

By Mr. Tarr of Gloucester, petition of Bruce E. Tarr and Robert C. Buell for legislation to establish a system of periodic review and for the termination, continuation, or reestablishment of certain state agencies. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Three.

AN ACT ESTABLISHING A SYSTEM OF PERIODIC REVIEW AND FOR TERMINATION, CONTINUATION, OR REESTABLISHMENT OF CERTAIN STATE AGENCIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Due to a substantial increase in the number of
2 state boards, committees and commissions, it is deemed necessary
3 and advisable to establish a mechanism for the periodic legislative
4 review of the public need for such boards, committees, and
5 commissions and for the termination of those found to be not
6 needed.

1 SECTION 2. As used herein, the following words shall have
2 the following meanings:

3 (a) "agency" — All existing state boards, councils and
4 commissions and any boards, councils and commissions
5 established after the effective date of this chapter.

6 (b) "The committee" — the house committee on post audit and
7 oversight.

1 SECTION 3. The Committee shall review each agency
2 following the procedure set out in section four of this chapter and
3 present its recommendations, if any, in writing to the General
4 Court. The Committee shall, after public hearing, promulgate
5 rules and regulations, in addition to those provided in this chapter,
6 under which it will conduct agency review. The committee shall
7 submit said rules and regulations to the General Court for

8 approval by September 1, 1992, or if the General court has
9 prorogued, when it next convenes. Said rules and regulations shall
10 be deemed approved and shall become effective thirty days after
11 submission to the General Court unless either branch disapproves
12 them. If said rules and regulations are disapproved, they shall be
13 revised by the Committee and resubmitted under the same
14 procedure.

15 Said rules and regulations shall include, but not be limited to
16 the following criteria for evaluating agencies:

17 (a) Would the termination of the agency significantly harm or
18 endanger the public health, safety or welfare?

19 (b) Has the agency met the objectives for which it was created?

20 (c) Do the functions of the agency overlap, duplicate, conflict
21 with or depend on the functions of any other agency?

22 (d) Has the economic impact of the actions of the agency been
23 beneficial to the state's consumers, economy, and/or the public
24 welfare?

25 (e) Has the agency encouraged participation by the public in
26 making its rules and regulations?

27 (f) What are the objectives of the agency for the next five fiscal
28 years?

1 SECTION 4. Each agency as defined in section two of this
2 chapter shall submit to the Committee a written statement
3 demonstrating sufficient public need for its continued existence
4 by the first Wednesday in December of the year preceding its
5 termination date. Each agency shall work with the Secretary of
6 the Department of Administration and Finance to develop such
7 a statement. The agency shall prepare its statement in accordance
8 with the rules and regulations of the Committee.

9 The State Auditor shall cause the audit required by section
10 twelve of Chapter eleven to be performed on each agency with-
11 in 3 months of the date set by the Committee for such agency's
12 review and shall prepare a summary of each audit to accompany
13 it.

14 The Committee shall hold one or more public hearings on each
15 agency after giving reasonable public notice. On or before May 1
16 of each year, the Committee shall issue in writing its findings and
17 recommendations to the General Court. Copies of such reports

18 shall be made available to the public. If the committee concludes
19 that an agency should be continued, it shall submit at the same
20 time, appropriate legislation to the General Court to continue that
21 agency for a period not to exceed five years. The Committee's
22 proposal may include modification of the agency's enabling
23 statute, reorganization of the agency, or a consolidation of the
24 agency with other agencies. The committee shall establish a
25 termination date for each of the agencies defined in section two
26 of this chapter.

1 SECTION 5. The life of each agency scheduled for termination
2 may be continued or reestablished by action of the General Court
3 for a period not to exceed five years at the end of which time and
4 at the end of at least every five years thereafter, each shall be
5 subject to a review under the provisions of this chapter. Each
6 agency established after the effective date of this chapter shall
7 terminate on the first day of July subsequent to the sixtieth month
8 after its establishment and shall be subject to the provisions of
9 this chapter.

10 A vote shall be taken on any legislation to continue, reestablish
11 or consolidate agencies, by the yeas and nays in both branches.

1 SECTION 6. If the Committee reports a bill to continue,
2 reestablish or consolidate an agency and the General Court
3 prorogues before the scheduled termination date of such agency
4 without having taken a final vote on such bill, the agency shall
5 not be terminated until March 1 of the following year.

1 SECTION 7. Each agency may continue in existence for up to
2 six months after scheduled termination for the purpose of
3 completing its work and activities. During this completion period,
4 termination shall not reduce or otherwise limit the powers or
5 authority of each agency. Upon the expiration of one year after
6 termination, each agency shall cease all activities and all of its
7 regulations shall become void. All unexpected balances of
8 appropriations or other funds shall revert to the General Fund.

1 SECTION 8. Each agency which is consolidated or reestab-
2 lished under the provisions of this Act shall promulgate
3 appropriate rules and regulations within one year after its

4 consolidation or reestablishment, provided however, that the
5 prior rules and regulations may remain in effect until the new ones
6 have been promulgated.

1 SECTION 9. Nothing in this chapter shall cause any right,
2 claim, or cause of action held by any person against any agency
3 to be dismissed, nor shall any right, claim, or cause of action held
4 by any agency which has been terminated pursuant to this chapter
5 lapse because of this chapter.