

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1491 Session of
1991

INTRODUCED BY MUNDY, LLOYD, O'DONNELL, DeWEESE, FAJT, BLAUM AND
CARONE, MAY 29, 1991

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 29, 1991

AN ACT

1 Amending the act of December 22, 1981 (P.L.508, No.142),
2 entitled "An act requiring the termination of certain
3 agencies of State Government under certain circumstances,
4 creating a Leadership Committee with certain powers and
5 duties and imposing powers and duties upon the Legislative
6 Budget and Finance Committee," further providing for the
7 scope of the act, for powers and duties of the Leadership
8 Committee, for evaluation of agencies, for termination of
9 agencies, for continuation of agencies, and for newly
10 established agencies; and eliminating provisions on
11 termination.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The definition of "agency" in section 2 of the
15 act of December 22, 1981 (P.L.508, No.142), known as the Sunset
16 Act, is amended to read:

17 Section 2. Definitions.

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

21 "Agency." Any statutory authority, agency, board, bureau,
22 commission, committee, council, department, division, office or

1 any similar unit of State Government. The term shall not include
2 an agency whose function is to provide service or management
3 assistance to the General Assembly, which does not have the
4 authority to administer a statute and which is not subject to
5 direction from the executive branch.

6 * * *

7 Section 2. Sections 4 and 5 of the act, amended December 16,
8 1982 (P.L.1355, No.310), are amended to read:

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

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

11 (1) To direct and coordinate the implementation of the
12 sunset review procedure.

13 (2) To assign the responsibility for the review and
14 evaluation of each agency scheduled for such review and
15 evaluation under the provisions of this act to an appropriate
16 standing committee of the Senate or the House of
17 Representatives or to appropriate standing committees of both
18 Houses who shall operate jointly to review and evaluate the
19 agency, if such joint operation is authorized by the rules of
20 the House and Senate. The assignments for review and
21 evaluation shall be made in January of the year in which the
22 agency is scheduled to be terminated. If any committee which
23 has been assigned an agency for review and evaluation fails
24 to complete its duties within a reasonable period of time as
25 determined by the Leadership Committee, it shall be
26 discharged from further review or consideration of the
27 agency. The Leadership Committee shall then reassign the
28 agency to another committee for review and evaluation
29 pursuant to this act.

30 (3) To assign tasks to the Legislative Budget and

1 Finance Committee for the purpose of conducting performance
2 audits. Such tasks shall receive priority from the
3 Legislative Budget and Finance Committee. The Leadership
4 Committee may waive, by majority vote, the requirement that
5 the performance audit be completed in accordance with United
6 States General Accounting Office standards as described in
7 section 2 under the following circumstances:

8 (i) the agency has not held any meetings or
9 considered any cases for a period of three years or more;
10 or

11 (ii) the agency has a budget of less than \$100,000
12 annually unless the agency is a departmental board or
13 commission within the Bureau of Professional and
14 Occupational Affairs, Department of State.

15 In the event that the United States General Accounting Office
16 standards are waived, the Leadership Committee shall direct
17 the Legislative Budget and Finance Committee to complete a
18 summary audit in lieu of the performance audit, and specify
19 the scope of such audit by September 1 of the year prior to
20 the agency's termination.

21 [(4) To authorize, if necessary, a postponement of the
22 review or termination of an agency for a period not exceeding
23 one year.]

24 Section 5. Evaluation and review.

25 [(a) The standing committee designated by the Leadership
26 Committee shall develop a plan for the evaluation and review of
27 an agency in conjunction with the Legislative Budget and Finance
28 Committee and representatives of the agency being evaluated.]

29 (b) The standing committee shall hold at least one public
30 hearing for each evaluation and review of an agency. At the

1 hearing, the highest ranking officer of the agency or an
2 individual appointed by him shall bear the burden to testify
3 concerning the need for continued existence of the agency. The
4 committee shall receive other testimony at the public hearing as
5 it shall deem appropriate.

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

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

17 (1) whether termination would significantly harm or
18 endanger the public health, safety or welfare;

19 (2) whether there is overlap or duplication of effort by
20 other agencies that permit the termination of the agency;

21 (3) whether there is a more economical way of
22 accomplishing the objectives of the agency;

23 (4) whether there is a demonstrated need, based on
24 service to the public, for the continuing existence of the
25 agency;

26 (5) whether the operation of the agency has been in the
27 public interest;

28 (6) whether the agency has encouraged public
29 participation in the making of its rules and decisions or
30 whether the agency has permitted participation solely by the

1 persons it regulates;

2 (7) whether there is an alternate, less restrictive
3 method of providing the same services to the public; and

4 (8) such other criteria as may be established by the
5 standing committees.

6 (e) Such standing committees shall draft a report concerning
7 each evaluation and review, stating in that report their
8 findings, their determination as to whether the agency should be
9 continued, altered or terminated, and the reasons for such a
10 determination together with a draft of appropriate legislation
11 to implement the committees' recommendations. The report shall
12 be available for public inspection in the Office of the
13 Secretary of the Senate and of the Chief Clerk of the House of
14 Representatives. The report shall be made to the General
15 Assembly on or before the first session day of September of the
16 year in which the agency in question is scheduled for
17 termination. Once the report is received by each House, the
18 appropriate legislation shall be introduced and referred to a
19 standing committee, in keeping with the rules of each House and
20 be acted on accordingly.

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

25 (1) from the Legislative Budget and Finance Committee, a
26 performance audit or summary audit; and

27 (2) from the Legislative Reference Bureau, a report
28 outlining all legislation, then in effect, pertaining to the
29 creation, operation, duties, powers and funding of the
30 agency.

1 Section 3. Section 6 of the act, amended December 16, 1982
2 (P.L.1355, No.310) and repealed in part December 15, 1986
3 (P.L.1585, No.174), is amended to read:

4 Section 6. Termination of agencies.

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

8 The State Board of Examiners of Public Accountants.

9 The State Farm Products Show Commission.

10 The State Board of Examiners of Architects.

11 The Milk Marketing Board.

12 The State Board of Auctioneer Examiners.

13 The Pennsylvania Labor Relations Board.

14 The State Board of Barber Examiners.

15 The Pennsylvania Securities Commission.

16 The State Board of Cosmetology.

17 The State Board of Funeral Directors.

18 The State Real Estate Commission.

19 The State Registration Board for Professional Engineers.

20 The State Board of Landscape Architects.

21 The State Board of Motor Vehicle Manufacturers, Dealers and
22 Salesmen.

23 The State Board of Private Trade Schools.

24 The State Workmen's Insurance Board.

25 The Citizens Advisory Council (DER).

26 The Environmental Quality Board.

27 The Savings Association Board.

28 The Hazardous Substance Transportation Board.

29 The Crime Victim's Compensation Board.

30 (b) The following agencies together with their corresponding

1 statutory functions and duties shall terminate all activities
2 and shall go out of existence on December 31, 1985:

3 The Pennsylvania Liquor Control Board.

4 The State Board of Chiropractic Examiners.

5 The Pennsylvania Public Utility Commission.

6 The State Board of Medical Education and Licensure.

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

8 The State Board of Nurse Examiners.

9 The Pennsylvania Drug, Device and Cosmetic Board.

10 The State Board of Examiners of Nursing Home Administrators.

11 The State Board of Optometrical Examiners.

12 The State Transportation Commission.

13 The State Board of Osteopathic Medical Examiners.

14 The State Soil Conservation Commission.

15 The State Board of Pharmacy.

16 The State Board of Podiatry Examiners.

17 The Pennsylvania Board of Psychologist Examiners.

18 The Commission on Charitable Organizations.

19 The State Board of Veterinary Medical Examiners.

20 The State Board of Public Welfare.

21 The State Board of Physical Therapy Examiners.

22 The Pennsylvania Housing Finance Agency.

23 The State Harness Racing Commission.

24 The State Horse Racing Commission.

25 The Pennsylvania Commission on Sentencing.

26 The Pennsylvania Board of Probation and Parole.

27 The Pennsylvania Crime Commission.

28 The Pennsylvania Human Relations Commission.

29 The State Dental Council and Examining Board.

30 The Pennsylvania Commission on Crime and Delinquency.

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

The State Board of Private Academic Schools.

The State Board of Education.

The State Civil Service Commission.

The Board of State College and University Directors.

The Industrial Board.

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

The State Athletic Commission.

The State Board of Vocational Rehabilitation.

The Pennsylvania Industrial Development Authority.

Certification Board for Sewage Enforcement Officers.

The Pennsylvania Minority Business Development Authority.

The Professional Standards and Practices Commission.

The State Veterans Commission.

The State Ethics Commission.

The Pennsylvania Historical and Museum Commission.

The State Art Commission.

The State Planning Board.

The Pennsylvania Turnpike Commission.

The Pennsylvania Parkway Commission.

The Municipal Police Officer's Education and Training Commission.

The Pennsylvania Emergency Management Agency.

The State Lottery Commission.

The Department of Aging.]

(a) Termination dates for agencies shall be as set forth in this section.

1 (b) This section shall apply only to agencies in existence
2 as of January 1, 1991.

3 (c) The following agencies, together with their
4 corresponding statutory functions and duties, shall terminate
5 all activities and shall go out of existence on the dates
6 specified:

7 (1) December 31, 1991, unless reestablished during
8 calendar year 1991:

9 The Crime Victim's Compensation Board.

10 The Advisory Council for the Deaf and Hearing
11 Impaired.

12 The Pennsylvania Advisory Council on Drug and Alcohol
13 Abuse.

14 The Pennsylvania Human Relations Commission.

15 The Municipal Pension Advisory Committee.

16 The State Board of Optometry.

17 The Public Employee Retirement Study Commission.

18 The Pennsylvania Public Utility Commission.

19 (2) June 30, 1992:

20 The Pennsylvania Cancer Control, Prevention and
21 Research Advisory Board.

22 The Pennsylvania Liquor Control Board.

23 The Bureau of Liquor Control Enforcement.

24 The Pennsylvania Veterans' Memorial Commission.

25 (3) December 31, 1992:

26 The committee established in section 2 of the act of
27 June 18, 1982 (P.L.549, No.159), entitled "An act
28 providing for the administration of certain Commonwealth
29 farmland within the Department of Agriculture."

30 The Capitol Preservation Committee.

1 The Pennsylvania Emergency Management Agency.
2 The Health Care Cost Containment Council.
3 The Board of Governors of the State System of Higher
4 Education.
5 The Noxious Weed Control Committee.
6 The State Board of Occupational Therapy Education and
7 Licensure.
8 (4) June 30, 1993:
9 The Vietnam Veterans Health Initiative Commission.
10 (5) December 31, 1993:
11 The State Board of Accountancy.
12 The Architects Licensure Board.
13 The State Board of Auctioneer Examiners.
14 The State Board of Barber Examiners.
15 The Citizens Advisory Council.
16 The State Board of Cosmetology.
17 The Dog Law Advisory Board.
18 The Energy Development Authority.
19 The Environmental Quality Board.
20 The State Farm Products Show Commission.
21 The State Board of Funeral Directors.
22 The State System of Higher Education.
23 The Independent Regulatory Review Commission.
24 The Pennsylvania Labor Relations Board.
25 The State Board of Landscape Architects.
26 The Milk Marketing Board.
27 The Municipal Employee Pension Advisory Committee.
28 The Pharmaceutical Assistance Review Board.
29 The Professional Engineers and Professional Land
30 Surveyors, State Registration Board.

1 The Rail Freight Advisory Committee.

2 The State Real Estate Commission.

3 The Pennsylvania Securities Commission.

4 The Office of Small Business Advocate.

5 The State Board of Vehicle Manufacturers, Dealers and
6 Salespersons.

7 The Wild Resource Conservation Board.

8 The State Workmen's Insurance Board.

9 (6) June 30, 1994:

10 The Pennsylvania Conservation Corps.

11 (7) December 31, 1994:

12 The Agricultural Development Advisory Committee.

13 The Athletic Trainer Advisory Committee.

14 The Department of Corrections.

15 The Deputy Sheriffs' Education and Training Board.

16 The Hazardous Materials Transportation Advisory
17 Committee.

18 The Milrite Council.

19 The Mining and Reclamation Advisory Board.

20 The Professional Standards and Practices Commission.

21 The Pennsylvania Academic Commission on Technological
22 Development.

23 (8) December 31, 1995:

24 The Apparel Industry Loan Board.

25 The State Board of Chiropractic.

26 The State Conservation Commission.

27 The Pennsylvania Commission on Crime and Delinquency.

28 The Pennsylvania Crime Commission.

29 The State Board of Dentistry.

30 The Pennsylvania Drug, Device and Cosmetic Board.

1 The Board of Directors of the Pennsylvania Emergency
2 Health Services Council.

3 The State Harness Racing Commission.

4 The State Horse Racing Commission.

5 The Pennsylvania Housing Finance Agency.

6 The State Board of Medicine.

7 The State Board of Examiners of Nursing Home
8 Administrators.

9 The State Board of Nursing.

10 The Oil and Gas Technical Advisory Board.

11 The State Board of Osteopathic Medicine.

12 The State Board of Pharmacy.

13 The State Board of Physical Therapy.

14 The State Board of Podiatry.

15 The Pennsylvania Board of Probation and Parole.

16 The State Board of Psychology.

17 The Pennsylvania Commission on Sentencing.

18 The State Board of Examiners in Speech-Language and
19 Hearing.

20 The State Transportation Commission.

21 The Pennsylvania Trauma Systems Foundation.

22 The State Unemployment Compensation Advisory Council.

23 The State Board of Veterinary Medicine.

24 (9) December 31, 1996:

25 The committee established in section 4 of the act of
26 July 8, 1986 (P.L.437, No.92), known as the "Pennsylvania
27 Agricultural Fair Act."

28 The commission established in section 116(k) of the
29 act of November 30, 1965 (P.L.847, No.356), known as the
30 "Banking Code of 1965."

1 The Bureau of Charitable Organizations.
2 The Pennsylvania Convention Center Authority.
3 The Private Prison Task Force.
4 The Statewide Weatherization and Energy Conservation
5 Policy Council.
6 (10) December 31, 1997:
7 The Department of Aging.
8 The State Athletic Commission.
9 The Committee of Blind Vendors.
10 The State Civil Service Commission.
11 The Office for the Deaf and Hearing Impaired.
12 The Pennsylvania Economic Development Financing
13 Authority.
14 The State Board of Education.
15 The Pennsylvania Historical and Museum Commission.
16 The Brandywine Battlefield Park Commission.
17 The Washington Crossing Park Commission.
18 The Historic Preservation Board.
19 The Industrial Board.
20 The Pennsylvania Industrial Development Authority.
21 The Pennsylvania Minority Business Development
22 Authority.
23 The Municipal Police Officers' Education and Training
24 Commission.
25 The State Planning Board.
26 The State Board of Private Academic Schools.
27 The State Board of Private Licensed Schools.
28 The Center for Rural Pennsylvania.
29 The State Board for Certification of Sewage
30 Enforcement Officers.

1 The State Board for Certification of Sewage Treatment
2 Plant and Waterworks Operators.

3 The State Board of Social Work Examiners.

4 The Pennsylvania Turnpike Commission.

5 The State Veterans' Commission.

6 The State Board of Vocational Rehabilitation.

7 (11) December 31, 1998:

8 The Children's Trust Fund Board.

9 The Coroners' Education Board.

10 The Fire Safety Advisory Committee.

11 The Hardwoods Development Council.

12 The Hazardous Waste Facility Siting Commission.

13 The Pennsylvania Infrastructure Investment Authority.

14 The Lawyer Trust Account Board.

15 The Intra-Governmental Council on Long-Term Care.

16 The Low-Level Waste Advisory Committee.

17 The Policy, Planning and Evaluation Advisory
18 Committee.

19 The Quality Assessment Grant and Loan Advisory
20 Committee.

21 The Recycling Fund Advisory Committee.

22 (12) December 31, 1999:

23 The State Agricultural Land Preservation Board.

24 The Animal Health and Diagnostic Commission.

25 The Board of the Ben Franklin Partnership Fund.

26 The Office of Consumer Advocate.

27 The Environmental Hearing Board.

28 The Environmental Hearing Board Rules Committee.

29 The State Ethics Commission.

30 The Philadelphia Regional Port Authority.

1 The Storage Tank Advisory Committee.

2 The Underground Storage Tank Indemnification Board.

3 (13) December 31, 2000:

4 The Hazardous Material Emergency Planning and
5 Response Advisory Committee.

6 The Interagency Coordinating Council.

7 The Port of Pittsburgh Commission.

8 The State Board of Certified Real Estate Appraisers.

9 The Advisory Council to State Workmen's Insurance
10 Board.

11 (14) December 31, 2001:

12 The committee established in section 7 of the act of
13 December 18, 1990 (P.L.748, No.188), known as the "Rails
14 to Trails Act."

15 (d) The Governor shall not utilize a reorganization plan,
16 executive order, rule or regulation or comparable authority to
17 evade the provisions of this act. Any programs, activities or
18 functions of any agency, scheduled for termination, which are
19 transferred to another agency not scheduled for termination or
20 scheduled for termination at a later date, shall be subject to
21 sunset review at the date scheduled for the termination of the
22 transferor agency. Any programs, activities or functions, of any
23 agency scheduled for termination which are transferred to
24 another agency scheduled for termination at an earlier date,
25 shall be subject to sunset review at the date scheduled for
26 termination of the transferee agency. However, between the time
27 at which the Legislative Budget and Finance Committee submits
28 its performance audit to the standing committee and the standing
29 committee makes its recommendation to the General Assembly, the
30 Governor shall not utilize a reorganization plan, executive

1 order, rule or regulation or comparable authority to transfer
2 any programs, activities or functions of an agency being
3 evaluated.

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

8 (f) Agencies terminated shall be given [until June 30 of the
9 year following the one in which they are terminated] 180 days
10 from the termination date to wind up their affairs. During that
11 period, the Governor may petition the General Assembly for a
12 review of the termination but the agency shall be terminated
13 unless the General Assembly passes a law to the contrary.

14 (g) The terms of office of appointees of an agency
15 terminated under this act shall end [on June 30 of the year
16 following] 180 days from the termination date.

17 Section 4. Sections 7 and 8 of the act, amended December 16,
18 1982 (P.L.1355, No.310), are amended to read:

19 Section 7. Reestablishment or continuation of agencies.

20 (a) Any agency scheduled for termination under this act, may
21 be reestablished by the General Assembly, by legislation. Each
22 reestablishment as provided in this subsection or continued as
23 provided in subsection (b) shall be:

24 (1) for a period of ten years unless otherwise specified
25 in the legislation and again be subject to evaluation, review
26 and termination as provided in [the] this act; and

27 (2) by legislation in a separate bill, in which no more
28 than one agency shall be reestablished and such agency shall
29 be mentioned in the title of the bill.

30 (b) [Unless] If no legislation is enacted [prior to November

1 1,] reestablishing an agency as provided in subsection (a) by a
2 date 60 days prior to the termination date, the presiding
3 officer of each House shall cause to be placed on their
4 respective calendars for the first legislative day [in November]
5 after the date 60 days prior to the termination date, the
6 question, in the form of a resolution, of whether an agency
7 scheduled for termination [on December 31 of that year] shall be
8 continued. If a majority of the members elected to each House
9 approve such a resolution, the resolution shall be presented to
10 the Governor in accordance with section 9 of Article III of the
11 Constitution of Pennsylvania. Upon approval of the resolution in
12 accordance with section 15 of Article IV of the Constitution of
13 Pennsylvania, prior to the scheduled termination date [of
14 December 31], the agency shall be continued until the next
15 review and termination cycle scheduled for said agency.

16 (c) Any statute which terminates or reenacts an agency shall
17 control over any procedure prescribed by this act for the
18 continuation or termination of an agency. No statute shall be
19 deemed to continue an agency beyond a termination date
20 established for said agency pursuant to this act, unless the
21 statute expressly reenacts the agency in its present or altered
22 state.

23 Section 8. Newly created agencies.

24 [A statutory] An agency created after January 1, [1981] 1991,
25 shall be scheduled for termination at the conclusion of the
26 tenth year following its creation unless otherwise specified by
27 the General Assembly at its creation.

28 Section 5. Section 14 of the act is amended to read:

29 [Section 14. Expiration.

30 Unless the provisions of this section shall be repealed or

1 amended by the General Assembly, the provisions of this act
2 shall expire at the end of ten years from the effective date of
3 this act.]

4 Section 6. This act shall take effect immediately.