

**ASSEMBLY BILL**

**No. 291**

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**Introduced by Assembly Member Nestande**

February 11, 2013

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An act to amend and repeal Sections 9147.7, 9148.50, 9148.51, and 9148.52 of, to amend, repeal, and add Section 9148.8 of, and to add Article 7.6 (commencing with Section 9147.9) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as introduced, Nestande. California Sunset Review Commission.

Existing law establishes the Joint Sunset Review Committee, a legislative committee comprised of 10 Members of the Legislature, to identify and eliminate waste, duplication, and inefficiency in government agencies and to conduct a comprehensive analysis of every “eligible agency” for which a date for repeal has been established, to determine if the agency is still necessary and cost effective. Existing law requires each eligible agency scheduled for repeal to submit a report to the committee containing specified information. Existing law requires the committee to take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed, and requires that an eligible agency be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the agency. Existing law also requires the committee to review eligible agencies and evaluate and determine whether each has demonstrated a public need for its continued existence and to submit a report to the Legislature detailing whether an

agency should be terminated, continued, or whether its functions should be modified.

This bill would abolish the Joint Sunset Review Committee on January 1 or an unspecified year. The bill would, commencing on that same January 1, establish the California Sunset Review Commission within the executive branch to assess the continuing need for any agency, as defined, to exist. The commission would consist of 10 members, with 8 members appointed by the Governor and 2 Members of the Legislature each appointed by the Senate Committee on Rules and the Speaker of the Assembly, subject to specified terms. The commission would be under the direction of a director appointed by the commission members. The bill would require the commission to meet regularly and to work with each agency subject to review to evaluate the need for the agency to exist, identify required statutory, regulatory, or management changes, and develop legislative proposals to enact those changes. The bill would require the commission to prepare a report, containing legislative recommendations based on its agency review, to be submitted to the Legislature and would also require the commission to meet certain cost-savings standards within 5 years.

This bill would require an agency to submit a specified self-evaluation report to the commission prior to its review. The bill would require the Legislative Analyst’s Office to provide the commission with an estimate of the staffing needed to perform the commission’s work.

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 9147.7 of the Government Code is
- 2 amended to read:
- 3 9147.7. (a) For the purpose of this section, “eligible agency”
- 4 means any agency, authority, board, bureau, commission,
- 5 conservancy, council, department, division, or office of state
- 6 government, however denominated, excluding an agency that is
- 7 constitutionally created or an agency related to postsecondary
- 8 education, for which a date for repeal has been established by
- 9 statute on or after January 1, 2011.
- 10 (b) The Joint Sunset Review Committee is hereby created to
- 11 identify and eliminate waste, duplication, and inefficiency in
- 12 government agencies. The purpose of the committee is to conduct

1 a comprehensive analysis over 15 years, and on a periodic basis  
2 thereafter, of every eligible agency to determine if the agency is  
3 still necessary and cost effective.

4 (c) Each eligible agency scheduled for repeal shall submit to  
5 the committee, on or before December 1 prior to the year it is set  
6 to be repealed, a complete agency report covering the entire period  
7 since last reviewed, including, but not limited to, the following:

8 (1) The purpose and necessity of the agency.

9 (2) A description of the agency budget, priorities, and job  
10 descriptions of employees of the agency.

11 (3) Any programs and projects under the direction of the agency.

12 (4) Measures of the success or failures of the agency and  
13 justifications for the metrics used to evaluate successes and failures.

14 (5) Any recommendations of the agency for changes or  
15 reorganization in order to better fulfill its purpose.

16 (d) The committee shall take public testimony and evaluate the  
17 eligible agency prior to the date the agency is scheduled to be  
18 repealed. An eligible agency shall be eliminated unless the  
19 Legislature enacts a law to extend, consolidate, or reorganize the  
20 eligible agency. No eligible agency shall be extended in perpetuity  
21 unless specifically exempted from the provisions of this section.  
22 The committee may recommend that the Legislature extend the  
23 statutory sunset date for no more than one year to allow the  
24 committee more time to evaluate the eligible agency.

25 (e) The committee shall be comprised of 10 members of the  
26 Legislature. The Senate Committee on Rules shall appoint five  
27 members of the Senate to the committee, not more than three of  
28 whom shall be members of the same political party. The Speaker  
29 of the Assembly shall appoint five members of the Assembly to  
30 the committee, not more than three of whom shall be members of  
31 the same political party. Members shall be appointed within 15  
32 days after the commencement of the regular session. Each member  
33 of the committee who is appointed by the Senate Committee on  
34 Rules or the Speaker of the Assembly shall serve during that  
35 committee member's term of office or until that committee member  
36 no longer is a Member of the Senate or the Assembly, whichever  
37 is applicable. A vacancy on the committee shall be filled in the  
38 same manner as the original appointment. Three Assembly  
39 Members and three Senators who are members of the committee  
40 shall constitute a quorum for the conduct of committee business.

1 Members of the committee shall receive no compensation for their  
2 work with the committee.

3 (f) The committee shall meet not later than 30 days after the  
4 first day of the regular session to choose a chairperson and to  
5 establish the schedule for eligible agency review provided for in  
6 the statutes governing the eligible agencies. The chairperson of  
7 the committee shall alternate every two years between a Member  
8 of the Senate and a Member of the Assembly, and the vice  
9 chairperson of the committee shall be a member of the opposite  
10 house as the chairperson.

11 (g) This section shall not be construed to change the existing  
12 jurisdiction of the budget or policy committees of the Legislature.

13 (h) *This section shall remain in effect only until January 1, 20\_\_,*  
14 *and as of that date is repealed, unless a later enacted statute, that*  
15 *is enacted before January 1, 20\_\_, deletes or extends that date.*

16 SEC. 2. Article 7.6 (commencing with Section 9147.9) is added  
17 to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government  
18 Code, to read:

19

20 Article 7.6. California Sunset Review Commission

21

22 9147.9. This article may be cited as the California Sunset  
23 Review Commission Act.

24 9147.11. For the purpose of this section, the following  
25 definitions shall apply:

26 (a) "Agency" means any agency, authority, board, bureau,  
27 commission, conservancy, council, department, division, or office  
28 of state government, however denominated, excluding an agency  
29 that is constitutionally created or an agency related to  
30 postsecondary education.

31 (b) "Commission" means the California Sunset Review  
32 Commission.

33 (c) "Act" means the California Sunset Review Commission Act.

34 9147.13. The California Sunset Review Commission is hereby  
35 created within the executive branch of state government. The  
36 commission shall be located in Sacramento.

37 9147.15. (a) The commission shall consist of 10 members.

38 (1) The Governor shall appoint 8 members to serve a term of  
39 four years.

1 (2) The Senate Committee on Rules shall appoint one Member  
2 of the Senate to serve a term of two years or until that Member is  
3 no longer a Member of the Senate, whichever is applicable.

4 (3) The Speaker of the Assembly shall appoint one Member of  
5 the Assembly to serve a term of two years or until that Member is  
6 no longer a Member of the Assembly, whichever is applicable.

7 (b) The commission shall appoint a chairperson from its  
8 members appointed pursuant to paragraph (1).

9 (c) The Members of the Legislature appointed to the commission  
10 shall serve at the pleasure of the appointing power and shall  
11 participate in the activities of the commission to the extent that  
12 the participation is not incompatible with their respective positions  
13 as Members of the Legislature.

14 (d) A vacancy on the commission shall be filled in the same  
15 manner as the original appointment.

16 (e) (1) The members of the commission shall serve without  
17 compensation, except that each member appointed by the Governor  
18 shall receive fifty dollars (\$50) for each day's attendance at a  
19 meeting of the commission.

20 (2) Each member shall be allowed actual expenses incurred in  
21 the discharge of his or her duties, including travel expenses.

22 9147.17. (a) The commission shall be under the direction of  
23 a director appointed by the commission members.

24 (b) The director shall employ sufficient staff to carry out the  
25 commission's responsibilities.

26 (c) The Legislative Analyst's Office shall estimate the staffing  
27 needed to manage the workload of the commission.

28 9147.19. (a) The commission shall serve in an advisory  
29 capacity and shall meet regularly to assess and review the  
30 continuing need for an agency to exist.

31 (b) Prior to the commission's review of an agency, the  
32 commission staff shall work with each agency to evaluate the need  
33 for the agency to exist, identify required statutory, regulatory, or  
34 management changes, and develop recommendation for legislative  
35 proposals to enact those changes. The commission shall also  
36 consult with interest groups, affected agencies, and other interested  
37 parties in reviewing an agency.

38 (c) In carrying out its duties pursuant to this section, the  
39 commission shall evaluate an agency pursuant to the following  
40 criteria, as applicable:

- 1 (1) The efficiency and effectiveness of the agency’s operations.
- 2 (2) Whether the agency has been successful in achieving its
- 3 mission, goals, and objectives.
- 4 (3) Whether the agency performs duties that are not statutorily
- 5 authorized and, if so, identify the authority for those activities and
- 6 whether those activities are needed.
- 7 (4) Whether the agency has any authority related to fees,
- 8 inspections, enforcement, and penalties.
- 9 (5) Whether the agency’s functions and operations could be less
- 10 burdensome or restrictive while still serving the public.
- 11 (6) Whether the functions of the agency could be effectively
- 12 consolidated or merged with another agency to promote efficiency
- 13 in government.
- 14 (7) Whether the agency’s programs and jurisdiction duplicate
- 15 those of other state agencies.
- 16 (8) Whether the agency promptly and effectively addresses
- 17 complaints.
- 18 (9) Whether the agency utilizes public participation for
- 19 rulemaking and decisions and, if so, whether it is done in an
- 20 effective manner.
- 21 (10) Whether the agency complied with federal and state
- 22 requirements regarding equal employment, privacy rights, and
- 23 purchasing guidelines for underutilized businesses.
- 24 (11) Whether the agency effectively enforces rules regarding
- 25 the potential conflicts of interest of its employees.
- 26 (12) Whether abolishing the agency would cause federal
- 27 government intervention or loss of federal funds.
- 28 (13) Whether the agency’s statutory reporting requirements
- 29 effectively fulfill a useful purpose; and whether there are reporting
- 30 requirements of this agency that are duplicative of other agencies
- 31 or can effectively be combined or consolidated into another agency
- 32 that has similar requirements.
- 33 (d) The commission shall take public testimony from agency
- 34 staff, interest groups, and affected parties relating to whether an
- 35 agency should continue in existence.
- 36 (e) (1) The commission shall prepare a staff report to be
- 37 submitted to the Legislature. The report shall include, but not be
- 38 limited to, specific recommendations to the Legislature to enact
- 39 legislation to do the following:

1 (A) Repeal unnecessary, outdated, or unnecessary statutes,  
2 regulations, and programs.

3 (B) Develop reorganization plans that abolish and streamline  
4 existing agencies, if needed.

5 (2) A report to the Legislature pursuant to this section shall be  
6 submitted in compliance with Section 9795.

7 (3) This subdivision shall become inoperative on January 1,  
8 2018, pursuant to Section 10231.5

9 9147.21. Prior to review by the commission, an agency shall  
10 submit a self-evaluation report to the commission. The report shall  
11 include, but not be limited to, the criteria described in subdivision  
12 (c) of Section 9147.19.

13 9147.23. In order to ensure accountability, the commission  
14 shall demonstrate a 5-to-1 cost savings within the first five years  
15 of sunset review hearings, and every five years thereafter. For  
16 every dollar it costs to run the commission, five dollars (\$5) shall  
17 be saved in streamlining the government process and eliminating  
18 unnecessary agencies.

19 9147.25. This article shall become operative on January 1,  
20 20\_\_.

21 SEC. 3. Section 9148.8 of the Government Code is amended  
22 to read:

23 9148.8. (a) The appropriate policy committee of the Legislature  
24 may evaluate a plan prepared pursuant to Section 9148.4 or 9148.6.  
25 The chairperson of a policy committee may alternatively require  
26 that the Joint Sunset Review Committee evaluate and provide  
27 recommendations on any plan prepared pursuant to Section 9148.4  
28 or 9148.6, or any other legislative issue or proposal to create a new  
29 state board.

30 (b) The Joint Sunset Review Committee shall provide to the  
31 respective policy and fiscal committees of the Legislature any  
32 evaluation and recommendations prepared pursuant to this section.

33 (c) If an appropriate policy committee does not evaluate a plan  
34 prepared pursuant to Section 9148.6, then the Joint Sunset Review  
35 Committee shall evaluate the plan and provide recommendations  
36 to the Legislature.

37 (d) *This section shall remain in effect only until January 1, 20\_\_,*  
38 *and as of that date is repealed, unless a later enacted statute, that*  
39 *is enacted before January 1, 20\_\_, deletes or extends that date.*

1 SEC. 4. Section 9148.8 is added to the Government Code, to  
2 read:

3 9148.8. (a) The appropriate policy committee of the Legislature  
4 may evaluate a plan prepared pursuant to Section 9148.4 or 9148.6.  
5 The chairperson of a policy committee may alternatively require  
6 that the California Sunset Review Commission evaluate and  
7 provide recommendations on any plan prepared pursuant to Section  
8 9148.4 or 9148.6, or any other legislative issue or proposal to  
9 create a new state board.

10 (b) The California Sunset Review Commission shall provide to  
11 the respective policy and fiscal committees of the Legislature any  
12 evaluation and recommendations prepared pursuant to this section.

13 (c) If an appropriate policy committee does not evaluate a plan  
14 prepared pursuant to Section 9148.6, then the California Sunset  
15 Review Commission shall evaluate the plan and provide  
16 recommendations to the Legislature.

17 This section shall become operative on January 1, 20\_\_.

18 SEC. 5. Section 9148.50 of the Government Code is amended  
19 to read:

20 9148.50. The Legislature finds and declares all of the following:

21 (a) California’s multilevel, complex governmental structure  
22 today contains more than 400 categories of administrative or  
23 regulatory boards, commissions, committees, councils, associations,  
24 and authorities.

25 (b) These administrative or regulatory boards, commissions,  
26 committees, councils, associations, and authorities have been  
27 established without any method of periodically reviewing their  
28 necessity, effectiveness, or utility.

29 (c) As a result, the Legislature and residents of California cannot  
30 be assured that existing or proposed administrative or regulatory  
31 boards, commissions, committees, councils, associations, and  
32 authorities adequately protect the public health, safety, and welfare.

33 (d) *This section shall remain in effect only until January 1, 20\_\_,  
34 and as of that date is repealed, unless a later enacted statute, that  
35 is enacted before January 1, 20\_\_, deletes or extends that date.*

36 SEC. 6. Section 9148.51 of the Government Code is amended  
37 to read:

38 9148.51. (a) It is the intent of the Legislature that all existing  
39 and proposed eligible agencies, as defined in subdivision (a) of  
40 Section 9147.7, be subject to review to evaluate and determine

1 whether each has demonstrated a public need for its continued  
2 existence in accordance with enumerated factors and standards as  
3 set forth in Article 7.5 (commencing with Section 9147.7).

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

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

15 (d) *This section shall remain in effect only until January 1, 20\_\_,*  
16 *and as of that date is repealed, unless a later enacted statute, that*  
17 *is enacted before January 1, 20\_\_, deletes or extends that date.*

18 SEC. 7. Section 9148.52 of the Government Code is amended  
19 to read:

20 9148.52. (a) The Joint Sunset Review Committee established  
21 pursuant to Section 9147.7 shall review all eligible agencies.

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

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

33 (d) *This section shall remain in effect only until January 1, 20\_\_,*  
34 *and as of that date is repealed, unless a later enacted statute, that*  
35 *is enacted before January 1, 20\_\_, deletes or extends that date.*