RECALLED

February 17, 2010

**H. 3192**

Introduced by Reps. Rice, Allison, Stringer, Harrison, Merrill, E.H. Pitts and Millwood

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Read the first time January 13, 2009.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 24 TO TITLE 1 SO AS TO ESTABLISH THE SOUTH CAROLINA SUNSET COMMISSION AND A SUNSET REVIEW DIVISION OF THE LEGISLATIVE AUDIT COUNCIL, TO ESTABLISH PROCEDURES PROVIDING FOR THE MANNER IN WHICH THE PROGRAMS OF CERTAIN AGENCIES AND DEPARTMENTS OF STATE GOVERNMENT MUST BE EVALUATED TO DETERMINE IF THEY SHOULD BE CONTINUED IN EXISTENCE, MODIFIED, OR TERMINATED, AND TO ESTABLISH THE PROCEDURES BY WHICH THESE PROGRAMS MUST BE CONTINUED, MODIFIED, OR TERMINATED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 1 of the 1976 Code is amended by adding:

“CHAPTER 24

Sunset Review

Section 1‑24‑10. (A) The South Carolina Sunset Commission is hereby established to be composed of twelve members appointed as provided in this section. The commission must consist of members of the General Assembly representing both the House and Senate and public members. The Speaker of the House shall appoint four House members and one public member. The President Pro Tempore of the Senate shall appoint four Senators and one public member. The Governor shall appoint two public members. The public members may not have been a member of the General Assembly during the preceding two years.

(B) The members of the General Assembly shall serve for terms coterminous with their terms of office. The public members must be appointed for terms of four years and until their successors are appointed and qualify, except that the two public members first appointed by the Speaker and the President Pro Tempore shall serve initial terms of two years each. A vacancy must be filled for the remainder of the unexpired term in the manner of original appointment.

(C) The commission shall organize and elect a chairman, vice chairman, and such other officers, as it considers necessary. Members of the commission shall receive the usual mileage, subsistence, and per diem as is paid to members of state boards, commissions, and committees to be paid from the approved accounts of their appointing authority.

Section 1‑24‑20. (A) A separate Sunset Review Division of the Legislative Audit Council is created.

(B) The purpose of the division is to conduct sunset reviews of the programs of state agencies and departments covered by this chapter to determine whether these programs have outlived their usefulness or must be changed to address the priorities and needs of the state’s citizens and the General Assembly.

(C) The division shall publish a report after reviewing an agency and its programs based on the review criteria established in this chapter.

(D) The Sunset Review Division shall receive such funding as may be provided in the annual general appropriations act.

Section 1‑24‑30. In conducting the reviews, the Sunset Review Division shall consider the mission of the agency, as defined by the General Assembly, and how its programs fulfill that mission. The review division may consider, but is not limited to, evaluation of the following matters, as applicable:

(1) the efficiency of the administration of the programs or functions of the agency under review including the management process and structure;

(2) an identification of the objectives intended for the agency or program and the problems or needs that the agency or program was intended to address, the extent to which the objectives have been achieved, and any activities of the agency or program in addition to those granted by law and the authority for these activities;

(3) an assessment of less restrictive or alternative methods of performing any regulation that the agency or program performs that adequately protects the public;

(4) the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency may be consolidated with the programs of other state agencies;

(5) the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency;

(6) the extent to which the agency and programs have encouraged participation of the public and have provided service to the state’s citizens;

(7) the extent to which changes are necessary in the enabling laws of the agency so that the agency can adequately comply with the criteria stipulated herein;

(8) the extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

(9) the extent to which the agency complies with the Freedom of Information Act and responds efficiently to requests for public information; and

(10) the effect of federal intervention or loss of federal funds if the agency or program is abolished.

Section 1‑24‑40. (A) After the Legislative Audit Council’s Sunset Review Division issues its report, the Sunset Commission shall conduct a public hearing on the agency and its programs covered by the report.

(B) The commission shall consider the fiscal and economic impact of the agency and its programs and other relevant issues.

(C) The commission shall receive testimony from the public, personnel from the agency and programs under review, and other interested parties.

(D) The Sunset Review Division of the Legislative Audit Council shall provide staff support to the commission and its programs covered by the report in the performance of its duties.

Section 1‑24‑50. (A) The report issued pursuant to this chapter must be filed with the Committee on Ways and Means of the House of Representatives and the Senate Finance Committee no later than January fifteenth of each year, and reauthorization of an agency or program must be accomplished in a special permanent law provision designated Part IC that must be included in the annual general appropriations act that specifically reauthorizes an agency or program and which may not include another provision of law. An agency or program not reauthorized as provided in this subitem terminates as provided in this chapter.

(B) After the public hearing, the legislative members of the commission may introduce legislation based on its findings.

Section 1‑24‑60. (A) The programs and functions of the following state agencies must terminate as provided in this chapter pursuant to the following schedule. An entity funded by appropriations included in an agency’s budget also is included in these terminations and must be reviewed.

(1) June 30, 2010, the termination date for:

(a) Department of Health and Environmental Control;

(b) Department of Natural Resources;

(c) Department of Parks, Recreation and Tourism;

(d) South Carolina State Forestry Commission;

(e) Department of Agriculture.

(2) June 30, 2011, the termination date for:

(a) Department of Corrections;

(b) Department of Juvenile Justice;

(c) Department of Probation, Parole and Pardon Services;

(d) John de la Howe School;

(e) South Carolina Administrative Law Court.

(3) June 30, 2012, the termination date for:

(a) Department of Health and Human Services;

(b) State Department of Insurance;

(c) State Accident Fund;

(d) South Carolina Workers’ Compensation Commission;

(e) South Carolina Second Injury Fund;

(f) Patients’ Compensation Fund.

(4) June 30, 2013, the termination date for:

(a) State Department of Education;

(b) South Carolina Educational Television Commission;

(c) South Carolina School for the Deaf and the Blind;

(d) South Carolina Department of Archives and History;

(e) Wil Lou Gray Opportunity School.

(5) June 30, 2014, the termination date for:

(a) Department of Social Services;

(b) South Carolina State Housing, Finance and Development Authority;

(c) South Carolina Commission for the Blind;

(d) State Human Affairs Commission;

(e) State Commission for Minority Affairs.

(6) June 30, 2015, the termination date for:

(a) Department of Disabilities and Special Needs;

(b) Department of Revenue;

(c) Department of Labor, Licensing and Regulation;

(d) Patriots Point Development Authority;

(e) State Election Commission.

(7) June 30, 2016, the termination date for:

(a) Department of Mental Health;

(b) Department of Alcohol and Other Drug Abuse Services;

(c) South Carolina Museum Commission;

(d) South Carolina Arts Commission;

(e) Office of Secretary of State.

(8) June 30, 2017, the termination date for:

(a) South Carolina Department of Transportation;

(b) Commission on Indigent Defense;

(c) Attorney General’s Office;

(d) Commission on Prosecution Coordination;

(e) South Carolina Office of Appellate Defense;

(f) Department of Motor Vehicles.

(9) June 30, 2018, the termination date for:

(a) State Budget and Control Board;

(b) Governor’s Office;

(c) State Treasurer’s Office;

(d) Board of Financial Institutions;

(e) Comptroller General’s Office;

(f) Lieutenant Governor’s Office.

(10) June 30, 2019, the termination date for:

(a) State Board for Technical and Comprehensive Education;

(b) State Commission on Higher Education;

(c) Higher Education Tuition Grants Commission;

(d) South Carolina State Library;

(e) South Carolina Sea Grant Consortium.

(11) June 30, 2020, the termination date for:

(a) Department of Public Safety;

(b) South Carolina Law Enforcement Division;

(c) Adjutant General’s Office;

(d) South Carolina Public Service Commission;

(e) Department of Consumer Affairs.

(12) June 30, 2021, the termination date for:

(a) South Carolina Employment Security Commission;

(b) South Carolina Department of Commerce;

(c) State Agency of Vocational Rehabilitation;

(d) South Carolina Jobs‑Economic Development Authority;

(e) State Ethics Commission.

(B) The General Assembly, by concurrent resolution, may advance the termination date and sunset review scheduled for an agency as provided in subsection (A) of this section, if the General Assembly determines the circumstances warrant this action.

Section 1‑24‑70. The existence of a state agency or program may be reauthorized by the General Assembly for periods not to exceed twelve years. A newly created agency or department to which this chapter applies must exist for a period not to exceed twelve years, excluding the year of establishment, or a lesser period of time, if so designated by the General Assembly at the time of its creation. Before the end of this period each newly created agency or department must be subjected to review, pursuant to the provisions of this chapter.

Section 1‑24‑80. Upon termination of an agency or program because legislation to reauthorize its existence was not enacted, the agency or program must continue in existence for the purpose of winding up its affairs no later than June thirtieth of the next succeeding year at which time it shall cease all activity. During the windup period, termination must not reduce or otherwise limit the powers or authority of the agency or program. At the conclusion of the windup period, all laws and regulations governing, authorizing, and otherwise dealing with the terminated agency or program must be considered repealed to the extent to which those laws and regulations address the terminated agency or program. Termination of an agency or program may not cause the dismissal of a claim or right of a citizen against the agency or program or a claim or right of an agency or department terminated pursuant to this chapter which is subject to litigation. Money remaining after the windup period must revert back to the general fund.”

SECTION 2. This act takes effect upon approval by the Governor.

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