

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

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 5, 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,~~ AND FOR <—
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,

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

7 * * *

8 Section 2. Sections 4 and 5 of the act, amended December 16,
9 1982 (P.L.1355, No.310), are amended to read:

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

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

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

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

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

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

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

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

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

25 Section 5. Evaluation and review.

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

30 (b) The standing committee shall hold at least one public

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

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

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

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

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

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

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

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

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

1 whether the agency has permitted participation solely by the
2 persons it regulates;

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

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

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

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

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

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

1 agency.

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

5 Section 6. Termination of agencies.

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

9 The State Board of Examiners of Public Accountants.

10 The State Farm Products Show Commission.

11 The State Board of Examiners of Architects.

12 The Milk Marketing Board.

13 The State Board of Auctioneer Examiners.

14 The Pennsylvania Labor Relations Board.

15 The State Board of Barber Examiners.

16 The Pennsylvania Securities Commission.

17 The State Board of Cosmetology.

18 The State Board of Funeral Directors.

19 The State Real Estate Commission.

20 The State Registration Board for Professional Engineers.

21 The State Board of Landscape Architects.

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

24 The State Board of Private Trade Schools.

25 The State Workmen's Insurance Board.

26 The Citizens Advisory Council (DER).

27 The Environmental Quality Board.

28 The Savings Association Board.

29 The Hazardous Substance Transportation Board.

30 The Crime Victim's Compensation Board.

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

The Pennsylvania Liquor Control Board.

The State Board of Chiropractic Examiners.

The Pennsylvania Public Utility Commission.

The State Board of Medical Education and Licensure.

The Governor's Council on Drug and Alcohol Abuse.

The State Board of Nurse Examiners.

The Pennsylvania Drug, Device and Cosmetic Board.

The State Board of Examiners of Nursing Home Administrators.

The State Board of Optometrical Examiners.

The State Transportation Commission.

The State Board of Osteopathic Medical Examiners.

The State Soil Conservation Commission.

The State Board of Pharmacy.

The State Board of Podiatry Examiners.

The Pennsylvania Board of Psychologist Examiners.

The Commission on Charitable Organizations.

The State Board of Veterinary Medical Examiners.

The State Board of Public Welfare.

The State Board of Physical Therapy Examiners.

The Pennsylvania Housing Finance Agency.

The State Harness Racing Commission.

The State Horse Racing Commission.

The Pennsylvania Commission on Sentencing.

The Pennsylvania Board of Probation and Parole.

The Pennsylvania Crime Commission.

The Pennsylvania Human Relations Commission.

The State Dental Council and Examining Board.

1 The Pennsylvania Commission on Crime and Delinquency.

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

5 The State Board of Private Academic Schools.

6 The State Board of Education.

7 The State Civil Service Commission.

8 The Board of State College and University Directors.

9 The Industrial Board.

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

12 The State Athletic Commission.

13 The State Board of Vocational Rehabilitation.

14 The Pennsylvania Industrial Development Authority.

15 Certification Board for Sewage Enforcement Officers.

16 The Pennsylvania Minority Business Development Authority.

17 The Professional Standards and Practices Commission.

18 The State Veterans Commission.

19 The State Ethics Commission.

20 The Pennsylvania Historical and Museum Commission.

21 The State Art Commission.

22 The State Planning Board.

23 The Pennsylvania Turnpike Commission.

24 The Pennsylvania Parkway Commission.

25 The Municipal Police Officer's Education and Training
26 Commission.

27 The Pennsylvania Emergency Management Agency.

28 The State Lottery Commission.

29 The Department of Aging.]

30 (a) Termination dates for agencies shall be as set forth in

1 this section.

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

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

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

10 The Crime Victim's Compensation Board.

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

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

15 The Pennsylvania Human Relations Commission.

16 The Municipal Pension Advisory Committee.

17 The State Board of Optometry.

18 The Public Employee Retirement Study Commission.

19 The Pennsylvania Public Utility Commission.

20 (2) June 30, 1992:

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

23 The Pennsylvania Liquor Control Board.

24 The Bureau of Liquor Control Enforcement.

25 The Pennsylvania Veterans' Memorial Commission.

26 (3) December 31, 1992:

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

1 The Capitol Preservation Committee.

2 The Pennsylvania Emergency Management Agency.

3 The Health Care Cost Containment Council.

4 The Board of Governors of the State System of Higher
5 Education.

6 The Noxious Weed Control Committee.

7 The State Board of Occupational Therapy Education and
8 Licensure.

9 (4) June 30, 1993:

10 The Vietnam Veterans Health Initiative Commission.

11 (5) December 31, 1993:

12 The State Board of Accountancy.

13 The Architects Licensure Board.

14 The State Board of Auctioneer Examiners.

15 The State Board of Barber Examiners.

16 The Citizens Advisory Council.

17 The State Board of Cosmetology.

18 The Dog Law Advisory Board.

19 The Energy Development Authority.

20 The Environmental Quality Board.

21 The State Farm Products Show Commission.

22 The State Board of Funeral Directors.

23 The State System of Higher Education.

24 The Independent Regulatory Review Commission.

25 The Pennsylvania Labor Relations Board.

26 The State Board of Landscape Architects.

27 The Milk Marketing Board.

28 The Municipal Employee Pension Advisory Committee.

29 The Pharmaceutical Assistance Review Board.

30 The Professional Engineers and Professional Land

1 Surveyors, State Registration Board.

2 The Rail Freight Advisory Committee.

3 The State Real Estate Commission.

4 The Pennsylvania Securities Commission.

5 The Office of Small Business Advocate.

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

8 The Wild Resource Conservation Board.

9 The State Workmen's Insurance Board.

10 (6) June 30, 1994:

11 The Pennsylvania Conservation Corps.

12 (7) December 31, 1994:

13 The Agricultural Development Advisory Committee.

14 The Athletic Trainer Advisory Committee.

15 The Department of Corrections.

16 The Deputy Sheriffs' Education and Training Board.

17 The Hazardous Materials Transportation Advisory
18 Committee.

19 The Milrite Council.

20 The Mining and Reclamation Advisory Board.

21 The Professional Standards and Practices Commission.

22 The Pennsylvania Academic Commission on Technological
23 Development.

24 (8) December 31, 1995:

25 The Apparel Industry Loan Board.

26 The State Board of Chiropractic.

27 The State Conservation Commission.

28 The Pennsylvania Commission on Crime and Delinquency.

29 The Pennsylvania Crime Commission.

30 The State Board of Dentistry.

1 The Pennsylvania Drug, Device and Cosmetic Board.
2 The Board of Directors of the Pennsylvania Emergency
3 Health Services Council.
4 The State Harness Racing Commission.
5 The State Horse Racing Commission.
6 The Pennsylvania Housing Finance Agency.
7 The State Board of Medicine.
8 The State Board of Examiners of Nursing Home
9 Administrators.
10 The State Board of Nursing.
11 The Oil and Gas Technical Advisory Board.
12 The State Board of Osteopathic Medicine.
13 The State Board of Pharmacy.
14 The State Board of Physical Therapy.
15 The State Board of Podiatry.
16 The Pennsylvania Board of Probation and Parole.
17 The State Board of Psychology.
18 The Pennsylvania Commission on Sentencing.
19 The State Board of Examiners in Speech-Language and
20 Hearing.
21 The State Transportation Commission.
22 The Pennsylvania Trauma Systems Foundation.
23 The State Unemployment Compensation Advisory Council.
24 The State Board of Veterinary Medicine.

25 (9) December 31, 1996:

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

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

1 "Banking Code of 1965."

2 The Bureau of Charitable Organizations.

3 The Pennsylvania Convention Center Authority.

4 The Private Prison Task Force.

5 The Statewide Weatherization and Energy Conservation
6 Policy Council.

7 (10) December 31, 1997:

8 The Department of Aging.

9 The State Athletic Commission.

10 The Committee of Blind Vendors.

11 The State Civil Service Commission.

12 The Office for the Deaf and Hearing Impaired.

13 The Pennsylvania Economic Development Financing
14 Authority.

15 The State Board of Education.

16 The Pennsylvania Historical and Museum Commission.

17 The Brandywine Battlefield Park Commission.

18 The Washington Crossing Park Commission.

19 The Historic Preservation Board.

20 The Industrial Board.

21 The Pennsylvania Industrial Development Authority.

22 The Pennsylvania Minority Business Development
23 Authority.

24 The Municipal Police Officers' Education and Training
25 Commission.

26 The State Planning Board.

27 The State Board of Private Academic Schools.

28 The State Board of Private Licensed Schools.

29 The Center for Rural Pennsylvania.

30 The State Board for Certification of Sewage

1 Enforcement Officers.

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

4 The State Board of Social Work Examiners.

5 The Pennsylvania Turnpike Commission.

6 The State Veterans' Commission.

7 The State Board of Vocational Rehabilitation.

8 (11) December 31, 1998:

9 The Children's Trust Fund Board.

10 The Coroners' Education Board.

11 The Fire Safety Advisory Committee.

12 The Hardwoods Development Council.

13 The Hazardous Waste Facility Siting Commission.

14 The Pennsylvania Infrastructure Investment Authority.

15 The Lawyer Trust Account Board.

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

17 The Low-Level Waste Advisory Committee.

18 The Policy, Planning and Evaluation Advisory
19 Committee.

20 The Quality Assessment Grant and Loan Advisory
21 Committee.

22 The Recycling Fund Advisory Committee.

23 (12) December 31, 1999:

24 The State Agricultural Land Preservation Board.

25 The Animal Health and Diagnostic Commission.

26 The Board of the Ben Franklin Partnership Fund.

27 The Office of Consumer Advocate.

28 The Environmental Hearing Board.

29 The Environmental Hearing Board Rules Committee.

30 The State Ethics Commission.

1 The Philadelphia Regional Port Authority.

2 The Storage Tank Advisory Committee.

3 The Underground Storage Tank Indemnification Board.

4 (13) December 31, 2000:

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

7 The Interagency Coordinating Council.

8 The Port of Pittsburgh Commission.

9 The State Board of Certified Real Estate Appraisers.

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

12 (14) December 31, 2001:

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

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

1 Governor shall not utilize a reorganization plan, executive
2 order, rule or regulation or comparable authority to transfer
3 any programs, activities or functions of an agency being
4 evaluated.

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

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

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

18 Section 4. Sections 7 and 8 of the act, amended December 16,
19 1982 (P.L.1355, No.310), are amended to read:

20 Section 7. Reestablishment or continuation of agencies.

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

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

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

1 (b) [Unless] If no legislation is enacted [prior to November
2 1,] reestablishing an agency as provided in subsection (a) by a
3 date 60 days prior to the termination date, the presiding
4 officer of each House shall cause to be placed on their
5 respective calendars for the first legislative day [in November]
6 after the date 60 days prior to the termination date, the
7 question, in the form of a resolution, of whether an agency
8 scheduled for termination [on December 31 of that year] shall be
9 continued. If a majority of the members elected to each House
10 approve such a resolution, the resolution shall be presented to
11 the Governor in accordance with section 9 of Article III of the
12 Constitution of Pennsylvania. Upon approval of the resolution in
13 accordance with section 15 of Article IV of the Constitution of
14 Pennsylvania, prior to the scheduled termination date [of
15 December 31], the agency shall be continued until the next
16 review and termination cycle scheduled for said agency.

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

24 Section 8. Newly created agencies.

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

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

30 {Section 14. Expiration.

←

1 Unless the provisions of this section shall be repealed or
2 amended by the General Assembly, the provisions of this act
3 shall expire [at the end of ten years from the effective date of <—
4 this ~~act.~~] ACT] DECEMBER 22, 2001. <—

5 Section 6. This act shall take effect immediately.