 The State Planning Board.

29 The Pennsylvania Turnpike Commission.

30 The Pennsylvania Parkway Commission.

1 The Municipal Police Officer's Education and Training
2 Commission.

3 The Pennsylvania Emergency Management Agency.

4 The State Lottery Commission.

5 The Department of Aging.

6 (d) The Governor shall not utilize a reorganization plan,
7 executive order, rule or regulation or comparable authority to
8 evade the provisions of this act. Any programs, activities or
9 functions of any agency scheduled for termination, which are
10 transferred to another agency not scheduled for termination or
11 scheduled for termination at a later date, shall be subject to
12 sunset review at the date scheduled for the termination of the
13 transferor agency. Any programs, activities or function of any
14 agency scheduled for termination which are transferred to
15 another agency scheduled for termination at an earlier date,
16 shall be subject to sunset review at the date scheduled for
17 termination of the transferee agency. However, between the time
18 at which the Legislative Auditor submits his performance audit
19 to the standing committee and the standing committee makes its
20 recommendation to the General Assembly, the Governor shall not
21 utilize a reorganization plan, executive order, rule or
22 regulation or comparable authority to transfer any programs,
23 activities or functions of an agency being evaluated.

24 (e) The termination of any agency under this act shall serve
25 to terminate any advisory agency, whether created by statute or
26 administrative action, established for the primary purpose of
27 advising or assisting the terminated agency.

28 (f) Agencies terminated shall be given until June 30 of the
29 year following the one in which they are terminated to wind up
30 their affairs. During that period, the Governor may petition the

1 General Assembly for a review of the termination but the agency
2 shall be terminated unless the General Assembly passes a law to
3 the contrary.

4 (g) The terms of office of appointees of an agency
5 terminated under this act shall end on June 30 of the year
6 following termination.

7 Section 7. Reestablishment of agencies.

8 Any agency scheduled for termination under this act, may be
9 reestablished by the General Assembly, by legislation. Each
10 reestablishment shall be:

11 (1) for a period of six years unless otherwise specified
12 in the legislation and again be subject to evaluation, review
13 and termination as provided in this act; and

14 (2) in a separate bill, in which no more than one agency
15 shall be reestablished and such agency shall be mentioned in
16 the title of the bill.

17 Section 8. Newly created agencies.

18 A statutory agency created after January 1, 1981 shall be
19 scheduled for termination at the conclusion of the sixth year
20 following its creation unless otherwise specified by the General
21 Assembly at its creation.

22 Section 9. Termination procedures.

23 (a) Records and property of an agency shall be transferred
24 to the department of which it was a part, or if it was an
25 independent agency, to the Department of General Services for
26 appropriate disposal of property and retention of records.

27 (b) All appropriations to and funds of the agency not spent
28 or encumbered shall lapse when the existence of the agency ends.
29 No agency, prior to the date in a fiscal year on which it is
30 scheduled to be terminated, shall expend in excess of 50% of any

1 general appropriation, Federal augmentation, appropriation or
2 similar appropriation made to the agency for said fiscal year,
3 except that the agency may utilize a portion of the unexpended
4 balance of said appropriations to conclude its affairs.

5 (c) The employment of all personnel of the terminated agency
6 shall be terminated; however, this shall not be construed to
7 prohibit the employees from applying for and being employed by
8 other agencies or departments to fill job vacancies.

9 (d) Employees of agencies terminated under this act, who
10 have civil service status or who are covered by union contracts
11 shall fill any existing vacancies within the administrative
12 branch of State Government in their grade and position. If there
13 are more employees than vacant positions at the time of
14 termination, then such terminated employees shall receive
15 employment in the first vacancies that shall thereafter exist in
16 their grade and position.

17 Section 10. Causes of action.

18 The provisions of this act shall not affect any liability
19 incurred or right accrued or vested or affect any suit pending
20 or to be instituted to enforce any right under the authority of
21 any act or part thereof repealed by this act.

22 Section 11. Establishment of the Office of Legislative
23 Auditor.

24 There is hereby created and established an Office of
25 Legislative Auditor, to serve the General Assembly. It is the
26 stated policy of the General Assembly to provide for the
27 impartial and independent auditing of the management and
28 performance of the State agencies by an impartial auditor who is
29 entirely independent of the State administration whose affairs
30 he is called upon to audit.

1 Section 12. Qualifications, selection process and term.

2 (a) The Legislative Auditor shall, at the time of his
3 appointment, have demonstrated technical competence and
4 administrative ability. He shall be a certified public
5 accountant or a licensed public accountant and have at least
6 five years experience in a supervisory or management capacity in
7 public accounting; or have received a bachelor's degree from an
8 accredited institution of higher learning in accounting,
9 economics, public affairs and administration, business
10 administration or similar field of learning and had at least
11 five years of supervisory and management experience in program
12 and performance auditing in the public or private sector or have
13 equivalent experience as determined by the Leadership Committee.

14 (b) An advisory commission is hereby established to evaluate
15 and recommend candidates for the position of Legislative
16 Auditor. The advisory commission shall be composed of five
17 members, and shall include the Dean of the Graduate School of
18 Business Administration, University of Pittsburgh; Dean of the
19 Wharton School, University of Pennsylvania; the Director of the
20 Pennsylvania Economy League; and the President of the
21 Pennsylvania Institute of Certified Public Accountants and a
22 member appointed by the Leadership Committee. Members of the
23 advisory commission shall not be compensated but shall be
24 reimbursed for their reasonable and necessary expenses while
25 engaged in the business of the advisory commission.

26 (c) The advisory commission shall review, evaluate and
27 submit a list of recommended candidates for the position of
28 Legislative Auditor in accordance with the qualifications listed
29 above. This list shall be prepared and submitted within 45 days
30 after a vacancy in the position of Legislative Auditor occurs.

1 (d) The Leadership Committee shall select the Legislative
2 Auditor from among the list of recommended candidates submitted
3 by the advisory commission within 30 days. In the event the
4 Leadership Committee cannot agree upon the selection of a
5 Legislative Auditor within 30 days following the expiration of
6 the term of a preceding auditor, the auditor shall be chosen by
7 lots cast between the two candidates receiving the greatest
8 number of votes on the last ballot taken prior to the deadline.
9 Lots shall be cast before the Leadership Committee and the
10 candidate to whom the lot shall fall shall be appointed
11 Legislative Auditor. The compensation of the Legislative Auditor
12 shall be fixed by the Leadership Committee and shall not be
13 diminished during his term of office. Vacancies shall be filled
14 for the remainder of an unexpired term in the same manner as
15 original appointments.

16 (e) The Legislative Auditor shall serve for a term of six
17 years following the date of his appointment and until a
18 successor has been appointed and shall be eligible for
19 reappointment.

20 (f) The Legislative Auditor may be removed from office by
21 concurrent resolution of the General Assembly, when in the
22 opinion of the General Assembly the Legislative Auditor is
23 permanently incapacitated or is guilty of malfeasance,
24 misfeasance, nonfeasance, or has been adjudged by a court of
25 law, guilty of any felony or conduct involving moral turpitude.
26 The Legislative Auditor shall be suspended by the Leadership
27 Committee from his duties whenever such charges as listed above
28 have been filed in a court of record prior to court action. The
29 Legislative Auditor shall be provided with retroactive pay and
30 full restoration of duties and responsibilities should these

1 charges be dismissed in a court of record.

2 (g) In order to preserve the independence and objectivity of
3 the audit function, the Legislative Auditor shall devote his
4 full time and effort to audit examinations and reporting and
5 budgetary analysis. He may not serve in any capacity on an
6 administrative board, commission or agency of the Commonwealth
7 that, under the provisions of this act, he has the
8 responsibility to audit. He shall not have a material direct or
9 indirect financial or other economic interest in the transaction
10 of any Commonwealth agency. He shall not be responsible for the
11 collection of any money belonging to the Commonwealth or for the
12 handling or custody of any Commonwealth funds. Neither the
13 Legislative Auditor nor any member of his staff shall engage in
14 or be associated with any partisan political activity or hold
15 any public office.

16 (h) The Legislative Auditor shall neither conduct nor
17 supervise an audit of a program or activity for which he was
18 responsible or in which he participated personally, and he shall
19 neither conduct nor supervise an audit of any program or
20 activity of an entity within which he was employed for at least
21 two years after the termination of that employment and he shall
22 neither conduct nor supervise an audit of any entity, program or
23 activity with which he was or is associated or connected with in
24 any manner. In those cases where the Legislative Auditor is
25 unable to perform or supervise an audit pursuant to this
26 subsection the leadership committee shall assign the audit to
27 the Legislative Budget and Finance Committee.

28 (i) The Legislative Auditor shall appoint and fix the
29 compensation of assistant auditors and other staff, subject to
30 the approval of the leadership committee. These assistants shall

1 be subject to review six months after the new term of the
2 Legislative Auditor has begun.

3 (j) The Legislative Auditor shall not be eligible for
4 appointment or election to any other public office during his
5 employment and two years thereafter.

6 Section 13. Access to records and witnesses.

7 The Legislative Auditor and his authorized representatives
8 shall, for the purpose of examination and audit authorized by
9 this act, have ready access to persons and may examine and copy
10 to the extent deemed necessary to its evaluation and review,
11 pertinent records, accounts, papers, reports, vouchers,
12 correspondence, books and other documentation of any
13 Commonwealth agency.

14 Section 14. Authority to administer oaths, subpoena witnesses
15 and records and take depositions.

16 For the purpose of this act, the Legislative Auditor, with
17 the concurrent resolution of both houses shall have the power to
18 compel the attendance of witnesses and the production of any
19 papers, books, accounts and documents to subpoena witnesses,
20 take testimony under oath; to cause the deposition of witnesses,
21 residing within or without the Commonwealth, to be taken in the
22 manner prescribed by law and to assemble records and documents,
23 by subpoena or otherwise, with the same power and authority as
24 courts of record and may apply to courts of record for the
25 enforcement of these powers.

26 Any person who willfully neglects or refuses to comply with
27 any subpoena issued in behalf of the Legislative Auditor, or
28 refuses to testify to any matters regarding which he may be
29 lawfully interrogated, shall be subject to the penalties
30 provided by the laws of the Commonwealth of Pennsylvania.

1 Section 15. General repeal.

2 All acts or parts of acts inconsistent with the provisions of
3 this act are repealed to the extent of the inconsistency.

4 Section 16. Effective date.

5 This act shall take effect immediately.