

Assembly Bill No. 2130

CHAPTER 670

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 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.

[Approved by Governor September 30, 2010. Filed with
Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2130, 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.

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 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.

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

SECTION 1. Section 22 of the Business and Professions Code is amended to read:

22. "Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

SEC. 2. Section 101.1 of the Business and Professions Code is repealed.

SEC. 3. Division 1.2 (commencing with Section 473) of the Business and Professions Code is repealed.

SEC. 4. Section 4351 of the Food and Agricultural Code is amended to read:

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

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

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

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

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

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

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

Subsequent appointments pursuant to subdivisions (a) and (b) shall be for terms of four years, ending on December 31st of the fourth year after the end of the prior term, except that appointments to fill vacancies occurring for any reason other than the expiration of the term shall be for the unexpired

portion of the term in which they occur. The members of the board shall hold office until their successors are appointed and qualify.

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

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

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

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

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

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

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

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

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

9148.51. (a) It is the intent of the Legislature that all existing and proposed eligible agencies, as defined in subdivision (a) of Section 9147.7, be subject to review to evaluate and determine whether each has demonstrated a public need for its continued existence in accordance with enumerated factors and standards as set forth in Article 7.5 (commencing with Section 9147.7).

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

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

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

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

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

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

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

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

(b) The members of the committee shall include:

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

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

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

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

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

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

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

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

(d) The members of the committee shall serve without compensation, except that each member shall be paid from the Continuing Care Provider Fee Fund a per diem of twenty-five dollars (\$25) for each day's attendance at a meeting of the committee not to exceed six days in any month. The members of the committee shall also receive their actual and necessary travel expenses incurred in the course of their duties. Reimbursement of travel expenses shall be at rates not to exceed those applicable to comparable state employees under Department of Personnel Administration regulations.

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

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

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

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

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

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

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

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

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

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

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

shall also perform any other advisory functions necessary to improve the management and operation of continuing care retirement communities.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 15. Section 5074 of the Public Resources Code is amended to read: 5074. The committee shall have the following powers and duties:

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

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

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

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

SEC. 16. The provisions of this act shall not become operative unless Assembly Bill 1659 of the 2009–10 Regular Session is also enacted and becomes operative on or before January 1, 2011, and adds Article 7.5 (commencing with Section 9147.7) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code to establish the Joint Sunset Review Committee.