

House Bill 281

By: Representatives Cantrell of the 22nd, Martin of the 49th, Ramsey of the 72nd, Harrell of the 106th, Caldwell of the 20th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 28 of the Official Code of Georgia Annotated, relating to the General
2 Assembly, so as to enact the "Georgia Government Accountability Act"; to provide for a
3 short title; to provide for legislative intent; to create the Legislative Sunset Advisory
4 Commission; to authorize the commission to review and evaluate state agencies' productivity,
5 efficiency, and responsiveness; to provide for the automatic abolition of certain state
6 agencies contingent upon adoption of a resolution by the General Assembly declaring that
7 the state laws applicable to such agency have been repealed, revised, or reassigned; to
8 provide for auditing of the commission; to provide for related matters; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is
13 amended by adding a new chapter to read as follows:

14 "CHAPTER 9A

15 28-9A-1.

16 (a) This chapter shall be known and may be cited as the 'Georgia Government
17 Accountability Act.'

18 (b) It is the intent of the General Assembly to establish a method by which the efficiency
19 of state government shall be reviewed and the productivity of each agency evaluated. This
20 chapter is meant to ensure that the valuable resources of the state are best utilized and that
21 state agencies are held accountable for their service to the public and their responsiveness
22 to the needs of the citizens of this state.

23 28-9A-2.

24 (a) There is created the Legislative Sunset Advisory Commission to be composed of three
25 members of the House of Representatives appointed by the Speaker of the House, three
26 members of the Senate appointed by the President of the Senate, three persons appointed
27 by the Governor, and two ex officio members appointed as provided by this subsection.
28 At least one of the appointees appointed by the Speaker of the House and at least one of the
29 appointees appointed by the President of the Senate shall be a member of the minority
30 party. The members of the commission shall serve two-year terms concurrent with terms
31 of members of the General Assembly. A chairperson of the commission shall be elected
32 from the membership of the commission by a majority vote of the commission. The
33 chairperson shall serve a term of two years concurrent with his or her term as a member of
34 the General Assembly. The chairperson shall appoint two ex officio members of the
35 commission. Vacancies in an appointed member's position or in the office of chairperson
36 of the commission shall be filled for the unexpired term in the same manner as the original
37 appointment. The commission shall advise the General Assembly regarding the agency
38 sunset provisions required by this chapter.

39 (b) The Senate and the House of Representatives, in cooperation with the office of the
40 Governor, may each employ staff to work for the chairperson of the commission on matters
41 related to commission activities.

42 (c) In carrying out its function under this chapter, the commission may request, through
43 the chairperson, the assistance of any state agency or office. When so requested, a state
44 agency or office shall assist the commission. The commission or its designated staff
45 member may inspect, review, and copy the records, documents, and files of any state
46 agency that are subject to public disclosure. All information subject to public disclosure
47 shall be made available for review and copying within three business days.

48 28-9A-3.

49 (a)(1) The Legislative Sunset Advisory Commission shall review all executive branch
50 state agencies, including all boards, departments, advisory commissions, authorities,
51 bureaus, offices, and any other state entity of the executive branch of state government
52 regardless of its designation. The commission shall be responsible for establishing a
53 schedule for the routine review of state agencies. It shall be the responsibility of the
54 Legislative Sunset Advisory Commission to schedule agency reviews. The Legislative
55 Sunset Advisory Commission shall have the discretion to add any agency to the review
56 schedule or to modify an agency's scheduled review.

57 (2) This chapter shall not apply to any state entity to which state funds are not
58 appropriated in an appropriations Act.

59 (b) Except as provided by this Code section, an agency subject to review by the Legislative
60 Sunset Advisory Commission shall be automatically abolished on the one-year anniversary
61 of the commission's decision recommending that such agency be abolished; provided,
62 however, that no agency shall be abolished unless or until the General Assembly finds by
63 adoption of a joint resolution that the state laws that the agency is responsible for
64 implementing or enforcing have been repealed, revised, or reassigned to another remaining
65 agency and that adequate provision has been made for the transfer from the abolished
66 agency to a successor agency of all duties, real property, debts, and obligations, including
67 those relating to bonds, loans, promissory notes, lease-purchase agreements, installment
68 sales contracts, financing agreements, or any other form of indebtedness such that security
69 therefor and the rights of bondholders or holders of other indebtedness are not impaired.
70 (c) If the General Assembly does not take action to continue an agency before the date of
71 its abolishment, the agency shall submit its legislative budget request consistent with the
72 recommendations of the review of the Legislative Sunset Advisory Commission or any law
73 transferring the agency's functions to other entities.
74 (d) Any agency established by constitutional provision shall not be subject to automatic
75 abolishment as provided in subsection (a) of this Code section. The commission shall
76 review the constitutionally established agency in the same manner and shall report to the
77 General Assembly any recommended constitutional amendments needed for the
78 reorganizing or abolishing of such constitutionally created agency.
79 (e) Any board, commission, advisory council, or similar body included in the term 'agency'
80 as defined in Code Section 50-4-1 that has not held an open public meeting for a period of
81 more than 12 months shall be considered automatically abolished without the need for
82 further agency review as required by this chapter. The commission shall be responsible for
83 presenting legislation to repeal existing statutory provisions relating to the abolished
84 agency. The commission shall give public notice of any proposed legislation not later than
85 the first day of December of the year preceding its introduction.
86 (f) Except as otherwise expressly provided by law, abolition of a state agency shall not
87 affect the rights and duties that matured, penalties that were incurred, civil or criminal
88 liabilities that arose, or proceedings that were begun before the abolition.

89 28-9A-4.

90 (a) Not later than six months prior to the date on which a state agency is scheduled to be
91 reviewed, the agency shall provide the Legislative Sunset Advisory Commission with a
92 report outlining the agency's efficiency and productivity and the extent to which the agency
93 utilizes state resources to best meet the needs of the public.

94 (b) The report required by this Code section shall, at a minimum, include the following:

- 95 (1) A comprehensive list of state programs and services performed by the agency,
96 including all special purpose activities undertaken to realize identifiable goals and
97 objectives in order to achieve the agency's mission and legislative intent;
- 98 (2) An accounting of state resources appropriated to and spent by the agency;
- 99 (3) An explanation of factors that have contributed to any failure to achieve legislated
100 standards or directives;
- 101 (4) The extent to which the agency has encouraged participation by the public in making
102 its rules and decisions and the extent to which public participation has resulted in rules
103 compatible with the objectives of the agency;
- 104 (5) A statement of any statutory objectives intended for each program and activity, the
105 problem or need that the program or activity is intended to address, and the extent to
106 which these objectives have been achieved;
- 107 (6) An assessment of the extent to which the jurisdiction of the agency and its programs
108 overlap or duplicate those of other agencies and the extent to which those programs can
109 be eliminated, reorganized, privatized, or consolidated with those of other agencies;
- 110 (7) A self-examining assessment of the agency's efficiency and areas of needed
111 improvement, including goals and objectives for improvement, and the means by which
112 the agency intends to meet these goals and objectives;
- 113 (8) Recommendations for statutory or budgetary changes that would improve the
114 agency's programs and operations, reduce costs, or improve services to state residents;
- 115 (9) The effect of federal intervention or loss of federal funds if the agency, or any of its
116 programs or activities, is abolished;
- 117 (10) An assessment of alternative methods of providing services for which the agency
118 is responsible that would reduce costs or improve performance while adequately
119 protecting the public interest;
- 120 (11) An assessment of the agency and its programs to determine whether the agency or
121 its programs should be eliminated, reorganized, privatized, or consolidated;
- 122 (12) A detailed summary of the agency's hiring and retention patterns for the previous
123 five years;
- 124 (13) An assessment of the extent to which the agency has corrected any deficiencies and
125 implemented recommendations contained in any state or federal audits or court decisions;
- 126 (14) A list of all advisory commissions and boards of the agency, whether established
127 in statute or by the agency; their purposes, activities, composition, and expenses; and an
128 assessment of the extent to which their purposes have been achieved and the rationale for
129 continuing or eliminating each advisory commission or board;
- 130 (15) A list of agency programs or functions that are performed without specific statutory
131 authority;

132 (16) Copies of any program audits, performance audits, and any other reports provided
 133 by the state auditor;

134 (17) A list and summary of all litigation in which the agency is engaged and the status
 135 of such cases, including assessments of any financial liability to which they expose the
 136 state; and

137 (18) Other information as requested by the commission or any study committee created
 138 under the commission's direction.

139 (c) Information and data reported by the agency shall be validated by the agency's chief
 140 executive before submission to the commission.

141 28-9A-5.

142 (a) Not later than six months following receipt of the agency's report required by Code
 143 Section 28-9A-4, the Legislative Sunset Advisory Commission shall complete its review
 144 of the agency. When conducting its agency review, the commission shall:

145 (1) Review the information submitted by the agency;

146 (2) Consult with or hear testimony from any individual, agency, private company, or
 147 other expert as needed;

148 (3) Hold public hearings to consider this information as well as testimony that the
 149 commission deems necessary; and

150 (4) Present to the President of the Senate, the Speaker of the House of Representatives,
 151 and the Governor a report on the agencies scheduled to be reviewed that year by the
 152 commission. In the report, the commission shall include its specific findings and
 153 recommendations regarding each agency review and indicate whether a public need exists
 154 for the continuation of a state agency or for the functions of the agency.

155 (b) The commission shall consider the following criteria in determining whether a public
 156 need exists for the continuation of a state agency or agency function:

157 (1) The efficiency with which the agency operates;

158 (2) The statutory objectives of the agency and the problem or need that the agency is
 159 intended to address, the extent to which the objectives have been achieved, and any
 160 activities of the agency in addition to those granted by statute and the authority for these
 161 activities;

162 (3) An assessment of less restrictive or alternative methods of providing any regulatory
 163 function for which the agency is responsible while adequately protecting the public;

164 (4) The extent to which an advisory commission or board is needed or used;

165 (5) The extent to which the jurisdiction of the agency and the programs administered by
 166 the agency overlap or duplicate those of other agencies and the extent to which the

167 programs administered by the agency can be consolidated with the programs of other
168 agencies;

169 (6) Whether the agency has recommended to the legislature statutory changes calculated
170 to be of benefit to the public;

171 (7) The promptness and effectiveness with which the agency responds to the public's
172 complaints and the extent to which the agency has encouraged participation by the public
173 in making its rules and decisions;

174 (8) The extent to which the agency has satisfied requirements of state law, safeguarded
175 public health, safety, and welfare, and utilized state resources;

176 (9) The extent to which the agency accurately reports performance measures used to
177 justify state spending on each of its activities, services, and programs;

178 (10) The extent to which the agency is reasonably deemed to be a core or essential
179 function of state government under the provisions of the Constitution of Georgia;

180 (11) The effect of probable federal intervention or loss of federal funds if the agency or
181 an agency function is abolished; and

182 (12) The extent to which changes are necessary in the enabling statutes of the agency so
183 that the agency can adequately comply with the criteria of this chapter.

184 (c) In its report on an agency, the commission shall make recommendations on the
185 abolition, continuation, or reorganization of such agency and on the need for the
186 continuation of the functions of the agency. The report shall also make recommendations
187 on the elimination, privatization, consolidation, transfer, or reorganization of an agency's
188 programs when those programs are duplicated by another agency.

189 (d) It shall be the responsibility of the commission to have prepared drafts of legislation
190 necessary to carry out the commission's recommendations.

191 28-9A-6.

192 (a) The Sunset Advisory Commission shall keep suitable and proper books and records of
193 all receipts, income, and expenditures of every kind and shall submit for inspection, by
194 August 1, 2016, and annually thereafter, all accounting records, together with a proper
195 statement of activities and the commission's financial position, to the state auditor setting
196 forth the transactions conducted by it during the 12 months preceding July 1 of that year.

197 (b)(1) The state auditor is authorized and directed to audit the transactions, activities, and
198 services of the Sunset Advisory Commission and generate a performance audit report
199 detailing the activities, services, and financial position of the commission with a
200 determination as to whether or not the commission saved the state more money through
201 its services than the commission cost to operate over the prior four-year period.

202 (2) The first performance audit shall be conducted on the four-year period from July 1,
203 2015 to June 30, 2019. Thereafter, an audit shall be conducted on consecutive four-year
204 intervals.

205 (3) A copy of the audit report shall be delivered within 30 days after the completion
206 thereof, but in no case later than December 31 of the year in which the audit was begun,
207 to the Governor, the Speaker of the House of Representatives, and the President of the
208 Senate, and shall be open to inspection at reasonable times by any person.

209 (c) If any performance audit report required by subsection (b) of this Code section
210 provides a determination that the commission has not saved the state more money through
211 its services than the commission cost to operate over the prior four-year period, the Sunset
212 Advisory Commission will cease all operations by June 30 of the following year."

213 **SECTION 2.**

214 All laws and parts of laws in conflict with this Act are repealed.