

# LAW SUMMARY

*Office of Legislative Legal Services*



## ***THE SUNSET PROCESS: LEGISLATIVE REVIEW OF REGULATORY AGENCIES AND FUNCTIONS<sup>1</sup>***

### **Overview**

The sunset process provides that the Department of Regulatory Agencies (DORA) review the functions of a state regulatory agency, division, or board (all referred to as "agencies"), or a specified function of a state regulatory agency and determine if such regulation should continue with or without modifications to the regulatory system. The scheduled review date by DORA is prior to the termination of such regulatory function ("sunset") on a specified date. The General Assembly must act by bill to continue the regulation provided by an agency. If the General Assembly fails to act, the regulation provided by such state agency goes into a one-year wind up period. If the General Assembly fails to act by bill to continue an advisory committee, the committee is automatically repealed on the scheduled sunset date.

### **Applicability**

Not all agencies and functions are subject to the sunset process. Primarily, the process applies to the agencies in DORA, including the boards, commissions, and agencies in the division of professions and occupations that regulate professions and occupations, and certain other boards, agencies, and functions as specified by statute. The process also applies to advisory committees. As a general rule, the sunset process does not apply to principal departments of state government or fundamental governmental functions (e.g., tax collection).

### **Statutory System**

The Speaker of the House of Representatives designates one or more House committees of reference to perform sunset review for even-numbered years, and the President of the Senate designates one or more Senate committees of reference to perform sunset review for

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<sup>1</sup> This summary contains information commonly requested from the Office of Legislative Legal Services. It does not represent an official legal opinion of the General Assembly or the state of Colorado and does not bind the members of the General Assembly. It is intended to provide a general overview of Colorado law as of the date of its preparation. Any person needing legal advice should consult his or her own lawyer and should not rely on the information in this memorandum.

odd-numbered years. The sunset process then varies depending on whether the review is of a regulatory agency or function or of an advisory committee.

*Sunset Review of Regulatory Agencies and Functions.* Section [24-34-104](#), Colorado Revised Statutes, provides a termination schedule for each regulatory agency and function subject to the sunset process. Under the law, the General Assembly can reestablish an existing agency or function for a maximum of 15 years or create a new agency or function for a maximum of 10 years.

Each year, DORA conducts an evaluation of the performance of each agency or function scheduled to sunset and submits a report of its findings and recommendations to the Office of Legislative Legal Services by October 15 of the year preceding the sunset date. These findings and recommendations include a recommendation about whether the agency or function should be continued or allowed to terminate and recommendations for amendments to the agency's governing statutes. The Office of Legislative Legal Services is directed by statute to prepare draft legislation based on all of the specific legislative recommendations in the report. A bill may continue, reestablish, or alter the functions of only one agency at a time.

The legislative committee of reference (legislative committee) designated to perform the sunset review must hold a public hearing to receive testimony from the public, the executive director of DORA, and the agency involved. The Office of Legislative Legal Services will provide a draft bill that reflects the recommendations in the DORA report to the committee prior to the committee hearing. If DORA recommends the continuation of a regulatory function scheduled to sunset, DORA must demonstrate at the public hearing a public need for the continued regulation of the industry, the continuation of the function, and the benefits of the changes it suggests.

The committee then makes a recommendation to the full General Assembly about whether the agency should be continued, terminated, or changed in the form of a proposed bill. If a legislator wishes to make a change to the proposed bill, the legislator may request that the drafter of the proposed bill prepare an amendment to the proposed bill prior to the introduction of the bill.

If the legislative committee decides to terminate the agency, the committee has the option of not introducing a bill and allowing the agency to terminate on the existing sunset date.

If the legislative committee decides to continue the agency and introduce a bill, the chair of the committee designates one of the members of the legislative committee as the prime sponsor of the bill or the committee may, by majority vote, designate a prime sponsor who is not a member of the legislative committee. The President of the Senate or the Speaker of the House designates the prime sponsor in the opposite house depending on the year, after consulting with the Minority Leader of the Senate or the House of Representatives, respectively, and receiving permission from the senator or representative to be added as the bill prime sponsor.

After a sunset bill is introduced, it is treated like any other bill and may be amended throughout the legislative process. If no bill passes to extend the agency or function, the agency or function still continues to exist or the function continues to be performed for one year after the termination so that the agency can wind up its affairs. A terminated agency that issues or renews a license that is scheduled to expire after the wind-up period must refund a proportionate amount of the license fee.

*Sunset Review of Advisory Committees.* Section [2-3-1203](#), Colorado Revised Statutes, governs sunset review of advisory committees. Each newly created advisory committee has a maximum life of 10 years unless continued pursuant to the sunset process. After the first sunset date for an advisory committee has passed, the legislative committee of reference may choose to continue the advisory committee indefinitely and not apply another sunset date. By July 1 of the year prior to its scheduled termination, the advisory committee must submit information to DORA related to its membership, revenue and expenditures, meeting dates and attendance, proposals made and the results of such proposals, and reasons why it should be continued. DORA then analyzes the performance of the advisory committee, and the sunset process continues in the same manner as for regulatory agencies and functions.

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LAST REVISED: 10/25/2023

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