

No. 1981-142

AN ACT

SB 108

Requiring the termination of certain agencies of State Government under certain circumstances, creating a Leadership Committee with certain powers and duties and imposing powers and duties upon the Legislative Budget and Finance Committee.

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

Section 1. Short title.

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

Section 2. Definitions.

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

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

"Legislative Budget and Finance Committee." The committee formed pursuant to the act of August 4, 1959 (P.L.587, No.195), entitled, as amended, "An act creating and establishing the Legislative Budget and Finance Committee; providing for its membership; prescribing its powers, functions and duties; providing for the appointment of an executive director and other personnel, and making an appropriation."

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

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

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

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

Section 3. Leadership Committee.

There is hereby created a joint committee of the General Assembly to be known as the Leadership Committee. The Leadership Committee shall be composed of the Speaker of the House of Representatives, the President pro tempore of the Senate and the Majority and Minority Leaders of the House of Representatives and the Senate. The Speaker of

the House of Representatives shall serve as the temporary chairman of the committee until such time as the committee shall elect a chairman. Members of the Leadership Committee may designate alternate members of their respective chambers who will have the same powers and duties as regular members.

Section 4. Powers and duties of the Leadership Committee.

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

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

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

(3) To utilize and assign the staff of the Legislative Budget and Finance Committee, for the purpose of conducting performance audits, which duty shall be the priority of the Legislative Budget and Finance Committee.

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

Section 5. Evaluation and review.

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

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

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

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

- (1) whether termination would significantly harm or endanger the public health, safety or welfare;
- (2) whether there is overlap or duplication of effort by other agencies that permit the termination of the agency;
- (3) whether there is a more economical way of accomplishing the objectives of the agency;
- (4) whether there is a demonstrated need, based on service to the public, for the continuing existence of the agency;
- (5) whether the operation of the agency has been in the public interest;
- (6) whether the agency has encouraged public participation in the making of its rules and decisions or whether the agency has permitted participation solely by the persons it regulates;
- (7) whether there is an alternate, less restrictive method of providing the same services to the public; and
- (8) such other criteria as may be established by the standing committees.

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

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

- (1) from the Legislative Budget and Finance Committee, a performance audit; and
- (2) from the Legislative Reference Bureau, a report outlining all legislation, then in effect, pertaining to the creation, operation, duties, powers and funding of the agency.

Section 6. Termination of agencies.

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

- The Bicentennial Commission of Pennsylvania.
 - The State Board of Examiners of Public Accountants.
 - The State Farm Products Show Commission.
 - The State Board of Examiners of Architects.
 - The Milk Marketing Board.
 - The State Board of Auctioneer Examiners.
 - The Pennsylvania Labor Relations Board.
 - The State Board of Barber Examiners.
 - The Pennsylvania Securities Commission.
 - The State Board of Cosmetology.
 - The State Board of Funeral Directors.
 - The State Real Estate Commission.
 - The State Registration Board for Professional Engineers.
 - The State Board of Landscape Architects.
 - The State Board of Motor Vehicle Manufacturers, Dealers and Salesmen.
 - The State Board of Private Trade Schools.
 - The State Workmen's Insurance Board.
 - The Citizens Advisory Council (DER).
 - The Environmental Quality Board.
 - The Savings Association Board.
 - The Hazardous Substance Transportation Board.
 - The Crime Victim's Compensation Board.
 - The Pennsylvania Commission on Crime and Delinquency.
- (b) The following agencies together with their corresponding statutory functions and duties shall terminate all activities and shall go out of existence on December 31, 1985:
- The Pennsylvania Liquor Control Board.
 - The State Board of Chiropractic Examiners.
 - The Pennsylvania Public Utility Commission.
 - The State Board of Medical Education and Licensure.
 - The Governor's Council on Drug and Alcohol Abuse.
 - The State Board of Nurse Examiners.
 - The Pennsylvania Drug, Device and Cosmetic Board.
 - The State Board of Examiners of Nursing Home Administrators.
 - The State Highway and Bridge Authority.
 - The State Board of Optometrical Examiners.
 - The State Transportation Commission.
 - The State Board of Osteopathic Medical Examiners.
 - The State Soil Conservation Commission.
 - The State Board of Pharmacy.
 - The State Board of Podiatry Examiners.
 - The Pennsylvania Board of Psychologist Examiners.
 - The Commission on Charitable Organizations.
 - The State Board of Veterinary Medical Examiners.
 - The State Board of Public Welfare.

The State Board of Physical Therapy Examiners.
The Pennsylvania Housing Finance Agency.
The State Harness Racing Commission.
The State Horse Racing Commission.
The Pennsylvania Commission on Sentencing.
The Pennsylvania Board of Probation and Parole.
The Pennsylvania Crime Commission.
The Pennsylvania Human Relations Commission.
The State Dental Council and Examining Board.

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

The State Board of Private Academic Schools.
The State Board of Private Business Schools.
The State Board of Private Correspondence Schools.
The State Board of Education.
The State Civil Service Commission.
The Board of State College and University Directors.
The Industrial Board.
The State Board for Certification of Sewage Treatment Plant and Waterworks Operators.
The State Athletic Commission.
The State Board of Vocational Rehabilitation.
The Pennsylvania Industrial Development Authority.
Certification Board for Sewage Enforcement Officers.
The Pennsylvania Minority Business Development Authority.
The Professional Standards and Practices Commission.
The State Veterans Commission.
The State Ethics Commission.
The Pennsylvania Historical and Museum Commission.
The State Art Commission.
The State Planning Board.
The Pennsylvania Turnpike Commission.
The Pennsylvania Parkway Commission.
The Municipal Police Officer's Education and Training Commission.
The Pennsylvania Emergency Management Agency.
The State Lottery Commission.
The Department of Aging.

(d) The Governor shall not utilize a reorganization plan, executive order, rule or regulation or comparable authority to evade the provisions of this act. Any programs, activities or functions of any agency, scheduled for termination, which are transferred to another agency not scheduled for termination or scheduled for termination at a later date, shall be subject to sunset review at the date scheduled for the termination of the transferor agency. Any programs, activities or functions, of any agency scheduled for termination which are transferred to another agency scheduled for termination at an earlier date, shall be subject to sunset review at

the date scheduled for termination of the transferee agency. However, between the time at which the Legislative Budget and Finance Committee submits its performance audit to the standing committee and the standing committee makes its recommendation to the General Assembly, the Governor shall not utilize a reorganization plan, executive order, rule or regulation or comparable authority to transfer any programs, activities or functions of an agency being evaluated.

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

(f) Agencies terminated shall be given until June 30 of the year following the one in which they are terminated to wind up their affairs. During that period, the Governor may petition the General Assembly for a review of the termination but the agency shall be terminated unless the General Assembly passes a law to the contrary.

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

Section 7. Reestablishment or continuation of agencies.

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

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

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

(b) Unless legislation is enacted prior to November 1, reestablishing an agency as provided in subsection (a), the presiding officer of each House shall cause to be placed on their respective calendars for the first legislative day in November, the question, in the form of a resolution, of whether an agency scheduled for termination on December 31 of that year shall be continued. If a majority of the members elected to each House approve such a resolution prior to the scheduled termination date of December 31, the agency shall be continued until the next review and termination cycle scheduled for said agency.

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

Section 8. Newly created agencies.

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

Section 9. Termination procedures.

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

(b) All appropriations to and funds of the agency not spent or encumbered shall lapse when the existence of the agency ends. No agency, prior to the date in a fiscal year on which it is scheduled to be terminated, shall expend in excess of 50% of any general appropriation, Federal augmentation, appropriation or similar appropriation made to the agency for said fiscal year: Provided, however, That the agency may utilize a portion of the unexpended balance of said appropriations to conclude its affairs. The leadership committee shall have the ability to waive the restrictions on expenditures set forth in this section, upon a showing by the agency of exceptional circumstances.

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

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

Section 10. Causes of action; rights of bondholders.

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

(b) The provisions of this act shall not affect any rights or duties with respect to bondholders, of an agency scheduled to be terminated.

Section 11. Access to records and witnesses.

The Legislative Budget and Finance Committee and its authorized representative shall, for the purpose of examination and audit authorized by this act, have ready access to persons and may examine and copy to the extent deemed necessary to its evaluation and review, pertinent records, accounts, papers, reports, vouchers, correspondence, books and other documentation of any Commonwealth agency.

Section 12. Authority to administer oaths, subpoena witnesses and records and take depositions.

For the purpose of this act, the Legislative Budget and Finance Committee, with the concurrent resolution of both Houses shall have the power to compel the attendance of witnesses and the production of any papers, books, accounts and documents to subpoena witnesses, take testimony under oath; to cause the deposition of witnesses, residing within

or without the Commonwealth, to be taken in the manner prescribed by law and to assemble records and documents, by subpoena or otherwise, with the same power and authority as courts of record and may apply to courts of record for the enforcement of these powers.

Any person who willfully neglects or refuses to comply with any subpoena issued in behalf of the Legislative Budget and Finance Committee, or refuses to testify to any matters regarding which he may be lawfully interrogated, shall be subject to the penalties provided by the laws of the Commonwealth of Pennsylvania.

Section 13. General repeal.

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

Section 14. Expiration.

Unless the provisions of this section shall be repealed or amended by the General Assembly, the provisions of this act shall expire at the end of ten years from the effective date of this act.

Section 15. Effective date.

This act shall take effect immediately.

APPROVED—The 22nd day of December, A. D. 1981.

DICK THORNBURGH