

SENATE BILL NO. 251—SENATOR KIECKHEFER

MARCH 17, 2011

JOINT SPONSORS: ASSEMBLYMEN SMITH, BROOKS AND HANSEN

Referred to Committee on Government Affairs

SUMMARY—Creates the Sunset Subcommittee of the Legislative Commission to evaluate certain governmental programs and services. (BDR 18-745)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to governmental administration; prohibiting the appointment of a person to a board, commission or similar body if the person is serving on another board, commission or similar body; creating the Sunset Subcommittee of the Legislative Commission; providing for its membership; requiring the Sunset Subcommittee to review certain boards and commissions in this State to determine the need for the termination, consolidation, modification or continuation of those boards and commissions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth various requirements for serving on boards, commissions and similar bodies, including residency requirements, the procedure for filling vacancies and the qualifications and length of terms for members. (NRS 232A.020) **Section 1** of this bill prohibits the Governor from appointing a person to a board, commission or similar body if the person is a member of another board, commission or similar body.

Existing law establishes the Legislative Commission and provides for its powers and duties, which consist of, in part, investigating and inquiring into subjects upon which the Legislature may act by the enactment or amendment of statutes, governmental problems, important issues of public policy or questions of statewide interest. (NRS 218E.150, 218E.175) Existing law also provides for certain standing subcommittees of the Legislative Commission to carry out ongoing



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duties, such as the Audit Subcommittee and the Budget Subcommittee. (NRS 218E.240, 218E.255) Finally, existing law requires the Legislative Commission to conduct reviews of existing agencies to determine whether each agency should be terminated, consolidated with another agency or continued. (NRS 232B.010-232B.100)

Section 8 of this bill creates the Sunset Subcommittee of the Legislative Commission and sets forth its membership. **Section 9** of this bill specifies the Sunset Subcommittee's primary duties, which are: (1) to conduct reviews of all boards and commissions in this State which are not provided for in the Nevada Constitution or established by an executive order of the Governor and determine whether each board or commission should be terminated, modified, consolidated with another agency or continued; (2) to make recommendations for improving the boards or commissions which are to be modified, consolidated or continued; and (3) to determine whether any tax exemptions, abatements or money set aside for a board or commission should be terminated, modified or continued. **Section 9** also requires the Sunset Subcommittee to assess each board or commission reviewed for the cost of conducting the review.

Section 10 of this bill requires each board and commission to submit certain information about itself and how it operates to the Sunset Subcommittee and authorizes the Sunset Subcommittee to direct the Legislative Counsel Bureau to assist the Sunset Subcommittee in investigating, reviewing and analyzing the information submitted. **Section 11** of this bill requires the Sunset Subcommittee to hold public hearings to receive commentary on whether a board or commission should be terminated, modified, consolidated or continued. **Section 12** of this bill requires the Sunset Subcommittee to make recommendations for direct legislative action to carry out its recommendations regarding the termination, modification, consolidation or continuation of a board or commission.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 232A.020 is hereby amended to read as follows:

232A.020 1. Except as otherwise provided in this section, a person appointed to a new term or to fill a vacancy on a board, commission or similar body by the Governor must have, in accordance with the provisions of NRS 281.050, actually, as opposed to constructively, resided, for the 6 months immediately preceding the date of the appointment:

(a) In this State; and

(b) If current residency in a particular county, district, ward, subdistrict or any other unit is prescribed by the provisions of law that govern the position, also in that county, district, ward, subdistrict or other unit.

2. After the Governor's initial appointments of members to boards, commissions or similar bodies, all such members shall hold office for terms of 3 years or until their successors have been appointed and have qualified.



3. A vacancy on a board, commission or similar body occurs when a member dies, resigns, becomes ineligible to hold office or is absent from the State for a period of 6 consecutive months.

4. Any vacancy must be filled by the Governor for the remainder of the unexpired term.

5. A member appointed to a board, commission or similar body as a representative of the general public must be a person who:

(a) Has an interest in and a knowledge of the subject matter which is regulated by the board, commission or similar body; and

(b) Does not have a pecuniary interest in any matter which is within the jurisdiction of the board, commission or similar body.

6. The Governor shall not appoint a person to a board, commission or similar body if the person is a member of any other board, commission or similar body.

7. The provisions of subsection 1 do not apply if:

(a) A requirement of law concerning another characteristic or status that a member must possess, including, without limitation, membership in another organization, would make it impossible to fulfill the provisions of subsection 1; or

(b) The membership of the particular board, commission or similar body includes residents of another state and the provisions of subsection 1 would conflict with a requirement that applies to all members of that body.

Sec. 1.5. Chapter 232B of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 12, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. 1. The Sunset Subcommittee of the Legislative Commission, consisting of nine members, is hereby created. The membership of the Sunset Subcommittee consists of:

(a) Three members of the Legislature appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party;

(b) Three members of the Legislature appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party; and

(c) Three members of the general public appointed by the Chair of the Legislative Commission from among the names of nominees submitted by the Governor pursuant to subsection 2.



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2. *The Governor shall, at least 30 days before the beginning of the term of any member appointed pursuant to paragraph (c) of subsection 1, or within 30 days after such a position on the Sunset Subcommittee becomes vacant, submit to the Legislative Commission the names of at least three persons qualified for membership on the Sunset Subcommittee. The Chair of the Legislative Commission shall appoint a new member or fill the vacancy from the list, or request a new list. The Chair of the Legislative Commission may appoint any qualified person who is a resident of this State to a position described in paragraph (c) of subsection 1.*

3. *Each member of the Sunset Subcommittee serves at the pleasure of the appointing authority.*

4. *The members of the Sunset Subcommittee shall elect a Chair from one House of the Legislature and a Vice Chair from the other House. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.*

5. *The membership of any member of the Sunset Subcommittee who is a Legislator and who is not a candidate for reelection or who is defeated for reelection terminates on the day next after the general election.*

6. *A vacancy on the Sunset Subcommittee must be filled in the same manner as the original appointment.*

7. *The Sunset Subcommittee shall meet at the times and places specified by a call of the Chair. Five members of the Sunset Subcommittee constitute a quorum, and a quorum may exercise any power or authority conferred on the Sunset Subcommittee.*

8. *For each day or portion of a day during which a member of the Sunset Subcommittee who is a Legislator attends a meeting of the Sunset Subcommittee or is otherwise engaged in the business of the Sunset Subcommittee, except during a regular or special session of the Legislature, the Legislator is entitled to receive the:*

(a) *Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;*

(b) *Per diem allowance provided for state officers generally; and*

(c) *Travel expenses provided pursuant to NRS 218A.655.*

➔ *The compensation, per diem allowances and travel expenses of the members of the Sunset Subcommittee who are Legislators must be paid from the Legislative Fund.*



1 9. While engaged in the business of the Sunset
2 Subcommittee, the members of the Subcommittee who are not
3 Legislators are entitled to receive the per diem allowance and
4 travel expenses provided for state officers and employees
5 generally.

6 **Sec. 9. 1.** The Sunset Subcommittee of the Legislative
7 Commission shall conduct a review of each board and commission
8 in this State which is not provided for in the Nevada Constitution
9 or established by an executive order of the Governor to determine
10 whether the board or commission should be terminated, modified,
11 consolidated with another board or commission or continued.
12 Such a review must include, without limitation:

13 (a) An evaluation of the major policies and programs of the
14 board or commission, including, without limitation, an
15 examination of other programs or services offered in this State to
16 determine if any other provided programs or services duplicate
17 those offered by the board or commission;

18 (b) Any recommendations for improvements in the policies and
19 programs offered by the board or commission; and

20 (c) A determination of whether any statutory tax exemptions,
21 abatements or money set aside to be provided to the board or
22 commission should be terminated, modified or continued.

23 2. The Sunset Subcommittee shall review:

24 (a) Not less than 20 boards and commissions specified in
25 subsection 1 each year; and

26 (b) Each of those boards and commissions not less than once
27 every 10 years.

28 3. For each review of a board or commission that the Sunset
29 Subcommittee conducts, the Sunset Subcommittee shall submit a
30 written assessment to the board or commission setting forth the
31 costs of the review. In determining the amount of an assessment
32 pursuant to this subsection, the Sunset Subcommittee shall
33 consider, based upon the information provided by the board or
34 commission pursuant to section 10 of this act, whether any
35 additional analysis or evaluation is required to review the board or
36 commission because of the specialized nature of the board or
37 commission. As soon as practicable after a board or commission
38 receives a written assessment pursuant to this subsection, the
39 board or commission shall pay the amount set forth in the written
40 assessment to the Sunset Subcommittee.

41 4. Any action taken by the Sunset Subcommittee concerning
42 a board or commission pursuant to sections 8 to 12, inclusive, of
43 this act is in addition or supplemental to any action taken by the
44 Legislative Commission pursuant to NRS 232B.010 to 232B.100,
45 inclusive.



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Sec. 10. 1. *Each board and commission subject to review by the Sunset Subcommittee of the Legislative Commission shall submit information to the Sunset Subcommittee on a form prescribed by the Sunset Subcommittee. The information must include, without limitation:*

- (a) The name of the board or commission;*
- (b) The name of each member of the board or commission;*
- (c) The address of the Internet website established and maintained by the board or commission, if any;*
- (d) The name and contact information of the executive director of the board or commission, if any;*
- (e) A list of the members of the staff of the board or commission;*
- (f) The authority by which the board or commission was created;*
- (g) The governing structure of the board or commission, including, without limitation, information concerning the method, terms, qualifications and conditions of appointment and removal of the members of the board or commission;*
- (h) The duties of the board or commission;*
- (i) The operating budget of the board or commission;*
- (j) A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits the form required by this subsection, including the balances of any fund or account maintained by or on behalf of the board or commission;*
- (k) The most recent audit conducted of the board or commission, if any;*
- (l) The dates of the immediately preceding six meetings held by the board or commission;*
- (m) A statement of the objectives and programs of the board or commission;*
- (n) A conclusion concerning the effectiveness of the objectives and programs of the board or commission;*
- (o) Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs; and*
- (p) Such other information as the Sunset Subcommittee may require.*

2. *The Sunset Subcommittee may direct the Legislative Counsel Bureau to assist in its research, investigations, review and analysis of the information submitted by each board and commission pursuant to subsection 1.*

Sec. 11. 1. *The Sunset Subcommittee of the Legislative Commission shall conduct public hearings for the purpose of*



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1 *obtaining comments on, and may require the Legislative Counsel*
2 *Bureau to submit reports on, the need for the termination,*
3 *modification, consolidation or continued operation of a board or*
4 *commission.*

5 *2. The Sunset Subcommittee shall consider any report*
6 *submitted to it by the Legislative Counsel Bureau.*

7 *3. A board or commission has the burden of proving that*
8 *there is a public need for its continued existence.*

9 **Sec. 12.** *1. If the Sunset Subcommittee of the Legislative*
10 *Commission determines to recommend the termination of a board*
11 *or commission, its recommendation must include suggestions for*
12 *appropriate direct legislative action, if any, which is made*
13 *necessary or desirable by the termination of the board or*
14 *commission.*

15 *2. If the Sunset Subcommittee determines to recommend the*
16 *consolidation, modification or continuation of a board or*
17 *commission, its recommendation must include suggestions for*
18 *appropriate direct legislative action, if any, which would make the*
19 *operation of the board or commission or its successor more*
20 *efficient or effective.*

21 *3. On or before June 30, 2012, the Sunset Subcommittee*
22 *shall make all its initial recommendations pursuant to this section,*
23 *if any. The Sunset Subcommittee shall make all subsequent*
24 *recommendations pursuant to this section, if any, on or before*
25 *June 30 of each even-numbered year occurring thereafter.*

26 **Sec. 13.** NRS 232B.010 is hereby amended to read as follows:
27 232B.010 As used in ~~[this chapter,]~~ **NRS 232B.010 to**
28 **232B.100, inclusive,** unless the context otherwise requires,
29 "agency" means any public agency which the Legislature has
30 designated to be the subject of a review by the Legislative
31 Commission.

32 **Sec. 14.** NRS 232B.080 is hereby amended to read as follows:
33 232B.080 1. The Legislative Commission shall conduct
34 public hearings for the purpose of obtaining comments on, and may
35 require the Legislative Counsel Bureau to submit reports on, the
36 need for the continued operation of an agency, and its efficiency and
37 effectiveness.

38 2. At any hearing held ~~[under this chapter,]~~ **pursuant to NRS**
39 **232B.010 to 232B.100, inclusive,** information may be presented by:

- 40 (a) Members of the general public;
41 (b) Any person who is regulated by the agency; and
42 (c) Representatives of the agency.

43 3. The Legislative Commission shall consider any report
44 submitted to it by the Legislative Counsel Bureau.



1 4. An agency has the burden of proving that there is a public
2 need for its continued existence or regulatory function.

3 **Sec. 15.** 1. On or before August 1, 2011, the Governor shall
4 submit to the Legislative Commission the names of at least three
5 nominees who are qualified for membership on the Sunset
6 Subcommittee of the Legislative Commission pursuant to
7 subsection 2 of section 8 of this act.

8 2. On or before September 1, 2011:

9 (a) The Majority Leader of the Senate shall appoint three
10 members of the Sunset Subcommittee pursuant to paragraph (a) of
11 subsection 1 of section 8 of this act.

12 (b) The Speaker of the Assembly shall appoint three members of
13 the Sunset Subcommittee pursuant to paragraph (b) of subsection 1
14 of section 8 of this act.

15 (c) The Chair of the Legislative Commission shall appoint three
16 members of the general public from among the names of the
17 nominees submitted by the Governor pursuant to subsection 1.

18 **Sec. 15.5.** 1. If on the effective date of this act any person is
19 currently serving as a member of more than one board, commission
20 or similar body pursuant to an appointment by the Governor, the
21 person shall, on or before December 31, 2011, resign from all but
22 one such board, commission or similar body.

23 2. A vacancy created by such a resignation must be filled in the
24 manner prescribed by the relevant statute or by NRS 232A.020, if
25 no relevant statute applies, to fill a vacancy on the board,
26 commission or similar body.

27 **Sec. 16.** 1. This section and section 15.5 of this act become
28 effective upon passage and approval.

29 2. Sections 1, 1.5 and 8 to 15, inclusive, of this act become
30 effective on July 1, 2011.

