

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

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leaders who deserve credit for taking a tough stand to protect the public's interest in the Sunset process.

TRUCKING DE-REGULATION

In 1980, the statutes granting the Florida Public Service Commission the power to regulate motor carriers (Chapter 323, F.S., 1979) were terminated under the Sunset law. The review process leading to this action was one of the most intensive ever conducted by the House and Senate. Moreover, de-regulation was accomplished despite the vigorous efforts of pro-regulation lobbying groups such as the Florida Trucking Association.

Background

Florida's regulatory authority over intrastate motor carriers was established in 1929. The provision, which deals mainly with entry and rate controls, required classification of intrastate motor carriers. According to a 1980 House of Representatives report on motor carrier regulation, twenty percent of the trucks in Florida came under the PSC's regulation.

The regulatory procedure was largely self-sustaining, financed by fees, fines and taxes on motor carriers. The House report notes that by 1979, these revenues were \$3.4 million a year. For example, an application for a new certificate to enter the motor carrier business required a \$500 filing fee.

In entry requests, the burden of proof for showing a need for the proposed service rested with the applicant, who

was required to obtain a Certificate of Public Convenience and Necessity. In addition, fitness and ability to serve had to be proved.

With regard to rate regulation, the Florida Public Service Commission had approved collective rate-setting agreements arrived at by the motor carrier industry. This procedure was implemented by the establishment of rate bureaus, organized by motor carriers, which filed proposed tariffs with the PSC.

House Committee on Regulatory Reform Review Procedures

In 1979, Florida House Speaker J. Hyatt Brown assigned Sunset review responsibilities for the statute governing motor carrier regulation to the House Committee on Regulatory Reform, chaired by Representative George Sheldon.

Committee staff used a number of sources of information for their review.

°A study by Florida State University on the issues of motor carrier regulation

°A performance audit on the Public Service Commission's carrier regulation program prepared by the Auditor General

°A literature search on materials on the issue

°A questionnaire to the Public Service Commission regarding motor carrier regulation

°Testimony from hearings held as part of the Sunset process

In addition, Committee members met with trucking regulation experts in Washington D.C.

Senate Commerce Committee Review Procedures

The Senate Commerce Committee was responsible for examining the motor carrier regulation question for the Senate. Like the House committee, it relied on the Performance Audit prepared by the Auditor General. In order to prepare its final report, the Committee conducted interviews with personnel of the Public Service Commission and researched relevant case law on the subject.

Findings and Recommendations

The House committee conclusions focused on four areas as follows: entry regulation, rate regulation, cost of regulation and need for regulation. With regard to entry regulation, the committee essentially determined that application procedures were excessively burdensome and that operating restrictions were anti-competitive. Further, the Committee felt that collective ratemaking could result in greater remunerative rates. The Committee also determined that trucking regulation carried a high price tag.

Questioning the need for regulation is a principle step in the Sunset evaluation process. Quoting the House report on motor carrier regulation:

In applying the criteria of Sunset review, the Committee concluded that proponents of the traditional form of entry and rate regulation of Florida motor carriers had not carried their burden of proof as to the need for such regulation. They found that the absence of regulation would not significantly harm or endanger the public and doubted whether all facets of the regulatory process were designed for, and had as their primary effect, the protection of the public.

Legislative Action

The Senate was the first to pass a bill which would terminate entry and rate regulations for motor carrier transportation under the Public Service Commissions's jurisdiction (SB 138). Subsequently, the House also reported a strong anti-regulation bill (HB 1635).

Ultimately, both houses of the Legislature determined that allowing the Motor Carrier statute to terminate was a mutual objective. So the statute regulating motor carrier transportation was allowed to terminate on July 1, 1980. Safety regulation was later addressed in two bills which,

**TIMETABLE FOR SUNSET REVIEW OF
MOTOR CARRIER REGULATION IN FLORIDA**

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| June 1979 to Aug. 1979 | Florida House of Representatives Committee on Governmental Operations commissioned background study by the Department of Public Administration, Florida State University, to outline basic issues. House Government Operations Committee and Senate Commerce Committee acquired Florida Auditor General's Performance Audit of Public Service Commission's carrier regulation program (audit completed in November 1978). House and Senate Committees solicited reports, studies and statements from federal government agencies, trucking industry associations and the private sector experts on regulation. |
| Sept. 1979 to April 1980 Jan. 1980 | House and Senate Committees held public hearings. Senate Commerce Committee issued a staff report on motor carrier statute. |
| April 1980 | Senate passed SB 188, requiring regulation on a post-approval basis. |
| May 1980 | House passed CS for HB 1635, requiring complete de-regulation of all rates on January 1, 1981. |
| June 1980 | Conference committee appointed by Senate, but House failed to appoint a conference committee. |
| July 1, 1980 | <i>Chapter 323, Florida Statutes Motor Carriers and Freight Forwarders allowed to terminate by action of Sunset legislation.</i> |
| July 1980 | Legislation regarding safety regulations signed by Governor Graham. |

among other provisions, transferred enforcement functions from the Public Service Commission to Florida's Department of Transportation.

Lobbying Pressure

"Hey Daisy Chain, don't let Smokey get off our backs."

"A big 10-4, good buddy. Over and out."

Tallahassee Democrat (February 20, 1980)

Smokey -- a.k.a., the law -- was viewed favorably by the trucking industry. In fact, when legislation was introduced during the Sunset process which would affect regulation of the industry, trucking lobbyists came out in full force.

Thomas Webb, managing director for the Florida Trucking Association, stated, "the Association's position was one of opposition to total de-regulation." Webb listed as concerns that the trucking industry had about de-regulation the question of unfair competition, service and rates for small communities and broadened entry into the trucking business by new firms.

William Smalley, who heads his own trucking business, testified against efforts to de-regulate because he felt that initially legislators sought to shift regulation rather than to de-regulate. He explained that there was an attitude that it would be acceptable to semi-regulate existing trucking business and to open entry to anybody and everybody. He was pleased with total de-regulation: "It puts the cost where it ought to be."

Effects of Trucking De-Regulation

As Andrew Vermilye, research assistant with the Florida House Committee on Governmental Operations put it, "even those of us who pushed quite hard for de-regulation, are pleasantly surprised by the smooth transition."

The Office of Policy and Analysis of the Interstate Commerce Commission, in July 1981, conducted a survey on the effects of de-regulation. Carriers and shippers were interviewed and pertinent information was obtained. The report concludes that the "long term results are still uncertain, but the industry has already seen new entry, aggressive cost cutting and operational restructuring by management, as well as extensive rate innovation and numerous rate reductions."

The Florida Chamber of Commerce conducted a survey approximately nine months after trucking de-regulation went into effect. The results of the survey indicate that ten percent or fewer of the trucking and surface transportation industry and community members questioned felt that trucking de-regulation has had a negative effect. Other survey respondents indicated that trucking de-regulation has had no effect (38-48%) or a positive effect (44-52%).

INTERVIEWS

Butzin, Peter, Executive Director, Common Cause/Florida

Deffenbaugh, Brian, Legislative Analyst, Senate Commerce
Committee

Sheldon, George, Chair, House Committee on Govern-
mental Operations

Smalley, Bill, President, Smalley Trucking Lines

Vermilye, Andy, Research Assistant, Florida House Committee
on Governmental Operations

Webb, Thomas, Director, Florida Trucking Association

CHAPTER 81-318

Committee Substitute for Senate Bill No. 239

An act relating to legislative review of programs and functions; amending s. 11.61, Florida Statutes; amending s. 11.6105, Florida Statutes, 1980 Supplement; providing legislative intent; repealing various provisions of law relating to the regulation of professions, occupations, businesses, industries, or other endeavors; providing for review of such provisions prior to repeal; providing for periodic review of programs which are continued, reestablished, or created; prescribing criteria to be used in such review; deleting provision for a joint committee of the legislature; providing for the abolition of units of government and reversion of funds; providing for refund of fees; preserving certain causes of action; providing for effect on pending prosecutions, investigations, or disciplinary actions; repealing chapters 78-168, 77-237, and 77-457, Laws of Florida, relating to the Regulatory Reform Act of 1976; repealing various provisions of the Laws of Florida, which repeal various laws relating to the regulation of professions, occupations, businesses, industries, or other endeavors and which require such laws to be reviewed pursuant to the Regulatory Reform Act of 1976; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 11.61, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 11.61, F.S., for present text.)

11.61 Legislative review of regulatory functions.--

(1) This act may be cited as the "Regulatory Sunset Act."

(2) It is the intent of the Legislature:

(a) That no profession, occupation, business, industry, or other endeavor shall be subject to regulation by the state unless such regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary for that purpose.

(b) That the state shall not regulate a profession, occupation, industry, business, or other endeavor in a manner which will unreasonably and adversely affect the competitive market.

(c) That the Legislature conduct a periodic and systematic review of the need for, and the benefits derived from, a program or function which licenses or otherwise regulates a profession, occupation, business, industry, or other endeavor and, pursuant to such review, terminate, modify, or reestablish a program or function.

(d) That, if a chapter or section of the Florida Statutes scheduled for repeal by this act is subsequently amended or transferred, such subsequent amendment or transfer, unless otherwise expressly provided in the act amending or transferring such chapter or section, shall not affect the scheduled repeal by this act of the provisions of such chapter or section and said chapter or section as amended or transferred shall be repealed on the date specified in this act.

(3) Each appropriate substantive committee shall begin review of a program or function 15 months prior to the date set for repeal of the section or chapter and shall make a recommendation, on or before February 1 prior to such repeal date, for continuation, modification, or repeal of the program or function established by such section or chapter.

(4) Each section and chapter of the Florida Statutes scheduled for repeal by this act shall be reviewed pursuant to this act prior to the date scheduled for repeal of the section or chapter. Any act which, as a result of such review, continues or reestablishes a program or function established by a section or chapter of the Florida Statutes repealed by this act shall schedule the section or chapter of the Florida Statutes establishing such program or function for a subsequent repeal and review pursuant to this act within 10 years after the effective date of the act which continues or reestablishes such program or function.

(5) Any act which creates a program or function which in part regulates the entry into any profession, occupation, business, industry, or other endeavor and which is enacted after the effective date of this act shall schedule the act establishing such program or function for a subsequent repeal and review pursuant to this act within 10 years after the effective date of the act which creates such program or function.

(6) In determining whether to reestablish a program or function, the Legislature shall consider the following criteria:

(a) Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?

(b) Is there a reasonable relationship between the exercise of the police power of the state and the protection of the public health, safety, or welfare?

(c) Is there a less restrictive method of regulation available which would adequately protect the public?

(d) Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

(e) Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

(f) Are any facets of the regulatory process designed for the purpose of, and have as their primary effect, the benefit of the regulated entity?

(7) Within 30 days after the date of repeal, by this act, of any section or chapter of the Florida Statutes, the unit of government or the subunit thereof and the personnel positions which are responsible for carrying out only the functions and programs created by such section or chapter shall be abolished, and all unexpended balances of appropriations, allocations, or other funds for such program or function shall revert to the fund from which they were appropriated or, if that fund is abolished, to the General Revenue Fund. A unit or subunit of government may not perform any regulatory activities after the date of repeal of such section or chapter of the Florida Statutes.

(8) Any fees collected pursuant to a program or function subsequently abolished shall be refunded on a pro rata basis by the unit or subunit of government that was abolished, or by the Comptroller pursuant to s. 215.26, Florida Statutes, upon request of the person that paid the fee, if such request is made within 1 year after the abolition of the program or function.

(9) This act shall not affect the right to institute or prosecute any cause of action by or against a unit or subunit of government abolished pursuant to this act if the cause of action accrued prior to the date the unit or subunit was abolished. Any cause of action pending on the date the unit or subunit is abolished, or instituted thereafter, shall be prosecuted or defended in the name of the state by the Department of Legal Affairs.

(10) Any repeal or amendment of any regulatory statute or rule pursuant to this act shall not affect any prosecution, investigation, or disciplinary action for any act committed before such repeal or amendment.

APPENDIX C: CASE STUDY II: TEXAS

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CASE STUDY II: TEXAS

An unusual advantage of Sunset is that it enjoys support from both liberals and conservatives because of its pro-consumer and anti-big government features.

Fort Worth Star Telegraph, May 17, 1981

The concept of Sunset in Texas was first proposed by the Texas Constitutional Convention of 1974, an event which predates the passage of any state Sunset law. The 1974 Constitution failed, but in 1977 the Texas legislature passed the Texas Sunset Act.

Since then, Texas has conducted two rounds of Sunset reviews. Sunset has been a positive experience for Texas. The Sunset Advisory Commission and the House Government Organization Committee have each developed a series of across-the-board reforms for improving the accountability and efficiency of agencies. A high percent of final Sunset legislation incorporates these provisions. Several agencies that were inactive at the time of the Sunset review were abolished through Sunset.

Sunset in Texas is ambitious; the law provides for periodic termination, in a twelve-year cycle, of all of the 177 agencies and advisory committees. Agencies are reviewed at biennial intervals from 1979 to 1989.

The following study will take an in-depth look at the implementation of the Texas Sunset Act prior to and during the 1979 and 1981 sessions and follow the review process for the state Board of Pharmacy (1980-1981). Sunset commission reports, public testimony, newspaper reports, and interviews

were used in the preparation of the report. (A list of individuals interviewed is on page 102).

Review Procedures

The Sunset Advisory Commission is composed of four representatives and one public member,* who are appointed by the Speaker of the House, and four members of the Senate and one public member, who are appointed by the lieutenant governor. The Commission has the responsibility of reviewing agencies and preparing recommendations to abolish, continue or reorganize state agencies or advisory committees under review. The Commission is also required to draft legislation regarding its recommendations.

The timetable for conducting Sunset reviews in Texas is carefully structured, with review beginning more than 22 months before the termination date (with an additional one year for winding up). The Sunset Commission published the statutorily mandated steps for its review for the 1980-81 biennium as follows:

1. Self-evaluation Reports - Self-evaluation reports of agencies terminating in 1981 were due by October 30, 1979 (report submission is staggered from August through October).

2. Performance Evaluation Reports - The staff of the Sunset Advisory Commission was scheduled to complete

*The Texas Sunset Act was amended in 1981 to provide for the appointment of two public members to the Sunset Commission.

performance evaluation reports for the 1981 agencies by June 1, 1980.

4. Report of the Sunset Advisory Commission - The final report and draft legislation of the Sunset Advisory Commission was to be delivered to the legislature and the governor by December 15, 1980.

5. Legislative Consideration of the Report - The Sixty-seventh Legislature was scheduled to consider the report of the Sunset Advisory Commission during the 1981 regular session.

6. Agency Termination - Those agencies that were reviewed and not re-established were abolished on September 1, 1981. Agencies terminated on this date have one year to wind up their operations.

Because Texas has biennial sessions, all decisions concerning agencies under review are determined in one session. As with most Sunset laws, the Texas Sunset Act requires that not more than one agency be covered in each Sunset bill introduced.

The House Government Organization Committee was established to consider Sunset legislation. The Senate, by contrast, utilizes existing standing committees to carry out its Sunset work.

The number of agencies reviewed in a given cycle ranges from 25 to 37. To date, 53 agencies have been reviewed; of these, 14 have been terminated and 39 have been modified.

The staff and commission members have specific evaluation criteria to use in conducting Sunset reviews. Individual criteria focus on such questions as the purpose for the agency, efficiency with which the agency or advisory committee operates, or the extent to which the agency has complied with the Open Records Act.

Staffing

Vince Brown, of the National Conference of State Legislatures, in a 1980 speech, noted that the Texas "Joint Advisory Commission is viewed as very professional as far as addressing the issues and questions." The size of the professional staff working on Sunset is large compared to many states. As of September 1981, 19 full-time staff members were available to work on Sunset reviews. From two to four staff members spend an estimated total of 540 person hours on each review. The staff is multidisciplinary in its training--lawyers, accountants, economists, and other professionals in related fields are represented.

Budget Allocations

The level of funding for Sunset has averaged about \$600,000 per year, according to Karl Spock, Senior Analyst for the Sunset Advisory Commission. The average cost per review is \$8,700. This figure includes expenses for public members of the Sunset Advisory Commission; however, expenses for legislators who are members of the Commission do not fall under the Commission's budget.

What has Been Accomplished Through Sunset?

Dan R. Price, who wrote numerous articles on Sunset in Texas while serving on the staff of the State Bar of Texas stated: "using the correct yardstick--whether or not agencies are better after the Sunset process--Sunset in Texas has been a complete success."

There are three major outcomes of Sunset which reveal that the process has led to better management in Texas: first, uniform reform criteria have been applied to most agencies; second, inactive agencies and unnecessary duplication of activities have been eliminated; and third, legislators and agencies have gained valuable experience in conducting or experiencing legislative oversight.

Common Cause/Texas gives the Sunset process high marks: "in general, the Legislature is to be commended for the uniform way in which [it] applied Sunset principles."

A notable achievement of Sunset in Texas lies in the reform criteria established by the Sunset Advisory Commission. The Commission essentially developed two basic types of recommendations: (1) a series of "across-the-board approaches" to be applied to licensing or regulatory agencies in general; and (2) specific proposals for each agency.

According to the Commission's 1979 publication, "Summary of Organization and Process", "The majority of the agencies under initial review were occupational licensing agencies with similar processes and purposes. As a result

of such similarity, the Sunset Advisory Commission was able to identify a series of concerns which applied generally to these agencies..."

The Commission's 11 approaches were as follows:

1. Require the legislative review of agency expenditures through the appropriations process.
2. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
3. Require public membership on boards and commissions.
4. Require specific provisions relating to conflicts of interest.
5. Provide for notification and information to the public concerning board activities.
6. Provide an analysis, on request, to individuals failing the examination.
7. Provide for licensing by endorsement rather than reciprocity.
8. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
9. Require staggered renewals of licenses.
10. Require standard time frames for licensees who are delinquent in renewal of licenses.
11. Require files to be maintained on complaints.

The Sunset Commission has determined that when the percentages of final legislation using the Sunset Commission's approaches were averaged together following the first Sunset cycle, "slightly more than 70 percent of the 11 recommendations had been incorporated in applicable cases overall."

The Government Organization Committee in the House also developed a separate set of legislative guidelines. The Commission notes that "while covering the same broad areas of concern, many of the House committee's specific provisions modified or went beyond Commission language." The House Government Organization Committee, created by Speaker of the House Billy Clayton and chaired by Representative Charles Evans, has generated most of the legislative support for the Sunset criteria that had been developed by the Sunset Commission.

In addition to improving the efficiency and accountability of the operations of agencies that were continued, implementation of the Texas Sunset Act led to termination of a number of inactive agencies and agencies which were still functioning but conducting unnecessary or redundant activities.

Finally, legislators have gained practical experience in conducting legislative oversight through the Sunset process. Both rounds of Sunset reviews have forced legislators to consider the purposes for and effectiveness of Texas agencies--some more than 100 years old.

Problems with Sunset

Dan Price suggested, after assessing the first round of Sunset reviews, that "a more collaborative effort on behalf of the agencies and the legislature and its staff can and needs to be promoted." He stressed further that agencies had to learn to plan ahead for Sunset reviews.

Many of the procedures for conducting Sunset reviews did improve with the second round of Sunset reviews. For example, agencies had a clearer sense of what was expected of them in their self-evaluations.

One problem that appears to be getting worse rather than better at the state government level and therefore in the Sunset process as well is the disproportionate influence of special interest groups. In 1979, Common Cause/Texas examined the amount of campaign contributions to legislators by professionals affected by Sunset reviews in that year. Their research revealed that "the two lowest rates of Sunset implementation (Commission recommendations adopted) corresponded to the largest amounts of campaign contributions."

Texas lawyers and realtors -- who were the professionals earning this dubious distinction -- were successful in preventing serious changes to the State Bar and the Real Estate Commission. This type of activity points out the intensity with which licensed professionals in Texas fight in order to retain regulations which they feel will benefit their industry.

Carol Barger, the recently-appointed public member to the Sunset Commission, expressed the hope that her presence will help to counter some of the special interest influence on the Sunset process. She explained that she is pressing for as "open and accessible" a process as possible. Ms.

Barger also serves as director of the Texas Consumer's Union.

SUNSET REVIEW OF THE STATE BOARD OF PHARMACY

Sunset Agency staff member Allen Beinke summed up the attitude of most of those interviewed regarding the Sunset review of the State Board of Pharmacy: "The Pharmacy Act was out of date and confusing; everybody agreed that it needed to be re-written."

Examining the review of the Board of Pharmacy gives a view of the Texas Sunset process at its best. The process worked as it should both procedurally and substantively -- the Pharmacy Board developed a conscientious self-evaluation, the Sunset Commission conducted a thorough review, and public interest groups gave meaningful testimony. An equitable and accountable new Pharmacy Act became law.

Background

The Texas State Board of Pharmacy was created in 1907. The act which created the Board also established regulations concerning pharmacists; the act requires individuals to register with the board in order to compound or dispense drugs. (Other federal and state government agencies such as the Food and Drug Administration and the Texas Department of Health have jurisdiction over some aspects of pharmaceutical practices.)

At the time of the Sunset review of the Board of Pharmacy (1979), the Sunset commission reported that the

Pharmacy Board was made up of six pharmacists appointed to six-year terms by the governor. A board staff of 18 regulates some 11,717 pharmacists, 4,078 pharmacies, and 58 drug manufacturers. Self-sustaining from its revenues, the board, in 1979, collected \$776,057 and spent \$627,140.

Sunset Commission Review Procedures

The Commission conducted a survey of the fifty states in order to determine the pattern of regulation of pharmacists. Commission staff was successful in obtaining data through a number of other sources:

- ° Questionnaires sent to licensed pharmacists and pharmacies;
- ° Interviews with pharmaceutical association representatives and drug enforcement professionals; and
- ° Consultation with the Senate Human Resources Committee which has an organized forum on health professionals.

The Pharmacy Board self-evaluation report proved to be definitive in its assessment of requisite reforms. The Sunset Commission's legislative proposal and the Pharmacy Board's proposal -- drafted in consultation with the pharmaceutical association -- were very similar.

Public hearings also played a critical role in the development of a new Pharmacy Act. Not only registered pharmacists testified, but also spokespersons from Planned Parenthood, Common Cause and the Gray Panthers.

Findings and Recommendations of the Sunset Commission

Total de-regulation of pharmacy practices was neither a practical nor a desired outcome of Sunset review. All fifty

states: regulate pharmaceutical practices, handling such matters as testing, licensing, and enforcement.

What the Commission did propose, however, was a change in the permit system from one type of facility permit to four classes of pharmacy facility licenses. Beyond that, the Sunset Commission proposed a number of structural and procedural changes. Some of the major changes include:

- ° Placing agency funds in the State Treasury and including the agency in the appropriations process;
- ° Providing for the appointment of at least two public members to the Board;
- ° Removing the requirement that all board members be engaged in retail pharmacy practice so that any licensee practicing pharmacy will be eligible;
- ° Providing for greater enforcement authority; and
- ° Removing the Board's concurrent authority to license drug manufacturers thereby providing the Department of Health with the sole licensing authority.

Legislative Action

House and Senate votes on a new Pharmacy Act came about at approximately the same time; the House bill was subsequently sent to the Senate. Representative Tim Von Dohlen, a conservative Democrat, carried the House bill to which he had attached a generic drug bill. The generic bill had considerable public support, but had been unsuccessful in the legislature for several years. Russ Tidwell, of Sunset Commissioner Senator Lloyd Doggett's staff, said, "it was largely due to the Sunset process that we were able to pass a generic drug law."

The new Pharmacy Act (HB 1628) passed by the legislature on May 20, 1981, incorporated almost all of the recommendations listed by the Sunset Commission.

Lobbying Pressure

For the most part, the review of the Board of Pharmacy was an effort based on compromise and good intentions rather than confrontation. (A subsequent review of the Board of Medical Examiners quickly dispelled any notion that special interest groups might be entering an era of acceptance rather than resistance to change which would make them more accountable.)

Pharmacy practitioners and consumer and public interest groups were all eager to reform the Pharmacy Act. As Wayne Biesel of the Texas Pharmaceutical Association expressed it, "the profession had changed drastically over the years." He termed Sunset "a very positive thing" because it provided the vehicle for much-needed review of a board created some 75 years ago.

Summary

The Texas Legislature was able to pass a new Pharmacy Act through Sunset because the key players in the process took their work seriously. The Board of Pharmacy itself stood open to change. Fred Brinkley, Pharmacy Board Director, commented, "we saw Sunset as an opportunity, not a negative thing."

INTERVIEWS

Barger, Carol, Public Member, Texas Sunset Advisory Commission and Director, Texas Consumers' Union

Beinke, Allen, Analyst, Texas Sunset Advisory Commission

Beisel, Wayne, Director of Public Relations, Texas Pharmaceutical Association

Brinkley, Fred, Director, Texas State Board of Pharmacy

Price, Dan R., Attorney at Law, Austin, Texas

Tidwell, Russ, staff member working on Sunset for Senator Lloyd Doggett (D-Austin), a Sunset Commissioner

Wells, William, Director, Texas Sunset Advisory Commission

(d) The Legislative Budget Board shall coordinate the collection of information in this report.

Recommendations of interagency planning councils

Sec. 3. (a) In preparing the report, the governor shall request and consider information from each interagency planning council regarding the efficiency of state agencies within the functional area represented by that interagency planning council and recommendations regarding the need for reorganization of state agencies within the functional area.

(b) Before submitting the report to the legislature, the governor shall present to each interagency planning council for review and comment the part of the proposed report dealing with the state agencies in the functional area represented by that interagency planning council, and the comments of each interagency planning council shall accompany the report when it is submitted to the legislature.

Preparation of legislation

Sec. 4. The staff of the Texas Legislative Council shall draft any legislation required to put the governor's recommendations into effect. Acts 1977, 65th Leg., p. 939, ch. 350, eff. Aug. 29, 1977.

Title of Act:

An Act relating to biennial reports by the governor on the organization and efficiency of state agencies, and declaring an emergency. Act 1977, 65th Leg., p. 939, ch. 350.

Cross References

Interagency planning councils, see art. 4419(32a).

Legislative Budget Board, see art. 5429c.
Legislative Council, see art. 5429b.

Library References

States 6-43.
C.J.S. States § 60.

Art. 5429k. Sunset Act

Short title

Section 1.01. This Act may be cited as the Texas Sunset Act.

Definitions

Sec. 1.02. In this Act:

(1) "State agency" means:

(A) an agency that is expressly made subject to this Act; or

(B) a department, commission, board, or other agency (except a university system or an institution of higher education as defined in Section 61.003, Texas Education Code, as amended) that:

(i) is created by statute after January 1, 1977;

(ii) is part of any branch of state government; and

(iii) has authority that is not limited to a geographical portion of the state.

(2) "Advisory committee" means a committee, council, commission, or other entity created by or pursuant to state law whose primary function is to advise a state agency.

(3) "Commission" means the Sunset Advisory Commission.

Sunset Advisory Commission

Sec. 1.03. (a) The Sunset Advisory Commission is created.

(b) The commission is composed of four members of the senate and one public member appointed by the lieutenant governor and four members of the house and one public member appointed by the speaker of the house. Each appointing authority may designate himself as one of the

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legislative appointees. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is regulated by a state agency that is to be reviewed by the commission during the term for which the person would serve; or

(2) is employed by, participates in the management of, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by a state agency that is to be reviewed by the commission during the term for which the person would serve.

(c) It is a ground for removal of a public member from the commission if the member does not have at the time of appointment or maintain during the service on the commission the qualifications required by Subsection (b) of this section for appointment to the commission. The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a public member from the commission existed.

(d) Legislative members appointed by the lieutenant governor and the speaker of the house serve four-year terms, with terms staggered so that the terms of one-half of the legislative members appointed by the lieutenant governor and of one-half of the legislative members appointed by the speaker expire every two years. If the lieutenant governor or the speaker serves on the commission he continues to serve until resignation from the commission or until he ceases to hold the office. Public members appointed by the lieutenant governor or speaker serve two-year terms.

(e) Once a person has served six years on the commission, he is not eligible for appointment to another term or part of a term. A member who has served more than half of a full term may not be appointed to an immediately succeeding term. These restrictions do not apply to the lieutenant governor or the speaker of the house.

(f) Each appointing authority shall make his appointments to the commission before July 1 of each odd-numbered year.

(g) A legislative member of the commission vacates his position on the commission when he ceases to be a member of the house from which he was appointed.

(h) A vacancy on the commission shall be filled for the unexpired part of the term in the same manner as the original appointment.

(i) The commission shall have, as presiding officers, a chairman and a vice-chairman. The chairmanship and vice-chairmanship must alternate every two years between the two membership groups appointed by the lieutenant governor and the speaker of the house. The chairman and vice-chairman may not be from the same membership group. The lieutenant governor shall designate a presiding officer from his appointed membership group and the speaker of the house shall designate the other presiding officer from his appointed membership group.

(j) A quorum shall consist of at least six members of the commission. No final action or recommendation may be made unless approved by a record vote of a majority of the full membership of the commission.

(k) Each member of the commission is entitled to reimbursement for the expenses he actually and necessarily incurs in performing the duties of the commission. Each legislative member is entitled to reimbursement from the appropriate fund of the member's respective house. Each public member is entitled to reimbursement from funds appropriated to the commission.

Staff

Sec. 1.04. (a) The commission shall employ an executive director to act as the executive head of the commission.

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(b) The executive director shall employ persons necessary to carry out the provisions of this Act through funds made available by the legislature.

(c) The chairman and vice-chairman of the commission each may employ staff to work for them on matters related to the activities of the commission.

Report on advisory committees

Sec. 1.05. Before October 30 of each calendar year, each state agency shall file an annual report with the Secretary of State to register all of its advisory committees and report the following information regarding the agency's advisory committees:

- (1) the official names of the advisory committees;
- (2) the statutory authority, if any, for the advisory committees;
- (3) the advisory committees' objectives and functions;
- (4) the period of time necessary for the advisory committees to carry out their objectives;
- (5) a reference to the reports that the advisory committees have presented to the agency;
- (6) the names and occupations of the current members of the advisory committees; and
- (7) other available information that will assist the staff and the commission to determine the need for continuing the advisory committees.

Agency report to commission

Sec. 1.06. Before October 30 of the odd-numbered year before the year a state agency is abolished according to this Act, the agency shall report to the commission:

- (1) information regarding the application to the agency of the criteria in Section 1.10 of this Act;
- (2) information specified in Section 1.05 of this Act regarding each of the agency's advisory committees; and
- (3) any other information that the agency considers appropriate or that is requested by the commission.

Commission duties

Sec. 1.07. Before September 1 of the even-numbered year before the year a state agency and its advisory committees are abolished according to this Act, the commission shall:

- (1) review and take action necessary to verify the reports submitted by the agency under Section 1.06 of this Act;
- (2) consult the Legislative Budget Board, the Governor's Budget and Planning Office, the state auditor, and the comptroller of public accounts, or their successors, on the application to the agency of the criteria provided in Section 1.10 of this Act;
- (3) conduct a performance evaluation of the agency based on the criteria provided in Section 1.10 of this Act and prepare a written report, which is a public record; and
- (4) review the implementation of commission recommendations contained in the reports presented to the legislature during the preceding legislative session.

Public hearings

Sec. 1.08. Between September 1 and December 1 of the calendar year before the year a state agency and its advisory committees are abolished according to this Act, the commission shall conduct public hearings on but not limited to the application to the agency of the criteria provided in Section 1.10 of this Act, except that the commission may hold the public

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hearings before September 1 if the evaluation required by Section 1.07(3) of this Act has been completed and made available to the public.

Commission report

Sec. 1.09. At each regular session, the commission shall present to the legislature and the governor a report on agencies and advisory committees scheduled to be abolished. In the report the commission shall include its specific findings with regard to each of the criteria set forth in Section 1.10 of this Act, its recommendations based on the matters set forth in Section 1.11 of this Act, and other information considered necessary by the commission for a complete evaluation of the agency.

Criteria for review

Sec. 1.10. The staff and the commission shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

- (1) the efficiency with which the agency or advisory committee operates;
- (2) an identification of the objectives intended for the agency or advisory committee and the problem or need which the agency or advisory committee was intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for these activities;
- (3) an assessment of less restrictive or other alternative methods of performing any regulation that the agency performs which could adequately protect the public;
- (4) the extent to which the advisory committee is needed and is used;
- (5) the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;
- (6) whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates;
- (7) the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency;
- (8) the extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates, and the extent to which the public participation has resulted in rules compatible with the objectives of the agency;
- (9) the extent to which the agency has complied with applicable requirements of an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals;
- (10) the extent to which changes are necessary in the enabling statutes of the agency so that the agency can adequately comply with the criteria listed in this section;
- (11) the extent to which the agency issues and enforces rules relating to potential conflict of interests of its employees;
- (12) the extent to which the agency complies with the "Open Records Act," Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252—17a, Vernon's Texas Civil Statutes), and with the "Open Meetings Act," Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252—17, Vernon's Texas Civil Statutes); and
- (13) the impact in terms of federal intervention or loss of federal funds if the agency is abolished.

Recommendations

Sec. 1.11. In its report on a state agency, the commission shall:

(1) make recommendations on the abolition, continuation, or reorganization of each affected state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees;

(2) make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when such programs duplicate functions performed in agencies under review;

(3) recommend appropriation levels for each state agency and advisory committee for which abolition or reorganization is recommended under Subdivisions (1) and (2) of this section; and

(4) include drafts of legislation necessary to carry out the commission's recommendations under Subdivisions (1) and (2) of this section.

Rules

Sec. 1.12. The commission shall adopt rules necessary to carry out this Act.

Abolition of advisory committees

Sec. 1.13. Except as otherwise expressly provided by law, every advisory committee whose primary function is to advise a particular state agency is abolished on the date set for abolition of the agency unless the advisory committee is expressly continued by law.

Agencies created in future

Sec. 1.14. Every state agency created by law enacted after January 1, 1977, is subject to this Act and to this section except as otherwise expressly provided by the law creating the agency. A state agency created by law enacted in a fiscal biennium is abolished at the end of the sixth succeeding fiscal biennium unless continued by law.

Continuation by law

Sec. 1.15. (a) During the regular session immediately preceding the abolition of a state agency or an advisory committee that is subject to this Act, the legislature by law may continue the agency or advisory committee for a period not to exceed 12 years.

(b) Nothing in this Act shall be construed to prohibit the legislature from terminating a state agency or advisory committee subject to this Act at a date earlier than that provided in this Act. Nothing in this Act shall be construed to prohibit the legislature from considering any other legislation relative to a state agency or advisory committee subject to this Act.

Legislative consideration

Sec. 1.16. (a) No more than one state agency and its functions and advisory committees may be considered for continuation, transfer, or modification in a bill, except that when consolidation of agencies or advisory committees or their functions is proposed, only the agencies or advisory committees involved in the consolidation may be considered in a legislative bill.

(b) In a bill to continue a state agency, to transfer its functions, or to consolidate it with another agency, the affected agency or agencies shall be mentioned in the title of the bill.

After termination

Sec. 1.17. (a) On abolishment in the odd-numbered year, each state agency may continue in existence until September 1 of the next succeed-

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ing year for the purpose of concluding its business. Unless otherwise provided by law abolishment does not reduce or otherwise limit the powers or authority of each respective state agency during such concluding year. Upon the expiration of the one-year period after abolishment each respective state agency is terminated and shall cease all activities.

(b) Any unobligated and unexpended appropriations of a state agency or advisory committee lapse on September 1 of the even-numbered year after abolishment of the agency or advisory committee.

(c) All money in a dedicated fund of an abolished state agency or advisory committee on September 1 of the even-numbered year after abolishment of the agency or advisory committee is transferred to the General Revenue Fund, except as provided in Subsection (f) of this section and as otherwise provided by law. The part of the law dedicating the money to a specific fund of an abolished agency becomes void on September 1 of the even-numbered year after abolishment of the agency.

(d) If an abolished state agency or advisory committee is funded in the General Appropriations Act for both years of the biennium, the abolished agency or advisory committee may not spend or obligate any of the money appropriated to it for the second year of the biennium, unless otherwise provided by law or rider in the appropriations bill.

(e) Property and records in the custody of a state agency or advisory committee on September 1 of the even-numbered year after abolishment of the agency or advisory committee are transferred to the State Board of Control, except that where an appropriate state agency is designated by the governor pursuant to Subsection (f) of this section, the property and records are transferred to the state agency so designated.

(f) The legislature recognizes the state's continuing obligation to pay bonded indebtedness incurred by any agency abolished by the terms of this Act, and it is not the intention of this Act to impair or impede the payment of bonded indebtedness in accordance with its terms. If an abolished state agency has remaining outstanding bonded indebtedness, the bonds remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds, notwithstanding the abolishment of the agency that issued the bonds. The governor shall designate an appropriate state agency, which shall continue to carry out all covenants contained in the bonds and the proceedings authorizing them, including the issuance of bonds to complete the construction of projects, and shall provide payment from the sources of payment of the bonds in accordance with the terms of the bonds, whether from taxes, revenues, or otherwise, until the bonds and interest on the bonds are paid in full. All funds established by laws or proceedings authorizing the bonds shall remain with the State Treasurer or previously designated trustees, if so provided in the proceedings; if not so provided, the funds shall be transferred to the designated state agency.

Subpoena power

Sec. 1.18. The commission may issue process to witnesses at any place in the state and compel their attendance and the production of books, records, papers, and other objects that may be necessary or proper for the purposes of the committee proceedings. The commission may issue attachments when necessary to obtain compliance with subpoenas or other process, which may be addressed to and served by any peace officer in this state. The chairman of the commission shall issue, in the

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name of the commission, the subpoenas that a majority of the commission may direct. In the event the chairman is absent, the designee of the chairman is authorized to issue subpoenas or any other process in the same manner as the chairman. Witnesses attending proceedings of the commission under process are entitled to the same mileage and per diem as allowed witnesses before a grand jury in this state. The testimony taken under subpoena must be reduced to writing and must be given under oath subject to the penalties of perjury.

Assistance of and access to state agencies

Sec. 1.19. (a) The commission may request the assistance of state agencies and officers, and they shall assist the commission when requested to do so.

(b) In carrying out their functions under this Act, the commission or its designated staff member may inspect the records, documents, and files of any state agency.

Relocation of employees

Sec. 1.20. When an employee is displaced because of the abolishment, reorganization, or continuation of a state agency or its advisory committees, the agency and the Texas Employment Commission shall make a reasonable effort to relocate the displaced employee.

Saving clause

Sec. 1.21. Except as otherwise expressly provided, abolition of a state agency does not affect rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were begun before the effective date of the abolition.

Acts 1977, 65th Leg., p. 1826, ch. 735, art. 1, eff. Aug. 29, 1977. Sec. 1.17, subsecs. (c), (e) and (f) amended by Acts 1977, 65th Leg., 1st C.S., p. 56, ch. 3, § 1, eff. July 22, 1977; Secs. 1.03, 1.04, 1.07 to 1.09, 1.11 amended by Acts 1981, 67th Leg., p. 2617, ch. 702, § 1, eff. Sept. 1, 1981.

Section 2 of Acts 1981, 67th Leg., p. 2620, ch. 702, provides:

"(a) A person holding office as a member of the Sunset Advisory Commission on the effective date of this Act continues to hold the office for the term for which the member was appointed.

"(b) The lieutenant governor and the speaker shall each appoint a public member before October 1, 1981, to serve until regular appointments are made in 1983.

"(c) The lieutenant governor shall appoint the chairman and the speaker of the house shall appoint the vice-chairman before October 1, 1981."

Cross References

Legislative Budget Board, see art. 5429c.

State Funds Reform Act of 1981, exemption deposit of funds for state agencies subject to review under this article, see art. 4393c, § 3(b)(5).

Law Review Commentaries

Annual survey of Texas law: Administrative law. John L. Hill and David C. Kent, 34 Southwestern L.J. (Tex.) 471 (1980).

Sunset and State Bar. 41 Texas Bar J. 807 (1978).

Sunset legislation in the United States. Dan R. Price, 30 Baylor L.Rev. 401 (1978).

Sunset legislation in the United States. Dan R. Price (State Bar of Texas 1977).

Library References

States 44, 45.

C.J.S. States 11 79, 80, 82, 186.

1. In general

The Texas Guaranteed Student Loan Corporation was not intended by the legislature to be a state agency; it is, however, subject to the Texas Open Records Act (art. 6252-17a) and this article. Op. Atty. Gen. 1981, No. MW-295.

APPENDIX D: STATE-BY-STATE SUMMARIES

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ALABAMA

Statute: Ala. Code Ann. tit. 41 §41-20-1 et seq.
Year of enactment: 1976 (amended in 1979 and 1981)
Scope of the law: regulatory and selected other agencies
Length of cycle: 4 years
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Legislative Auditor General

Background

The Alabama Sunset law established an eleven-member select joint committee charged with implementing the procedures of Sunset review. The legislative committee is required to hold public hearings and file a report with data in support of its recommendations with respect to each agency. The Sunset committee has the authority to review any specified or unspecified agency (a schedule of specified agencies is established through 1986). A 1979 amendment (No. 79-542) authorized the joint committee to recommend modification of agencies, in addition to termination or continuance. A 1981 amendment (No. 81-51) created certain new procedures and abolished a requirement that newly created agencies should terminate in four years.

In the initial round of reviews, there were different opinions in the House and Senate over when the Legislature should vote on agencies not specified in the law. The Attorney General ruled that unspecified agencies had to be reviewed in 1978. At that time, over 200 unspecified agencies were reviewed.

Review Process

Legislative review of specified agencies is to begin in the year prior to the scheduled regular session in which agencies are terminated. The committee is required to submit its report and accompanying legislation to the offices of the speaker and the president for distribution to the Governor and legislators on or before the first day of the legislative session.

Latest Sunset Review

In 1981, 17 agencies were reviewed. The Legislature recreated six agencies without modification, modified eight agencies and terminated three. All of the recommendations of the Joint Sunset Committee were accepted, with one exception. This involved recreation of the Board of Social Work Examiners. The Sunset Committee had recommended termination.

For further information, contact: Ronald L. Jones, Dir. of Operational Audits, Dept. of Examiners of Public Accts., Montgomery, Alabama 36130. (205 832-6625).

ALASKA

Statute: Alaska Stat. Ann. §08.03.010 et seq; §44.66 et seq.
Year of enactment: 1977
Scope of the law: regulatory and selected other agencies
Length of cycle: 4 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: Legislative Auditor General and agency under review

Background

The Alaska Sunset law established a termination schedule of regulatory agencies, boards, and commissions. In addition, other programs and agencies are selected for review by the Legislative Budget and Audit Committee, a permanent, interim committee of the Legislature. Performance audits are prepared on all agencies under review.

Review Process

A committee of reference in each house is required to hold one or more public hearings to receive testimony from the public, the commissioner of the reviewed agency and its board members. A final report is due no later than the 60th day of the legislative session.

Latest Sunset Review

Three agencies were reviewed in 1981. All were recreated, but there were procedural or legislative changes dealing with general organization or specific duties.

For further information, contact: Merle R. Jenson, Division of Legislative Audit, Pouch W, Juneau, Alaska 99801. (907) 465-3831.

ARIZONA

Statute: Ariz. Rev. Stat. §41-2351 et seq.
Year of enactment: 1978 (amended in 1980 and 1981)
Scope of the law: comprehensive review
Length of cycle: 10 years
Committee with jurisdiction: Joint Legislative Oversight Commission
Performance evaluation reports prepared by: Legislative Auditor General

Background

The Legislative Review of Agencies statute provided a termination schedule from 1980 to 1997. The Joint Legislative Oversight Commission, consisting of twelve members, assigns agencies to the respective committees of reference according to their subject matter. A 1980 amendment (Chap. 232) placed the responsibility for drafting implementing legislation with the committee of reference. A 1981 amendment (Chap. 225) extended the review cycle from six to ten years.

Review Process

The Joint Legislative Oversight Committee is required to initiate the Sunset review not less than 17 months prior to the termination date for each agency. A preliminary Sunset report is to be submitted to the Governor, to each member of the Sunset Committee, to the committee of reference and to the affected agency by October of the year prior to the scheduled termination date of the agency.

Latest Sunset Review

Fourteen agencies were scheduled for termination in 1980; of these three were terminated and four were extended pending further review. Seven agencies were recreated. One of the agencies which was terminated was re-established by the Governor.

For further information, contact: Gerald A. Silva,
Legislative Services Wing, Suite 200, State Capitol,
Phoenix, Arizona 85007. (602) 255-4385.

ARKANSAS

Statute: Ark. Stat. Ann. §5-1201-1212
Year of enactment: 1977
Scope of the law: comprehensive review
Length of cycle: one sun-year cycle
Committee with jurisdiction: joint legislative committee.
Performance evaluation reports prepared by: Legislative Auditor General

Background

In February of 1977, Arkansas became the fifth state to enact a Sunset law (Act 100 of 1977). The law established a termination schedule of all state agencies from 1979 to 1983. The law provided for only one termination cycle and did not limit the period of time for which an agency may be recreated. Act 392 of 1977 established a Joint Performance Review Committee to be responsible for monitoring the operation of the Sunset law and for other evaluation functions. Act 12 of 1977 relieved the Division of Legislative Audit of the responsibility for preparing performance audits of all agencies under review. Instead, only those audits specifically requested by the joint interim committees are conducted.

In 1981, a bill to repeal the Arkansas law was introduced (H.B. 260). However, the bill failed to pass due to a technical clerical error.

Review Process

The Division of Legislative Audit is required to prepare performance audits three months prior to termination based on criteria established in the law. Audits are completed for less than ten percent of all agencies. The appropriate joint interim committees are required to report by September 1st of the year preceding termination.

Latest Sunset Review

In 1981, 89 agencies were reviewed; 81 were recreated without change, and eight were terminated.

For further information, contact: Fred Van Driesum, Research Department, 315 State Capitol, Little Rock, Arkansas 72201. (501) 371-1937.

COLORADO

Statute: SB 317 of 1981
Year of enactment: (1976, amended in 1977, 1978, and 1981)
Scope of the law: regulatory and selected other agencies
Length of cycle: 10 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: Department of Regulatory Agencies

Background

In 1976, Colorado enacted the nation's first Sunset law (H.B. 1088 of 1976). In 1977, the law was modified slightly (S.B. 6 of 1977) so that all licenses would expire at the end of the wind-up period if an agency is terminated. Another modification required performance audits to be completed by the State Auditor six months, instead of three months, prior to termination. The law was further modified in 1978 (S.B. 34 of 1978) to require that the performance audits be completed one year prior to termination.

In 1981, legislation was introduced to repeal the Sunset law (S.B. 275 of 1981); however, the bill was rejected by a 20-11 Senate vote. S.B. 317 of 1981 was subsequently adopted, providing major changes to the law. The period for which an agency scheduled for termination may be continued was extended from six to ten years. The Department of Regulatory Agencies is to conduct analysis and evaluation of performance of each agency scheduled for termination. After July 1, 1984, the Department of Administration will perform the analysis.

Review Process

Performance evaluations are conducted on all agencies subject to Sunset review. A report of findings is required one year prior to an agency's termination date. Preliminary planning sessions and public hearings are held during the interim. Public hearings are held on all agencies under review.

Latest Sunset Review

The Colorado Legislature reviewed 13 agencies in 1980, including the Public Utilities Commission and the Division of Insurance as well as 11 smaller agencies--largely business, professional and trades licensing boards. Of the 13 agencies, three were terminated, two boards were consolidated, and four were continued for only one year, pending additional study. The four remaining agencies were all modified.

For further information, contact: Robert E. Smith, Deputy State Auditor, 1365 Logan, Suite 300, Denver, Colorado 80203. (303) 866-2051.

CONNECTICUT

Statute: Conn. Gen. Stat. Ann. §2C-1 et seq.
Year of enactment: 1977
Scope of the law: regulatory and selected other agencies
Length of cycle: 5 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: Legislative
Program Review and Investigations Committee staff

Background

The Sunset law provides for the termination of about 100 regulatory agencies and licensing boards from 1980 to 1984. The Legislative Program Review and Investigations Committee is required to prepare performance audits of those agencies up for review.

Review Process

The Legislative Program Review and Investigations Committee works throughout the year on Sunset. Data collection and public hearings are conducted in the interim. Review generally begins 18 months prior to an agency's termination date. A report of findings is due six months prior to the termination date.

Latest Sunset Review

In 1980, the Legislature reviewed 12 agencies -- three licensing boards, five advisory boards, three policy-setting entities and one state program for the regulation of bedding, upholstery, furniture and second hand hats. The committee recommended terminating four entities but the Legislature decided to terminate three; the Sanitarian Board, the Subsurface Sewage Disposal System Examiners Board, and the Regulation of Bedding, Upholstered Furniture and Second Hand Hats. The Legislature upheld the Committee's decisions to consolidate the Alcohol and Drug Councils and change one entity from mandatory to optional status. The Veterans Home and Hospital Commission was continued with major procedural changes and the Commission on Hospitals and Health care was continued with substantial changes in its composition, procedures and authority. The Commission on Medicolegal Investigations was continued intact and the remaining entities were continued with minor modifications.

For further information, contact: Michael L. Nauer, Director, L.P.R.I. Committee, 18 Trinity St., Hartford, Connecticut 06115. (203) 566-8480.

DELAWARE

Statute: Del. Code Ann. tit. 29, §10201 et seq.
Year of enactment: 1980
Scope of the law: regulatory and selected other agencies
Length of cycle: 4 years
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Sunset
Committee

Background

The Delaware Sunset Act established a ten-member joint committee. Personnel of the Legislative Council and the Office of Comptroller General serve as staff of the committee. The committee is required to review approximately 36 agencies from 1981 to 1984.

Review Process

Six months before an agency is scheduled for July termination, the committee is required to conduct performance evaluations and prepare preliminary reports. Between February 1 and March 7, the committee is to hold public hearings. A final report is due on April 15.

Latest Sunset Review

In 1981, the Sunset committee reviewed 11 agencies. Final legislative action resulted in the termination of three agencies. In addition, the General Assembly consolidated a number of boards and transferred functions of certain boards to new boards.

For further information, contact: Harris B. McDowell, III, Chairman, Delaware Sunset Committee, Legislative Hall, Dover, Delaware 19901. (302) 571-3724.

FLORIDA

Statute: Fla. Stat. Ann. §11.61 et seq.
Year of enactment: 1976 (amended in 1977 and 1981)
Scope of the law: regulatory agencies
Length of cycle: 10 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: committee staff and agency

Background

Florida's original Sunset law (Chapter 76-168 of 1978) provided for the termination of 94 regulatory laws from 1978 to 1982. No law was to be recreated for more than six years. A 1977 amendment (Chapter 77-457 of 1977) modified the Sunset schedule and required legislative committee review to begin two years, instead of one year, prior to termination.

In 1981, a number of major changes were made to the law (S.B. 239). The provision for implementation by a joint legislative committee was dropped; standing committees were required to begin reviews 15 months, instead of two years, prior to termination; the review cycle was extended from six to ten years; the wind-up period was reduced from one year to 30 days for government entities responsible for carrying out terminated functions or programs; and other procedural matters were modified.

Review Process

In the House, reviews are conducted by the standing Regulatory Reform Committee, although certain reviews are conducted by substantive committees. In the Senate, reviews are done by substantive committees. Legislative committees use the interim for holding planning sessions, collecting data, holding public hearings and preparing action recommendations.

Latest Sunset Review

In the 1980 Sunset review cycle, 25 agencies were reviewed, including the statute governing motor carriers and freight forwarders. Both the House and Senate conducted extensive reviews of the provisions of this statute. The Legislature ultimately allowed the statute to be repealed and effectively de-regulated intrastate trucking and bus transportation. Of the other 24 statutes reviewed in 1980, five were terminated, ten were modified, and nine were recreated as is.

For further information, contact John Hankinson, Committee on Regulatory Reform, Room 220, House Office Building, State Capitol, Tallahassee, Florida 32304. (904) 488-0996.

Georgia

Statute: Ga. Code Ann. §84-101b et seq.
Year of enactment: 1977
Scope of the law: regulatory agencies
Length of cycle: 6 years
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Legislative Auditor General

Background

In 1977, Georgia became the sixth state to enact a Sunset law (Act 613 of 1977). The law provided for the termination of 44 regulatory agencies and their statutes from 1978 to 1982 (nine in 1978; 17 in 1980; and 18 in 1982). The State Auditor (who is elected by the Legislature) is required to prepare a performance audit on each agency. The appropriate standing committees are required to hold public hearings and report their recommendations to the Legislature. If terminated, the agencies continue in existence for one year to wind up their affairs, but the statutes relative to the agencies are terminated.

Review Process

According to the Sunset statute, a performance audit must be completed nine months prior to an agency termination date. Planning sessions and public hearings are held during the interim. Agencies are not generally involved in preliminary planning.

Latest Sunset Review

In 1981, the Legislature voted on the 17 scheduled agencies and four other agencies carried over from the 1978 schedule. Of the 21 agencies, 13 were recreated without major change, three were consolidated, and five were terminated. Of the five terminations, one was vetoed by the Governor and one was overruled in Court.

For further information, contact: Charles D. Lunsford, Director, Performance Audits, Georgia State Auditor's Office, 115 State Capitol, Atlanta, Georgia 30334. (404) 491-3690.

HAWAII

Statute: Hawaii Rev. Stat. §26-H
Year of enactment: 1977 (amended in 1979 and 1981)
Scope of the law: regulatory agencies
Length of cycle: 10 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: Legislative Auditor General

Background

The original law (S.B.460) called for the termination of the statutes of 39 boards and commissions. A 1979 amendment (Act 121) assigned Sunset evaluations to the Legislative Auditor. This provision replaced a previous one which required agencies under review to provide an impact statement evaluating the agency's compliance with policies stated in the law.

In 1981, additional changes were made to the law (Act 87). The 1981 legislation has the effect of postponing all Sunset reports for one year so that the Legislature has an opportunity to prepare an evaluation of the Department of Regulatory Agencies. Other procedural matters were addressed in the bill.

Review Process

The Legislature reviewed each board or commission in the year the board or commission was scheduled to be terminated. Performance evaluations and public hearings are conducted for all boards and commissions under review.

Latest Sunset Review

A total of eight boards or commissions were reviewed in 1981. None of these bodies were terminated. Seven boards were modified. Only one board, relating to Hearing Aid Dealers and Fitters, was recreated without change.

For further information, contact: Wilbert Sakamoto, Assistant Legislative Auditor, 465 South King Street, Honolulu, Hawaii 96813. (808) 548-2450.

ILLINOIS

Statute: Ill. Ann. Stat. ch. 127, §1091 et seq.
Year of enactment: 1979
Scope of the law: regulatory agencies
Length of cycle: 10 years
Committee with jurisdiction: Select Joint Committee on
Regulatory Agency Reform
Performance evaluation reports prepared by: Sunset Com-
mittee, agency under review, and executive branch

Background

The Illinois Regulatory Agency Sunset Act calls for the termination of 35 regulatory boards and commissions from 1981 to 1989 and establishes a 13-member Select joint committee on Regulatory Agency Reform. The Committee consists of six legislators, five public members, the Director of the Bureau of the Budget, and the Chairman of the Economic and Fiscal Commission. Five full-time staff members are assigned to the Committee.

Review Process

In practice, the Sunset Committee begins review 27 months prior to repeal of an agency. This review includes public hearings for all agencies subject to review under Sunset. Reports of Committee recommendations are generally completed seven and one-half months in advance of termination of an agency. The Governor is required to provide recommendations on agencies under review.

Latest Sunset Review

The Sunset Committee studied seven licensing laws scheduled to be repealed in 1981; termination was recommended for five, modification for one and recreation for one. Of the five statutes recommended for repeal by the Committee, two were actually allowed to terminate -- the Sanitarian Registration Act and the Act for the regulation of the business of horseshoeing. Three others were extended with modifications for another ten years. The statute governing water well and pump installation contractors was continued without change.

For further information, contact: Gregory K. Busch,
Executive Director, Illinois Sunset Committee, 524 South
Second Street, Springfield, Illinois 62706. (217)
785-8649.

INDIANA

Statute: Ind. Code Ann. Chap. §4-26-3-1 et seq.
Year of enactment: 1978
Scope of the law: comprehensive review
Length of cycle: not specified
Committee with jurisdiction: Legislative Council
Performance evaluation reports prepared by: Legislative Service Bureau

Background

Two Sunset laws were passed in Indiana in 1977. One law (H.B. 2181) terminated about 20 advisory commissions in December 1978 and created a joint committee to set up a Sunset schedule for other state agencies.

A second law (H.B. 1763) terminated agencies created by executive order when a Governor leaves office, terminated agencies created by concurrent resolution when a General Assembly winds up every two years, and terminated all new agencies after ten years unless otherwise stated in the enacting legislation.

In 1978, Indiana enacted a comprehensive Sunset law (S. Enr. Act No. 43 of 1978) providing for the termination of over 350 agencies from 1980 to 1987. The Legislative Council is required to prepare reviews of each agency. The Governor is also to submit recommendations. The appropriate standing committees are required to hold public hearings and report their recommendations to the Legislature. Through an executive order, the Governor may provide a terminated agency with one year to wind up its affairs.

Review Process

The Legislative Council establishes a plan for review 30 months in advance of an agency termination date. A final report is due 18 months prior to agency termination. The interim is used to hold public hearings and to prepare legislative recommendations in draft legislation.

Latest Sunset Review

1981 reviews are in progress; however in 1980 thirty-two agencies were reviewed. All boards were re-created, but their staffs in some cases were structurally modified.

For further information, contact: Steve Grimes,
Director OFMA, 302 State House, Indianapolis, Indiana 46204.
(317) 269-3746.

KANSAS

Statute: Kan. Stat. Ann. §74-7201 et seq.
Year of enactment: 1978 (revised and re-enacted by 1981)
Senate Bill No. 107)
Scope of the law: regulatory and selected other agencies
Length of cycle: 8 years
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Legislative Auditor General

Background

The 1978 Kansas Sunset law (H.B. 2976) provided for the termination of 35 agencies, mostly regulatory, from 1979 to 1984. In 1981, the statute was amended (SB 107). Under the new law, performance evaluations are no longer mandatory for all agencies subject to termination under Sunset, as required by the original law. Instead, the Legislative Post Audit Committee has the responsibility to decide whether or not an audit will be conducted. The deadline for completing performance audits was repealed. The 1981 amendment also extended the review cycle from six to eight years and broadened the scope of the law beyond regulatory agencies to cover all major executive agencies, except the Department of Education, the Board of Regents and the Board of Agriculture.

Review Process

The Legislative Post Audit Committee receives and discusses audit reports in October, November, and December, prior to the legislative session in January. Public hearings are held on all agencies being reviewed in the Sunset review process.

Latest Sunset Review

Final legislative action for 1981 resulted in recreation of seven boards slated for termination. The joint legislative committee recommended consolidating the Board of Barber Examiners and the Kansas Board of Cosmetology, but the Legislature continued the two boards separately.

For further information, contact: Ronald J. Green, Legislative Division of Post Audit, Mills Building, Suite 301, Topeka, Kansas 66612. (913) 296-3792.

LOUISIANA

Statute: La. Rev. Stat. Ann. §49:190 et seq.
Year of enactment: 1976 (amended in 1978 and 1979)
Scope of the law: comprehensive review
Length of cycle: 9 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: committee staff

Background

Although Louisiana conducted Sunset reviews in 1978, significant reviews did not occur until 1981 -- after 1979 Sunset law revisions that were designed to focus on evaluation of specific programs, rather than perfunctory reviews of entire departments.

The Sunset law was significantly amended in 1979 (Acts 1979, No.512). The revisions extended the reviewing cycle from four to nine years. Other changes required notification of termination to the designated agency, followed within 20 days by a request for a zero-based budget review. Agencies are required to submit their reports to the standing committee within 60 days thereafter, and the Legislature is required to review the agency one year prior to termination.

Review Process

Legislative committees generally hold preliminary planning sessions, collect data for evaluation reports and hold public hearings in the interim between legislative sessions. Public hearings are held on all agencies. Agencies do not participate in the preliminary review, other than by submission of their zero-based budget reviews.

Latest Sunset Review

In 1981, 12 agencies were reviewed (derived by counting a separate board within a department as an agency). The Legislature recreated all 12 agencies, without significant changes.

For further information, contact: E. Anne Dunn, Coordinator, Governmental Affairs Div., House Leg. Services or Joseph Kyle, Coordinator, Fiscal Affairs Division, P.O. Drawer 44486, Baton Rouge, La. 70804-4486. (504) 342-2399.

MAINE

Statute: 3 Maine Rev. Stat. Ann. ch.23 §501 et seq.
Year of enactment: 1977 (amended in 1978, 1979, and 1981)
Scope of the law: comprehensive review
Length of cycle: 10 years
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Committee staff

Background

In 1977 Maine became the 23rd state to enact a Sunset law. The law provided for the termination of over 60 agencies from 1980 to 1988, and set up a zero-based budgeting review schedule for executive departments. Chap. 683 of 1977 amended the law by adding over 20 additional boards and commissions to the termination schedule. The additional amendments in 1979 and 1981 did not make significant procedural changes.

Review Process

For each department and agency which has submitted a justification report, the Joint Standing Committee on Audit and Program Review evaluates the analysis in the report, conducts its own analysis, and submits to the Legislature its analyses together with its recommendations and any required implementing legislation. Public hearings are held on all agencies under review.

Latest Sunset Review

In 1980 the Legislature reviewed 12 agencies. Seven were recreated without change, while five were re-established and modified. This action followed the Joint Committee's recommendations. In 1981 three agencies were reviewed, and all three were re-established and modified. The Joint Committee's recommendation of termination for one of these agencies was not adopted (Penabsco Bay and River Pilotage Commission).

The bulk of the Joint Committee's review efforts focused on departments which do not terminate automatically -- including 55 programs in 1980 and 75 programs in 1981.

For further information, contact: Barbara Gottschalk, Program Analyst, Legislative Finance Office, State House, Station 5, Augusta, Maine 04011. (207) 289-2491.

MARYLAND

Statute: Md. Ann. Code art. 41, §484 et seq.
Year of enactment: 1978 (amended in 1980)
Scope of the law: regulatory agencies
Length of cycle: 6 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: Legislative Service Bureau

Background

In 1978 Maryland became the 27th state to enact Sunset legislation (Chap. 808 of 1978). The Regulatory Programs Evaluation Act, as amended in 1980 (Chap. 481), provides for the evaluation and termination of over 60 regulatory agencies between 1980 and 1984.

Review Process

Under the amended act, one year before a board is scheduled for its July 1 termination, a designated legislative evaluation committee is required to prepare an evaluation plan after consultation with the board, the Dept. of Budget and Fiscal Planning and the Dept. of Fiscal Services. Before November 1, the Dept. of Fiscal Services is to prepare an evaluation report based on the plan, and submit it to the General Assembly. Before December 15, the legislative evaluation committee must hold a public hearing regarding the evaluation report. By the 20th day of the General Assembly session in the evaluation year, the committee must submit to the Assembly recommendations with appropriate legislation to re-establish, reconstitute with changes, repeal, or allow to terminate the boards under evaluation.

Latest Sunset Review

The General Assembly reviewed 14 boards or agencies in 1981, of which four were recreated, seven were re-established and modified, two were consolidated, and one was terminated. Legislation to repeal the Maryland Sunset law was introduced in 1981; however, the repeal bill was unsuccessful.

For further information, contact: Warren G. Deschenaux, Sunset Coordinator, Dept. of Fiscal Services, 90 State Circle, Annapolis, Md. 21401. (301) 841-3736.

MISSISSIPPI

Statute: Miss. Code Ann. §5-9-1 et seq.

Year of enactment: 1979

Scope of the law: regulatory and selected other agencies

Length of cycle: 8 years

Committee with jurisdiction: standing committee

Performance evaluation reports prepared by: Committee on Performance Evaluation and Expenditure Review, and/or agency under review

Background

In 1978, the Legislature passed a Sunset bill (S.B. 2310). The statute gives responsibility for conducting Sunset reviews and holding public hearings to standing committees of the Legislature. The committees may request that the joint legislative committee on Performance evaluation and Expenditure Review (PEER) gather information on agencies or prepare program evaluations.

Review Process

Performance evaluations are conducted on request by reviewing committees, and such requests are usually made. A reviewing committee is required to submit its report and recommendations to the Legislature and Governor by Nov. 15, before the ensuing regular legislative session. Preliminary planning sessions and public hearings are held during the interim. Public hearings are held on most agencies under review.

Latest Sunset Review

In 1981 only one agency survived for Sunset review out of 16 scheduled to terminate that year. This resulted from a series of mergers, executive orders and discoveries of inactive agencies. The one remaining agency was reviewed and re-established with modifications.

For further information, contact: Samuel H. Dawkins, Associate Analyst, PEER Committee P.O. Box 1204, Jackson, Mississippi 39205 (601) 354-6555.

MONTANA

Statute: Mont. Rev. Codes Ann. §2-8-101 et seq.
Year of enactment: 1977
Scope of the law: regulatory agencies
Length of cycle: 6 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: Legislative Auditor

Background

The legislative audit committee is responsible for conducting a review of each agency scheduled for termination. Reviews include a performance audit of the agency and an examination of criteria stated in the law. Prior to the termination of an agency, the appropriate standing committee in each house or a joint committee of both houses is required to hold a public hearing. Upon completion of its review, the legislative audit committee must submit a report of its recommendations for continuation, modification or termination of the agency and submit a proposed bill for the upcoming legislative session.

Review Process

Sunset reviews must be completed at least six months prior to the July 1 agency termination date. There is a one year wind-up period for agencies terminated under Sunset.

Latest Sunset Review

The Legislature reviewed 22 agencies in 1981, three being recreated without change, 16 re-established with modifications and three terminated.

For further information, contact: Scott A. Seacat, Principal Audit Manager, Room 135, State Capitol, Helena, Montana 59620. (406) 449-3122.

NEBRASKA

Statute: Neb. Rev. Stat. Ann. § 81-192 et seq.
Year of enactment: 1977 (amended in 1979 and 1980)
Scope of the law: regulatory and selected other agencies
Length of cycle: 6 years
Committee with jurisdiction: Performance Review and Audit Committee
Performance evaluation reports prepared by: committee staff

Background

Nebraska has conducted Sunset reviews every year since 1977. Under the Sunset law, as amended in 1979 (LB 195) and 1980 (LB 886), performance reviews are to be conducted by the Performance Review and Audit Committee for each agency scheduled for termination.

Review Process

Performance reviews are to be completed by October 1 in the year prior to the termination date. Within 45 days of completion of the performance review, the Committee is required to hold a public hearing to receive testimony from the public and the agency involved regarding the performance review report. The Committee is then required to report to the Legislature regarding its recommendations to reenact, reenact with changes, or allow to terminate the agencies under consideration, and to submit proposed implementing legislation.

Latest Sunset Review

In 1980, five agencies were reviewed. Of these agencies, one was re-established with modifications and one was terminated. With respect to the remaining three agencies, and with respect to five agencies reviewed in 1981, Committee recommendations are pending before the Legislature, for action in the 1982 session.

For further information, contact: Dale B. Johnson, Legislative Fiscal Analyst, P.O. Box 94727, State Capitol Bldg., Lincoln, Nebraska 68509. (402) 471-2263.

NEVADA

Statute: Nev. Rev. Stat. Ann. Ch. 232B.
Year of enactment: 1979 (amended in 1981)
Scope of the law: regulatory and selected other agencies
Length of cycle: (pilot project)
Committee with jurisdiction: legislative commission
Performance evaluation reports prepared by: Legislative
Counsel Bureau

Background

The 1979 law, as amended, set up a one-cycle pilot project, with a July 1, 1981 termination date for three agencies. Responsibility to conduct reviews of these agencies was placed in the legislative commission, which appointed a Sunset review subcommittee for this purpose. The commission was required to begin its reviews on July 1 of the second year preceding the scheduled date of termination. In this connection it was authorized to require performance evaluation reports from the Legislative Counsel Bureau. The commission was directed to conduct public hearings before submitting its recommendations to standing committees of the Legislature. Under 1981 amendments (SB 171) the review criteria to be applied by the commission were expanded somewhat, but no other significant procedural changes were made.

Review Process

The Sunset review was completed during the interim between legislative sessions. This included the holding of preliminary planning sessions, collection of data for evaluation reports and the holding of public hearings. Public hearings were held on all three agencies under review.

Latest Sunset Review

The three designated agencies were reviewed in 1980. The 1981 Legislature recreated all three agencies, with substantial procedural changes as recommended by the Sunset review subcommittee. However, the subcommittee's recommendation to add a public member to the Real Estate Commission was not adopted. The 1981 Legislature did not designate any additional agencies for termination and review. Accordingly, no further review will occur until additional designations are made at some future legislative session.

For further information, contact: Dan Miles, Room 341, Legislative Building, Carson City, Nevada 89710. (702) 885-5640.

NEW HAMPSHIRE

Statute: N.H. Rev. Stat. Ann. §17-G
Year of enactment: 1977 (amended in 1979)
Scope of the law: comprehensive review
Length of cycle: 6 years (with some exceptions)
Committee with jurisdiction: Sunset Committee
Performance evaluation reports prepared by: committee staff

Background

The New Hampshire Sunset Act, enacted in 1977 and amended in 1979 (Chap. 307), was implemented for the first time in the 1981 legislative session. The Sunset Committee (a joint legislative committee) established a schedule terminating all state agencies and programs by 1985. Approximately one-third of the state agencies are considered every two years.

Review Process

By the third legislative day of each regular legislative session, the Sunset Committee is required to submit to the relevant committees of the House and Senate a report for each program appropriation unit scheduled for review during that year. On receipt of this report, the appropriate standing committee of the House is required to hold public hearings. Not later than 14 days thereafter, the standing committee must report its recommendations to the House. After the House action is completed, similar action is to be taken in the Senate.

Latest Sunset Review

In 1981, 115 agencies were reviewed, of which 50 were recreated as is, 50 were re-established with modifications and 15 were terminated.

For further information, contact: Jim Kent, Sunset Committee. Room 114, State House, Concord, New Hampshire 03301 (603) 271-2281.

NEW MEXICO

Statute: N.M. Stat. Ann. §12-9-9 et seq.
Year of enactment: 1977 (amended in 1981)
Scope of the law: regulatory agencies
Length of cycle: for periods set by Legislature
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: agency

Background

In 1977 New Mexico became the ninth state to enact a Sunset law. Under the act, as amended (Laws 1981, chap. 241) a termination schedule is set through 1989. Prior to termination of any agency, the legislative finance committee is required to hold a public hearing and make a recommendation to the next session of the Legislature for the termination or continuance of the agency.

Review Process

Performance evaluations are conducted for all agencies subject to Sunset review. Reports and recommendations must be submitted one year in advance of agency termination dates. Public hearings are held on all agencies under review.

Latest Sunset Review

In 1980 all 16 agencies scheduled to Sunset on July 1 were reviewed and all were renewed in one form or another. The 1980 review covered substantive agencies such as the Department of Insurance.

For further information, contact: Jessica Schar, Room 231, Executive-Legislative Building, Santa Fe, New Mexico 87503. (505) 827-5661.

North Carolina

Statute: Session Laws 1981, chap. 932(art.1.2), repealed original Sunset law (N.C. Gen. Stat. Ann. §143-34.10 et seq.)

Year of enactment: Original Sunset law-1977

Scope of the law: regulatory and selected other agencies

Length of cycle: no provision

Committee with jurisdiction: Committee on Agency Review

Performance evaluation reports prepared by: Legislative Services Office

Background

The original Sunset law (Chap. 712) provided for the termination of 105 statutes relating to licensing boards and regulatory functions from 1979 to 1983. A 10-member independent commission, the Governmental Evaluation Commission, was established to conduct the reviews and to make recommendations to the appropriate standing committees of the Legislature. The act provided automatic termination dates.

The Sunset law was repealed in 1981. The new law creates a new and limited Sunset system on a temporary basis, expiring June 30, 1983, to be operated by a Committee on Agency Review composed of five Representatives and 25 Senators. The Committee is directed to review and evaluate programs and functions authorized under a long list of laws, by departments, and to develop legislative recommendations concerning such programs and functions.

Review Process

The listed departments and the Legislative Services Office were each directed by Jan. 1, 1982 to submit to the Committee their recommendations for retention or termination of the listed programs. The Committee was then required to prepare tentative recommendations, to make them available to the departments by July 1, 1982, and to hold public hearings thereon. Upon completion of hearings the Committee was required to submit a report to the General Assembly, together with any recommended legislation. This act does not include automatic termination provisions.

Latest Sunset Review

Under the old Sunset law, now repealed, 20 programs were reviewed in 1981, of which one was recreated as is, and 19 were re-established with modifications.

For further information, contact: Milton Heath, Assistant Director, Institute of Government, University of North Carolina, Chapel Hill, North Carolina.

OKLAHOMA

Statute: Okla. Stat. Ann. tit. 74, §3901 et seq.
Year of enactment: 1977
Scope of the law: regulatory and selected other agencies
Length of cycle: 6 years, except that the cycle for agencies created by executive order is 4 years
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: agency

Background

In 1977 Oklahoma became the 7th state to enact a Sunset law (S.B. 138). Appropriate standing committees from each house, meeting jointly during the legislative session, or interim committees of the Legislative Council (called review committees) are charged with reviewing and evaluating statutory entities assigned to these committees, to determine if terminated entities should be recreated. The agencies under review are required to provide the review committee with information specified in the law, including a zero-based operating budget review. All committee hearings are required to be open to the public.

Review Process

Review of an agency is to begin before July 1 of the calendar year prior to its termination date, and must conclude with a recommendation prior to the following legislative session.

Latest Sunset Review

In 1980, the Legislature reviewed 15 agencies, of which seven were recreated as is, and eight were re-established with modifications. In 1981, 20 agencies were reviewed, but as of late January, 1982, legislative action on these agencies had not yet been completed.

For further information, contact: Douglas J. Enevoldsen, Coordinator of House Sunset Review, House Fiscal Division, Oklahoma House of Representatives, State Capitol Building, Oklahoma City, Okla. 73105, (405) 521-2201.

OREGON

Statute: Ore. Rev. Stat. §102.605 et seq.
Year of enactment: 1977 (amended in 1979)
Scope of the law: regulatory and selected other agencies
Length of cycle: 8 years
Committee with jurisdiction: joint legislative committee
(interim committee)
Performance evaluation reports prepared by: Legislative
Service Bureau

Background

Oregon enacted its Sunset law in 1977. Under this law review of listed agencies is conducted by an appropriate legislative interim committee, designated by the President of the Senate and Speaker of the House. Agencies being reviewed are required to provide specified information on their activities to the interim committees, which are required to hold public hearings before submitting their recommendations to the Legislature.

Review Process

Legislative interim committees must submit their recommendations to the Legislature no later than 18 months before the repeal date of the agency.

Latest Sunset Review

In 1981, 13 agencies were reviewed. The Legislature continued nine boards and commissions with modifications. In addition, the debt consolidation agency law was continued without change, but with a termination date of Feb. 1, 1983. Licensing of guides was terminated. The Credit Agencies Board was terminated, but a new law required registration with the Department of Commerce. The State Board of Plumber Examiners was terminated, but its duties and functions were transferred to a newly created board, with changes in the law relating to plumber licensing and standards.

For further information, contact: Allan Green,
Director, Legislative Research, S-420 State Capitol, Salem,
Oregon 97310. (503) 378-8871.

PENNSYLVANIA

Statute: Act 142
Year of enactment: 1981
Scope of the law: regulatory and selected other agencies
Length of cycle: 6 years
Committee with jurisdiction: Legislative Leadership
Committee
Performance evaluation reports prepared by: Legislative
Budget and Finance Committee

Background

Pennsylvania is the most recent state to pass a Sunset law. The law establishes a termination schedule for about 76 agencies from 1983 to 1987. The agencies are largely regulatory in nature. A joint legislative committee is responsible for directing and coordinating the implementation of the Sunset review procedure and assigning the responsibility for the review and evaluation to appropriate House and Senate standing committees. The law also requires a termination schedule for newly created agencies.

Review Process

The designated standing committees receive performance evaluations from the Legislative Budget and Finance Committee. They are required to hold public hearings for each agency under review. Standing committees are required to submit their final report and recommendations on each reviewed agency to the General Assembly on or before the first session day of September of the year of termination.

Latest Sunset Review

No review conducted to date.

For further information, contact: Kenneth W. Fody, 281
Main Capitol, Harrisburg, Pennsylvania 17120 (717) 787-6787.

Rhode Island

Statute: R.I. Gen. Laws Ann. §22-14-1 et seq.
Year of enactment: 1977 (amended in 1978, 1979, and 1981)
Scope of the law: comprehensive review
Length of cycle: 5 years
Committee with jurisdiction: Legislative Oversight Commission
Performance evaluation reports prepared by: Legislative Auditor General

Background

In 1977, the General Assembly provided the Legislative Oversight Commission with responsibility for reviewing and making recommendations on 30 boards and commissions in the Executive Department. In 1978 (Chapter 387) the Sunset statute was amended, providing for the termination of additional boards and commissions. In 1979 (Chap. 349) the General Assembly further amended the law by enlarging the membership of the commission to 14, authorizing the appointment of designees and providing payment to public members. To allow resources to be more easily focused on high-priority agencies, a 1981 Amendment (Chap. 391) repealed the schedule of terminations. Only those agencies where potential benefits are significant need be reviewed.

Review Process

Preliminary planning for a Sunset review is carried out nine months before the scheduled termination, with the final report due six months before that date. Public hearings are held on all agencies reviewed. The interim between sessions is used to hold preliminary planning sessions and to collect data for evaluation reports.

Latest Sunset Review

Of the 36 agencies scheduled for review in 1981, three were terminated. Fifteen agencies were continued. The remaining 18 agencies were rescheduled for review in 1982 because of insufficient time.

For further information contact: Mr. Thomas Marcello, Research Analyst, Office of the Auditor General, 87 Park St., Providence, Rhode Island 02895. (401) 277-2435.

SOUTH CAROLINA

Statute: S.C. Code Ann. §1-20-10 et seq.
Year of enactment: 1978
Scope of the law: regulatory agencies
Length of cycle: 6 years
Committee with jurisdiction: Reorganization Commission and standing committees
Performance evaluation reports prepared by: Legislative Audit Council

Background

The South Carolina Sunset law provides for the termination of 41 regulatory agencies from 1980 to 1985. The law established a 19-member State Reorganization Commission. The Legislative Audit Council, Reorganization Commission and appropriate standing committee chairmen are responsible for developing procedures for agency review. Performance evaluations are required for all agencies scheduled for termination.

Review Process

A review and evaluation of an agency scheduled for termination is required from the Legislative Audit Council 12 months before the agency termination date. Upon receipt of the review and evaluation, the Reorganization Commission is required to hold public hearings.

Latest Sunset Review

All of the six agencies reviewed in 1980-1981 were modified. In general, the modifications have taken the form of adding public members to boards or improving administrative practices.

For further information, contact: Les Boles, Principal Auditor, 620 Bankers Trust Tower, Columbia, South Carolina 29210. (803) 758-5322.

SOUTH DAKOTA

Statute: S.D. Codified Laws, Chap. 1-26B
Year of enactment: 1977 (amended in 1978)
Scope of the law: pilot project
Length of cycle: one review
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Legislative Service Bureau

Background

The Sunset law provided for the termination on July 1, 1978 of eight state agencies. The agencies were to provide information in a format established in the law. Since the bill was conceived as a pilot project it required only a one-time review. A special joint interim legislative committee was appointed to oversee this process and to report its recommendations to the Legislature. S.B. 48 of 1978 scheduled five licensing boards for review with termination in 1979.

Review Process

The legislative committee has generally met 15 months in advance of an agency termination date. The committee is required to hold public hearings. A final report is required six months prior to termination.

Latest Sunset Review

Under the 1978 statute, the Sunset committee was given five regulatory boards to review -- The Board of Barber Examiners, the Board of Examiners in Basic Sciences, the Board of Massage, the Board of Psychologists, and the Board of Sanitarian Registration. Two of these boards were re-established and three were terminated (but one was later reinstated). There have been no subsequent statutory enactments and accordingly no further reviews.

For further information, contact: Terry C. Anderson, Legislative Research Council, State Capitol, Pierre, South Dakota 57501. (605) 773-3251.

TENNESSEE

Statute: Tenn. Code Ann. §4-29-101 et seq.
Year of enactment: 1977 (amended in 1979 and 1980)
Scope of the law: comprehensive review
Length of cycle: 6 years
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Legislative Auditor General

Background

The 1977 Sunset statute established a joint evaluation committee composed of appropriate House and Senate subcommittees. The Division of State Audit under the comptroller is required to conduct limited program review audits on all agencies scheduled for termination. In 1979, the Tennessee law was amended to allow more than one entity to be named on a bill (Chap. 8, 1979, TCA 4-29-114). In 1980, the law was amended again to change the time period required for public notice of hearings from 30 days to quarterly and 10-day notices (Chap. 722, 1980, TCA 4-29-104).

Review Process

A plan and timetable for review are generally set by Sunset staff. There are no specific reporting dates for completing the limited program review audits. Public hearings -- required for all agencies scheduled for termination -- are held in the interim between legislative sessions.

Latest Sunset Review

Of the 14 agencies reviewed in 1980, five agencies were continued, six were continued with either administrative or legislative modifications, two were terminated, and one was rescheduled for consideration in 1982.

For further information, contact: W. Jeff Reynolds, Division of State Audit, Suite 1500, J.K. Polk Bldg., Nashville, Tennessee 37219. (615) 741-3697.

TEXAS

Statute: Tex. Rev. Civ. Stat. Ann. art. 5429k
Year of enactment: 1977 (amended in 1981)
Scope of the law: comprehensive review
Length of cycle: 12 years
Committee with jurisdiction: Sunset Advisory Commission
Performance evaluation reports prepared by: Sunset
Commission and agency under review

Background

The Texas Sunset law provides for the termination of all agencies except the courts and institutions of higher education. The Sunset Advisory Commission, composed of four members of the House, four members of the Senate, and two public members, is responsible for conducting reviews with the aid of staff from the Legislative Budget Board. Agencies scheduled for termination are required to prepare self-evaluations, utilizing statutory criteria.

Review Process

The Sunset Commission begins agency reviews approximately 20-24 months prior to termination. Agencies are required to prepare self-evaluation reports. Staff evaluation reports are then transmitted to the Sunset Commission. Public hearings are also required prior to legislative consideration of agencies scheduled for termination.

Latest Sunset Review

The Sunset Advisory Commission in 1981 reviewed 28 agencies. Twenty two of these agencies were continued with modifications, one was continued with functions transferred, three were abolished with functions transferred, and two were abolished.

For further information, contact: Karl Spock, Sunset Advisory Commission, P.O. Box 13066, Capitol Station, Austin, Texas 78711. (512) 475-1718.

UTAH

Statute: Utah Code Ann. §63-55-1 et seq.
Year of enactment: 1977 (amended in 1979 and 1981)
Scope of the law: regulatory agencies
Length of cycle: 6 years
Committee with jurisdiction: legislative study committee
Performance evaluation reports prepared by: Legislative Auditor General

Background

Under the Utah Sunset law, as amended, regulatory boards, divisions, offices and agencies listed therein (primarily occupational licensing agencies) are scheduled for termination on various specified dates, unless the Legislature reauthorizes their continued existence for another six years. The appropriate legislative study committees are required to begin reviews of the applicable laws one year before scheduled termination dates and to report their recommendations by January 1.

Review Process

Performance evaluations are conducted for all agencies subject to Sunset review. Preliminary planning sessions and public hearings are held during the interim. Public hearings are held for all agencies under review.

Latest Sunset Review

Thirty agencies were reviewed in 1981. Of these, seven agencies were recreated as is, 15 were continued with modifications, and eight were terminated.

For further information, contact: Mark Paterson, Research Analyst, Office of Legislative Research, 436 State Capitol, Salt Lake City, Utah 84114. (801) 533-5481.

VERMONT

Statute: Vt. Stat. Ann. tit. 26, §3101 et seq.
Year of enactment: 1977
Scope of the law: regulatory agencies
Length of cycle: 6 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: Legislative Council

Background

The Sunset law provides for the termination of 29 regulatory laws from 1961 to 1985. There is no requirement for public hearings.

Review Process

Under the Vermont Sunset law the Legislative Council is required to prepare preliminary reviews on the specified laws and agencies, at least 21 months before scheduled repeal. Written reports on each profession and occupation are to be filed with the Legislature at least two months before the first day of the next regular or adjourned legislative session, and must be transmitted to appropriate standing committees. Findings and recommendations must be sent to the House and Senate for final legislative action. Legislative action must be completed at least a year prior to an agency's termination date.

Latest Sunset Review

Five agencies were reviewed under the Sunset law in 1979, of which four were continued with modifications, and one was terminated. Six agencies were reviewed in 1980, and the recommendations on these agencies are awaiting legislative action in the current session, which expires in May, 1982.

For further information, contact: S. Michael Slater, Legislative Council, State House, Montpelier, Vermont 05602. (802) 828-2231.

WASHINGTON

Statute: Wash. Rev. Code Ann. Chap. 43.131
Year of enactment: 1977 (amended in 1979)
Scope of the law: comprehensive review
Length of cycle: 6 years
Committee with jurisdiction: standing committee
Performance evaluation reports prepared by: Legislative Budget Committee

Background

The 1977 Sunset statute provided for the termination of four programs in 1978 and five small commissions in 1979. A select joint committee was designated to recommend an expanded Sunset schedule of additional agencies, statutes, or programs for review. A minor amendment in 1979 changed the dates for completing program and fiscal reviews (Chap. 22).

Review Process

The Legislative Budget Committee is required to prepare a preliminary performance audit for each agency under review, on or before June 30th of the year prior to the termination date. The Governor's Office of Financial Management may prepare its own review or comment on the preliminary Legislative Budget Committee report. The Legislative Budget Committee then prepares a final combined report which is submitted to the appropriate standing committee which then holds public hearings and prepares recommendations for the Legislature.

Latest Sunset Review

The Washington Legislature in 1981 reviewed 22 agencies, of which three were recreated as is, six were continued with modifications, and 13 were terminated.

For further information contact: Mr. Fred Tilker, Principal Management Auditor, 506 East 16th St., Mail Stop KD-11, Olympia, Washington 98504. (206) 753-5796.

WEST VIRGINIA

Statute: W. Va. Code Ann. §4-10-1 et seq.
Year of enactment: 1979
Scope of the law: regulatory and selected other agencies
Length of cycle: 6 years
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Legislative Auditor General

Background

Under the West Virginia Sunset Law, the responsibility for Sunset is placed in a 15-member joint committee on government operations, composed of five members of the Senate, five members of the House, and five public members. The joint committee is required to conduct a performance and fiscal audit of every entity or program scheduled for termination. Its report, together with recommendations, is to be submitted to the Legislature within 10 days after the Legislature convenes in regular session in the year of the scheduled termination date.

Review Process

Performance evaluations are conducted for all agencies subject to Sunset review. Preliminary planning sessions and public hearings are held during the interim between legislative sessions. Public hearings are held on all agencies under review.

Latest Sunset Review

Six agencies were reviewed in 1981. The Legislature recreated two agencies as is and terminated four. The functions of two of the terminated agencies were transferred to other state agencies.

For further information, contact: Thedford L. Shanklin, Room 146 Main Unit, Capitol Bldg., Charleston, West Virginia 25305. (304) 348-2154.

WYOMING

Statute: Wyo. Stat. Ann., Ch.10, §28-10-101 et seq.
Year of enactment: 1979 (amended 1981)
Scope of the law: regulatory and selected other agencies
Length of cycle: subject to legislative discretion
Committee with jurisdiction: joint legislative committee
Performance evaluation reports prepared by: Legislative
Serv. Bureau

Background

Under the Wyoming Sunset law, as amended, a joint legislative committee of 11 members, representing both the House and Senate, is responsible for supervising a management audit of each agency scheduled for termination.

The original Sunset law provided that existing agencies might be continued for a period not to exceed six years. However, the 1981 amendment (Chap. 126, 1981 S.L.) deleted the six-year limitation, leaving the renewal period to legislative discretion.

Review Process

Audits must be completed at least six months prior to the date established for termination. Upon completion of the audit report and prior to the termination or re-establishment of any agency, the committee is required to hold at least one public hearing to review each report. If the committee recommends that an agency should be extended, it must introduce a bill during the next ensuing legislative session extending the life of the agency.

Latest Sunset Review

Seven agencies were reviewed in 1980, with final legislative action taken in 1981. Three of these agencies were terminated (one of these did not have a full-time staff and was subsequently absorbed by another agency); two agencies were continued with minor changes; one was continued with extensive statutory changes; and one was continued, with recommendations for a follow-up study.

For further information, contact: James Orr, Assistant Director, Legislative Service Bureau, Capitol Bldg., Cheyenne, Wyoming 82002. (307) 777-7881.

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BOARDS & COMMISSIONS

TENTATIVE SUNSET LIST*

HOUSE LABOR AND COMMERCE COMMITTEE

Jan. 24, 85

Department of Labor

None

Department of Commerce and Economic Development

1. Board of Veterinarians
2. Board of Dispensing Opticians
3. Alaska Public Utilities Commission

Additionally, the Legislature approved the continuation of the Board of Barbers and Hairdressers and the Board of Pharmacy last year, but the Governor vetoed their continuation, so they are sunsetted and currently in their last year of existence.

Further, Executive Order #60 has been referred to the House Labor and Commerce Committee, which would transfer the responsibilities of the Athletic Commission from the Governor's Office to the Department of Labor and Commerce.

*Information obtained by phone from Jerry Wilkerson, Legislative Budget and Audit; but subject to future referral to the House Labor and Commerce Committee by the Speaker's Office.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

M E M O R A N D U M

DATE: January 16, 1985

TO: Members of the Legislature

FROM: Gerald L. Wilkerson, CPA *GLW*
Legislative Auditor
Division of Legislative Audit

SUBJECT: Report on Sunset Process in Alaska

Enclosed are copies of the following reports, which are being sent to you at the direction of the Legislative Budget and Audit Committee:

"A Special Report on the Sunset Process in Alaska, September 1977 - May 1984."

"The Status of Sunset in the States: A Common Cause Report, March 1982."

Enclosures

A SPECIAL REPORT ON THE
SUNSET PROCESS IN ALASKA

September, 1977 - May, 1984

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

May 18, 1984

Members of the
Legislative Budget and Audit Committee:

In accordance with a special request of the Legislative Budget and Audit Committee and Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A SPECIAL REPORT ON THE SUNSET PROCESS IN ALASKA

September 1977 - May, 1984



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REPORT

In accordance with a special request of the Legislative Budget and Audit Committee and Title 24 of the Alaska Statutes, this special report has been prepared to document the Sunset experience in Alaska and to gather information about Sunset results in other states.

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THE SUNSET EXPERIENCE

In 1977 the Alaska Legislature created Alaska's Sunset law which was patterned after the Colorado Sunset legislation. The design of Alaska's Sunset law provides legislative scrutiny of all programs and activities of the State. While most other states' Sunset laws only addressed boards and commissions, Alaska's law is comprehensive. It includes in addition to boards and commissions, all State programs.

The process in Alaska provides for the programs, boards, and commissions selected by the legislature to be reviewed by the legislature at least every four years, unless established for a shorter period of time. The Division of Legislative Audit provides a performance review of all agencies selected by the legislature for Sunset.

Since inception of the Alaska Sunset process in 1977, the legislature has reviewed 47 agencies. The Legislative Auditor has recommended termination of 12 boards or commissions. The Legislature has terminated two of the these boards and merged two others (see Appendix A).

Alaska is a young state and therefore has fewer old boards and commissions for which there is not a demonstrated public need. Nationwide, 35 states have adopted Sunset legislation in which approximately 1676 Sunset reviews have taken place. Of these, 283 (17%) boards, commissions, or agencies were terminated.¹

Benefits From Sunset Reviews - Nationwide

Although some have viewed termination of State entities as the measure of success of Sunset, the main benefits, according to a nationwide survey made by Common Cause The Status of Sunset In The States, have been to make government more efficient and more responsive and accountable to the public. Of the 1676 entities reviewed, 17% were terminated because no public purpose was being served. In 83% of the reviews conducted nationwide, modifications were needed in order to improve efficiency. In addition, 68% of the states surveyed believed the principle benefits were increased public accountability and efficiency. Furthermore, 56% believed increased legislative experience and interest in the oversight work was a major accomplishment in the Sunset implementation.

Alaskan Experience

Alaska's experience has paralleled that of other states. The process has not resulted in significant cost savings, but as the result of legislative reviews, the agencies', boards', and commissions' operations have become more effi-

1. See Footnotes, Appendix B, Page 10

cient and the entities are more aware and responsive to the public needs. They have also become more cognizant of their responsibilities for self-evaluation and have made improvements not required by the legislature. In addition, recommendations for improvements in the entities' efficiency and effectiveness, made by the legislature and auditors, have either been fully or partially implemented. Therefore, improvements in the existing programs have been more beneficial than the cost savings from terminating State programs or boards. Some of the improvements observed are as follows:

1. The number of State boards and licensed professionals has not increased. The legislature has used the Sunset experience to curb the growth of boards and commissions.
2. Legislative reviews have eliminated a number of self-serving regulations and practices. This has resulted in improved availability of services, the elimination of price protections, and the heightened awareness on the part of boards that what is in the public's best interest is not necessarily what the professions would like to see occur.
3. Investigations of licensure violation by the professionals has improved. Investigations are ranked according to possible harm to the public, and those which could cause the most harm are given priority. Prior to the Sunset review, the investigations of licensure violations or incompetent practices of professionals was almost nonexistent.
4. The legislative examination of programs under the Sunset law resulted in significant changes in the inspection programs in Alaska. Three programs were merged under one department, and the mission of the other was greatly changed.

Problems with Implementing Sunset

Although most states have expressed favorable reactions to Sunset laws, there have been some common complaints about the process. Again, citing the Common Cause report The Status of Sunset in the States, March 1982, 50% of the 35 states surveyed believed the major problem with Sunset involved the amount of time spent by legislators in preparing for and conducting public hearings; 35% cited the fact that response to the public hearing consisted of licensed professionals lobbying for benefits to them; and 29% believed the costs involved were too high compared to the benefits.

2. See Footnotes, Appendix B, Page 10

In Alaska and other states, attempts have been made to include the participation of the public. Very few hearings are well attended by other than licensed professionals. Solutions to this complaint have included appointing public members to the boards. This method has gained nationwide acceptance. In Alaska, almost all boards have at least two public members.

In addition, some legislators have held meetings after regular working hours in an attempt to make hearings more accessible to the general public. According to states that have tried this, there has been an increase in public attendance.

Concerns about the cost of Sunset in Alaska do have some merit. There have been little direct savings in State expenditures due to Sunset. However, due to the type of programs reviewed, little savings could have resulted. Most reviews have been of professional licensing boards which, in some cases, provide more revenue to the State through license fees than it costs to support the board. Also, even if a board is terminated, the registration of licensees is oftentimes retained so the greatest cost, administrative expense, continues.

Recommendation For The Future

We believe the Alaska Sunset law is an important Legislative tool which should be retained. Although the law may have been over-used in some cases, it is valuable in that it provides a formal process for legislative oversight. The following are reasons why we believe such oversight is valuable:

1. Whenever legislative authority is delegated to an appointed regulatory entity, oversight should be maintained and pursued to ensure the welfare of the public is safeguarded. Due to the very nature of the regulatory agencies, they do not demand the budgetary or audit attention that the high cost programs do. In addition, the interests of regulated professional groups may differ from the public's interest. Thus, Sunset review may be the only consistent method of ensuring public accountability.
2. Sunset reviews have provided a forum for evaluation of governmental entities on the basis of public need and a method to improve the efficiency of government. A pending legislative Sunset review encourages governmental entities to make voluntary improvements and implement legislative intent.

We believe that modification to the Alaska Sunset law and procedures would help make the Sunset process a more effective legislative tool.

1. AS 44.66.020 -.030 should be repealed as these statutes are no longer applicable. This portion of the Sunset statutes sets out provisions for the termination of programs selected by the legislature. However, there were no programs selected for Sunset under these provisions. As a result, according to legislative counsel, the times such programs could be selected was mandatory, and this portion of the statute is no longer in force.
2. The legislature should consider amending the Sunset legislation for the selection of agencies or programs to be reviewed. The Sunset law does not increase the powers of the legislature, and in fact, may reduce them in that it gives the Governor the right to veto proposed Sunset bills. The legislature could select a program or agency for consideration under Sunset by resolution. The Division of Legislative Audit could then perform a performance audit of the entity, at the direction of the Budget and Audit Committee.

The Sunset process can be an effective tool to examine in detail the performance and need of a government entity not just for the termination of an agency. We believe the Sunset process could be useful in the following areas:

1. When the legislature creates a new program or agency they can provide for a Sunset review after a period of time. In this way, the legislature has a formal method of ensuring that the new State program will function as envisioned when created. The legislature used this method in creating the Litter Program. As a result, the auditors found that program personnel were very aware of the need to perform in accordance with legislative intent.
2. A program or agency could be selected for a Sunset review when there is a substantial change in the funding or purpose of a program or agency, or if it is believed the entity has not complied with prior legislative intent. We have found that the process of selecting a program for a Sunset review heightens the entity's awareness of its purpose and legislative intent, even when the possibility for termination is marginal. There are almost always improvements in effectiveness and responsiveness to the public's needs which can be made by the government entity. In addition, the legislature has a formal method of ensuring the the State entity or program is performing their duties as planned.

3. The Sunset process can also be useful in eliminating duplicative programs or services, and excessive management. There is a recognized tendency for the management within any large organization to build up over time. As a result, programs can duplicate existing programs, or programs are retained in-house when they could be better performed by contracting with outside sources, and organization structures tend to increase in the number of managers and support services.

The legislature should increase the number of years for which a board is re-established, from four years to six or eight years for the following reasons:

1. Most boards and commissions under AS 08.03.010 have been through the review cycle twice since Sunset was enacted in 1977 and, in most cases, public need has been established. Boards are now cognizant of the review process and are more likely to perform their duties in a more efficient manner.
2. Increasing the number of years between reviews would decrease the cost to the State not only in direct costs of performing the reviews, but also in the time consumed by legislators in their oversight functions. Alaska's review cycle of four years is one of the shortest of all states. Most states' review cycle ranges from six to ten years.
3. Authority exists under Title 24.20 to request performance reviews of any program under 08.03 or 44.66 if the legislature believes evaluation is necessary prior to the regular Sunset review cycle.

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APPENDIX A
LIST OF ALASKA
SINCE 1959

STATUS OF AUDITS RECORDED AND REPORTS

| Alaska Agency Reference | Board's, Commission's, Council's, and Organizations | Original Termination Date | Legislative Audit Recommendation and Report Date | Division of Occupational Marketing | Legislative Action Taken and SIA Reference | 1st Revised Termination Date | Legislative Audit Recommendation and Report Date | Division of Occupational Marketing | Legislative Action Taken and SIA Reference | 2nd Revised Termination Date | Legislative Audit Recommendation and Report Date | Division of Occupational Marketing | Legislative Action Taken and SIA Reference | 3rd Revised Termination Date |
|-------------------------------|---|---------------------------------|--|--|--|------------------------------------|--|--|--|------------------------------------|--|--|--|------------------------------------|
| 65-04,016 | Board of Chiropractic Examiners | 6/30/79 | Continue 10/11/78 | Continue | Cont'd Ch. 34 SIA 80 | 6/30/84 | Continue 3/28/83 | Continue | (Note 2) | | | | | |
| | Board of Dental Examiners | 6/30/79 | Continue 8/09/78 | Continue | Cont'd Ch. 40 SIA 80 | 6/30/82 | Continue 7/17/81 | Continue | Cont'd Ch. 28 SIA 82 | 6/30/86 | | | | |
| | State Public Board | 6/30/79 | Continue 10/30/78 | Continue | Cont'd Ch. 87 SIA 80 | 6/30/83 | Continue 7/30/82 | Continue | Cont'd Ch. 48 SIA 83 | 6/30/87 | | | | |
| | Board of Banking | 6/30/79 | Continue 10/04/78 | Continue | Cont'd Ch. 74 SIA 79 | 6/30/83 | Continue 1/07/82 | Continue | Cont'd Ch. 9 SIA 83 | 6/30/87 | | | | |
| | Board of Professional Activities | 6/30/79 | Terminate 11/01/78 | Terminate | Cont'd Ch. 39 SIA 80 | 6/30/85 | | | | | | | | |
| | Board of Fisheries and Game | 6/30/79 | Continue 11/01/78 | Continue | Cont'd Ch. 37 SIA 80 | 6/30/84 | Continue 2/28/83 | Continue | (Note 2) | | | | | |
| | Board of Veterinary Examiners | 6/30/79 | Continue 11/01/78 | Continue | Cont'd Ch. 38 SIA 80 | 6/30/84 | Continue 2/28/83 | Continue | (Note 2) | | | | | |
| | Board of Veterinary Examiners and Psychological Services Examiners | 6/30/79 | Continue 11/01/78 | Continue | Cont'd Ch. 41 SIA 80 | 6/30/85 | | | | | | | | |
| | Board of Nursing Home Administrators | 6/30/79 | Continue 10/31/78 | Terminate | Cont'd Ch. 47 SIA 80 | 6/30/87 | Terminate 8/17/81 | Indeterminate | Cont'd Ch. 29 SIA 83 | 6/30/87 | | | | |
| | Board of Health Services | 6/30/79 | Terminate 10/20/78 | Terminate | Cont'd Ch. 43 SIA 80 | 6/30/86 | | | | | | | | |
| | Board of Public Relations | 6/30/79 | Continue 10/01/78 | Continue | Cont'd Ch. 42 SIA 80 | 6/30/85 | | | | | | | | |
| | Board of Public Examiners (Note 1) | 6/30/80 | Continue 10/01/78 | Continue | Repealed Ch. 15 SIA 82 | 6/30/84 | Review Contracted | Terminate | (Note 2) | | | | | |
| | College's Agency Board | 6/30/80 | Terminate 3/27/79 | Terminate | Allowed to Terminate | | Terminate 2/20/83 | Terminate | | | | | | |
| | Board of Industries and Beauty Culture Examiners | 6/30/80 | Terminate 6/11/79 | Continue | Merged Ch. 319 SIA 80 | With Repealed | Terminate 7/16/81 | Terminate | Cont'd Ch. 40 SIA 82 | 6/30/86 | | | | |
| | Board of Electrical Examiners | 6/30/80 | Terminate 3/02/79 | Continue | Cont'd Ch. 71 SIA 80 | 6/30/81 | | | | | | | | |
| | State Board of Registration for Architects, Engineers, and Land Surveyors | 6/30/80 | Continue 5/13/79 | Continue | Cont'd Ch. 72 SIA 80 | 6/30/85 | Continue 3/28/83 | Continue | (Note 2) | | | | | |
| | Office Licensing and Control Board | 6/30/80 | Continue 7/13/79 | Continue | Cont'd Ch. 53 SIA 81 | 6/30/82 | Continue 12/21/81 | Indeterminate | Cont'd Ch. 13 SIA 83 | 6/30/86 | | | | |
| | Board of Public Utilities | 6/30/80 | Continue 6/15/79 | Continue | Cont'd Ch. 163 SIA 80 | 6/30/82 | Continue 8/06/82 | Continue | Cont'd Ch. 8 SIA 83 | 6/30/87 | | | | |
| | Real Estate Commission | 6/30/80 | Continue 5/02/79 | Continue | Cont'd Ch. 167 SIA 80 | 6/30/82 | Continue 4/04/81 | Continue | Cont'd Ch. 76 SIA 82 | 6/30/86 | | | | |
| | Board of Building Examiners | 6/30/80 | Terminate 6/08/79 | Terminate | Cont'd Ch. 153 SIA 80 | 6/30/83 | Terminate 11/24/80 | None | Allowed to Terminate | | | | | |
| | Board of Governors of the Alaska Bar Association | 6/30/80 | No Audit | N/A | Cont'd Ch. 59 SIA 81 | 6/30/85 | | | | | | | | |
| 65-04,016 | Alaska Beer Beverage Control Board | 6/30/80 | Continue 11/01/78 | N/A | Cont'd Ch. 84 SIA 80 | 6/30/83 | Continue 9/05/80 | N/A | Cont'd Ch. 44 SIA 81 | 6/30/83 | Continue 12/15/82 | N/A | Cont'd Ch. 76 SIA 83 | 6/30/86 |
| | Alaska Transportation Commission | 6/30/80 | Continue 10/26/78 | N/A | Cont'd Ch. 115 SIA 80 | 6/30/83 | Terminate 4/01/82 | N/A | Cont'd Ch. 74 SIA 81 | 6/30/85 | | | | |
| | State Board of Pesticides | 6/30/80 | Continue 5/09/79 | N/A | Cont'd Ch. 27 SIA 81 | 6/30/82 | Continue 12/31/81 | N/A | Cont'd Ch. 30 SIA 81 | 6/30/85 | | | | |
| | Alaska Public Utilities Commission | 6/30/80 | Continue 8/01/79 | N/A | Cont'd Ch. 136 SIA 80 | 6/30/85 | | | | | | | | |
| | Alaska Pipeline Commission | 6/30/80 | Note 7/11/80 | N/A | Merged Ch. 110 SIA 81 | | | | | | | | | |
| | Alaska Council on Fisheries and Wildlife (Note 3) | 6/30/81 | Terminate 12/01/82 | N/A | Repealed Ch. 142 SIA 82 | 6/30/82 | | | | | | | | |
| | Alaska Renewable Resources Corporation | 6/30/81 | Terminate 11/31/81 | N/A | Cont'd Ch. 45 SIA 82 | 6/30/85 | | | | | | | | |
| | Alaska Cook Inlet Fish Commission | 6/30/81 | Terminate 10/30/81 | N/A | | | | | | | | | | |
| | Alaska Pipeline Council | 6/30/81 | | | | | | | | | | | | |
| | Other Alaskan Commission | 6/30/81 | | | | | | | | | | | | |
| | Council on Domestic Violence and Sexual Assault | 6/30/81 | | | | | | | | | | | | |
| | Alaska Women's Commission | 6/30/81 | | | | | | | | | | | | |

Note 1 - Includes Re-addressers
Note 2 - Legislative Review Post 1984
Note 3 - The Council will terminate June 30, 1984
unless re-addressed by the Legislature

No. of Audits Performed - 47
No. of Boards Recommended for Termination - 12
No. of Programs Terminated - 2