

AMENDED IN SENATE AUGUST 18, 2010

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY JUNE 2, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2130**

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**Introduced by Assembly Member Huber**  
**(Coauthor: Assembly Member Niello)**  
(Coauthor: Senator DeSaulnier)

February 18, 2010

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An act to amend Section 22 of, to repeal Section 101.1 of, and to repeal Division 1.2 (commencing with Section 473) of, the Business and Professions Code, to amend *and repeal* Section 4351 of, ~~and to repeal Chapter 9 (commencing with Section 4351) of Part 3 of Division 3 of, the Food~~ *the Food* and Agricultural Code, to amend Sections 9148.51 and 9148.52 of, and to amend and repeal Sections 8164.1, 8164.2, and 8164.3 of, the Government Code, to amend and repeal Sections 1777, 1777.2, and 1777.4 of the Health and Safety Code, *and* to amend and repeal Sections 5073.5, 5073.7, and 5074 of the Public Resources Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2130, as amended, Huber. Professions and vocations: sunset review.

Existing law establishes the Joint Committee on Boards, Commissions, and Consumer Protection and, until January 1, 2012, requires the committee to hold public hearings at specified times and to evaluate whether a board or regulatory program has demonstrated a need for its continued existence. Existing law states the intent of the Legislature

that all existing and proposed state boards be subject to review every 4 years to evaluate and determine whether each has demonstrated a public need for its continued existence, as specified.

This bill would abolish the Joint Committee on Boards, Commissions, and Consumer Protection and make other conforming changes.

~~Existing law provides that the Joint Committee on Boards, Commissions, and Consumer Protection review all state boards, except as specified, every four years.~~

~~This~~The bill would instead require the Joint Sunset Review Committee to review all eligible agencies, as specified. The bill would require the committee to *evaluate and* make a report ~~pursuant to an evaluation which~~ *on whether an agency should be terminated or its functions revised or consolidated.* The bill would require that the report shall be available to the public and the Legislature, as specified. The bill would impose a sunset date of January 1, 2013, on the State Race Track Leasing Commission, the Capitol Area Committee, the Continuing Care Advisory Committee, and the California Recreational Trails Committee.

The bill would provide that its provisions would not become operative unless AB 1659 of the 2009–10 Regular Session is enacted and establishes the Joint Sunset Review Committee.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 22 of the Business and Professions Code
- 2 is amended to read:
- 3 22. “Board,” as used in any provision of this code, refers to
- 4 the board in which the administration of the provision is vested,
- 5 and unless otherwise expressly provided, shall include “bureau,”
- 6 “commission,” “committee,” “department,” “division,” “examining
- 7 committee,” “program,” and “agency.”
- 8 SEC. 2. Section 101.1 of the Business and Professions Code
- 9 is repealed.
- 10 SEC. 3. Division 1.2 (commencing with Section 473) of the
- 11 Business and Professions Code is repealed.
- 12 SEC. 4. Section 4351 of the Food and Agricultural Code is
- 13 amended to read:

1 4351. (a) There is hereby created the State Race Track Leasing  
2 Commission which shall be composed of the Director of Food and  
3 Agriculture, the Director of Finance, and the Director of General  
4 Services and three individuals, appointed by the Governor, who  
5 are members of the Board of Directors of the 22nd District  
6 Agricultural Association. The Director of Finance shall serve as  
7 chairperson of the commission. All meetings of the commission  
8 shall be open and public.

9 (b) This ~~chapter~~ *section* shall remain in effect only until January  
10 1, 2013, and as of that date is repealed, unless a later enacted  
11 statute, that is enacted before January 1, 2013, deletes or extends  
12 that date.

13 SEC. 5. Section 8164.1 of the Government Code is amended  
14 to read:

15 8164.1. There is in state government a Capitol Area Committee  
16 consisting of nine members who shall be appointed in the following  
17 manner:

18 (a) Four members of the committee shall be appointed by the  
19 Governor of which at least one member shall be appointed from  
20 a list of three candidates submitted by the City of Sacramento and  
21 at least one member shall be appointed from a list of three  
22 candidates submitted by the County of Sacramento. Two members  
23 shall be appointed for a term expiring December 31, 1979, and  
24 two for a term expiring December 31, 1981.

25 (b) Two members shall be appointed by the Speaker of the  
26 Assembly, one of whom may be a Member of the Assembly, and  
27 two members shall be appointed by the Senate Rules Committee,  
28 one of whom may be a Member of the Senate. Legislative members  
29 of the committee shall meet and, except as otherwise provided by  
30 the Constitution, advise the department to the extent that the  
31 advisory participation is not incompatible with their respective  
32 positions as Members of the Legislature. Of the four appointments  
33 by the Legislature, two shall be appointed for a term expiring  
34 December 31, 1979, and two for a term expiring December 31,  
35 1981.

36 (c) One shall be appointed by and serve at the pleasure of the  
37 director.

38 Subsequent appointments pursuant to subdivisions (a) and (b)  
39 shall be for terms of four years, ending on December 31st of the  
40 fourth year after the end of the prior term, except that appointments

1 to fill vacancies occurring for any reason other than the expiration  
2 of the term shall be for the unexpired portion of the term in which  
3 they occur. The members of the board shall hold office until their  
4 successors are appointed and qualify.

5 The members of the committee shall not receive compensation  
6 from the state for their services under this article but, when called  
7 to attend a meeting of the committee, shall be reimbursed for their  
8 actual and necessary expenses incurred in connection with the  
9 meeting in accordance with the rules of the Department of  
10 Personnel Administration.

11 (d) This section shall remain in effect only until January 1, 2013,  
12 and as of that date is repealed, unless a later enacted statute, that  
13 is enacted before January 1, 2013, deletes or extends that date.

14 SEC. 6. Section 8164.2 of the Government Code is amended  
15 to read:

16 8164.2. (a) The committee shall elect a chairperson. The  
17 committee shall meet at least quarterly or upon the call of the  
18 chairperson or the written request of any three members.

19 (b) This section shall remain in effect only until January 1, 2013,  
20 and as of that date is repealed, unless a later enacted statute, that  
21 is enacted before January 1, 2013, deletes or extends that date.

22 SEC. 7. Section 8164.3 of the Government Code is amended  
23 to read:

24 8164.3. (a) It is the purpose of the committee to independently  
25 review the reports of the department to the Legislature and counsel  
26 and advise the department in the carrying out of its responsibilities  
27 related to the Capitol Area Plan. The committee may submit  
28 separate comments on the departmental reports on the Capitol Area  
29 Plan to the Legislature. The committee shall involve a broad cross  
30 section of interested citizens in the form of an advisory body. The  
31 advisory body shall serve without compensation.

32 (b) This section shall remain in effect only until January 1, 2013,  
33 and as of that date is repealed, unless a later enacted statute, that  
34 is enacted before January 1, 2013, deletes or extends that date.

35 SEC. 8. Section 9148.51 of the Government Code is amended  
36 to read:

37 9148.51. (a) It is the intent of the Legislature that all existing  
38 and proposed eligible agencies, as defined in subdivision (a) of  
39 Section 9147.7, be subject to review to evaluate and determine  
40 whether each has demonstrated a public need for its continued

1 existence in accordance with enumerated factors and standards as  
2 set forth in Article 7.5 (commencing with Section 9147.7).

3 (b) If any state board becomes inoperative or is repealed in  
4 accordance with the act that added this section, any provision of  
5 existing law that provides for the appointment of board members  
6 and specifies the qualifications and tenure of board members shall  
7 not be implemented and shall have no force or effect while that  
8 state board is inoperative or repealed.

9 (c) Any provision of law authorizing the appointment of an  
10 executive officer by a state board subject to the review described  
11 in Article 7.5 (commencing with Section 9147.7), or prescribing  
12 his or her duties, shall not be implemented and shall have no force  
13 or effect while the applicable state board is inoperative or repealed.

14 SEC. 9. Section 9148.52 of the Government Code is amended  
15 to read:

16 9148.52. (a) The Joint Sunset Review Committee established  
17 pursuant to Section 9147.7 shall review all eligible agencies.

18 (b) The committee shall evaluate and make determinations  
19 pursuant to Article 7.5 (commencing with Section 9147.7).

20 (c) Pursuant to an evaluation made as specified in this section,  
21 the committee shall make a report which shall be available to the  
22 public and the Legislature on whether an agency should be  
23 terminated, or continued, or whether its functions should be revised  
24 or consolidated with those of another agency, and include any  
25 other recommendations as necessary to improve the effectiveness  
26 and efficiency of the agency. If the committee deems it advisable,  
27 the report may include proposed legislative proposals that would  
28 carry out its recommendations.

29 SEC. 10. Section 1777 of the Health and Safety Code is  
30 amended to read:

31 1777. (a) The Continuing Care Advisory Committee of the  
32 department shall act in an advisory capacity to the department on  
33 matters relating to continuing care contracts.

34 (b) The members of the committee shall include:

35 (1) Three representatives of nonprofit continuing care providers  
36 pursuant to this chapter, each of whom shall have offered  
37 continuing care services for at least five years prior to appointment.  
38 One member shall represent a multifacility provider and shall be  
39 appointed by the Governor in even years. One member shall be  
40 appointed by the Senate Committee on Rules in odd years. One

1 member shall be appointed by the Speaker of the Assembly in odd  
2 years.

3 (2) Three senior citizens who are not eligible for appointment  
4 pursuant to paragraphs (1) and (4) who shall represent consumers  
5 of continuing care services, all of whom shall be residents of  
6 continuing care retirement communities but not residents of the  
7 same provider. One senior citizen member shall be appointed by  
8 the Governor in even years. One senior citizen member shall be  
9 appointed by the Senate Committee on Rules in odd years. One  
10 senior citizen member shall be appointed by the Speaker of the  
11 Assembly in odd years.

12 (3) A certified public accountant with experience in the  
13 continuing care industry, who is not a provider of continuing care  
14 services. This member shall be appointed by the Governor in even  
15 years.

16 (4) A representative of a for-profit provider of continuing care  
17 contracts pursuant to this chapter. This member shall be appointed  
18 by the Governor in even years.

19 (5) An actuary. This member shall be appointed by the  
20 Governor in even years.

21 (6) One representative of residents of continuing care retirement  
22 communities appointed by the senior citizen representatives on  
23 the committee.

24 (7) One representative of either nonprofit or for-profit providers  
25 appointed by the representatives of nonprofit and for-provider  
26 providers on the committee.

27 (c) Commencing January 1, 1997, all members shall serve  
28 two-year terms and be appointed based on their interest and  
29 expertise in the subject area. The Governor shall designate the  
30 chairperson for the committee with the advice and consent of the  
31 Senate. A member may be reappointed at the pleasure of the  
32 appointing power. The appointing power shall fill all vacancies  
33 on the committee within 60 days. All members shall continue to  
34 serve until their successors are appointed and qualified.

35 (d) The members of the committee shall serve without  
36 compensation, except that each member shall be paid from the  
37 Continuing Care Provider Fee Fund a per diem of twenty-five  
38 dollars (\$25) for each day's attendance at a meeting of the  
39 committee not to exceed six days in any month. The members of  
40 the committee shall also receive their actual and necessary travel

1 expenses incurred in the course of their duties. Reimbursement of  
2 travel expenses shall be at rates not to exceed those applicable to  
3 comparable state employees under Department of Personnel  
4 Administration regulations.

5 (e) Prior to commencement of service, each member shall file  
6 with the department a statement of economic interest and a  
7 statement of conflict of interest pursuant to Article 3 (commencing  
8 with Section 87300) of the Government Code.

9 (f) If, during the period of appointment, any member no longer  
10 meets the qualifications of subdivision (b), that member shall  
11 submit his or her resignation to their appointing power and a  
12 qualified new member shall be appointed by the same power to  
13 fulfill the remainder of the term.

14 (g) This section shall remain in effect only until January 1, 2013,  
15 and as of that date is repealed, unless a later enacted statute, that  
16 is enacted before January 1, 2013, deletes or extends that date.

17 SEC. 11. Section 1777.2 of the Health and Safety Code is  
18 amended to read:

19 1777.2. (a) The Continuing Care Advisory Committee shall:

20 (1) Review the financial and managerial condition of continuing  
21 care retirement communities operating under a certificate of  
22 authority.

23 (2) Review the financial condition of any continuing care  
24 retirement community that the committee determines is indicating  
25 signs of financial difficulty and may be in need of close  
26 supervision.

27 (3) Monitor the condition of those continuing care retirement  
28 communities that the department or the chair of the committee  
29 may request.

30 (4) Make available consumer information on the selection of  
31 continuing care contracts and necessary contract protections in the  
32 purchase of continuing care contracts.

33 (5) Review new applications regarding financial, actuarial, and  
34 marketing feasibility as requested by the department.

35 (b) The committee shall make recommendations to the  
36 department regarding needed changes in its rules and regulations  
37 and upon request provide advice regarding the feasibility of new  
38 continuing care retirement communities and the correction of  
39 problems relating to the management or operation of any  
40 continuing care retirement community. The committee shall also

1 perform any other advisory functions necessary to improve the  
 2 management and operation of continuing care retirement  
 3 communities.

4 (c) The committee may report on its recommendations directly  
 5 to the director of the department.

6 (d) The committee may hold meetings, as deemed necessary to  
 7 the performance of its duties.

8 (e) This section shall remain in effect only until January 1, 2013,  
 9 and as of that date is repealed, unless a later enacted statute, that  
 10 is enacted before January 1, 2013, deletes or extends that date.

11 SEC. 12. Section 1777.4 of the Health and Safety Code is  
 12 amended to read:

13 1777.4. (a) Any member of the Continuing Care Advisory  
 14 Committee is immune from civil liability based on acts performed  
 15 in his or her official capacity. Costs of defending civil actions  
 16 brought against a member for acts performed in his or her official  
 17 capacity shall be borne by the complainant. However, nothing in  
 18 this section immunizes any member for acts or omissions  
 19 performed with malice or in bad faith.

20 (b) This section shall remain in effect only until January 1, 2013,  
 21 and as of that date is repealed, unless a later enacted statute, that  
 22 is enacted before January 1, 2013, deletes or extends that date.

23 SEC. 13. Section 5073.5 of the Public Resources Code is  
 24 amended to read:

25 5073.5. (a) The Governor shall establish a California  
 26 Recreational Trails Committee to advise the director in the  
 27 development and coordination of the system. The committee shall  
 28 consist of seven members appointed by the Governor. Two  
 29 members shall be selected from the northern, two members from  
 30 the southern, and two members from the central portions of the  
 31 state, and one member shall be selected at large. Members shall  
 32 be selected from lists submitted by private organizations ~~which~~  
 33 *that* have a demonstrated interest in the establishment of recreation  
 34 trails. The ~~chairman~~ *chair* of the committee shall be elected by the  
 35 members from their membership.

36 (b) This section shall remain in effect only until January 1, 2013,  
 37 and as of that date is repealed, unless a later enacted statute, that  
 38 is enacted before January 1, 2013, deletes or extends that date.

39 SEC. 14. Section 5073.7 of the Public Resources Code is  
 40 amended to read:

1 5073.7. (a) The terms of the members of the committee shall  
2 be four years, except that such members first appointed to the  
3 committee shall classify themselves by lot so that the term of three  
4 members shall expire January 15, 1976, the term of two members  
5 shall expire January 15, 1977, and the term of two members shall  
6 expire January 15, 1978.

7 Members of the committee shall serve without compensation,  
8 but shall be reimbursed for actual and necessary expenses,  
9 including traveling expenses, incurred in the performance of their  
10 duties.

11 (b) This section shall remain in effect only until January 1, 2013,  
12 and as of that date is repealed, unless a later enacted statute, that  
13 is enacted before January 1, 2013, deletes or extends that date.

14 SEC. 15. Section 5074 of the Public Resources Code is  
15 amended to read:

16 5074. The committee shall have the following powers and  
17 duties:

18 (a) Coordinate trail planning and development among cities,  
19 counties, and districts. In carrying out this responsibility, the  
20 committee shall review records of easements and other interests  
21 in lands which are available for recreational trail usage, including  
22 public lands, utility easements, other rights-of-way, gifts, or surplus  
23 public lands which may be adaptable for such use, and shall advise  
24 the director in the development of standards for trail construction  
25 so that uniform construction standards may be available to cities,  
26 counties, and districts.

27 (b) Advise the director in the preparation and maintenance of  
28 the plan.

29 (c) Study the problems and opportunities presented by the use  
30 of private property for recreational trail use and advise the director  
31 on measures to mitigate undesirable aspects of such usage.

32 (d) This section shall remain in effect only until January 1, 2013,  
33 and as of that date is repealed, unless a later enacted statute, that  
34 is enacted before January 1, 2013, deletes or extends that date.

35 SEC. 16. The provisions of this act shall not become operative  
36 unless Assembly Bill 1659 of the 2009–10 Regular Session is also  
37 enacted and becomes operative on or before January 1, 2011, and  
38 adds Article 7.5 (commencing with Section 9147.7) to Chapter

- 1 1.5 of Part 1 of Division 2 of Title 2 of the Government Code to
- 2 establish the Joint Sunset Review Committee.

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