

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:

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

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

ARTICLE 4-B

LEGISLATIVE SUNSET ADVISORY COMMISSION

7 Section 74. Commission created; terms and qualifications of members.

8 75. Expenses, employees.

9 76. Purposes of the commission.

10 77. Report and recommendations.

11 78. Impact on employees.

12 § 74. Commission created; terms and qualifications of members. A
13 legislative sunset advisory commission is hereby created, to consist of
14 the chairperson and ranking minority members of the governmental oper-
15 ations and governmental employees committees of the assembly, the chair-
16 person and ranking minority members of the investigation and government
17 operations and the civil service and pensions committees in the senate,
18 two ad hoc appointees by the lieutenant governor, and one member
19 appointed by each of the speaker of the assembly, minority leader of the
20 assembly, temporary president of the senate, and minority leader of the
21 senate. The members first appointed by the speaker of the assembly,
22 minority leader of the assembly, temporary president of the senate, and
23 minority leader of the senate shall be appointed for two years. The ad
24 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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1 appointed for such terms that the term of one member will expire on each
2 succeeding thirty-first day of December. The term of a member thereafter
3 appointed, except to fill a vacancy occurring otherwise than by expira-
4 tion of term, shall be five years from the expiration of the term of his
5 or her predecessor. A vacancy in the office of a member appointed by the
6 lieutenant governor occurring otherwise than by expiration of term,
7 shall be filled by the lieutenant governor for the remainder only of the
8 term. Members of the legislative sunset advisory commission shall deter-
9 mine the chairperson by a majority vote of commission members. A majori-
10 ty of non-ad hoc members present represents a quorum.

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

17 § 76. Purposes of the commission. It shall be the duty of the legisla-
18 tive sunset advisory commission, in consultation with the state comp-
19 troller, to review each state agency on a ten-year basis to determine
20 whether a public need exists for the continuation or reformation of the
21 state agency and its functions and operations. When determining whether
22 a public need exists for the continuation of reformation of a state
23 agency and its functions and operations, the commission and its staff
24 shall consider the following criteria:

- 25 1. the efficiency and effectiveness with which the agency operates;
- 26 2. an identification of the mission, goals, and objectives intended
27 for the agency and of the problem or need that the agency was intended
28 to address;
- 29 3. the extent to which the mission, goals, and objectives have been
30 achieved and the problem or need has been addressed;
- 31 4. an identification of any activities of the agency in addition to
32 those granted by statute and of the authority for those activities and
33 the extent to which those activities are needed;
- 34 5. an assessment of authority of the agency relating to fees,
35 inspections, enforcement, and penalties;
- 36 6. whether less restrictive or alternative methods of performing any
37 function that the agency performs could adequately protect or provide
38 service to the public;
- 39 7. the extent to which the jurisdiction of the agency and the programs
40 administered by the agency overlap or duplicate those of other agencies,
41 the extent to which the agency coordinates with those agencies, and the
42 extent to which the programs administered by the agency can be consol-
43 idated with the programs of other state agencies;
- 44 8. the promptness and effectiveness with which the agency addresses
45 complaints concerning entities or other persons affected by the agency,
46 including an assessment of the agency's administrative hearings process;
- 47 9. an assessment of the agency's rulemaking process and the extent to
48 which the agency has encouraged participation by the public in making
49 its rules and decisions and the extent to which the public participation
50 has resulted in rules that benefit the public;
- 51 10. the extent to which the agency has complied with federal and state
52 laws and applicable rules regarding equality of employment opportunity
53 and the rights and privacy of individuals, and state law and applicable
54 rules of any state agency regarding purchasing guidelines and programs
55 for historically underutilized businesses;

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

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

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

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

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

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

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

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

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

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

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

36 4. The legislative sunset advisory commission shall include the esti-
37 ated fiscal impact of its recommendations and may recommend appropri-
38 ation levels for certain programs to improve the operations of the state
39 agency.

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

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

48 § 3. This act shall take effect immediately.