

Senate Bill 940

Sponsored by Senator G GEORGE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates Sunset Advisory Commission. Specifies membership of commission. Requires state agencies subject to abolition to make report to commission. Requires commission to conduct performance evaluation of agency based on specified criteria and make recommendations to Governor and Legislative Assembly relating to abolition, continuation or reorganization of agency and other matters.

A BILL FOR AN ACT

1
2 Relating to Sunset Advisory Commission.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Definitions. As used in sections 1 to 14 of this 2007 Act:**

5 (1) "State agency" means an agency in the executive department, as defined in ORS
6 174.112, expressly made subject to sections 1 to 14 of this 2007 Act.

7 (2) "Commission" means the Sunset Advisory Commission.

8 **SECTION 2. Commission created. (1) The Sunset Advisory Commission is created and
9 consists of:**

10 (a) Five members of the Senate, and a public member, appointed by the President of the
11 Senate; and

12 (b) Five members of the House of Representatives, and a public member, appointed by
13 the Speaker of the House.

14 (2) Members of the commission serve four-year terms.

15 (3) A public member may not serve more than two consecutive terms. A public member
16 is considered to have served a term for the purposes of this subsection only if the member
17 has served more than half of the term.

18 (4) If a vacancy occurs, the appropriate appointing authority shall appoint a person to
19 serve for the remainder of the unexpired term.

20 (5) The commission shall have a chairperson and vice-chairperson as presiding officers.

21 (6) Seven members of the commission constitute a quorum. A final action or recom-
22 mendation may not be made unless approved by a vote of a majority of the commission's full
23 membership.

24 (7) A public member of the commission is entitled to reimbursement for actual and nec-
25 essary expenses incurred in performing commission duties as provided in ORS 292.495. A
26 legislative member is entitled to payment of compensation and expenses under ORS 171.072
27 from funds appropriated to the Legislative Assembly.

28 **SECTION 3. Staff. (1) The Sunset Advisory Commission shall employ an executive direc-
29 tor for the commission.**

30 (2) The executive director shall employ persons necessary to carry out sections 1 to 14

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 of this 2007 Act with funds made available by the legislature.

2 (3) The chairperson and vice-chairperson of the commission may each employ a staff to
3 work on matters related to commission activities.

4 **SECTION 4. Agency report to commission.** Before January 1 of the calendar year before
5 the year in which a state agency is abolished, the state agency shall report to the Sunset
6 Advisory Commission:

7 (1) Information regarding the application to the state agency of the criteria in section 8
8 of this 2007 Act; and

9 (2) Any other information that the state agency considers appropriate or that is re-
10 quested by the commission.

11 **SECTION 5. Commission duties.** Before June 1 of the calendar year before the year in
12 which a state agency is abolished, the Sunset Advisory Commission shall:

13 (1) Review and take action necessary to verify the reports submitted by the state agency
14 under section 4 of this 2007 Act;

15 (2) Conduct a performance evaluation of the state agency based on the criteria provided
16 in section 8 of this 2007 Act and prepare a written report; and

17 (3) Review the implementation of commission recommendations contained in the reports
18 presented to the legislature during the preceding legislative session.

19 **SECTION 6. Public hearings.** (1) Between June 1 and December 1 of the calendar year
20 before the year in which a state agency is abolished, the Sunset Advisory Commission shall
21 conduct public hearings concerning but not limited to the application to the state agency of
22 the criteria provided in section 8 of this 2007 Act.

23 (2) The commission may hold the public hearings before the date specified by subsection
24 (1) of this section if the evaluation of the state agency required by section 5 of this 2007 Act
25 is complete and available to the public.

26 **SECTION 7. Commission report.** (1) At each regular session, the Sunset Advisory Com-
27 mission shall present to the Legislature Assembly and the Governor a report on the state
28 agencies scheduled to be abolished.

29 (2) In the report required by this section the commission shall include:

30 (a) The commission's specific findings regarding each of the criteria prescribed by section
31 8 of this 2007 Act;

32 (b) The commission's recommendations based on the matters prescribed by section 9 of
33 this 2007 Act; and

34 (c) Other information the commission considers necessary for a complete evaluation of
35 the state agency.

36 **SECTION 8. Criteria for review.** The Sunset Advisory Commission shall consider the fol-
37 lowing criteria in determining whether a public need exists for the continuation of a state
38 agency or for the performance of the functions of the state agency:

39 (1) The efficiency with which the state agency operates.

40 (2) An evaluation of the mission of the state agency, including the problem or need that
41 the state agency was intended to address, the extent to which the objectives have been
42 achieved and any activities of the state agency in addition to those granted by statute and
43 the authority for those activities.

44 (3) Whether there are less restrictive or alternative methods of performing any regu-
45 lation that the state agency performs that could adequately protect the public.

1 (4) The extent to which the jurisdiction of the state agency and the programs adminis-
2 tered by the state agency overlap or duplicate those of other state agencies and the extent
3 to which the programs administered by the state agency can be consolidated with the pro-
4 grams of other state agencies.

5 (5) Whether the state agency has recommended to the legislature statutory changes that
6 benefit the public instead of the occupation, business or institution that the state agency
7 regulates.

8 (6) The promptness and effectiveness with which the state agency disposes of complaints
9 concerning persons affected by the state agency.

10 (7) The extent to which the state agency has encouraged participation by the public in
11 making rules and decisions as opposed to participation solely by regulated persons, and the
12 extent to which the public participation has resulted in rules compatible with the objectives
13 of the state agency.

14 (8) The extent to which the state agency has complied with applicable requirements of:

15 (a) Agencies the United States or of this state relating to equality of employment op-
16 portunity and the rights and privacy of individuals; and

17 (b) State law relating to purchasing goals and programs.

18 (9) The extent to which changes are necessary in the enabling statutes of the state
19 agency to allow the state agency to adequately comply with the criteria listed in this section.

20 (10) The extent to which the state agency issues and enforces rules relating to potential
21 conflicts of interest of its employees.

22 (11) The extent to which the state agency follows records retention and record manage-
23 ment practices that enable the state agency to respond efficiently to requests for public re-
24 cords.

25 (12) The effects of federal intervention or loss of federal funds if the state agency is
26 abolished.

27 **SECTION 9. Recommendations.** The Sunset Advisory Commission shall include in the
28 report required by section 7 of this 2007 Act:

29 (1) Recommendations on the abolition, continuation or reorganization of each state
30 agency and on the need for continuing the functions of the state agency;

31 (2) Recommendations on the consolidation, transfer or reorganization of programs within
32 state agencies that are not under review if the programs duplicate functions performed in
33 state agencies under review;

34 (3) Recommendations on the funding levels for each state agency; and

35 (4) Proposed legislation necessary to carry out the commission's recommendations under
36 this section.

37 **SECTION 10. Monitoring of recommendations.** During each legislative session, the staff
38 of the Sunset Advisory Commission shall monitor legislation affecting state agencies that
39 have undergone sunset review and shall periodically report to the members of the commis-
40 sion on proposed changes that would modify prior recommendations of the commission.

41 **SECTION 11. Subpoena power.** (1) The Sunset Advisory Commission may issue process
42 to compel the attendance of witnesses and the production of books, records, papers and other
43 objects necessary or proper for the purposes of the commission proceedings.

44 (2) If a majority of the commission directs the issuance of a subpoena, the chairperson
45 shall issue the subpoena in the name of the commission.

1 **(3) A witness who attends a commission proceeding under process is entitled to the same**
2 **mileage and per diem as a witness who appears before a grand jury in this state.**

3 **SECTION 12. Assistance of and access to state agencies. (1) State agencies shall assist**
4 **the Sunset Advisory Commission upon request by the commission or the commission's staff.**

5 **(2) In carrying out its functions under sections 1 to 14 of this 2007 Act, the commission**
6 **or its designated staff member may inspect the records, documents and files of any state**
7 **agency.**

8 **SECTION 13. Relocation of employees. If an employee is displaced because a state agency**
9 **is abolished, reorganized or continued, the state agency and the Employment Department**
10 **shall make a reasonable effort to relocate the displaced employee.**

11 **SECTION 14. Review of proposed legislation creating regulatory agency. (1) Each bill filed**
12 **in a the Legislative Assembly that would create a new state agency having regulatory au-**
13 **thority shall be forwarded by the Legislative Fiscal Officer to the Sunset Advisory Commis-**
14 **sion.**

15 **(2) The commission shall review a bill forwarded to the commission under this section**
16 **to determine if:**

17 **(a) The proposed functions of the state agency could be performed by an existing state**
18 **agency;**

19 **(b) The form of regulation proposed by the bill is the least restrictive form of regulation**
20 **that will adequately protect the public;**

21 **(c) The bill provides for adequate public input relating to the regulatory function pro-**
22 **posed by the bill; and**

23 **(d) The bill provides for adequate protection against conflicts of interest within the state**
24 **agency or committee.**

25 **(3) After reviewing a bill under this section, the commission shall forward a written**
26 **comment on the legislation to the chairs of committees considering the bill.**

27 **SECTION 15. The section captions used in this 2007 Act are provided only for the con-**
28 **venience of the reader and do not become part of the statutory law of this state or express**
29 **any legislative intent in the enactment of this 2007 Act.**

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