

FIRST REGULAR SESSION

HOUSE BILL NO. 681

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BEARDEN, SUTHERLAND, STEVENSON, GOODMAN, STEFANICK, HOBBS, BROWN, WOOD, PORTWOOD, LIPKE (Co-sponsors), ERVIN, BAKER, YATES, MUNZLINGER, LUETKEMEYER, DEEKEN, MYERS, RUPP, SMITH (14), NIEVES, GUEST, WALLACE, ROARK, MOORE, SANDER, ICET AND LAGER.

Read 1st time March 14, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2115L.011

AN ACT

To amend chapter 23, RSMo, by adding thereto fifteen new sections relating to the Missouri sunset act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 23, RSMo, is amended by adding thereto fifteen new sections, to be
2 known as sections 23.250, 23.253, 23.256, 23.259, 23.262, 23.265, 23.268, 23.271, 23.274,
3 23.277, 23.280, 23.283, 23.292, 23.295, and 23.298, to read as follows:

**23.250. Sections 23.250 to 23.298 shall be known and may be cited as the "Missouri
2 Sunset Act".**

3 23.253. 1. As used in sections 23.250 to 23.298, the following terms mean:

**4 (1) "Agency", any department, division, or agency of the state responsible for the
5 administration of a program;**

**6 (2) "Committee", the committee on legislative research established in section 35,
7 article III, Constitution of Missouri and section 23.010;**

**8 (3) "Program", a distinct and coherent set of activities authorized by the general
9 assembly through the legislative process intended to affect a clearly definable target group,
10 problem, or issue and which can be appropriated through the budget process or
11 nonappropriated, as in the case of tax credits;**

12 (4) "Sunset", the termination of legislative authorization of a program.

**13 2. After August 28, 2003, any new program authorized by the general assembly
14 shall sunset not more than six years after its effective date unless reauthorized by an act
15 of the general assembly. No funds may be expended on a program after its authorization**

16 has terminated. Legislation passed after August 28, 2003, shall indicate whether it contains
17 a program subject to the Missouri sunset act. Any such program shall have a sunset clause
18 clearly indicating the date of termination without reauthorization.

19 **3. Any program reauthorized by the general assembly pursuant to this section shall**
20 **include a provision specifying that the program shall sunset at a date not more than twelve**
21 **years from the effective date of the program's reauthorization.**

22 **4. Any program to which money is being appropriated prior to August 28, 2003,**
23 **may at any time be subject to review of the committee by a majority vote of its members**
24 **for the purpose of recommending to the general assembly its continuation or sunset. The**
25 **committee shall conduct public hearings concerning but not limited to the application to**
26 **the program of the criteria provided in section 23.268, and shall issue a report pursuant**
27 **to subsection one of section 23.271. The committee may recommend to the general**
28 **assembly by a majority vote of its members that a program under review, to which money**
29 **is being appropriated prior to August 28, 2003, be sunset. The committee shall submit such**
30 **recommendation to all members of the general assembly within thirty calendar days of the**
31 **vote in which such recommendation is made.**

23.256. Before October thirtieth of the second calendar year prior to the year in
2 **which a state program subject to sections 23.250 to 23.298 is scheduled to sunset, the**
3 **agency shall report to the committee:**

4 **(1) Information regarding the application to the program of the criteria in section**
5 **23.268; and**

6 **(2) Any other information that the agency considers appropriate or that is**
7 **requested by the committee.**

23.259. 1. Before September first of the calendar year prior to the year in which
2 **a program subject to sections 23.250 to 23.298 is scheduled to sunset, the committee shall:**

3 **(1) Review and take action necessary to verify the reports submitted by the agency**
4 **pursuant to section 23.256;**

5 **(2) Consult with the budget committee of the house of representatives, the**
6 **appropriations committee of the senate, the office of budget and planning, the state**
7 **auditor, and the state treasurer on the application to the agency of the criteria provided**
8 **in section 23.268; and**

9 **(3) Conduct a performance evaluation of the program based on the criteria**
10 **provided in section 23.268 and prepare a written report.**

11 **2. The written report prepared by the committee pursuant to subdivision (3) of**
12 **subsection 1 of this section shall be deemed a public record.**

23.262. 1. Between September first and December first of the calendar year prior

2 to the year in which a program subject to sections 23.250 to 23.298 is scheduled to sunset,
3 the committee shall conduct public hearings concerning but not limited to the application
4 to the program of the criteria provided in section 23.268.

5 2. The committee may hold the public hearings prior to September first if the
6 evaluation of the program required in subdivision (3) of subsection 1 of section 23.268 is
7 complete and available to the public.

23.265. 1. At the beginning of each regular session of the general assembly, the
2 committee shall present to the general assembly and the governor a report on the programs
3 scheduled to be sunset.

4 2. In the report, the committee shall include:

- 5 (1) Its specific findings regarding each of the criteria prescribed by section 23.268;
6 (2) Its recommendations based on the matters prescribed by section 23.271; and
7 (3) Any other information the committee deems necessary for a complete evaluation
8 of the program.

23.268. The committee and its staff shall consider the following criteria in
2 determining whether a public need exists for the continuation of a program, or for the
3 performance of the functions of the program:

- 4 (1) The efficiency with which the program operates;
5 (2) An identification of the objectives intended for the program and the problem
6 or need that the program was intended to address, the extent to which the objectives have
7 been achieved, and any activities of the agency in addition to those granted by statute and
8 the authority for such activities;
9 (3) An assessment of less restrictive or alternative methods of performing any rule
10 or regulation that the agency performs that could adequately protect the public;
11 (4) The extent to which the jurisdiction of the agency and the programs
12 administered by the agency overlap or duplicate those of other agencies and the extent to
13 which the programs administered by the agency can be consolidated with the programs of
14 other state agencies;
15 (5) Whether the agency has recommended to the general assembly statutory
16 changes calculated to be of benefit to the public rather than to an occupation, business, or
17 institution that the agency regulates;
18 (6) The promptness and effectiveness with which the agency disposes of complaints
19 concerning persons affected by the program;
20 (7) The extent to which the agency has encouraged participation by the public in
21 making rules and decisions as opposed to participation solely by those it regulates and the
22 extent to which the public participation has resulted in rules compatible with the objectives

23 of the program;

24 (8) The extent to which the agency has complied with applicable requirements of:

25 (a) An agency of the United States or this state regarding equality of employment
26 opportunity and the rights and privacy of individuals; and

27 (b) State law and applicable rules of any state agency regarding purchasing goals
28 and programs for historically underutilized businesses;

29 (9) The extent to which changes are necessary in the enabling statutes of the
30 program so that the agency can adequately comply with the criteria established in this
31 section;

32 (10) The extent to which the agency issues and enforces rules relating to potential
33 conflicts of interest of its employees;

34 (11) The extent to which the agency complies with chapter 610, RSMo, and follows
35 records management practices that enable the agency to respond efficiently to requests for
36 public information; and

37 (12) The effect of federal intervention or loss of federal funds if the program is
38 sunset.

23.271. 1. In its report on a program, the committee shall:

2 (1) Make recommendations on the sunset, continuation, or reorganization of each
3 affected program and on the need for the performance of the functions of the program;

4 (2) Make recommendations on the consolidation, transfer, or reorganization of
5 programs within state agencies not under review when the programs duplicate functions
6 performed in programs under review;

7 (3) Recommend appropriation levels for each program for which sunset or
8 reorganization is recommended pursuant to subdivision (1) or (2) of this subsection; and

9 (4) Include drafts of legislation necessary to carry out the committee's
10 recommendations pursuant to subdivisions (1) and (2) of this subsection.

11 2. On the date the committee presents its report to the general assembly pursuant
12 to section 23.265, the committee shall present to the state auditor the committee's
13 recommendations that do not require a statutory change to be put into effect. The state
14 auditor shall examine the recommendations and shall prepare, as part of the next
15 scheduled audit of the program, a report on the manner in which the agency has
16 implemented the recommendations.

23.274. 1. In the two-year period preceding the date scheduled for the sunset of a
2 program pursuant to sections 23.250 to 23.298, the committee may exempt certain agencies
3 from the requirements of sections 23.250 to 23.298 relating to staff reports, hearings, and
4 evaluations.

5 **2. The committee shall only exempt programs that have been inactive for a period**
6 **of two years preceding the date the program is scheduled to sunset.**

7 **3. The committee's action in exempting programs pursuant to this section shall be**
8 **done by an affirmative record vote of all members of the committee.**

23.277. During each regular or special session of the general assembly, the staff of
2 **the committee shall monitor legislation affecting programs that have undergone sunset**
3 **review and shall periodically report to the members of the committee on proposed changes**
4 **which would modify prior recommendations of the committee.**

23.280. Sections 23.250 to 23.298 shall not prohibit the general assembly from:

2 **(1) Terminating a program at a date earlier than that provided in sections 23.250**
3 **to 23.298; or**

4 **(2) Considering any other legislation relative to a program subject to sections**
5 **23.250 to 23.298.**

23.283. 1. A program that is sunset may continue in existence until September first
2 **of the following year to conclude its business. Unless the law provides otherwise, sunset**
3 **does not reduce or otherwise limit the powers and authority of the agency during the**
4 **concluding year. A program is terminated and shall cease all activities at the expiration**
5 **of the one-year period. Unless the law provides otherwise, all rules adopted by the state**
6 **agency shall expire at the expiration of the one-year period.**

7 **2. Any unobligated and unexpended appropriations of a sunset program lapse on**
8 **September first of the year after sunset.**

9 **3. Except as provided by subsection 5 of this section or as otherwise provided by**
10 **law, all moneys in a dedicated fund of a program that sunsets on September first of the**
11 **year after sunset shall be transferred to the credit of the general revenue fund. Any law or**
12 **portion of a law dedicating the moneys to a specific fund of a program that sunsets shall**
13 **become void on September first of the year after sunset.**

14 **4. Unless the governor designates an appropriate state agency as prescribed in**
15 **subsection 5 of this section, property and records in the custody of an agency administering**
16 **a sunset program on September first of the year after sunset shall be transferred to the**
17 **office of administration. If the governor designates an appropriate state agency, the**
18 **property and records shall be transferred to the designated state agency.**

19 **5. In recognition of the state's continuing obligation to pay bonded indebtedness and**
20 **all other obligations, including lease, contract, and other written obligations, incurred by**
21 **a program pursuant to sections 23.250 to 23.298, sections 23.250 to 23.298 shall not impair**
22 **or impede payment of bonded indebtedness and all other obligations, including lease,**
23 **contract, and other written obligations, in accordance with their terms. If an agency has**

24 **outstanding bonded indebtedness or other outstanding obligations for a sunset program,**
25 **including lease, contract, or other written obligations, the bonds and all other such**
26 **obligations remain valid and enforceable in accordance with their terms and subject to all**
27 **applicable terms and conditions of the laws and proceedings authorizing the bonds and all**
28 **other such obligations. The governor shall designate an appropriate state agency to**
29 **continue to carry out all covenants contained in the bonds and all other such obligations,**
30 **and the proceedings authorizing them, including the issuance of bonds, and the**
31 **performance of all other such obligations to complete the construction of projects or the**
32 **performance of other such obligations. The designated state agency shall provide payment**
33 **from the sources of payment of the bonds in accordance with the terms of the bonds and**
34 **shall provide payment from the sources of payment from all other such obligations in**
35 **accordance with their terms, whether from taxes, revenues, or otherwise, until the bonds**
36 **and interest on the bonds are paid in full and are performed and paid in full. If the**
37 **proceedings so provide, all funds established by law or proceedings authorizing the bonds**
38 **or authorizing other such obligations shall remain with the state treasurer or previously**
39 **designated trustees. If the proceedings do not provide that the funds remain with the state**
40 **treasurer or previously designated trustees, the funds shall be transferred to the designated**
41 **state agency.**

23.292. 1. The committee may request the assistance of state agencies and officers.
2 When assistance is requested, a state agency or officer shall assist the committee.

3 2. In carrying out its functions pursuant to sections 23.250 to 23.298, the committee
4 or its designated staff member may inspect the records, documents, and files of any state
5 agency.

23.295. If an employee is displaced because a program is sunset, reorganized, or
2 continued, the state agency and the division of employment security in the department of
3 labor and industrial relations shall make a reasonable effort to relocate the displaced
4 employee.

23.298. Except as otherwise expressly provided, sunset of a program does not affect
2 the rights and duties that matured, penalties incurred or imposed, civil or criminal
3 liabilities that arose, or proceedings initiated before the effective date of the sunset.