

House Research Act Summary

CHAPTER: 278

SESSION: 2012 Regular Session

TOPIC: Sunset Review

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Overview

This act relates to the work of the Sunset Advisory Commission. The commission was created in 2011 and consists of four senators, four members of the House of Representatives, and four members appointed by the governor. The commission reviews state agencies under a schedule specified in law.

Article 1 provides that some groups that were reviewed by the commission and that currently are scheduled to expire in 2012 will expire in 2014 and that some of these groups will expire in 2018.

As part of the commission's work, it reviewed the health-related licensing boards. Article 2 makes some substantive changes in laws governing those boards and occupations regulated by the Commissioner of Health, including changes in information that must be posted on websites of the regulating entity.

Articles 1 and 2 make some changes in state agency reporting requirements, and require a number of new reports to be submitted to the legislature. The act requires some changes relating to administrative operations of agencies that the Commission reviewed, and makes some changes in the law governing the Sunset Advisory Commission.

Article 3 abolishes the Combative Sports Commission and transfers its duties to the Commissioner of Labor and Industry, effective July 1, 2012.

Article 4 modifies complaint and investigation procedures for the health-related licensing boards.

Article 5 appropriates funds.

Article 1: Sunset Review

- 1 Staff; contracts.** Authorizes the Sunset Advisory Commission to enter into contracts for evaluations of agencies under review.
- 2 Agency reports to commission.** Requires agencies subject to sunset review to report outcome-based budgets (instead of priority-based budgets) to the Sunset Advisory Commission. Specifies

information that must be included in the outcome-based budget.

- 3 Group 2.** Provides that the Council on Black Minnesotans, Council on Affairs of Chicano/Latino People, Council on Asian-Pacific Minnesotans, and Indian Affairs Council, which were subject to review and expiration in 2012, will be sunset on June 30, 2014. The Emergency Medical Services Regulatory Board, which previously had been omitted from the sunset schedule, is added to the groups subject to sunset on June 30, 2014.
- 4 Group 4.** Provides that the Capitol Area Architectural and Planning Board, the Amateur Sports Commission, all health-related licensing boards, and the Council on Disability, which were subject to review and expiration in 2012, will be sunset on June 30, 2018.
- 5 Council on Black Minnesotans interim review.** Provides that the legislative auditor should conduct a financial audit of the Council on Black Minnesotans by December 1, 2013, and that the Council must respond to issues raised in this audit and prior audits.
- 6 Review of Sunset process.** Requests the legislative auditor to conduct a review of the sunset process in 2018.
- 7 Repeal.** Repeals section 3D.21, subdivision 1, the law listing the group of agencies subject to sunset review in 2012, because these agencies have been reviewed, and they have all been reassigned to subsequent review in future years.

Article 2: Administrative Procedures and Fees

- 1 Report; Indian Affairs Council.** Requires the Indian Affairs Council to report to the governor and legislature by November 15 each year. Specifies topics to be contained in the report, and states that the council shall report on outcome measures.
- 2 Report; Chicano/Latino Council.** Provides that the report of the Council on Affairs of Chicano/Latino People must include outcome measures. Requires an annual, rather than biennial, report.
- 3 Report; Council on Black Minnesotans.** Provides that the report of the Council on Black Minnesotans must include outcome measures. Requires an annual, rather than biennial, report.
- 4 Report; Council on Asian-Pacific Minnesotans.** Provides that the report of the Council on Asian-Pacific Minnesotans must include outcome measures. Requires an annual, rather than biennial, report.
- 5 Coordination with Legislative Auditor.** Provides that to the extent possible the Sunset Advisory Commission and the OLA shall align their work, so that OLA work can inform the work of the commission. Provides that the commission may request OLA to update OLA audits and program evaluations on agencies scheduled for commission review.
- 6 Report on personnel.** Requires the Commissioner of Management and Budget to report on FTE employees and salary structure for agencies subject to sunset review.
- 7 Assistance to small agencies.** Authorizes the Commissioner of Administration to provide administrative support services to small agencies, and to require small agencies to use and pay for support services provided by the commissioner or by another agency. Requires the councils of color, and the Council on Disability, to use these services. Adds that a service level agreement must be developed between the commissioner and the agency for which the commissioner is providing administrative support.
- 8 Disclosure; Board of Medical Practice.** Under current law, when the Board of Medical Practice

imposes disciplinary measures, specified information becomes public. This section provides that information also will be public when the board takes corrective action.

- 9 Failure to report.** Provides that a person, health care facility, business, or organization that fails to report to the Board of Medical Practice, as required by law, is subject to civil penalties.
- 10 Failure to report.** Provides that a person or insurer that fails to report to the Board of Chiropractic Medicine, as required by law, is subject to civil penalties.
- 11 Grounds listed.** Removes the five year lookback limitation and allows the Board of Nursing to consider convictions of felony or gross misdemeanor offenses occurring anytime in the past as grounds for disciplinary action.
- 12 Failure to report.** Provides that a person, institution, insurer, or organization that fails to report to the Board of Nursing, as required by law, is subject to civil penalties.
- 13 Use of fees.** Provides that the commissioner of health shall use fees collected under this section only for purposes of administering the speech language pathologist and audiologist program. Prohibits legislative transfer of fees to the general fund and excludes the OET surcharge from this section.
- 14 Use of fees.** Provides that the commissioner of health shall use fees collected under this section only for purposes of administering the occupation therapy professionals program. Prohibits legislative transfer of fees to the general fund and excludes the OET surcharge from this section.
- 15 Failure to report.** Provides that a person, institution, insurer, or organization that fails to report to the Board of Marriage and Family Therapy, as required by law, is subject to civil penalties.
- 16 Failure to report.** Provides that a person, institution, insurer, or organization that fails to report to the Board of Behavioral Health and Therapy, as required by law, is subject to civil penalties.
- 17 Failure to report.** Provides that a person, institution, or organization that fails to report to the Board of Social Work, as required by law, is subject to civil penalties.
- 18 Failure to report.** Provides that a person, institution, insurer, or organization that fails to report to the Board of Dentistry, as required by law, is subject to civil penalties.
- 19 Failure to report.** Provides that a person, institution, or insurer that fails to report to the Board of Podiatry, as required by law, is subject to civil penalties.
- 20 Expenses; fees.** Provides that the commissioner of health shall use fees collected under this section only for purposes of administering the hearing instrument dispenser program. Prohibits legislative transfer of fees to the general fund and excludes the OET surcharge from this section.
- 21 Fees to recover expenditures.** Requires the commissioner of health and all health-related and non-health related boards to propose or adjust fees according to section 16A.1283. Allows the health-related boards to accumulate up to one year of reserves before they are required to reduce fees.
- 22 Health occupations licensing account.** Adds that fees collected by the boards must be used by the boards and only for the purposes of the programs they administer. Prohibits transfer of funds to the general fund. States that the OET surcharges are not subject to this section
- 23 Health-related licensing boards; surcharges.** Provides that when a board imposes a surcharge on applicants or licensees, that surcharge cannot be the basis for a fee increase, but must be made as a separate assessment.
- 24 Health-related licensing boards; website.** Requires each health-related licensing board, and the commissioner of health with respect to specified occupations regulated by the commissioner, to post

on its website the name and business address of each regulated individual who has: (1) been convicted of a felony or gross misdemeanor occurring on or after July 1, 2013, in any state or jurisdiction; (2) a malpractice judgment occurring on or after July 1, 2013, in any jurisdiction or (3) any disciplinary or corrective action or restriction of privileges taken by a licensing board in any jurisdiction. Requires information to be posted for new licensees issued a license on or after July 1, 2013, and for current licensees upon license renewal occurring on or after July 1, 2013.

- 25 Health-related licensing boards; authority.** Requires each health-related licensing board, and the commissioner of health as regulator of specified occupations, to require an applicant on or after August 1, 2012, to provide the individual's primary business address at the time of initial application and renewals.
- 26 Report; background checks.** Requires the health-related licensing boards and the commissioner of health to jointly study and make recommendations for establishing uniform criminal history background check requirements. Requires a report to the legislature by January 15, 2013.
- 27 Health-related licensing boards reporting obligations.** Requires that by January 15, 2013, the health-related licensing boards and the commissioner of health jointly study and submit draft legislation for consistent requirements for specified persons and entities to report conduct constituting grounds for misconduct to the respective regulatory entity.
- 28 Sunset Advisory Commission; Department of Health review.** Requires that the Sunset Advisory Commission review of the Department of Health in 2013 and 2014 include an analysis of the extent to which health occupations should be licensed by the Department of Health and by licensing boards.
- 29 Report; investigations for health-related licensing boards.** Requires health-related licensing boards and the Attorney General to make recommendations to the legislature by January 15, 2013, on the roles of the boards and the attorney general in investigating licensees of the boards.
- 30 Report; information systems for licensing boards.** Requires the Office of Enterprise Technology and the Commissioner of Administration to report to the legislature by January 15, 2013, on the best method of providing electronic licensing, disciplinary, regulatory, and investigative systems to the health-related licensing boards.
- 31 Report; health-related licensing board fees.** Requires each health-related licensing board and the commissioner of health as regulator for specified occupations to report on the degree to which fees imposed by the board comply with laws setting criteria for the amount of these fees. Requires boards to propose legislation reducing fees if the fees are expected to produce more revenue than needed to recover expenditures over a five-year period.
- 32 Reports; administrative support services.** Requires the Commissioner of Administration to report to the legislature by January 15, 2013, on use of the Small Agency Resource Teams (SMART) by executive agencies.
- Requires the administrative services unit of health-related licensing boards to report to the legislature by January 15, 2013, evaluating use of the unit's services by health-related licensing boards.
- 33 Medical Practice Act; study.** Requires the commissioner of health to convene a working group to evaluate the Medical Practice Act, to ensure it protects safety and well-being of citizens and allows transparency. Specifies membership of the working group and various administrative provisions relating to the group. Requires the commissioner to submit legislation for consideration in 2013, and for the board to bear the costs of the study.
- 34 Board of Medical Practice review.** Requests the Legislative Auditor to conduct an investigation of the Board of Medical Practice and its implementation of the medical practice act. Instructs the Legislative Auditor to submit the results of the investigation to the Sunset Advisory Commission and

the legislature.

- 35 Repealer.** Repeals laws governing the Labor Interpretive Center.

Article 3: Transfer of Combative Sports Duties

Overview

Abolishes the Combative Sports Commission and transfers duties to the Commissioner of Labor and Industry.

- 1 Commissioner.** In the law governing combative sports, defines "Commissioner" to mean the commissioner of Labor and Industry.
- 2 Advisory group.** Requires the commissioner of Labor and Industry to appoint a Combative Sports Advisory Council with specified members.
- 3 Limitations.** Inserts reference to the advisory council, rather than the former commission, in a law providing limits on specified activities.
- 4 Commissioner duties.** Refers to the commissioner (of DOLI) rather than the combative sports commission, in laws specifying duties relating to regulation of combative sports.
- 5 Gift authority.** Refers to the commissioner (of DOLI) rather than the combative sports commission, in law providing authority to accept certain gifts for official purposes.
- 6 Regulatory authority; combative sports.** Strikes references to the commission and its members (because duties are transferred to the commissioner of Labor and Industry).
- 7 Appropriation.** Changes the name of the current "commission" account in the special revenue fund to the "combative sports account", and appropriates money from the account to the commissioner of Labor and Industry instead of the commission.
- 8 Transfer of duties.** Abolishes the Combative Sports Commission and transfers duties to the commissioner of Labor and Industry. Authorizes DOLI to provide for transfer of staff. Prohibits use of money from the general fund to pay for costs associated with transfer of functions. Provides for recovery of certain indirect costs.
- 9 Revisor instruction.** Instructs the Revisor to substitute the term "commissioner" for "commission" in Minnesota Statutes, chapter 341.
- 10 Repealer.** Repeals laws: defining the Combative Sports Commission and its director; creating the Combative Sports Commission; authorizing the Governor to appoint an executive director of the commission; and governing commission meetings.
- 11 Effective date.** Provides that this article is effective July 1, 2012.

Article 4: Health Boards

- 1 Health-related boards.** Prohibits current members of a board from seeking a paid employment position with that board.
- 2 Health-related licensing boards; complaint, investigation, and hearing.**

Subd. 1. Application. No changes made in this subdivision.

Subd. 1a. Notifications and resolution. Paragraph (a) provides that within 14 days of receipt of a complaint, the board must notify the complainant of receipt of the complaint and a written description of the review process. Requires the board to contact the complainant at least every 120 days of the status of the complaint.

Paragraph (b) requires the board, within 60 days of receipt of the complaint, to notify the licensee of the substance of the complaint, the laws that have allegedly been violated, the sections of professional rules that have allegedly been violated, and whether an investigation is being conducted.

Paragraph (c) requires the board to notify the licensee at least every 120 days of the status of the complaint.

Paragraph (d) provides that the board is not required to make notifications to the licensee if the notice would compromise the investigation or the notice cannot reasonably be accomplished within the time frames.

Paragraph (e) requires the board to resolve or dismiss a complaint within one year unless this cannot reasonably be accomplished and is not in the public interest.

Paragraph (f) provides that the board's failure to comply with the above paragraphs does not deprive the board of jurisdiction to complete the investigation or take action against a licensee.

Subd. 2. Receipt of complaint. Requires complainants to state the complaint in writing or authorize transcription of an oral complaint.

Subd. 3. Referral to other agencies. Permits government agencies to coordinate and conduct joint investigations when a complaint involves more than one agency.

Subd. 4. Role of the attorney general. No changes.

Subd. 5. Investigation by the attorney general. Adds that when the designee of the attorney general completes an investigation, the designee shall forward the report to the executive director of the board with recommendations for further consideration or dismissal.

Subd. 6. Attempts at resolution. Adds that neither the executive director nor any member of the board's staff shall be a voting member on a disciplinary review panel. Strikes the provision that a contested case hearing can be initiated by the executive director if attempts at resolution are not satisfactory to the executive director.

Subd. 7. Contested case hearing. Requires the concurrence of a second board member in order for the executive director to initiate a contested case hearing when there is a determination that resolution of a complaint is not in the public interest.

Subd. 8. Dismissal and reopening of a complaint. Adds that the board cannot reopen a dismissed complaint unless it receives newly discovered information that was not available during the initial investigation or the board receives a new complaint that indicates a pattern of behavior or conduct.

Subd. 9. Information to complainant. No change.

Subd. 10. Prohibited participation by board member. No change.

3 Health-related licensing boards; licensee guidance. Allows a board to offer guidance to licensees about the application of laws and rules the board enforces. Provides that this guidance is not binding

on any court or other adjudicatory body.

- 4 Recordkeeping.** Allows a board to take administrative action against a regulated person whose records do not meet professional standards. Records that are fraudulent or could result in patient harm may be handled through disciplinary action.

States that action under this section is not disciplinary action.

Article 5: Appropriations

- 1 Appropriations; Legislative Coordinating Commission.** Appropriates \$106,000 from the general fund for the fiscal year ending June 30, 2013, to perform duties related to the Sunset Advisory Commission. Increases the base by \$139,000 in fiscal year 2014.
- 2 to 16 Health-related licensing boards.** Appropriates funds from the state government special revenue fund in fiscal year 2013 to the individual health-related licensing boards in order to carry out the duties in article 2.