

JAN 22 2021

A BILL FOR AN ACT

RELATING TO STATE DEPARTMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 26, Hawaii Revised Statutes, is amended
2 by adding a new part to be appropriately designated and to read
3 as follows:

4 **"PART . SUNSET OF DEPARTMENTS**

5 **§26-A Definitions.** As used in this part:

6 "Advisory committee" means a committee, council,
7 commission, or other entity created under state law whose
8 primary function is to advise a department or division of a
9 department.

10 "Department" means a principal department established under
11 chapter 26 and set to repeal under this part.

12 **§26-B Repeal dates for departments.** (a) Any department
13 established by section 26-4 and listed in this section shall be
14 repealed as specified in this section. The auditor shall
15 perform an evaluation of the department prior to its repeal date
16 pursuant to this part.



1 (b) An advisory committee shall be repealed on the same
2 date set for repeal of the department unless the advisory
3 committee is expressly continued by law.

4 (c) Department of human resources development (section
5 26-5), shall be repealed on June 30, 2027.

6 (d) Department of accounting and general services (section
7 26-6), shall be repealed on June 30, 2027.

8 (e) Department of the attorney general (section 26-7),
9 shall be repealed on June 30, 2027.

10 (f) Department of budget and finance (section 26-8), shall
11 be repealed on June 30, 2031.

12 (g) Department of commerce and consumer affairs (section
13 26-9), shall be repealed on June 30, 2031.

14 (h) Department of taxation (section 26-10), shall be
15 repealed on June 30, 2031.

16 (i) Department of health (section 26-13), shall be
17 repealed on June 30, 2035.

18 (j) Department of human services (section 26-14), shall be
19 repealed on June 30, 2035.

20 (k) Department of land and natural resources (section
21 26-15), shall be repealed on June 30, 2035.



1 (l) Department of agriculture (section 26-16), shall be
2 repealed on June 30, 2037.

3 (m) Department of business, economic development, and
4 tourism (section 26-18), shall be repealed on June 30, 2037.

5 (n) Department of transportation (section 26-19), shall be
6 repealed on June 30, 2037.

7 (o) Department of labor and industrial relations (section
8 26-20), shall be repealed on June 30, 2041.

9 (p) Department of defense (section 26-21), shall be
10 repealed on June 30, 2041.

11 (q) Department of public safety (section 26-14.6), shall
12 be repealed on June 30, 2041.

13 **§26-C Department reports to the auditor.** (a) Before
14 September 1 of the odd year preceding the year in which a
15 department subject to this chapter is repealed, the department
16 shall report to the auditor:

17 (1) Information regarding the application to the
18 department of the criteria provided in section 26-E;

19 (2) An evaluation of department performance based on the
20 criteria provided in section 26-E; and



S.B. NO. 655

1 (3) Any other information that the department considers
2 appropriate or that is requested by the auditor.

3 (b) The reports under subsection (a) shall be submitted in
4 the format prescribed by the auditor.

5 **§26-D Review of departments.** Before January 1 of the year
6 in which a department subject to this part is repealed, the
7 auditor shall conduct a review of the department and its
8 advisory committees, which shall include:

9 (1) Department and advisory committee performance based on
10 the criteria provided in section 26-E; and

11 (2) Department responsiveness to auditor recommendations
12 made to the department or any division within that
13 department within the previous five years.

14 **§26-E Criteria for review.** The auditor shall consider the
15 following criteria to determine whether a public need exists for
16 the continuation of a department or its advisory committees or
17 for the performance of the functions of the department or its
18 advisory committees:

19 (1) The efficiency and effectiveness of department
20 operations;



S.B. NO. 655

- 1 (2) The mission, goals, and objectives of the department
2 and the problems or needs that the department was
3 intended to address;
- 4 (3) The extent to which the mission, goals, and objectives
5 of the department have been achieved and the problem
6 or need has been addressed;
- 7 (4) Any activities of the department in addition to those
8 granted by statute, the authority for those
9 activities, and the extent to which those activities
10 are necessary;
- 11 (5) The department's fees, inspections, enforcement, and
12 penalties;
- 13 (6) Whether less restrictive or alternative methods of
14 performing any function that the department performs
15 could adequately protect or provide equivalent service
16 to the public;
- 17 (7) The extent to which the jurisdiction of the department
18 and the programs administered by the department
19 overlap or duplicate those of other departments, the
20 extent to which the department coordinates with those
21 other departments, and the extent to which the



- 1 programs administered by the department can be
2 consolidated with the programs of other departments;
- 3 (8) The promptness and effectiveness of the department is
4 addressing of complaints concerning entities or other
5 persons affected by the department, including an
6 assessment of the department's administrative hearings
7 process;
- 8 (9) The department's rulemaking process and the extent to
9 which the department has encouraged participation by
10 the public in making its rules and decisions and the
11 extent to which the public participation has resulted
12 in rules that benefit the public;
- 13 (10) The extent to which the department has complied with
14 federal and state laws and applicable rules regarding
15 equality of employment opportunity and the rights and
16 privacy of individuals;
- 17 (11) The extent to which the department issues and enforces
18 rules relating to potential conflicts of interest of
19 its employees;
- 20 (12) The extent to which the department complies with
21 chapter 91 and follows records management practices



S.B. NO. 655

1 that enable the department to respond efficiently to
2 requests for public information;

3 (13) The department's cybersecurity practices;

4 (14) The department's procurement process; and

5 (15) The effect of federal intervention or loss of federal
6 funds if the department is repealed.

7 **§26-F Auditor report to the legislature; recommendations.**

8 The office of the auditor shall submit its findings and
9 recommendations to the legislature no later than twenty days
10 prior to the convening of the regular session in the year in
11 which a department subject to this part is set to be repealed.

12 The auditor's report shall include:

13 (1) Findings regarding the criteria prescribed under
14 section 26-E;

15 (2) Recommendations on whether it is in the public
16 interest to repeal, continue, or reorganize the
17 department and its advisory committees;

18 (3) Recommendations on the consolidation, transfer, or
19 reorganization of programs within departments not
20 under review when the programs duplicate functions
21 performed by the department under review;



S.B. NO. 655

- 1 (4) Recommendations to improve the operations of the
- 2 department, including management recommendations that
- 3 do not require a change in the department's enabling
- 4 statute;
- 5 (5) Estimated fiscal impact of the recommendations; and
- 6 (6) Proposed legislation to be considered for enactment to
- 7 improve the policies, procedures, and practices of the
- 8 department. The auditor may request the assistance of
- 9 the legislative reference bureau in drafting
- 10 recommended legislation. Any other law to the
- 11 contrary notwithstanding, the auditor may release
- 12 copies of preliminary reports to the legislative
- 13 reference bureau if the auditor requests the
- 14 legislative reference bureau's assistance pursuant to
- 15 this paragraph. The legislative reference bureau
- 16 shall comply with the auditor's request if the auditor
- 17 provides a copy of the preliminary report to the
- 18 bureau.

19 **§26-G Cost of review.** The auditor shall determine the
20 costs of a review under section 26-D, and the department shall



1 pay the amount of those costs promptly on receipt of a statement
2 from the auditor regarding those costs.

3 **§26-H Continuation by law.** (a) During the regular
4 session immediately before the repeal of a department or an
5 advisory committee that is subject to this part, the legislature
6 may continue the department or advisory committee for a period
7 not to exceed twelve years.

8 (b) This part does not prohibit the legislature from:

9 (1) Terminating a department or advisory committee subject
10 to this part at an earlier date than that provided in
11 this part; or

12 (2) Considering any other legislation relative to a
13 department or advisory committee subject to this part.

14 **§26-I Department termination; procedure.** (a) A
15 department that is repealed under this part may continue in
16 existence until June 30 of the following year to conclude its
17 business. Unless otherwise provided by law, repeal of a
18 department shall not reduce or otherwise limit the powers and
19 authority of that department during the concluding year. A
20 department shall be repealed and shall cease all activities at
21 the expiration of the one-year period. Unless otherwise



1 provided by law, all rules that have been adopted by the
2 department shall expire at the expiration of the one-year
3 period.

4 (b) Any unobligated and unexpended appropriations of a
5 repealed department or advisory committee shall lapse on June 30
6 of the even-numbered year after repeal.

7 (c) Except as provided in subsection (d) or as otherwise
8 provided by law, all moneys in a revolving or other dedicated
9 fund of a repealed department or advisory committee on July 1 of
10 the even-numbered year after repeal shall be transferred to the
11 general fund. The part of the law dedicating the money to a
12 specific fund of a repealed department becomes void on July 1 of
13 the even-numbered year after repeal.

14 (d) This part shall not impair or impede the payment of
15 bonded indebtedness and all other obligations, including lease,
16 contract, and other written obligations, incurred by a
17 department repealed pursuant to this part, in accordance with
18 their terms. If a repealed department has outstanding bonded
19 indebtedness or other outstanding obligations, including lease,
20 contract, and other written obligations, the bonds and all other
21 obligations, including lease, contract, and other written



1 obligations, remain valid and enforceable in accordance with
2 their terms and subject to all applicable terms and conditions
3 of the law and proceedings authorizing the bonds and all other
4 obligations, including lease, contract, and other written
5 obligations.

6 If the proceedings so provide, all funds established by law
7 or proceedings authorizing the bonds or authorizing other
8 obligations, including lease, contract, and other written
9 obligations, shall remain with the director of finance or the
10 previously designated trustees. If the proceedings do not
11 provide that the funds remain with the director of finance or
12 the previously designated trustees, the funds shall be
13 transferred and managed as follows:

14 (1) The governor shall designate an appropriate department
15 that shall continue to carry out all covenants
16 contained in the bonds and in all other obligations,
17 including lease, contract, and other written
18 obligations, and the proceedings authorizing the bonds
19 and obligations, including the issuance of bonds, and
20 the performance of all other obligations, including
21 lease, contract, and other written obligations, to



S.B. NO. 655

1 complete the construction of projects or the
2 performance of other obligations, including lease,
3 contract, and other written obligations; and

4 (2) The designated department shall provide payment from
5 the sources of payment of the bonds in accordance with
6 the terms of the bonds and shall provide payment from
7 the sources of payment of all other obligations,
8 including lease, contract, and other written
9 obligations, in accordance with their terms, whether
10 from taxes, revenues, or otherwise, until the bonds
11 and interest on the bonds are paid in full and all
12 other obligations, including lease, contract, and
13 other written obligations, are performed and paid in
14 full.

15 (e) Unless the governor designates an appropriate
16 department as prescribed by subsection (d), property and records
17 in the custody of a repealed department or advisory committee on
18 July 1 of the year after repeal shall be transferred to the
19 comptroller. If the governor designates an appropriate
20 department, the property and records shall be transferred to the
21 designated department.



S.B. NO. 655

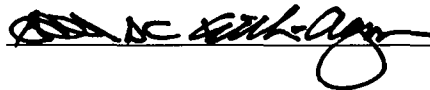
1 (f) Except as otherwise expressly provided, repeal of a
2 department does not affect rights and duties that matured,
3 penalties that were incurred, civil or criminal liabilities that
4 arose, or proceedings that were begun before the effective date
5 of the repeal."

6 SECTION 2. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 4. This Act shall take effect upon its approval.
16

INTRODUCED BY:





S.B. NO. 655

Report Title:

State Departments; Sunset Law; Auditor Review

Description:

Establishes repeal dates for each principal department, preceded by an auditor review. Establishes procedures for department termination in six-year intervals.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

