STATE OF NEW YORK

7832

2023-2024 Regular Sessions

IN ASSEMBLY

July 7, 2023

Introduced by M. of A. BARCLAY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the legislative law, in relation to establishing the legislative sunset advisory commission

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "New York State Legislative Sunset Act".

§ 2. The legislative law is amended by adding a new article 4-B to read as follows:

ARTICLE 4-B

LEGISLATIVE SUNSET ADVISORY COMMISSION

Section 74. Commission created; terms and qualifications of members.
75. Expenses, employees.
76. Purposes of the commission.
77. Report and recommendations.
78. Impact on employees.

§ 74. Commission created; terms and qualifications of members. A legislative sunset advisory commission is hereby created, to consist of the chairperson and ranking minority members of the governmental operations and governmental employees committees of the assembly, the chairperson and ranking minority members of the investigation and government operations and the civil service and pensions committees in the senate, two ad hoc appointees by the lieutenant governor, and one member appointed by each of the speaker of the assembly, minority leader of the assembly, temporary president of the senate, and minority leader of the senate. The members first appointed by the speaker of the assembly, minority leader of the assembly, temporary president of the senate, and minority leader of the senate shall be appointed for two years. The ad hoc members first appointed by the lieutenant governor shall be

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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appointed for such terms that the term of one member will expire on each succeeding thirty-first day of December. The term of a member thereafter appointed, except to fill a vacancy occurring otherwise than by expiration of term, shall be five years from the expiration of the term of his or her predecessor. A vacancy in the office of a member appointed by the lieutenant governor occurring otherwise than by expiration of term, shall be filled by the lieutenant governor for the remainder only of the term. Members of the legislative sunset advisory commission shall determine the chairperson by a majority vote of commission members. A majority of non-ad hoc members present represents a quorum.

§ 75. Expenses, employees. Each of the ad hoc members of the commission appointed by the lieutenant governor shall receive necessary expenses incurred in the performance of official duty. The commission may appoint such employees as may be needed, prescribe their duties, and fix their compensation within the amount appropriated for the commission.

§ 76. Purposes of the commission. It shall be the duty of the legislative sunset advisory commission, in consultation with the state comptroller, to review each state agency on a ten-year basis to determine whether a public need exists for the continuation or reformation of the state agency and its functions and operations. When determining whether a public need exists for the continuation of reformation of a state agency and its functions and operations, the commission and its staff shall consider the following criteria:

1. the efficiency and effectiveness with which the agency operates;

2. an identification of the mission, goals, and objectives intended for the agency and of the problem or need that the agency was intended to address;

3. the extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed;

4. an identification of any activities of the agency in addition to those granted by statute and of the authority for those activities and the extent to which those activities are needed;

5. an assessment of authority of the agency relating to fees, inspections, enforcement, and penalties;

6. whether less restrictive or alternative methods of performing any function that the agency performs could adequately protect or provide service to the public;

7. the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies, the extent to which the agency coordinates with those agencies, and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;

8. the promptness and effectiveness with which the agency addresses complaints concerning entities or other persons affected by the agency, including an assessment of the agency's administrative hearings process;

9. an assessment of the agency's rulemaking process and the extent to which the agency has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;

10. the extent to which the agency has complied with federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals, and state law and applicable rules of any state agency regarding purchasing guidelines and programs for historically underutilized businesses;

11. the extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

12. the effect of federal intervention or loss of federal funds if the agency is abolished; and

13. the extent to which the purpose and effectiveness of reporting requirements imposed on the agency justifies the continuation of the requirement.

§ 77. Report and recommendations. 1. The legislative sunset advisory commission shall, every thirty-first day of December, issue a report to the governor and the legislature on the state agencies reviewed in the previous calendar year. The report shall include:

(a) findings regarding the criteria prescribed by section one hundred four of this article;

(b) recommendations on the abolition, continuation, or reorganization of each affected state agency and its functions and operations, and on the need for the performance of the functions and operations of the agency;

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

(d) make recommendations to improve the functions and operations of the agency, including management recommendations that do not require a change in the agency's enabling statute; and

(e) make recommendations on the continuation or abolition of each reporting requirement imposed on the agency by law.

2. The legislative sunset advisory commission shall hold at least one public hearing upon making a recommendation pursuant to subdivision one of this section.

3. State agencies shall provide notice to: (a) all employee labor organizations operating within, or representing employees of, the affected state agency; and (b) managerial and confidential employees employed within the affected state agency at least twelve months prior to any abolition, redesign, recommended efficiency, or any alteration that may impact employment as a result of an action taken by the legislative sunset advisory commission.

4. The legislative sunset advisory commission shall include the estimated fiscal impact of its recommendations and may recommend appropriation levels for certain programs to improve the operations of the state agency.

5. Suggested actions of the legislative sunset advisory commission shall have the force of law unless acted upon by the legislature.

§ 78. Impact on employees. Any employee impacted by the abolition, continuation, or reorganization of a reviewed state agency and its functions and operations shall be provided with an opportunity to accept similar employment within state government with the same salary and benefits provided at the time the state agency is abolished, continued, or reorganized.

§ 3. This act shall take effect immediately.