

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 88

50th Legislature, 1st Session, 2011

Tracking Number: .182948.4

Short Title: Executive Branch Entity Sunsets

Sponsor(s): Representative Paul C. Bandy and Senator Lynda M. Lovejoy and Others

Analyst: David Harrell

Date: February 16, 2011 (revised)

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

Bill Summary:

HB 88 adds a new section to the *Sunset Act* to apply to “every administratively attached and adjunct agency and every board, commission, council, task force, committee and other membership entity of the executive branch,” unless the Legislature specifically exempts any such entity. The bill also adds new sections to and amends numerous other parts of state law applicable to executive agencies.

- In virtually all cases, the entities of the executive branch are terminated effective July 1 of one year but said to continue operating until July 1 of the next year, at which time the statutes creating them are repealed.
- Presumably, the delayed repeal date allows time for the Legislature to review each entity to determine whether it should continue.

Among its other provisions, HB 88:

- requires the Legislature, after July 1, 2011, to provide for sunset review in any legislation that creates an administratively attached or adjunct agency or membership entity;
- requires the Legislative Finance Committee (LFC), in 2011 and 2012, to review all adjunct and administratively attached agencies, boards, commissions, councils, task forces, committees, and similar entities that existed before January 1, 2011 and that are not otherwise provided for in this or another act of this Legislature; and
- requires the LFC to recommend to the Legislature the termination or extension of these entities, as well as a sunset schedule for those for which the LFC recommends extension.

Among the numerous entities included in HB 88 are several related to public education:

- the Military Children Education Compact State Council, terminated effective July 1, 2013 but operating until July 1, 2014;

- the Apprenticeship and Training Advisory Committee, terminated effective July 1, 2013 but operating until July 1, 2014;
- the Education Trust Board, terminated on July 1, 2017 but operating until July 1, 2018;
- the Data System Council, terminated on July 1, 2013 but operating until July 1, 2014;
- the Regional Education Coordinating Councils, terminated effective July 1, 2013 but operating until July 1, 2014;
- the Council on Technology in Education, terminated effective July 1, 2013 but operating until July 1, 2014;
- the Indian Education Advisory Council, terminated on July 1, 2015 but operating until July 1, 2016;
- the Hispanic Education Advisory Council, terminated on July 1, 2015 but operating until July 1, 2016;
- the Public School Capital Outlay Council, terminated on July 1, 2013 but operating until July 1, 2014;
- the Board of Directors of the Public Schools Insurance Authority, terminated on July 1, 2017 but operating until July 1, 2018;
- the Commission for the Blind, terminated on July 1, 2013 but operating until July 1, 2014;
- the Commission for Deaf and Hard-of-Hearing Persons, terminated on July 1, 2013 but operating until July 1, 2014;
- the Developmental Disabilities Planning Council, terminated on July 1, 2013 but operating until July 1, 2014; and
- the Family Infant Toddler Interagency Coordinating Council, terminated on July 1, 2013 but operating until July 1, 2014.

Fiscal Impact:

HB 88 does not contain an appropriation.

Fiscal Issues:

Pursuant to the charge of the Government Restructuring Task Force (see “Background,” below), HB 88 is presumably intended to reduce costs across state government.

- As the analysis by the Department of Finance and Administration (DFA) states, “In some cases the savings would be attributed to the mileage and per diem act while in other cases the savings could be significant in terms of salary and other expenses.”

- One example of mileage and per diem savings comes from the analysis by the Aging and Long Term Services Department (ALTSD): an estimated savings of \$6,000 per year for members of the Advisory Committee to the Agency on Aging.

Substantive Issues:

The DFA analysis notes that HB 88 provides the Legislature oversight over executive branch boards, commissions, councils, task forces, and committees, authorizing the Legislature to determine whether a particular entity provides a useful service. The analysis by the Regulation and Licensing Department notes a policy question raised by these provisions: whether some of these boards or commissions should exist permanently or whether they should all be subject to legislative review.

Other agency analyses suggest the possibility of unintended consequences:

- The analysis by the ALTSD suggests that sunseting the Developmental Disabilities Planning Council may affect the state’s ability to comply with federal law to receive funding.
- The analysis by the New Mexico Corrections Department (NMCD) suggests the necessity for legislative vigilance to prevent the automatic repeal of an entity that performs a vital service: “If the Parole Board, scheduled to sunset in 2016, no longer exists, there will be no entity designated to parole inmates from NMCD prisons,” resulting either in overcrowding or the release of inmates through other means but without conditions of parole.

Background:

Legislation enacted in 2010 (HB 237a, or Laws 2010, Chapter 101, with emergency clause) created the Government Restructuring Task Force (GRTF), a 17-member body that was charged to examine all of state government and to make recommendations leading to increased efficiencies and reduced costs.

Among its more specific duties, GRTF was directed to:

- study “the current resources of the state’s agencies, programs, services, funding and policies and the public needs served by them”;
- study the recommendations, initiatives, and statutory changes that occurred between 1975 and 1978 in reorganizing state government;
- examine “the statutes, constitutional provisions, rules and court decisions governing state government and reorganization and recommend legislation or changes”; and
- solicit public input.

The membership of the task force comprised:

- five House members appointed by the Speaker of the House and five Senate members appointed by the President Pro Tempore of the Senate, in both cases so that the two major

political parties in each house have the same proportional representation on the task force as in the respective house;

- six public members who possess expertise in public and private sector organizational structure and who reflect the ethnic, cultural, and geographic diversity of the state, three appointed by the Speaker of the House and three by the President Pro Tempore of the Senate; and
- the Secretary of Finance and Administration.

In addition to these members prescribed by law, the task force included eight advisory members: four representatives and four senators, appointed by the leader of each house, respectively.

Among its other provisions, the legislation:

- required DFA and “the various agencies of the state” to cooperate with the task force “and provide the task force with information regarding budget, staffing, organizational structure and other information” as requested; and
- required the Legislative Council Service, LFC, the LESC, and DFA to provide the staff for the task force.

Finally, beginning with its first meeting in April 2010, GRTF met at least once each month during the interim to hear a wide variety of testimony and to consider recommendations for legislation during the 2011 session.

Related Bills:

HB 66a *Transfer Depts. & Services to DFA*
HB 106 *Extend Certain Board & Commission Sunsets*
*HB 130 *Extend Government Restructuring Task Force*
HB 211 *Thanatopractice Board Sunset Date*
HB 462 *Private Investigation Board Sunset Date*
SB 114 *Racing Commission Sunset & Fair Tax Delay*
SB 158 *Repeal Certain Boards & Commissions*