

2018 Regular Session

HOUSE BILL NO. 664

BY REPRESENTATIVE EDMONDS

SUNSET LAW: Provides for the termination of statutory entities, programs, and activities unless evaluated as directed by the Government Review Commission

1 AN ACT

2 To enact R.S. 49:195.1, relative to the termination and recreation of activities, programs, and  
3 statutory entities; to provide for the evaluation and termination of activities,  
4 programs, and statutory entities; to provide for the creation of the Government  
5 Review Commission relative thereto; to provide for the membership of the  
6 commission; to provide powers functions and duties of the commission; to provide  
7 for the duties of the legislative auditor relative thereto; to provide for the right of  
8 citizens to institute certain actions relative to evaluations of the commission; to  
9 provide for definitions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 49:195.1 is hereby enacted to read as follows:

12 §195.1 Evaluations of statutory entities, activities, and programs; Government  
13 Review Commission

14 A. Notwithstanding any provision of this Part to the contrary, if the standing  
15 committees of the legislature have not conducted hearings to perform the evaluation  
16 of a statutory entity as required by R.S. 49:193 prior to January tenth of the year of  
17 the date established in R.S. 49:191 for the statutory entity to begin termination, the  
18 statutory entity shall terminate by the termination date established in R.S. 49:191  
19 unless the statutory entity and all the activities and programs performed by statutory

1 entity have been evaluated as provided in this Section and the results of the  
2 evaluation are reported and made available as provided in this Section.

3 B. The Government Review Commission, hereafter referred to in this  
4 Section as the "commission", is hereby created in the legislative branch of state  
5 government. The commission shall consist of nine members, three of whom shall  
6 be appointed by the Governor, three of whom shall be appointed by the speaker of  
7 the House of Representatives, and three of whom shall be appointed by the president  
8 of the Senate. No member of the legislature, employee of any governmental entity,  
9 or former employee of an governmental entity within the previous two years prior  
10 to appointment shall be eligible to be appointed to the commission. No person who  
11 is an employee of, an owner with more than a five percent interest in, or an officer  
12 of a legal entity that receives more than twenty percent of its gross revenue from  
13 government either directly or through subcontracts shall be eligible to be appointed  
14 to or serve on the commission. Each member of the commission serves at the  
15 pleasure of the appointing official and shall serve without compensation. The speaker  
16 of the House of Representatives and the president of the Senate shall jointly call a  
17 meeting of the commission no later than January fifteenth each even-numbered year.  
18 At this meeting, the commission shall select a chairman, review the statutory entities  
19 up for evaluation that year, establish a schedule of meetings as necessary, and  
20 consider any other matters in accordance with this Section. The speaker of the  
21 House of Representatives and the president of the Senate shall assign appropriate  
22 staff to assist the commission in performing its functions.

23 C. The legislative auditor shall, in consultation with the commission, contract  
24 with one or more independent third parties for the purpose of evaluating and  
25 reporting on each statutory entity and all the activities and programs performed by  
26 each statutory entity as required in this Section. The legislative auditor shall report  
27 the results of all evaluations required by this Section to the commission, the  
28 governor, and each member of the legislature and shall make them available to the  
29 public.

1           D. Each statutory entity and each activity and program performed by the  
2           statutory entity shall be evaluated for whether it:

3           (1) Creates clear and measurable net economic benefits that accrue generally  
4           to all citizens of the state, even in the absence of federal funding.

5           (2) Interferes with citizens' ability to engage in free enterprise.

6           (3) Causes government spending to displace private spending and if so, to  
7           what degree.

8           (4) Affects relative prices of goods and services and if so, how.

9           (5) Clearly performs a necessary function that only government can perform.

10          (6) Is likely to result in a financial obligation to the state that may necessitate  
11          a tax increase at some future time.

12          (7) Any other criteria the commission deems appropriate.

13          E. The legislature shall provide adequate funds to the legislative auditor to  
14          carry out the functions required by this Section.

15          F. For purposes of this Section the following words or phrases have the  
16          following meanings:

17          (1) "Independent third party" is a private entity or person having no  
18          financially dependent relationship with any governmental entity, not including a  
19          contract with the legislative auditor to provide the evaluations and reports pursuant  
20          to this Section, that possesses the necessary expertise to conduct the evaluations and  
21          draft the reports required by this Section.

22          (2) "Reports" means written documents that comprehensively describe the  
23          methods used and results of the evaluations of statutory entities and activities and  
24          programs performed by statutory entities .

25          G. A resident of this state may seek de novo judicial review as to whether  
26          the criteria set out in this Section have been met by a statutory entity or its activities  
27          or programs, by filing an action seeking declaratory or injunctive relief.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 664 Original

2018 Regular Session

Edmonds

**Abstract:** Establishes the Government Review Commission to have the legislative auditor cause certain evaluations of statutory entities (departments) and programs and activities to occur and to issue reports under certain circumstances. Provides the termination of certain entities if the evaluations and reports are not completed.

Present law provides for the "sunset law" which sets out the procedure for review, evaluation, and re-creation of statutory entities (departments) and their activities and programs by the appropriate standing committees of the legislature. Present law provides that the evaluation of a statutory entity occur in a public hearing prior to the final adjournment of the regular legislative session convening in the odd-numbered year two years prior to the termination date and in addition to the burden of demonstrating a public need for its continued existence, the statutory entity must demonstrate that its objectives, programs, and activities are consistent with legislative intent and effectively and efficiently achieve this intent. Present law provides that in making a determination whether a statutory entity has demonstrated a public need for continued existence the committee take into consideration certain specified relevant factors, information, and criteria. The standing committee is required to report by March first of the year prior to the termination date regarding its determinations and to include in its report, any recommended legislation regarding the statutory entity. Present law provides that the maximum amount of time a statutory entity may be recreated is six years.

Proposed law retains present law but provides that if the standing committees of the legislature have not conducting meetings to perform the evaluation of a statutory entity as required by present law by Jan. 10 of the year established in present law for the statutory entity to begin termination, the statutory entity shall be subject to review as provided in proposed law by the Government Review Commission. Provides that the statutory entity shall terminate by the termination date established in R.S. 49:191, unless the statutory entity and all the activities and programs performed by statutory entity have been evaluated as provided in proposed law and the results of the evaluation reported and made available as provided in proposed law.

Proposed law establishes the Government Review Commission in the legislative branch of state government, composed on nine members, three appointed by the Governor, three appointed by the speaker of the House, and three appointed by the president of the Senate. Prohibits legislators, government employees, and former government employees within the previous two years from serving on the commission. Further prohibits any person who is an employee of, an owner with more than a 5% interest in, or an officer of a legal entity that receives more than 20% of its gross revenue from government either directly or through subcontracts from being appointed to or serving on the commission. Members serve without compensation and at the pleasure of the appointing official. Requires the speaker of the House and the president of the Senate to call a meeting of the commission no later than January fifteenth each even-numbered year. Provides that at this meeting, the commission shall select a chairman, review the statutory entities up for evaluation that year, establish a schedule of meetings as necessary, and consider any other matters in accordance with proposed law.

Proposed law provides that the legislative auditor shall, in consultation with the commission, contract with one or more independent third parties for the purpose of evaluating and reporting on each statutory entity and all the activities and programs performed by each

statutory entity as required in proposed law. Requires the results of all evaluations to be reported to the commission, the governor, and the legislature and made available to the public.

Proposed law requires the statutory entity to be evaluated for whether it:

- (1) Creates clear and measurable net economic benefits that accrue generally to all citizens of the state, even in the absence of federal funding.
- (2) Interferes with citizens' ability to engage in free enterprise.
- (3) Causes government spending to displace private spending and if so, to what degree.
- (4) Affects relative prices of goods and services and if so, how.
- (5) Clearly performs a necessary function that only government can perform.
- (6) Is likely to result in a financial obligation to the state that may necessitate a tax increase at some future time.
- (7) Any other criteria the commission deems appropriate.

Proposed law further authorizes a resident of this state to seek de novo judicial review as to whether the criteria set out in proposed law have been met, by filing an action in a court of competent jurisdiction seeking declaratory or injunctive relief.

Proposed law requires the legislature to provide funds adequate funds to the legislative auditor to carry out the functions required by proposed law. Defines "independent third party" and "reports" for its purposes.

(Adds R.S. 49:195.1)