

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 544
92ND GENERAL ASSEMBLY

Reported from the Committee on Governmental Accountability and Fiscal Oversight, March 6, 2003, with recommendation that the Senate Committee Substitute do pass.

1560S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 23, RSMo, by adding thereto fifteen new sections relating to the Missouri sunset act.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 23, RSMo, is amended by adding thereto fifteen new sections, to be known as sections 23.250, 23.253, 23.256, 23.259, 23.262, 23.265, 23.268, 23.271, 23.274, 23.277, 23.280, 23.283, 23.292, 23.295, and 23.298, to read as follows:

23.250. Sections 23.250 to 23.298 shall be known and may be cited as the "Missouri Sunset Act".

23.253. 1. As used in sections 23.250 to 23.298, the following terms mean:

(1) "Agency", any department, division, or agency of the state responsible for the administration of a program;

(2) "Committee", the committee on legislative research established in section 23.010;

(3) "Program", a distinct, coherent set of activities authorized in statute by the general assembly through the legislative process intended to affect a clearly definable target group, problem, or issue. Programs can either be appropriated through the budget process or, as is the case with tax credits, be nonappropriated;

(4) "Sunset", the termination of legislative authorization of a program.

2. After August 28, 2003, all new programs authorized by the general assembly will sunset not more than six years after their effective dates unless reauthorized by an act of the general assembly. No funds may be expended on a program after its authorization has terminated. Legislation passed after August 28, 2003, shall indicate whether it contains a program subject to the Missouri sunset act. Any such program

shall have a sunset clause clearly indicating the date it will sunset without reauthorization.

3. Any program reauthorized by the general assembly pursuant to this section shall include a provision specifying that the program will sunset at a date not more than twelve years from the effective date of the program's reauthorization.

23.256. Before October thirtieth of the second calendar year prior to the year in which a state program subject to sections 23.250 to 23.298 is scheduled to sunset, the agency shall report to the committee:

(1) Information regarding the application to the program of the criteria in section 23.268; and

(2) Any other information that the agency considers appropriate or that is requested by the committee.

23.259. 1. Before September first of the calendar year prior to the year in which a program subject to sections 23.250 to 23.298 is scheduled to sunset, the committee shall:

(1) Review and take action necessary to verify the reports submitted by the agency pursuant to section 23.256;

(2) Consult with the house of representatives budget committee, the senate appropriations committee, the governor's office of budget and planning, the state auditor, and the state treasurer on the application to the agency of the criteria provided in section 23.268; and

(3) Conduct a performance evaluation of the program based on the criteria provided in section 23.268 and prepare a written report.

2. The written report prepared by the committee pursuant to subdivision (3) of subsection 1 of this section is a public record.

23.262. 1. Between September first and December first of the calendar year prior to the year in which a program subject to sections 23.250 to 23.298 is scheduled to sunset, the committee shall conduct public hearings concerning but not limited to the application to the program of the criteria provided in section 23.268.

2. The committee may hold the public hearings prior to September first if the evaluation of the program required in subdivision (3) of subsection 1 of section 23.268 is complete and available to the public.

23.265. 1. At the beginning of each regular legislative session, the committee shall present to the general assembly and the governor a report on the programs scheduled to be sunset.

2. In the report, the committee shall include:

(1) Its specific findings regarding each of the criteria prescribed by section

23.268;

- (2) Its recommendations based on the matters prescribed by section 23.271; and
- (3) Any other information the committee deems necessary for a complete evaluation of the program.

23.268. The committee and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a program, or for the performance of the functions of the program:

- (1) The efficiency with which the program operates;
- (2) An identification of the objectives intended for the program and the problem or need that the program was intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for such activities;
- (3) An assessment of less restrictive or alternative methods of performing any rule or regulation that the agency performs that could adequately protect the public;
- (4) The extent to which the program overlaps with or duplicates that of another state program and the extent to which the program could be consolidated with another state program or programs;
- (5) Whether the agency has recommended to the general assembly statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates;
- (6) The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the program;
- (7) The extent to which the agency has encouraged participation by the public in making rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the program;
- (8) The extent to which the agency has complied with applicable requirements of an agency of the United States or this state regarding equality of employment opportunity and the rights and privacy of individuals;
- (9) The extent to which changes are necessary in the enabling statutes of the program so that the agency can adequately comply with the criteria established in this section;
- (10) The extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;
- (11) The extent to which the agency complies with chapter 610, RSMo, and follows records management practices that enable the agency to respond efficiently to requests for public information;

(12) The effect of federal intervention or loss of federal funds if the program is sunset; and

(13) Any additional criteria set forth in law or otherwise appropriate for the specific program under review.

23.271. 1. In its report on a program, the committee shall:

(1) Make recommendations on the sunset, continuation, or reorganization of each affected program and on the need for the performance of the functions of the program;

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

(3) Recommend appropriation levels for each program for which sunset or reorganization is recommended pursuant to subdivision (1) or (2) of this subsection; and

(4) Include drafts of legislation necessary to carry out the committee's recommendations pursuant to subdivisions (1) and (2) of this subsection.

2. On the date the committee presents its report to the general assembly pursuant to section 23.265, the committee shall present to the state auditor the committee's recommendations that do not require a statutory change to be put into effect. The state auditor shall examine the recommendations and, as part of the next scheduled audit of the program, shall prepare a report on the manner in which the agency has implemented the recommendations.

23.274. 1. In the two-year period preceding the date scheduled for the sunset of a program pursuant to sections 23.250 to 23.298, the committee may exempt certain agencies from the requirements of sections 23.250 to 23.298 relating to staff reports, hearings, and evaluations.

2. The committee shall only exempt programs that have been inactive for a period of two years preceding the date the program is scheduled to sunset.

3. The committee's action in exempting programs pursuant to this section shall be done by an affirmative record vote of all members of the committee.

23.277. During each legislative session, the staff of the committee shall monitor legislation affecting programs that have undergone sunset review and shall periodically report to the members of the committee on proposed changes which would modify prior recommendations of the committee.

23.280. Sections 23.250 to 23.298 do not prohibit the general assembly from:

(1) Terminating a program at a date earlier than that provided in sections 23.250 to 23.298; or

(2) Considering any other legislation relative to a program subject to sections 23.250 to 23.298.

23.283. 1. A program that is sunset may continue in existence until June thirtieth of the following year to conclude its business. Unless the law provides otherwise, sunset does not reduce or otherwise limit the powers and authority of the agency during the concluding year. A program is terminated and shall cease all activities at the expiration of the one-year period. Unless the law provides otherwise, all rules adopted by the state agency expire at the expiration of the one-year period.

2. Any unobligated and unexpended appropriations of a sunset program lapse on September first of the year after sunset.

3. Except as provided by subsection 5 of this section or as otherwise provided by law, all moneys in a dedicated fund of a program that sunsets on September first of the year after sunset shall be transferred to the credit of the general revenue fund. Any law or portion of a law dedicating the moneys to a specific fund of a program that sunsets shall become void on September first of the year after sunset.

4. Unless the governor designates an appropriate state agency as prescribed in subsection 5 of this section, property and records in the custody of an agency administering a sunset program on September first of the year after sunset shall be transferred to the office of administration. If the governor designates an appropriate state agency, the property and records shall be transferred to the designated state agency.

5. In recognition of the state's continuing obligation to pay bonded indebtedness and all other obligations, including lease, contract, and other written obligations, incurred by a program pursuant to sections 23.250 to 23.298, sections 23.250 to 23.298 do not impair or impede payment of bonded indebtedness and all other obligations, including lease, contract, and other written obligations, in accordance with their terms. If an agency has outstanding bonded indebtedness or other outstanding obligations for a sunset program, including lease, contract, or other written obligations, the bonds and all other such obligations remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all other such obligations. The governor shall designate an appropriate state agency to continue to carry out all covenants contained in the bonds and all other such obligations, and the proceedings authorizing them, including the issuance of bonds, and the performance of all other such obligations to complete the construction of projects or the performance of other such obligations. The designated state agency shall provide payment from the sources of payment of the bonds in accordance with the terms of

the bonds and shall provide payment from the sources of payment from all other such obligations in accordance with their terms, whether from taxes, revenues, or otherwise, until the bonds and interest on the bonds are paid in full and are performed and paid in full. If the proceedings so provide, all funds established by law or proceedings authorizing the bonds or authorizing other such obligations shall remain with the state treasurer or previously designated trustees. If the proceedings do not provide that the funds remain with the state treasurer or previously designated trustees, the funds shall be transferred to the designated state agency.

23.292. 1. The committee may request the assistance of state agencies and officers. When assistance is requested, a state agency or officer shall assist the committee.

2. In carrying out its functions pursuant to sections 23.250 to 23.298, the committee or its designated staff member may inspect the records, documents, and files of any state agency.

23.295. If an employee is displaced because a program is sunset, reorganized, or continued, the state agency and the division of employment security in the department of labor and industrial relations shall make a reasonable effort to relocate the displaced employee.

23.298. Except as otherwise expressly provided, sunset of a program does not affect the rights and duties that matured, penalties incurred or imposed, civil or criminal liabilities that arose, or proceedings initiated before the effective date of the sunset.

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