

AN ACT

To enact sections 101.88, 101.881, 101.882, and 101.89 of the Revised Code to require standing committees of the General Assembly to establish a schedule for the periodic review and sunset of state departments that are currently in the Governor's cabinet.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 101.88, 101.881, 101.882, and 101.89 of the Revised Code be enacted to read as follows:

Sec. 101.88. (A) The departments enumerated in divisions (B) and (C) of this section shall periodically be reviewed by the general assembly and unless renewed, shall cease to operate according to the schedule provided in this section. If the general assembly does not renew a department that is scheduled to be reviewed and the department is not otherwise renewed before the department's expiration date, the department shall wind up operations, in accordance with section 126.29 of the Revised Code, during the two-year period before the department's expiration date and shall suspend all operations at midnight on the day after the expiration date.

(B) The following departments shall be reviewed during each even-numbered general assembly, and expire at the end of the thirty-first day of December of the second year of the subsequent odd-numbered general assembly, unless the department is renewed in accordance with division (F) of this section:

- (1) The office of budget and management;
- (2) The department of administrative services;
- (3) The department of agriculture;
- (4) The department of health;
- (5) The department of public safety;
- (6) The department of developmental disabilities;
- (7) The development services agency;
- (8) The department of rehabilitation and correction;
- (9) The department of aging;
- (10) The department of medicaid;
- (11) The office of the adjutant general;
- (12) The department of higher education.

(C) The following departments shall be reviewed during each odd-numbered general assembly, and expire at the end of the thirty-first day of December of the second year of the subsequent even-numbered general assembly, unless the department is renewed in accordance with division (F) of this section:

- (1) The department of commerce;
- (2) The department of transportation;
- (3) The department of natural resources;
- (4) The department of job and family services;
- (5) The department of mental health and addiction services;
- (6) The department of insurance;
- (7) The department of youth services;
- (8) The environmental protection agency;
- (9) The department of veterans services;
- (10) The office of health transformation;
- (11) The public utilities commission;
- (12) The department of taxation;
- (13) The bureau of workers' compensation.

(D) The director of budget and management shall not authorize the expenditure of any moneys for any department on or after the date of its expiration.

(E) The general assembly may provide by law for the orderly, efficient, and expeditious conclusion of a department's business and operation. The rules, orders, licenses, contracts, and other actions made, taken, granted, or performed by the department shall continue in effect according to their terms notwithstanding the department's abolition, unless the general assembly provides otherwise by law. The general assembly may provide by law for the temporary or permanent transfer of some or all of a terminated or transferred department's functions and personnel to a successor department, board, or officer.

The abolition, termination, or transfer of a department shall not cause the termination or dismissal of any claim pending against the department by any person, or any claim pending against any person by the department. Unless the general assembly provides otherwise by law for the substitution of parties, the attorney general shall succeed the department with reference to any pending claim.

(F) A department may be renewed by passage of a bill that continues the statutes creating and empowering the department. The amendment of a statute creating and empowering a department that is subject to review under division (B) or (C) of this section that is amended between the time the department was last reviewed and the time it is next scheduled to be reviewed does not change the next scheduled review date of the department. The next scheduled review date of a department changes only if the amendment expressly so provides.

Sec. 101.881. (A) Not later than three months after the commencement of a general assembly during which a department is scheduled to be reviewed under division (B) or (C) of section 101.88 of the Revised Code, the president of the senate and the speaker of the house of representatives each shall direct a standing committee of the senate and of the house of representatives, respectively, to hold hearings to receive the testimony of the public and of the chief executive officer of the department and otherwise shall review, consider, and evaluate the usefulness, performance, and effectiveness of the department. The president of the senate and the speaker of the house of representatives may defer the review of a department until the next general assembly during which the department is subject to review. The deferral does not prevent the expiration of a department. A

department's renewal in accordance with division (F) of section 101.88 of the Revised Code is necessary to continue the statutes creating and empowering the department regardless of whether the department's review has occurred or has been deferred. A department whose review has been deferred shall be reviewed, without the option for deferment, during the next general assembly during which the department is subject to review under division (B) or (C) of section 101.88 of the Revised Code.

(B) A department that is not scheduled to be reviewed under division (B) or (C) of section 101.88 of the Revised Code is not subject to automatic expiration under this chapter. The president of the senate and the speaker of the house of representatives may direct a standing committee of the senate and of the house of representatives, respectively, to hold hearings to receive the testimony of the public and of the chief executive officer of the department and otherwise may review, consider, and evaluate the usefulness, performance, and effectiveness of the department.

(C) Each department that is scheduled for review and each department that is identified to be reviewed by a standing committee shall submit to the standing committee a report that contains all of the following information:

(1) The department's primary purpose and its various goals and objectives;

(2) The department's past and anticipated workload, the number of staff required to complete that workload, and the department's total number of staff;

(3) The department's past and anticipated budgets and its sources of funding.

(D) Each department shall have the burden of demonstrating to the standing committee a public need for its continued existence. In determining whether a department has demonstrated that need, the standing committee shall consider, as relevant, all of the following:

(1) Whether or not the public could be protected or served in an alternate or less restrictive manner;

(2) Whether or not the department serves the public interest rather than a specific interest;

(3) Whether or not rules adopted by the department are consistent with the legislative mandate of the department as expressed in the statutes that created and empowered the department;

(4) The extent to which the department's jurisdiction and programs overlap or duplicate those of other departments, the extent to which the department coordinates with those other departments, and the extent to which the department's programs could be consolidated with the programs of other state departments;

(5) Whether or not continuation of the department is necessary to protect the health, safety, or welfare of the public, and if so, whether or not the department's authority is narrowly tailored to protect against present, recognizable, and significant harms to the health, safety, or welfare of the public;

(6) The amount of regulation exercised by the department compared to such regulation, if any, in other states;

(7) Whether or not alternative means or methods can be used to improve efficiency and customer service to assist the department in the performance of its duties;

(8) Whether or not the operation of the department has inhibited economic growth, reduced efficiency, or increased the cost of government;

(9) An assessment of the authority of the department regarding fees, inspections, enforcement, and penalties;

(10) The extent to which the department has permitted qualified applicants to serve the public;

(11) The cost-effectiveness of the department in terms of number of employees, services rendered, and administrative costs incurred, both past and present;

(12) Whether or not the department's operation has been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices;

(13) Whether the department has recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the department, if any, and whether its recommendations and other policies have been adopted and implemented;

(14) Whether the department has required any persons it regulates to report to it the impact of department rules and decisions on the public as they affect service costs and service delivery;

(15) Whether persons regulated by the department, if any, have been required to assess problems in their business operations that affect the public;

(16) Whether the department has encouraged public participation in its rule-making and decision-making;

(17) The efficiency with which formal public complaints filed with the department have been processed to completion;

(18) Whether the programs or services of the department duplicate or overlap those of other departments;

(19) Whether the purpose for which the department was created has been fulfilled, has changed, or no longer exists;

(20) Whether federal law requires that the department be renewed in some form;

(21) An assessment of the administrative hearing process of a department if the department has an administrative hearing process;

(22) Any applicable criteria under division (E) of this section;

(23) Changes needed in the enabling laws of the department in order for it to comply with the criteria suggested by the considerations listed in divisions (D)(1) to (22) of this section.

(E) In the review of a department that issues a license to practice a trade or profession, the standing committee shall consider all of the following:

(1) Whether the requirement for the license serves a meaningful, defined public interest and provides the least restrictive form of regulation that adequately protects the public interest;

(2) The extent to which the objective of licensing may be achieved through market forces, private or industry certification and accreditation programs, or enforcement of other existing laws;

(3) The extent to which licensing ensures that practitioners have occupational skill sets or competencies that correlate with a public interest, and the impact that those criteria have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession;

(4) The extent to which the requirement for the license stimulates or restricts competition, affects consumer choice, and affects the cost of services.

As used in division (E) of this section:

"Least restrictive form of regulation" means the public policy of relying on one of the following, listed from the least to the most restrictive, as a means of consumer protection: market

competition; third-party or consumer-created ratings and reviews; private certification; specific private civil cause of action to remedy consumer harm; actions under Chapter 1345. of the Revised Code; regulation of the process of providing the specific goods or services to consumers; inspection; bonding or insurance; registration; government certification; specialty occupational license for medical reimbursement; and occupational license. "Specialty occupational license for medical reimbursement" means a nontransferable authorization in law for an individual to provide identified medical services and qualify for payment or reimbursement from a government agency based on meeting personal qualifications established in law.

"License" means a license, certificate, permit, or other authorization issued or conferred by a department or board under which a person may engage in a profession, occupation, or occupational activity.

For purposes of division (E) of this section, a government regulatory requirement is in the public interest if it provides protection from present, recognizable, and significant harms to the health, safety, or welfare of the public.

Sec. 101.882. The president of the senate and the speaker of the house of representatives shall notify the chief of the common sense initiative office, established under section 107.61 of the Revised Code, when a department is identified under division (A) or (B) of section 101.881 of the Revised Code to be reviewed by a standing committee. The chief or the chief's designee shall appear and testify before the standing committee, with respect to the department, and shall testify on at least all of the following:

(A) Whether or not the common sense initiative office has, within the previous five years, received commentary related to the department through the comment system established under section 107.62 of the Revised Code;

(B) Whether or not the common sense initiative office has, within the previous five years, received advice from the small business advisory council with respect to rules of the department;

(C) Any other information the chief believes will elucidate the effectiveness and efficiency of the department and in particular the quality of customer service provided by the department.

Sec. 101.89. After the completion of the evaluation review of a department under section 101.881 of the Revised Code, the standing committee that conducted the review may prepare and publish a report of its findings and recommendations. A standing committee may include in a single report its findings and recommendations regarding more than one department. If the standing committee prepares and publishes a report, the committee shall furnish a copy of the report to the clerk of the house of representatives or the clerk of the senate, as the case may be. The clerk shall furnish a copy of the report to the president of the senate, the speaker of the house of representatives, the governor, and each affected department. The clerk shall make any published report available to the public on the internet web site of the general assembly.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 329

131st G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____