

Interim Report of the
Sunset Advisory Commission
January 1, 2012

Background

The 2011 Legislature created the Sunset Advisory Commission, which will periodically review state agencies and make recommendations on whether the agency should continue to exist. The law, called the Minnesota Sunset Act, establishes a schedule for periodic review and expiration of many state agencies (Minnesota Statutes, chapter 3D).

Most state executive branch agencies will be reviewed between 2012 and 2022, according to a schedule prescribed in law. Many agencies, including most state boards, councils, and commissions, expire automatically at the scheduled date unless a new law continues the agency.

The Sunset Advisory Commission must review agencies at the scheduled times and make recommendations to the legislature. The commission's recommendations are advisory—the commission does not have authority to extend an agency that is scheduled for automatic expiration or to abolish an agency that is not scheduled to expire automatically. These steps need to be taken through the legislative process.

The commission consists of four senators, four members of the House of Representatives, and four members appointed by the governor. No more than three of the senators and no more than three of the House members may be from the majority caucus in their respective chambers.

Members appointed to the 2011 Commission are:

House	Senate	Governor
Representative Mary Kiffmeyer	Senator Terri Bonoff	Matt Entenza
Representative King Banaian	Senator Ted Daley	Sharon Erickson-Ropes
Representative Joyce Peppin	Senator Paul Gazelka	Javier Morillo
Representative Michael Nelson	Senator Mike Parry	Ruth Orrick

As provided in the Commission's statute, the Commission elected a chair and vice-chair. At its November 21, 2011 meeting, the Commission elected Representative Kiffmeyer and Senator Bonoff for these two positions, respectively.

At the same meeting, the Commission adopted rules governing its procedures.

In order to provide transparency for its work, the Commission maintains a web site at: <http://www.commissions.leg.state.mn.us/sunset/>. The Commission's membership, meeting notices, meeting archives, and reports are available. The public can also subscribe to receive emailed notification of meetings.

Process

In this cycle, the commission is to review 17 Health Licensing Boards, four Councils of Color, and four other boards. A list of those agencies is included as Attachment A.

Criteria for reviewing agencies are included in the Sunset Act, Minnesota Statutes 3D.10. The Commission added elements to these criteria, which were provided to agencies so they could be included in their written reports. These criteria are included as Attachment B.

The Commission scheduled 20 hours of presentations over four meetings to receive reports from agencies under review. Those meetings were held on December 8, 9, 12 and 15. The Commission allotted approximately 20 minutes for each agency to provide an overview, and then 20 minutes for questions and discussion.

In preparation for and during these December meetings, the Commission members reviewed reports submitted by agencies. These reports addressed the criteria provided in section 3D.10, and the Commission has considered those criteria in listening to agency presentations and in asking questions of agencies. Minutes of meetings are being posted on the Commission's web site at: <http://www.commissions.leg.state.mn.us/sunset/meetingarchive.html>

As provided in Minnesota Statutes 3D.08, the Commission will take testimony from the public in hearings planned for January 2012.

Issues and Themes

As the Commission heard from boards and council, the members raised numerous issues and themes that cut across many of the agencies:

- The use of funds generated by fees paid by licensees regulated by the Health Licensing Boards in the State Government Special Revenue Fund toward state government deficits. This practice has been employed over many years.
- Whether the Administrative Services Unit, an internal organization that provides administrative support services to many Health Licensing Boards, could be expanded.
- How other boards and councils are using the Department of Administration's Small Agency Resource Teams (SmART)
- Many of the councils have members of the legislature serving on their governing boards. Members are interested in understanding those members' roles, and how that affects the councils' relationship with the legislature.
- The Commission was interested in the diversity of the members of the boards and council: geographic, gender, and professional vs. public.
- Better understanding how efficiently the Health Licensing Boards respond to and resolve complaints.
- Better understanding how the Councils of Color align their work and mission to the public policy issues being addressed by the Legislature.
- Better understanding how the Councils of Color manage administrative functions.

Next steps

The Commission is planning to:

- Issue this interim report, as provided under Minnesota Statutes 3D.07
- Request additional information from agencies, based on questions raised during the Commission's review hearings
- Conduct public hearings to provide an opportunity for public input, as provided under Minnesota Statutes 3D.08.
- Make recommendations to the Legislature, as provided under Minn. Stat. 3D.09.

Attachment A

Sunset Advisory Commission
List of agencies to be reviewed
November 8, 2011

Councils of Color

- Council on Affairs of Chicano/Latino People
- Council on Black Minnesotans
- Council on Asian-Pacific Minnesotans
- Indian Affairs Council

Health Licensing Boards

- Board of Examiners of Nursing Home Administrators
- Office of Unlicensed Complementary and Alternative Health Care Practice
- Board of Medical Practice
- Board of Nursing
- Board of Chiropractic Examiners
- Board of Optometry
- Board of Physical Therapy
- Board of Psychology
- Board of Social Work
- Board of Marriage and Family Therapy
- Office of Mental Health Practice
- Board of Behavioral Health and Therapy
- Board of Dietetics and Nutrition Practice
- Board of Dentistry
- Board of Pharmacy
- Board of Podiatric Medicine
- Board of Veterinary Medicine

Other

- Capitol Area Architectural and Planning Board
- Amateur Sports Commission
- Combative Sports Commission
- Council on Disabilities

Attachment B

Sunset Advisory Commission

Preliminary report requirements

Adopted 11/21/11

- I. Executive Summary
- II. Statutory requirements
 1. the efficiency and effectiveness with which the agency or the advisory committee operates;
 2. an identification of the mission, goals, and objectives intended for the agency or advisory committee and of the problem or need that the agency or advisory committee was intended to address and the extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed;
 3. an identification of any activities of the agency in addition to those granted by statute and of the authority for those activities and the extent to which those activities are needed;
 4. an assessment of authority of the agency relating to fees, inspections, enforcement, and penalties;
 5. whether less restrictive or alternative methods of performing any function that the agency performs could adequately protect or provide service to the public;
 6. the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies, the extent to which the agency coordinates with those agencies, and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;
 7. the promptness and effectiveness with which the agency addresses complaints concerning entities or other persons affected by the agency, including an assessment of the agency's administrative hearings process;
 8. an assessment of the agency's rulemaking process and the extent to which the agency has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;
 9. the extent to which the agency has complied with federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals, and state law and applicable rules of any state agency regarding purchasing guidelines and programs for historically underutilized businesses;
 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 13 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 agency is abolished.
 13. A priority-based budget
- III. Other requirements
 1. An organizational chart
 2. A link to the organization's web site
 3. A six year history of full time equivalent staffing levels
 4. A six year history showing all funding

5. A list of all advisory councils whose primary function is to advise the organization
6. Citation of the statute creating the organization and to other statutes governing or administered by the organization
7. Citation to the administrative rules adopted by the organization
8. A copy or link to any other governance documents adopted by the organization