

# Senate Bill 340

Sponsored by Senator WINTERS; Senators BOQUIST, FERRIOLI, GIROD, KRUSE, MORSE, NELSON, STARR, WHITSETT, Representative BERGER (Presession filed.)

## 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**.

Directs Legislative Assembly to review state agencies and programs, taxes and fees administered by state agencies every six years. Abolishes state agencies that are not continued by legislative Act enacted during year of review.

Establishes Sunset Advisory Commission. Directs commission to review and evaluate state agencies and programs, taxes and fees administered by state agencies and make recommendations on abolition or continuation of agencies and programs, taxes and fees administered by agencies.

Provisions requiring review of state agencies and programs, taxes or fees administered by state agencies become operative January 1, 2013. Prohibits abolishment of state agency under Act until earlier of review of agency by Legislative Assembly or 2020.

## A BILL FOR AN ACT

1  
2 Relating to periodic legislative review of state government.

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

4 **SECTION 1. Definitions. As used in sections 1 to 12 of this 2011 Act:**

5 (1) **"Fee" means a charge imposed by a state agency that is not a tax.**

6 (2) **"Program" means a discrete grouping of tasks, goals and actions undertaken by a**  
7 **state agency to achieve a purpose or coordinated set of purposes and that has been identified**  
8 **by the state agency as a program for purposes of sections 1 to 12 of this 2011 Act.**

9 (3) **"State agency" means an agency in the executive department, as defined in ORS**  
10 **174.112.**

11 (4) **"Tax" means a charge imposed by a state agency for the purpose of raising revenue**  
12 **for general governmental purposes.**

13 **SECTION 2. Continuation or abolition of state agencies, programs, taxes and fees. (1) A**  
14 **state agency and each program, tax or fee administered by a state agency may be continued**  
15 **by the Legislative Assembly for a period of not more than six years from the year following**  
16 **the date on which the agency and each program, tax or fee administered by the agency is**  
17 **reviewed under sections 1 to 12 of this 2011 Act.**

18 (2) **Subject to subsection (1) of this section, the Legislative Assembly may by Act au-**  
19 **thorize the continuation of a state agency and the continuation of programs, taxes and fees**  
20 **of a state agency. No more than one state agency may be continued in any Act. All, or any**  
21 **combination of, programs, taxes and fees administered by the agency may be included in the**  
22 **Act continuing the agency or may be continued in separate Acts.**

23 (3) **A state agency or each program, tax or fee established by a state agency for which**  
24 **the Legislative Assembly fails to continue in an Act described in subsection (2) of this section**  
25 **at the time described in subsection (1) of this section is abolished.**

26 (4) **Except as otherwise provided by law, all programs, taxes and fees administered by a**  
27 **state agency shall be continued or abolished during the same legislative session in which the**

**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 state agency is continued.

2 (5) If a state agency is abolished under subsection (3) of this section, all programs, taxes  
3 and fees administered by the state agency are also abolished.

4 **SECTION 3. Commission created.** (1) The Sunset Advisory Commission is created and  
5 consists of:

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

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

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

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

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

16 (5) The commission shall elect a chairperson and vice chairperson as presiding officers.

17 (6) Seven members of the commission constitute a quorum for the transaction of busi-  
18 ness. A final action or recommendation may not be made unless approved by a vote of a  
19 majority of the commission's full membership.

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

24 **SECTION 4. Staff.** The Sunset Advisory Commission shall employ an executive director  
25 for the commission. The executive director shall employ persons necessary to carry out  
26 sections 1 to 12 of this 2011 Act with funds made available by the Legislative Assembly.

27 **SECTION 5. Agency report to commission.** Before January 1 of the calendar year before  
28 the year in which a state agency is to be continued or abolished, the state agency shall re-  
29 port to the Sunset Advisory Commission:

30 (1) Information regarding the application to the state agency of the criteria in section 8  
31 of this 2011 Act; and

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

34 **SECTION 6. Commission duties.** Before June 1 of the calendar year before the year in  
35 which a state agency is to be continued or abolished, the Sunset Advisory Commission shall:

36 (1) Review and take action necessary to verify the reports submitted by the state agency  
37 under section 5 of this 2011 Act;

38 (2) Conduct a performance evaluation of the state agency based on the criteria provided  
39 in section 8 of this 2011 Act and prepare a written report; and

40 (3) Review the implementation of commission recommendations contained in the reports  
41 presented to the Legislative Assembly during the preceding legislative session.

42 **SECTION 7. Commission report.** (1) At each regular session, the Sunset Advisory Com-  
43 mission shall present to the Legislative Assembly and the Governor a report on the state  
44 agencies scheduled to be continued or abolished, and on the programs, taxes and fees of  
45 those agencies.

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

2 (a) The commission's specific findings regarding each of the criteria prescribed by section  
3 8 of this 2011 Act;

4 (b) The commission's recommendations based on the matters prescribed by section 9 of  
5 this 2011 Act; and

6 (c) Other information the commission considers necessary for a complete evaluation of  
7 the state agency and the programs, taxes and fees administered by the state agency.

8 **SECTION 8. Criteria for review.** The Sunset Advisory Commission shall consider the fol-  
9 lowing criteria in determining whether a public need exists for the continuation of a state  
10 agency or for the continuation of a program, tax or fee administered by a state agency:

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

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

16 (3) Whether there are less restrictive or alternative methods of carrying out any pro-  
17 gram that the state agency administers that could adequately protect the public.

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

22 (5) Whether the state agency has recommended to the Legislative Assembly statutory  
23 changes that benefit the public instead of the occupation, business or institution that the  
24 state agency regulates.

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

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

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

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

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

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

37 (10) The extent to which any fee administered by the state agency is at a level to be an  
38 adequate but not excessive source of revenue for the purposes for which the fee revenues  
39 are dedicated.

40 (11) The extent to which any tax administered by the state agency, including any tax  
41 expenditure, as defined in ORS 291.201, is an appropriate, efficient and economically sound  
42 method to raise revenue for general governmental purposes.

43 **SECTION 9. Recommendations.** The Sunset Advisory Commission shall include in the  
44 report required by section 7 of this 2011 Act:

45 (1) Recommendations on the abolition, continuation or reorganization of each state

1 agency and on the need for continuing the functions of the state agency;

2 (2) Recommendations on the consolidation, transfer or reorganization of programs within  
3 state agencies that are not under review under sections 1 to 12 of this 2011 Act if the pro-  
4 grams duplicate functions performed by state agencies under review;

5 (3) Recommendations on the abolition or continuation of each tax or fee administered by  
6 each state agency under review; and

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

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

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

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

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

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

22 (2) In carrying out its functions under sections 1 to 12 of this 2011 Act, the commission  
23 or its designated staff member may inspect the records, documents and files of any state  
24 agency.

25 **SECTION 13. Captions.** The section captions used in this 2011 Act are provided only for  
26 the convenience of the reader and do not become part of the statutory law of this state or  
27 express any legislative intent in the enactment of this 2011 Act.

28 **SECTION 14. Operative date.** Sections 2, 5, 6, 7, 8, 9 and 10 of this 2011 Act become op-  
29 erative January 1, 2013.

30 **SECTION 15. Limitation on earliest date of abolition.** Notwithstanding section 2 of this  
31 2011 Act, a state agency, program, tax or fee may not be abolished under section 2 of this  
32 2011 Act until the earlier of the session in which the Legislative Assembly conducts a review  
33 under sections 1 to 12 of this 2011 Act of the agency and the programs, taxes and fees ad-  
34 ministered by the agency or the calendar year 2020.

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