

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

A Bill

HOUSE BILL 1404

5 By: Representatives Sheppard, Womack
6
7

For An Act To Be Entitled

9 "AN ACT TO PROVIDE FOR THE PERIODIC REVIEW OF BOARDS
10 AND COMMISSIONS; AND FOR OTHER PURPOSES. "

Subtitle

13 "TO PROVIDE FOR THE PERIODIC REVIEW OF
14 BOARDS AND COMMISSIONS. "

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. (a) The General Assembly hereby determines that state
20 government actions have produced a substantial increase in the number of
21 boards, commissions, advisory councils and programs of this state, growth of
22 pre-existing programs, and the proliferation of rules and regulations, and
23 that this whole process developed without sufficient legislative oversight,
24 regulatory accountability, or a system of checks and balances. The General
25 Assembly further determines that by establishing a system for the termination,
26 study, review, continuation, or re-establishment of such boards, it will be in
27 a better position to evaluate the need for the continued existence of existing
28 and future boards, commissions, advisory councils and programs of the state
29 government.

30 (b) It is further the intention of the General Assembly to establish an
31 orderly schedule for the review of all existing state boards, during a three-
32 year period, to make provision for legislative review by the Joint Performance
33 Review Committee of the Arkansas General Assembly, including the holding of
34 public hearings, to enable the General Assembly to have the benefit of
35 recommendations for the continuation of those state boards which are deemed to
36 be essential for the necessary and efficient operation of government, prior to

1 the review thereof.

2
3 SECTION 2. As used in this Act, the term "state board" or "state
4 boards" shall include and mean boards, commissions, councils, advisory
5 committees, coalitions, and programs and services of the State of Arkansas.

6
7 SECTION 3. (a)(1) The Joint Performance Review Committee shall
8 establish an orderly schedule for the review of state boards in order to
9 provide a recommendation to the General Assembly for termination,
10 continuation, or re-establishment. The committee shall stagger the reviews
11 and all of the reviews shall be completed by July 1, 2002.

12 (2) Every two (2) years thereafter, the state board shall go
13 before the committee for a review in order for the committee to provide a
14 recommendation of termination, continuation or re-establishment.

15 (b) Prior to a recommendation for termination, continuation, or re-
16 establishment of any state board, the Joint Performance Review Committee shall
17 hold one or more public hearings and receive testimony from the public and the
18 Executive Director or administrative head of the state board, and in such a
19 hearing the state board shall have the burden of demonstrating a public need
20 for its continued existence and shall cooperate with the committee in
21 determining such changes, modifications, or revisions in the role, duties, and
22 purposes of the board which might promote the efficiency of the administration
23 or operation of the board, if continued.

24 (c) In such hearings, the determination made by the Joint Performance
25 Review Committee as to whether a state board assigned to it for review has
26 demonstrated a public need for its continued existence, shall take into
27 consideration the following factors, among others:

28 (1) The extent to which the state board and the respective
29 divisions, programs, and services thereof have served the public as intended
30 by law;

31 (2) The extent to which the state board has complied with the laws
32 and statutes defining its powers and duties;

33 (3) The extent to which the state board's operations have been
34 impeded or enhanced by existing statutes, procedures, and practices of the
35 State of Arkansas, or of other state boards, and any other circumstances,
36 including budgetary, resources, and personnel matters, which may have

1 adversely affected the board's operation;

2 (4) The extent to which the state board has complied with the
3 Administrative Procedures Act in the promulgation of rules and regulations and
4 the giving of notice and holding of formal hearings on all matters covered by
5 the state Administrative Procedures Act;

6 (5) The extent to which public representation is provided by law
7 on the various boards and commissions which regulate the various occupational
8 and professional licensing boards and other regulatory boards, and the extent
9 to which public input is utilized;

10 (6) The extent to which state boards have encouraged participation
11 by the public in making its rules and decisions, as opposed to participation
12 solely by persons it regulates; and

13 (7) The extent and efficiency with which public complaints filed
14 with a state board have been processed by the state board and its personnel,
15 and by other applicable departments of state government, to determine whether
16 the board is satisfactorily rendering service to the public with respect to
17 formal and informal complaints.

18 (d) If the state board under review before the committee fails to make
19 a presentation to the committee, the committee shall recommend that the state
20 board be terminated.

21
22 SECTION 4. (a) The Division of Legislative Audit shall cause to be
23 conducted a performance audit of each state board and the respective divisions
24 and programs thereof, which are scheduled for review under this Act. The
25 performance audit shall be completed at least three (3) months prior to the
26 time established by the Joint Performance Review Committee for review of the
27 state board. In conducting the audit, the Division of Legislative Audit shall
28 take into consideration, but shall not be limited to, the factors listed in
29 Section 3 of this Act. Upon completion of the audit report, the Division of
30 Legislative Audit shall present copies thereof to the members of committee and
31 shall make itself available to such committee for the purpose of reviewing the
32 audit report.

33 (b) If the committee specifically requests in writing a report from the
34 Governor containing his recommendations for continuation, abolition, or
35 modification of each of the state boards and the divisions and programs
36 thereof, which are under the committee, failure by the Governor to file such a

1 report with the committees shall not prohibit the committee from proceeding
2 with their duties under this Act.

3
4 SECTION 5. (a) The Joint Performance Review Committee shall conclude
5 its studies and file recommendations with the Legislative Council, on or
6 before September 1 of the year preceding the convening of the next regular
7 session of the General Assembly, containing the recommendations of the
8 committee with respect to those state boards which, in the opinion of the
9 committee should be continued and those which should be abolished.

10 (b) The recommendations shall be one (1) of the following:

11 (1) That the state board be continued;

12 (2) That the state board be continued, but that its duties be
13 revised or it be consolidated with some other board; or

14 (3) That the state board be terminated by law. Provided, that if
15 the committee does not make a recommendation with respect to a state board,
16 such action shall be construed as a recommendation that the state board
17 continue. In the event the Joint Performance Review Committee shall recommend
18 that the state board be continued, but that its duties be revised or that it
19 be consolidated with some other state board, the report of the committee shall
20 specifically outline recommendations on consolidation recommended by the
21 committee.

22
23 SECTION 6. The Bureau of Legislative Research of the Arkansas
24 Legislative Council shall provide staff, secretarial, and technical assistance
25 to the Joint Performance Review Committee in making the studies and reviews of
26 the respective state boards scheduled for review under the provisions of this
27 Act.

28
29 SECTION 7. All provisions of this act of a general and permanent nature
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
31 Revision Commission shall incorporate the same in the Code.

32
33 SECTION 8. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

2

3 SECTION 9. All laws and parts of laws in conflict with this act are
4 hereby repealed.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36