

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 209
SENATE BILL 1034

AN ACT

AMENDING SECTIONS 32-3101, 32-3103, 32-3104, 32-3105, 32-3106, 32-4402, 41-2952 AND 41-2954, ARIZONA REVISED STATUTES; RELATING TO COMMITTEES OF REFERENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-3101, Arizona Revised Statutes, is amended to
3 read:

4 32-3101. Definitions

5 In this chapter, unless the context otherwise requires:

6 ~~2.~~ 1. "Certification" means a voluntary process by which a
7 regulatory entity grants recognition to an individual who has met certain
8 prerequisite qualifications specified by that regulatory entity and who
9 may assume or use the word "certified" in a title or designation to
10 perform prescribed health professional tasks.

11 ~~3.~~ 2. "Grandfather clause" means a provision applicable to
12 practitioners actively engaged in the regulated health profession before
13 the effective date of a law that exempts the practitioners from meeting
14 the prerequisite qualifications set forth in the law to perform prescribed
15 occupational tasks.

16 ~~4.~~ 3. "Applicant HEALTH PROFESSIONAL group" means any health
17 professional group or organization, any individual or any other interested
18 party that proposes that any health professional group not presently
19 regulated be regulated or that proposes to increase the scope of practice
20 of a health profession.

21 4. "Health professions" means professions THAT ARE regulated
22 pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21,
23 25, 28, 29, 33, 34, 35, 39 or 41 of this title, title 36, chapter 6,
24 article 7 or title 36, chapter 17.

25 5. "Increase the scope of practice" means to engage in conduct
26 beyond the authority granted to a health profession by law.

27 6. "Inspection" means the periodic examination of practitioners by
28 a state agency in order to ascertain whether the practitioners' occupation
29 is being carried out in a fashion consistent with the public health,
30 safety and welfare.

31 ~~7. "Legislative committees of reference" means joint subcommittees~~
32 ~~composed of the members of the appropriate standing committees of the~~
33 ~~house of representatives and senate appointed pursuant to section 41-2954.~~

34 ~~8.~~ 7. "Licensure" or "license" means an individual,
35 nontransferable authorization to carry on a health activity that would
36 otherwise be unlawful in this state in the absence of the permission, and
37 that is based on qualifications that include graduation from an accredited
38 or approved program and acceptable performance on a qualifying examination
39 or a series of examinations.

40 ~~9.~~ 8. "Practitioner" means an individual who has achieved
41 knowledge and skill by practice and who is actively engaged in a specified
42 health profession.

43 ~~10.~~ 9. "Public member" means an individual who is not and never
44 has been a member or spouse of a member of the health profession being
45 regulated and who does not have and never has had a material financial

1 interest in either the rendering of the health professional service being
2 regulated or an activity directly related to the profession being
3 regulated.

4 ~~11.~~ 10. "Registration" means the formal notification that, before
5 rendering services, a practitioner shall submit to a state agency setting
6 forth the name and address of the practitioner, the location, nature and
7 operation of the health activity to be practiced and, if required by a
8 regulatory entity, a description of the service to be provided.

9 ~~12.~~ 11. "Regulatory entity" means any board, commission, agency or
10 department of this state that regulates one or more health professions in
11 this state.

12 ~~13.~~ 12. "State agency" means any department, board, commission or
13 agency of this state.

14 Sec. 2. Section 32-3103, Arizona Revised Statutes, is amended to
15 read:

16 32-3103. Regulation of health professions; legislation;
17 criteria

18 A. Regulation shall not be imposed on any unregulated health
19 profession ~~except~~ FOR THE PURPOSE OF PROHIBITING COMPETITION, BUT ONLY for
20 the exclusive purpose of protecting the public interest. All proposed
21 legislation to regulate a health profession for the first time shall be
22 reviewed according to the following criteria. A health profession shall
23 be regulated by this state only if:

24 1. THERE IS CREDIBLE EVIDENCE THAT THE unregulated practice OF THAT
25 HEALTH PROFESSION can clearly harm or endanger the public health, safety
26 or welfare and the potential for harm is easily recognizable and not
27 remote or dependent on tenuous argument.

28 2. The public needs and can reasonably be expected to benefit from
29 an assurance of initial and continuing professional ability.

30 3. The public cannot be effectively protected by other means in a
31 more ~~cost-beneficial~~ COST-BENEFICIAL manner.

32 B. After evaluating the criteria prescribed in subsection A OF THIS
33 SECTION and considering governmental and societal costs and benefits, if
34 the legislature finds that it is necessary to regulate a health profession
35 not previously regulated by law, THE LEGISLATURE SHALL IMPLEMENT the least
36 restrictive alternative method of regulation ~~shall be implemented TO~~
37 ADDRESS THE SPECIFIC HARM OR DANGER IDENTIFIED, consistent with the public
38 interest and the following:

39 1. If existing common law and statutory civil actions and criminal
40 prohibitions are not sufficient to eradicate existing harm, the regulation
41 shall provide for stricter civil actions and criminal prohibitions.

42 2. If a service is being performed for individuals ~~which~~ THAT
43 involves a hazard to the public health, safety or welfare, the regulation
44 shall impose inspection requirements and enable an appropriate state
45 agency to enforce violations by injunctive relief in court.

1 3. If the threat to the public health, safety or economic
2 well-being is relatively small as a result of the operation of the health
3 profession, the regulation shall implement a system of registration.

4 4. If the consumer may have a substantial basis for relying on the
5 services of a practitioner, the regulation shall implement a system of
6 certification.

7 5. If it is apparent that adequate regulation cannot be achieved by
8 means other than licensing, the regulation shall implement a system of
9 licensing.

10 Sec. 3. Section 32-3104, Arizona Revised Statutes, is amended to
11 read:

12 32-3104. Health professional groups; written report;
13 legislative informational hearings; proposed
14 legislation

15 A. ~~Applicant groups~~ A HEALTH PROFESSIONAL GROUP shall submit a
16 written report explaining the factors prescribed in section 32-3105 or
17 32-3106 to the president of the senate and the speaker of the house of
18 representatives. The report shall be submitted on or before ~~September~~
19 ~~NOVEMBER~~ 1 before the start of the legislative session for which the
20 legislation is proposed, AND THE HEALTH PROFESSIONAL GROUP MAY REQUEST
21 INFORMATIONAL HEARINGS PURSUANT TO THIS SECTION. The president of the
22 senate or the speaker of the house of representatives shall assign the
23 written report to the ~~appropriate legislative committee of reference~~
24 HEALTH COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE HEALTH AND HUMAN
25 SERVICES COMMITTEE OF THE SENATE, OR THEIR RESPECTIVE SUCCESSOR
26 COMMITTEES, AND THE LEGISLATIVE COMMITTEES MAY CONDUCT INFORMATIONAL
27 HEARINGS ON THE WRITTEN REPORT BEFORE THE LEGISLATIVE SESSION
28 CONVENES. The ~~legislative committee of reference~~ REPORT MAY BE AMENDED
29 AFTER IT HAS BEEN FILED BUT BEFORE ANY HEARING ON THE REPORT. THE
30 COMMITTEES shall study the written report ~~and deliver the report of its~~
31 ~~recommendations to the speaker of the house of representatives, the~~
32 ~~president of the senate, the governor and, if appropriate, the regulatory~~
33 ~~board of the health profession on or before December 1 of the year in~~
34 ~~which the report is submitted. Legislative committees of reference may~~
35 ~~hold hearings as they deem necessary.~~ AND MAY TAKE PUBLIC COMMENT ON THE
36 REPORT AT THE INFORMATIONAL HEARINGS BUT SHALL NOT VOTE WHETHER TO ACCEPT
37 OR REJECT THE REPORT FILED BY THE HEALTH PROFESSIONAL GROUP. If a health
38 professional group proposes to increase the scope of practice of its
39 profession, THE HEALTH PROFESSIONAL GROUP MAY SEND copies of the written
40 report ~~shall be sent~~ to the regulatory board of the health profession AND
41 THE DEPARTMENT OF HEALTH SERVICES for review and comment. ~~if applicable,~~
42 ~~the regulatory board of the health profession shall make recommendations~~
43 ~~based on the report submitted by applicant groups to the extent requested~~
44 ~~by the legislative committees of reference.~~ A HEALTH PROFESSIONAL GROUP

1 MAY SEEK TO INTRODUCE LEGISLATION IN THE LEGISLATIVE SESSION REGARDLESS OF
2 COMMENTS, IF ANY, FROM THE INFORMATIONAL HEARINGS.

3 B. IF A HEALTH PROFESSIONAL GROUP'S REPORT IS NOT HEARD BY A
4 LEGISLATIVE COMMITTEE PURSUANT TO SUBSECTION A OF THIS SECTION, THE HEALTH
5 PROFESSIONAL GROUP MAY SEEK TO HAVE LEGISLATION INTRODUCED IN THE
6 LEGISLATIVE SESSION FOR CERTIFICATION, REGISTRATION OR LICENSURE OR TO
7 INCREASE THE SCOPE OF PRACTICE OF AN EXISTING REGULATED HEALTH PROFESSION.
8 THE LACK OF A HEARING SHALL NOT BE CONSIDERED AS EITHER SUPPORT OR
9 REJECTION OF THE HEALTH PROFESSIONAL GROUP'S PROPOSED LEGISLATION.

10 C. UNLESS THERE IS A MATERIAL CHANGE IN THE PROPOSED INCREASED
11 SCOPE OF PRACTICE, A HEALTH PROFESSIONAL GROUP IS NOT REQUIRED TO REFILE A
12 REPORT IF THE HEALTH PROFESSIONAL GROUP FILED THE REPORT WITHIN THE
13 PREVIOUS FIVE YEARS. ON OR BEFORE NOVEMBER 1, THE HEALTH PROFESSIONAL
14 GROUP SHALL NOTIFY IN WRITING THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
15 THE PRESIDENT OF THE SENATE AND THE CHAIRPERSONS OF THE RESPECTIVE HEALTH
16 COMMITTEES IF THE HEALTH PROFESSIONAL GROUP INTENDS TO PURSUE THE PROPOSED
17 INCREASED SCOPE OF PRACTICE DURING THE NEXT LEGISLATIVE SESSION AND SHALL
18 REFERENCE THE SPECIFIC REPORT THAT WAS PREVIOUSLY FILED ON WHICH THE
19 HEALTH PROFESSIONAL GROUP IS RELYING.

20 Sec. 4. Section 32-3105, Arizona Revised Statutes, is amended to
21 read:

22 32-3105. Health professional groups; proposed regulation;
23 factors

24 ~~Applicant groups for~~ A HEALTH PROFESSIONAL GROUP THAT IS SEEKING
25 regulation shall explain each of the following factors to the extent
26 requested by the legislative committees ~~of reference~~:

27 1. ~~A definition of the problem and~~ Why regulation is necessary,
28 including:

29 (a) The nature of the potential harm to the public if the health
30 profession is not regulated and the extent to which there is a threat to
31 public health and safety.

32 (b) The extent to which consumers need and will benefit from a
33 method of regulation, identifying competent practitioners and indicating
34 typical employers, if any, of practitioners in the health profession.

35 (c) The extent of autonomy a practitioner has, as indicated by the
36 following:

37 (i) The extent to which the health profession calls for independent
38 judgment and the extent of skill or experience required in making the
39 independent judgment.

40 (ii) The extent to which practitioners are supervised.

41 2. The efforts made to address the problem, including:

42 (a) Voluntary efforts, if any, by members of the health profession
43 to either:

44 (i) Establish a code of ethics.

- 1 (ii) Help resolve disputes between health practitioners and
2 consumers.
- 3 (b) Recourse to and the extent of use of applicable law and whether
4 it could be amended to control the problem.
- 5 3. The alternatives considered, including:
- 6 (a) Regulation of business employers or practitioners rather than
7 employee practitioners.
- 8 (b) Regulation of the program or service rather than the individual
9 practitioners.
- 10 (c) Registration of all practitioners.
- 11 (d) Certification of all practitioners.
- 12 (e) Other alternatives.
- 13 (f) Why the use of the alternatives specified in this paragraph
14 would not be adequate to protect the public interest.
- 15 (g) Why licensing would serve to protect the public interest.
- 16 4. The benefit to the public if regulation is granted, including:
- 17 (a) The extent to which the incidence of specific problems present
18 in the unregulated health profession can reasonably be expected to be
19 reduced by regulation.
- 20 (b) Whether the public can identify qualified practitioners.
- 21 (c) The extent to which the public can be confident that qualified
22 practitioners are competent, including:
- 23 (i) Whether the proposed regulatory entity would be a board
24 composed of members of the profession and public members or a state
25 agency, or both, and, if appropriate, their respective responsibilities in
26 administering the system of registration, certification or licensure,
27 including the composition of the board and the number of public members,
28 if any, the powers and duties of the board or state agency regarding
29 examinations and for cause revocation, suspension and nonrenewal of
30 registrations, certificates or licenses, the adoption of rules and canons
31 of ethics, the conduct of inspections, the receipt of complaints and
32 disciplinary action taken against practitioners and how fees would be
33 levied and collected to pay for the expenses of administering and
34 operating the regulatory system.
- 35 (ii) If there is a grandfather clause, whether grandfathered
36 practitioners will be required to meet the prerequisite qualifications
37 established by the regulatory entity at a later date.
- 38 (iii) The nature of the standards proposed for registration,
39 certification or licensure as compared with the standards of other
40 jurisdictions.
- 41 (iv) Whether the regulatory entity would be authorized to enter
42 into reciprocity agreements with other jurisdictions.
- 43 (v) The nature and duration of any training, including whether the
44 training includes a substantial amount of supervised field experience,
45 whether training programs exist in this state, if there will be an

1 experience requirement, whether the experience must be acquired under a
2 registered, certified or licensed practitioner, whether there are
3 alternative routes of entry or methods of meeting the prerequisite
4 qualifications, whether all applicants will be required to pass an
5 examination, and if an examination is required, by whom it will be
6 developed and how the costs of development will be met.

7 (d) Assurance of the public that practitioners have maintained
8 their competence, including:

9 (i) Whether the registration, certification or licensure will carry
10 an expiration date.

11 (ii) Whether renewal will be based only on payment of a fee or
12 whether renewal will involve reexamination, peer review or other
13 enforcement.

14 5. The extent to which regulation might harm the public, including:

15 (a) The extent to which regulation will restrict entry into the
16 health profession, including:

17 (i) Whether the proposed standards are more restrictive than
18 necessary to ensure safe and effective performance.

19 (ii) Whether the proposed legislation requires registered,
20 certified or licensed practitioners in other jurisdictions who ~~migrate~~
21 ~~RELOCATE~~ to this state to qualify in the same manner as state applicants
22 for registration, certification and licensure if the other jurisdiction
23 has substantially equivalent requirements for registration, certification
24 or licensure as those in this state.

25 (b) Whether there are professions similar to that of the ~~applicant~~
26 ~~HEALTH PROFESSIONAL~~ group ~~which~~ ~~THAT~~ should be included in, or portions of
27 the ~~applicant~~ ~~HEALTH PROFESSIONAL~~ group ~~which~~ ~~THAT~~ should be excluded
28 from, the proposed legislation.

29 6. The maintenance of standards, including:

30 (a) Whether effective quality assurance standards exist in the
31 health profession, such as legal requirements associated with specific
32 programs that define or enforce standards or a code of ethics.

33 (b) How the proposed legislation will ~~assure~~ ~~ENSURE~~ quality,
34 including:

35 (i) The extent to which a code of ethics, if any, will be adopted.

36 (ii) The grounds for suspension or revocation of registration,
37 certification or licensure.

38 7. A description of the group proposed for regulation, including a
39 list of associations, organizations and other groups representing the
40 practitioners in this state, an estimate of the number of practitioners in
41 each group and whether the groups represent different levels of practice.

42 8. The expected costs of regulation, including:

43 (a) The impact ~~THAT~~ registration, certification or licensure will
44 have on the costs of the services to the public.

1 (b) The cost to this state and to the ~~generat~~ public of
2 implementing the proposed legislation.

3 Sec. 5. Section 32-3106, Arizona Revised Statutes, is amended to
4 read:

5 32-3106. Health professional groups; proposed increased scope
6 of practice; factors; legislation

7 ~~A. Applicant groups for~~ A HEALTH PROFESSIONAL GROUP THAT IS SEEKING
8 AN increased scope of practice shall explain each of the following factors
9 ~~to the extent requested by the legislative committee of reference:~~

10 1. ~~A definition of the problem and~~ Why a change in AN INCREASED
11 scope of practice is ~~necessary~~ BENEFICIAL, including the extent to which
12 HEALTH CARE consumers need and will benefit from SAFE, QUALITY CARE FROM
13 practitioners with this scope of practice.

14 ~~2. The extent to which the public can be confident that qualified~~
15 ~~practitioners are competent including:~~

16 ~~(a) Evidence that the profession's regulatory board has functioned~~
17 ~~adequately in protecting the public.~~

18 ~~(b) Whether effective quality assurance standards exist in the~~
19 ~~health profession, such as legal requirements associated with specific~~
20 ~~programs that define or endorse standards or a code of ethics.~~

21 ~~(c) Evidence that state approved educational programs provide or~~
22 ~~are willing to provide core curriculum adequate to prepare practitioners~~
23 ~~at the proposed level.~~

24 2. WHETHER THOSE HEALTH PROFESSIONALS SEEKING AN INCREASED SCOPE OF
25 PRACTICE CURRENTLY HAVE OR WILL BE REQUIRED TO HAVE DIDACTIC AND CLINICAL
26 EDUCATION FROM ACCREDITED PROFESSIONAL SCHOOLS OR TRAINING FROM RECOGNIZED
27 PROGRAMS THAT PREPARE THEM TO PERFORM THE PROPOSED SCOPE OF PRACTICE, AND
28 DETAILS ON WHAT THAT EDUCATION OR TRAINING INCLUDES FOR THAT PROPOSED
29 SCOPE OF PRACTICE.

30 3. WHETHER THE SUBJECT MATTER OF THE PROPOSED INCREASED SCOPE OF
31 PRACTICE IS CURRENTLY TESTED BY NATIONALLY RECOGNIZED AND ACCEPTED
32 EXAMINATIONS FOR APPLICANTS FOR PROFESSIONAL LICENSURE AND THE DETAILS OF
33 THE EXAMINATION RELATING TO THE INCREASED SCOPE OF PRACTICE.

34 ~~3.~~ 4. The extent to which ~~an increase in~~ the PROPOSED INCREASED
35 scope of practice ~~may harm the public including the extent to which an~~
36 ~~increased scope of practice will restrict entry into practice and whether~~
37 ~~the proposed legislation requires registered, certified or licensed~~
38 ~~practitioners in other jurisdictions who migrate to this state to qualify~~
39 ~~in the same manner as state applicants for registration, certification and~~
40 ~~licensure if the other jurisdiction has substantially equivalent~~
41 ~~requirements for registration, certification or licensure as those in this~~
42 ~~state~~ WILL IMPACT THE PRACTICE OF THOSE WHO ARE CURRENTLY LICENSED IN THIS
43 STATE OR THE ENTRY INTO PRACTICE OF THOSE INDIVIDUALS WHO HAVE RELOCATED
44 FROM OTHER STATES WITH SUBSTANTIALLY EQUIVALENT REQUIREMENTS FOR
45 REGISTRATION, CERTIFICATION OR LICENSURE AS THIS STATE.

1 ~~4.~~ 5. The EXTENT TO WHICH IMPLEMENTING THE PROPOSED INCREASED
2 SCOPE OF PRACTICE MAY RESULT IN SAVINGS OR A cost to this state and to the
3 general public ~~of implementing the proposed increase in scope of practice.~~

4 6. THE RELEVANT HEALTH PROFESSION LICENSURE LAWS, IF ANY, IN THIS
5 OR OTHER STATES.

6 7. RECOMMENDATIONS, IF ANY, FROM THE APPLICABLE REGULATORY ENTITY
7 OR ENTITIES, FROM THE DEPARTMENT OF HEALTH SERVICES AND FROM ACCREDITED
8 EDUCATIONAL OR TRAINING PROGRAMS.

9 B. THE LEGISLATURE SHALL REVIEW ANY LEGISLATION TO INCREASE THE
10 SCOPE OF PRACTICE ACCORDING TO THE FOLLOWING CRITERIA:

11 1. ANY LIMIT ON A HEALTH PROFESSION'S SCOPE OF PRACTICE MUST BE
12 ONLY FOR THE PURPOSE OF PROTECTING THE PUBLIC FROM A SPECIFIC HARM OR
13 DANGER.

14 2. WHETHER THE ADDITION OF ADEQUATELY TRAINED HEALTH PROFESSIONALS
15 PROVIDING AN EXPANDED RANGE OF PROFESSIONAL HEALTH CARE SERVICES WILL HAVE
16 A BENEFICIAL EFFECT TO THE PUBLIC AND INCREASE ACCESS TO SAFE, QUALITY
17 CARE.

18 3. WHETHER ANY CHANGES IN THE HEALTH PROFESSION'S REGULATORY ENTITY
19 ARE NECESSARY TO ADEQUATELY PROTECT THE PUBLIC.

20 C. THE LEGISLATURE SHALL NOT CONSIDER EITHER OF THE FOLLOWING IN
21 ITS REVIEW OF LEGISLATION TO INCREASE THE SCOPE OF PRACTICE:

22 1. COMPETITION FROM OR WITH OTHER LICENSED PROFESSIONS.

23 2. THE ABILITY OR INABILITY TO OBTAIN HEALTH INSURANCE COVERAGE FOR
24 THE PROPOSED INCREASED SCOPE OF PRACTICE.

25 Sec. 6. Section 32-4402, Arizona Revised Statutes, is amended to
26 read:

27 32-4402. Applicant groups; nonhealth professions and
28 occupations; written report

29 Applicant groups shall submit a written report explaining the
30 factors prescribed in section 32-4403 to the president of the senate and
31 the speaker of the house of representatives. The report shall be
32 submitted on or before September 1 before the start of the legislative
33 session for which the legislation is proposed. The president of the
34 senate or the speaker of the house of representatives shall assign the
35 written report to the appropriate legislative committee of reference. The
36 legislative committee of reference shall study the written report and
37 deliver the report of its recommendations to the speaker of the house of
38 representatives, the president of the senate, the governor and, if
39 appropriate, the regulatory entity on or before ~~December 1~~ THE THIRD
40 FRIDAY IN JANUARY of the year FOLLOWING THE YEAR in which the report is
41 submitted. Legislative committees of reference may hold hearings as they
42 deem necessary.

1 Sec. 7. Section 41-2952, Arizona Revised Statutes, is amended to
2 read:

3 41-2952. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Agency" means any department, office, agency, commission, board
6 or other instrumentality of this state specified in article 2 of this
7 chapter regardless of whether monies are appropriated to such board.

8 2. "Committee" means the joint legislative audit committee.

9 3. "Committee of reference" means ~~a joint subcommittee which is~~
10 ~~composed of the members of~~ the appropriate standing ~~committees~~ COMMITTEE
11 of the house of representatives ~~and~~ OR senate ~~and which~~ THAT is appointed
12 for the purpose of evaluating agencies subject to termination pursuant to
13 this chapter.

14 4. "Special performance audit" means a performance audit of limited
15 scope.

16 5. "Sunset review" means a systematic evaluation by the committee
17 of reference under the supervision of the joint legislative audit
18 committee, with the assistance of the appropriate agency, joint
19 legislative budget committee, committees of reference, auditor general and
20 support staff, to determine if the merits of the program justify its
21 continuation rather than termination, or its continuation at a level less
22 than or greater than the existing level. Such review shall be undertaken
23 in the scope and detail the committee of reference deems appropriate and
24 shall include, without limitation, whether there is a need for the program
25 in state government and, if so, an assessment of the degree to which the
26 original objectives of the program have been achieved expressed in terms
27 of the performance, impact or accomplishments of the program and of the
28 situation it was intended to address. Such review shall be coordinated
29 with the performance audit procedures of the auditor general as set forth
30 in chapter 7, article 10.1 of this title or of the committees of
31 reference, whichever is appropriate.

32 6. "Terminate" or "termination" means the date provided for
33 termination of legislative authority for the existence of a particular
34 agency pursuant to article 2 of this chapter.

35 Sec. 8. Section 41-2954, Arizona Revised Statutes, is amended to
36 read:

37 41-2954. Committees of reference; performance review reports;
38 hearings; recommendations; subpoena powers

39 A. Each standing committee of both legislative houses shall ~~appoint~~
40 ~~a subcommittee of five members. Not more than three appointees of each~~
41 ~~house shall be of the same political party. The subcommittees shall~~
42 ~~jointly~~ constitute a committee of reference in ~~their~~ THE COMMITTEE'S
43 respective subject matter areas AND THE COMMITTEE'S RESPECTIVE HOUSE.

44 B. After receipt of the preliminary sunset review report, ~~the~~ EACH
45 committee of reference OR EACH COMMITTEE OF REFERENCE MEETING JOINTLY

1 shall hold at least one public hearing **WHEN THE LEGISLATURE IS NOT IN**
2 **SESSION OR BEFORE THE THIRD FRIDAY IN JANUARY** to receive testimony from
3 the public and from the officials of the agency involved. The agency
4 involved shall prepare a presentation for the first public meeting that
5 addresses the elements of the written statement required by subsection F
6 **OF THIS SECTION.**

7 C. ~~The~~ **EACH** committee of reference shall hold public hearings for
8 the following purposes:

9 1. To determine the actual need of the agency to regulate or direct
10 the particular activity.

11 2. To determine the extent to which the statutory requirements of
12 the agency are necessary and are being met.

13 3. To receive testimony from the public as to the relationship of
14 the agency with the public.

15 4. To receive testimony from the executive director or other head
16 of the agency as to reasons for the continuation of the agency.

17 D. ~~The~~ **EACH** committee of reference shall consider but not be
18 limited to the following factors in determining the need for continuation
19 or termination of each agency:

20 1. The objective and purpose in establishing the agency and the
21 extent to which the objective and purpose are met by private enterprises
22 in other states.

23 2. The extent to which the agency has met its statutory objective
24 and purpose and the efficiency with which it has operated.

25 3. The extent to which the agency serves the entire state rather
26 than specific interests.

27 4. The extent to which rules adopted by the agency are consistent
28 with the legislative mandate.

29 5. The extent to which the agency has encouraged input from the
30 public before adopting its rules and the extent to which it has informed
31 the public as to its actions and ~~their~~ **THE** expected impact on the public.

32 6. The extent to which the agency has been able to investigate and
33 resolve complaints that are within its jurisdiction.

34 7. The extent to which the attorney general or any other applicable
35 agency of state government has the authority to prosecute actions under
36 the enabling legislation.

37 8. The extent to which agencies have addressed deficiencies in
38 their enabling statutes that prevent them from fulfilling their statutory
39 mandate.

40 9. The extent to which changes are necessary in the laws of the
41 agency to adequately comply with the factors listed in this subsection.

42 10. The extent to which the termination of the agency would
43 significantly affect the public health, safety or welfare.

1 11. The extent to which the level of regulation exercised by the
2 agency compares to other states and is appropriate and whether less or
3 more stringent levels of regulation would be appropriate.

4 12. The extent to which the agency has used private contractors in
5 the performance of its duties as compared to other states and how more
6 effective use of private contractors could be accomplished.

7 13. The extent to which the agency potentially creates unexpected
8 negative consequences that might require additional review by the
9 committee of reference, including increasing the price of goods, affecting
10 the availability of services, limiting the abilities of individuals and
11 businesses to operate efficiently and increasing the cost of government.

12 E. The committee of reference shall deliver the final sunset review
13 report of its recommendations to ~~the committee,~~ the president of the
14 senate, the speaker of the house of representatives, the governor, the
15 auditor general and the affected agency ~~by December 1~~ **ON OR BEFORE THE**
16 **THIRD FRIDAY IN JANUARY**. Such recommendations shall include one of the
17 following:

- 18 1. That the state agency be continued.
- 19 2. That the state agency be revised or consolidated.
- 20 3. That the state agency be terminated pursuant to this chapter.

21 F. The final sunset review report by ~~the~~ **EACH** committee of
22 reference shall also include a written statement prepared by the agency
23 involved that contains:

- 24 1. An identification of the problem or the needs that the agency is
25 intended to address.
- 26 2. A statement, to the extent practicable, in quantitative and
27 qualitative terms, of the objectives of such agency and its anticipated
28 accomplishments.
- 29 3. An identification of any other agencies having similar,
30 conflicting or duplicate objectives, and an explanation of the manner in
31 which the agency avoids duplication or conflict with other such agencies.
- 32 4. An assessment of the consequences of eliminating the agency or
33 of consolidating it with another agency.

34 G. ~~The~~ **EACH** committee **OF REFERENCE** shall oversee the preparation of
35 any proposed legislation to implement the recommendations of ~~the~~
36 ~~committees~~ **THAT COMMITTEE** of reference and is responsible for the
37 introduction of such legislation.

38 H. If an agency is continued, it is not necessary to reappoint any
39 member of the governing board or commission of the agency. Such members
40 are eligible to complete their original terms without reappointment or
41 reconfirmation.

42 I. Each committee of reference shall have the power of legislative
43 subpoena pursuant to chapter 7, article 4 of this title.

S.B. 1034

APPROVED BY THE GOVERNOR APRIL 12, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2018.