

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILLS NOS. 299 & 40

92ND GENERAL ASSEMBLY

2003

0682S.011T

## AN ACT

To repeal sections 33.210, 33.270, 33.800, 33.803, 33.805, 33.807, and 33.810, RSMo, and to enact in lieu thereof twenty-two new sections relating to performance-based budgeting.

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

Section A. Sections 33.210, 33.270, 33.800, 33.803, 33.805, 33.807, and 33.810, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 23.250, 23.253, 23.256, 23.259, 23.262, 23.265, 23.268, 23.271, 23.274, 23.277,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, 23.298, 33.210, 33.270, 33.800, 33.803, 33.805, 33.807, and 33.810, 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 35, article III, Constitution of Missouri and section 23.010;**

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

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

2. After August 28, 2003, any new program authorized by the general assembly shall sunset not more than six years after its effective date 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 of termination without reauthorization.

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

4. Any program to which money was appropriated prior to August 28, 2003, may at any time be subject to review of the committee by a majority vote of its members for the purpose of recommending to the general assembly its continuation or 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, and shall issue a report pursuant to subsection one of section 23.271. The committee may recommend to the general assembly by a majority vote of its members that a program under review, to which money was appropriated prior to August 28, 2003, be sunset, continued, or reorganized. The committee shall submit such recommendation to all members of the general assembly within thirty calendar days of the vote in which such recommendation is made.

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 budget committee of the house of representatives, the appropriations committee of the senate, the 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 shall be deemed 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 session of the general assembly, 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 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 can be consolidated with the programs of other state agencies;

(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:

(a) An agency of the United States or this state regarding equality of employment opportunity and the rights and privacy of individuals; and

(b) State law and applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses;

(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; and

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

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 shall prepare, as part of the next scheduled audit of the program, 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 regular or special session of the general assembly, 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 shall 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 September first 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 shall 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 shall 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 to assist in gathering information pursuant to the committee objective.

**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 workforce development in the department of economic development 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.

**33.210. 1.** The director of the budget shall assist the governor in the preparation of the budget and in his other duties in relation thereto.

**2.** The budget director shall develop and implement a performance-based budgeting system that establishes goals and objectives, provides detailed measures of program and fund performance against attainment of planned outcomes, and provides for program evaluations. The governor may consider all outcome measures used for each program and fund as compared with the attainment of the established goals and

**objectives of each program or fund for the past three fiscal years in preparing budget recommendations pursuant to section 33.270. Such outcome measures and attainment of established goals and objectives for each program and fund shall be considered by the general assembly in approving appropriation levels for each program and fund.**

33.270. The budget shall be submitted to the general assembly in printed form. Such budget shall be in two parts:

(1) A budget message outlining the fiscal policy of the state for the biennium and describing the important features of the budget plan; giving a summary of the budget setting forth aggregate figures of proposed revenues and expenditures and the balanced relations between the proposed revenues and expenditures and the total expected income and other means of financing the budget compared with the corresponding figures for the preceding biennium; including explanatory schedules classifying proposed expenditures by organization units, objects and funds; giving estimated statements of assets and liabilities as of the close of the preceding biennium and of the budget biennium; explaining any proposed major increases in revenue from any existing source or any new source of revenue proposed, and giving any further information or making any suggestions;

(2) The detailed budget estimates of revenues and expenditures for each fund as provided for in this act showing the recommendations of the governor on each, compared with the figures for each of the fiscal years of the preceding biennium, **including all outcome measures used for each program and fund as compared with the attainment of the established goals and objectives of each program and fund for the past three fiscal years and projected outcome measures for each program and fund for the current fiscal year and the next two fiscal years, the most recent reports done by the state auditor's office and any evaluations done by the oversight division of the committee on legislative research for each fund and program** and giving an explanation of each major change in the recommendations from the revenues and expenditures in the previous biennium.

33.800. The chairman of the house budget committee, the chairman of the senate appropriations committee and the commissioner of administration shall develop budget review procedures to provide for a [detailed base] **performance-based** review of state agency budgets. Such procedures shall be jointly adopted by the budget committee of the house, the appropriations committee of the senate and the office of administration.

33.803. 1. [Detail base] **Performance-based** review procedures [may] **shall** be designed to:

(1) Operate on a defined rotating basis requiring the [detailed] **performance-based** review of specified departments or agencies in a particular fiscal year; or

(2) Provide for random review of specific departments or agencies on the basis of perceived needs and requirements of the state budget.

2. [Detail base] **Performance-based** review shall be required by the budget and appropriations committees and the selection of the department or agency or program shall be

made **on a rotating basis**, with a majority concurrence of the chairman of the house budget committee, the chairman of the senate appropriations committee and the director of the division of budget and planning[. The review, whether on a defined rotating basis or on a random basis, may be applied to the]; **provided that, every department, division, or agency shall be reviewed at least once every five years after January 1, 2005. The chair of the house budget committee, the chair of the senate appropriations committee, and the director of the division of budget and planning shall decide what the review will cover, which may include the:**

- (1) Entire budget of the department or agency;
- (2) Budget subclasses as detailed by the office of administration; or
- (3) Selected programs; **and**

**(4) Outcome measures used for programs and funds within the department, division, or agency.**

3. Where similar programs or services are provided by more than one department or agency, the [detail base] **performance-based** review procedures may provide for a review and investigation of the program or service level on an interagency or interdepartmental basis in an effort to consolidate such programs or services.

33.805. 1. Any department or agency selected for a [detail base] **performance-based** review under procedures adopted pursuant to the provisions of sections 33.800 to 33.810 shall present its appropriation request in a manner prescribed by the budget and appropriation committees so that all programs or services can be reviewed, to the extent practicable, on the basis of a cost/benefit evaluation, and shall contain, to the extent requested, a detailed itemization of all existing and anticipated expenditures which are to be allocated to each program, service or function for the year of the appropriation request.

2. All departments and agencies shall submit their respective appropriations requests in a uniform manner as prescribed by procedures prescribed pursuant to section 33.800.

33.807. All officers and employees of the state, all departments, boards, commissions, bureaus and other agencies and institutions of the state which are supported, in whole or in part, by appropriations from the state shall furnish the budget committee of the house of representatives and the appropriations committee of the senate with complete access to their records and full information and assistance in any matter of research or investigation in connection with a [detail base] **performance-based** review. This section shall not be construed to compel the disclosure of any records or information which is declared to be privileged or confidential under any law of this state or the United States or by an order of a court of competent jurisdiction.

33.810. When any department or agency is selected for a [detail base] **performance-based** review pursuant to the provisions of sections 33.800 to 33.810, an analysis team shall be formed to consist of a budget analyst of the senate appropriations committee selected by the chairman of the senate appropriations committee, a budget analyst of the house budget

committee selected by the chairman of the house budget committee, a budget analyst who is employed by the office of administration designated by the commissioner of administration, and an employee of the department or agency subject to the [detail base] **performance-based** review selected by the chief administrative officer of that department or agency. Upon request of the chairmen of the legislative committees, the oversight division of the joint committee on legislative research shall assist the analysis team and provide such services as may be required. Members of the team shall receive no additional compensation for their services, but may be reimbursed for their actual and necessary expenses connected with the performance of their duties out of the joint legislative contingent fund. The team shall perform such functions, analysis and other duties as are specified in the [detail base] **performance-based** review procedures established pursuant to the provisions of section 33.800. The team shall begin the [detail base] **performance-based** review no sooner than the final approval of the appropriations bills by the governor and complete the review no later than [October first] **December thirty-first** of the same year.

Unofficial

Bill

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