

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 712
SENATE BILL 334

AN ACT TO ESTABLISH A SYSTEM FOR THE PERIODIC REVIEW AND FOR THE TERMINATION, CONTINUATION, OR REESTABLISHMENT OF CERTAIN LICENSING AND REGULATORY AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. Findings and purposes. The General Assembly finds that State government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations and that the whole process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The General Assembly further finds that by establishing a system for the termination, continuation, and reestablishment of such agencies, it will be in better position to evaluate the need for the continued existence of existing and future regulatory bodies.

Sec. 2. The following statutes are repealed effective July 1, 1979, (except for purposes of the winding-up period, as provided by Section 5 of this act):

G.S. Chapter 83, entitled "Architects."
G.S. Chapter 89C, entitled "Engineering and Land Surveying."
G.S. Chapter 89A, entitled "Landscape Architects."
G.S. Chapter 87, Article 1, entitled "General Contractors."
G.S. Chapter 87, Article 2, entitled "Plumbing and Heating Contractors."
G.S. Chapter 87, Article 3, entitled "Tile Contractors."
G.S. Chapter 87, Article 4, entitled "Electrical Contractors."
G.S. Chapter 87, Article 5, entitled "Refrigeration Contractors."
G.S. Chapter 87, Article 6, entitled "Water Well Contractors."
G.S. Chapter 84, Article 4, entitled "North Carolina State Bar."
G.S. Chapter 85C, entitled "Bail Bondsmen and Runners."
G.S. Chapter 90A, Article 1, entitled "Sanitarians."
G.S. Chapter 90A, Article 2, entitled "Water Treatment Facility Operators."
G.S. Chapter 90A, Article 3, entitled "Wastewater Treatment Plant Operators."
G.S. Chapter 93, entitled "Public Accountants."
G.S. Chapter 93A, entitled "Real Estate Brokers and Salesmen."
G.S. Chapter 66, Article 9A, entitled "Private Detectives."
G.S. Chapter 93C, entitled "Watchmakers."
G.S. Chapter 74, Article 6, entitled "Mining Registration."
G.S. Chapter 78A, Article 5, entitled "Registration of Dealers and Salesmen" (of securities).
G.S. Chapter 81A, Article 5, entitled "Public Weightmasters."
G.S. Chapter 95, Article 5, entitled "Regulation of Employment Agencies."
G.S. Chapter 95, Article 15, entitled "Passenger Tramways."
G.S. Chapter 143B, Article 2, Part 6, entitled "Public Librarian Certification Commission", G.S. 125-9, entitled "Librarian Certification" and G.S. 125-10, entitled "Temporary Certificates for Public Librarians".
G.S. Chapter 74, Article 7, entitled "The Mining Act of 1971."

G.S. Chapter 113A, Article 4, entitled "Sedimentation Pollution Control Act of 1973."

G.S. Chapter 143, Article 21, Part 3, entitled "Dam Safety."

G.S. Chapter 143B, Article 7, Part 6, entitled "North Carolina Mining Commission."

G.S. Chapter 143B, Article 7, Part 8, entitled "Sedimentation Control Commission."

G.S. Chapter 143B, Article 7, Part 9, entitled "Wastewater Treatment Plant Operators Certification Commission."

G.S. 76-1 through 76-12, relating to a board of commissioners of navigation and pilotage for the Cape Fear River and Bar.

G.S. Chapter 76, Article 6, entitled "Morehead City Navigation and Pilotage Commission."

G.S. Chapter 71, Article 2, entitled "North Carolina Commission on Indian Affairs."

Sec. 3. The following statutes are repealed effective July 1, 1981, (except for purposes of the winding-up period, as provided by Section 5 of this act):

G.S. Chapter 90, Article 1, entitled "Practice of Medicine."

G.S. Chapter 90, Article 2, entitled "Dentistry."

G.S. Chapter 90, Article 4, entitled "Pharmacy."

G.S. Chapter 90, Article 6, entitled "Optometry."

G.S. Chapter 90, Article 7, entitled "Osteopathy." G.S. Chapter 90, Article 8, entitled "Chiropractic." G.S. Chapter 90, Article 9, entitled "Nurse Practice Act."

G.S. Chapter 90, Article 10, entitled "Midwives," and G.S. Chapter 130, Article 18, entitled "Midwives." G.S. Chapter 90, Article 11, entitled "Veterinarians." G.S. Chapter 90, Article 12A, entitled "Podiatrists." G.S. Chapter 90, Article 13A, entitled "Practice of Funeral Service."

G.S. Chapter 90, Article 16, entitled "Dental Hygiene Act."

G.S. Chapter 90, Article 17, entitled "Dispensing Opticians."

G.S. Chapter 90, Article 18, entitled "Physical Therapy."

G.S. Chapter 90, Article 18A, entitled "Practicing Psychologists."

G.S. Chapter 90, Article 20, entitled "Nursing Home Administration Act."

G.S. Chapter 86, entitled "Barbers."

G.S. Chapter 88, entitled "Cosmetic Art."

G.S. Chapter 108, Article 3, Part 2, entitled "Licensing of Private Institutions (maternity homes, homes for the aged and infirm, private child-care institutions)."

G.S. Chapter 110, Article 3, entitled "Control over Child-Caring Facilities," and Article 7, entitled "Day-Care Facilities."

G.S. Chapter 143B, Article 9, Part 4, entitled "Child Day-Care Licensing Commission."

G.S. Chapter 122, Article 2E, entitled "Licensing of Local Mental Health Facilities."

G.S. Chapter 122-72, entitled "Licensing and Control of Local Mental Institutions and Homes."

G.S. Chapter 130, Article 26, entitled "Regulation of Ambulance Services."

G.S. Chapter 131, Article 13A, entitled "Hospital Licensing Act."

G.S. Chapter 66, Article 9, entitled "Collection of Accounts."

G.S. Chapter 66, Article 9B, entitled "Motor Clubs and Associations".

G.S. Chapter 113A, Article 7, entitled "Coastal Area Management."

G.S. Chapter 143, Article 21, entitled "Water and Air Resources."(except Part 3).

G.S. Chapter 143, Article 21A, entitled "Oil Pollution Control."

G.S. Chapter 143, Article 21B, entitled "Air Pollution Control."

G.S. Chapter 143, Article 38, entitled "Water Resources."

G.S. Chapter 143B, Article 7, Part 4, entitled "Environmental Management Commission."

Sec. 4. The following statutes are repealed effective July 1, 1983, (except for purposes of the winding-up period, as provided by Section 5 of this act):

G.S. Chapter 90, Article 22, entitled "Licensure Act for Speech and Language Pathologists and Audiologists."

G.S. Chapter 89B, entitled "Foresters."

G.S. Chapter 85B, entitled "Auctions and Auctioneers."

G.S. Chapter 74B, entitled "Private Protective Services Act."

G.S. Chapter 89D, entitled "Landscape Contractors."

G.S. Chapter 136, Article 2C, entitled "House Movers Licensing Board."

G.S. Chapter 93D, entitled "North Carolina State Hearing Aid Dealers and Fitters Board."

G.S. Chapter 104E, entitled "North Carolina Radiation Protection Act."

G.S. Chapter 106, Article 2, entitled "North Carolina Fertilizer Law of 1947."

G.S. Chapter 106, Article 4C, entitled "Structural Pest Control Act."

G.S. Chapter 106, Article 5A, entitled "Marketing of Farmers Stock Peanuts."

G.S. Chapter 106, Article 12, entitled "Food, Drugs and Cosmetics."

G.S. Chapter 106, Article 14, entitled "State Inspection of Slaughterhouses."

G.S. Chapter 106, Article 14A, entitled "Licensing and Regulation of Rendering Plants and Rendering Operations."

G.S. Chapter 106, Article 15A, entitled "Meat Graders Law."

G.S. Chapter 106, Article 17, entitled "Marketing and Branding Farm Products."

G.S. Chapter 106, Article 28A, entitled "Regulation of Milk Brought into North Carolina from other States," and Article 28B, entitled "Regulation of Production, Distribution, etc., of Milk and Cream."

G.S. Chapter 106, Article 29, entitled "Inspection, Grading, and Testing Milk and Dairy Products."

G.S. Chapter 106, Article 31, entitled "North Carolina Seed Law."

G.S. Chapter 106, Article 34, Part 10, entitled "Feeding Garbage to Swine."

G.S. Chapter 106, Article 35, entitled "Public Livestock Markets."

G.S. Chapter 106, Article 35B, entitled "Livestock Dealer Licensing Act."

G.S. Chapter 106, Article 44, entitled "Unfair Practices by Handlers of Fruits and Vegetables."

G.S. Chapter 106, Article 49, entitled "Poultry; Hatcheries; Chick Dealers."

G.S. Chapter 106, Article 51A, entitled "North Carolina Antifreeze Law of 1975."

G.S. Chapter 106, Article 53, entitled "Grain Dealers," and Article 54, entitled "Adulteration of Grains".

G.S. Chapter 113, Article 7, entitled "North Carolina Game Law of 1935."

G.S. Chapter 113, Article 17, entitled "Administrative Provisions; Regulatory Authority of Marine Fisheries Commission and Department."

G.S. Chapter 143, Article 52, Part 3, entitled "Pesticide Dealers and Manufacturers."

G.S. Chapter 143, Article 52, Part 4, entitled "Pesticide Applicators and Consultants."

G.S. 58-15, entitled "Authority over all insurance companies; no exemption from license."

G.S. 58-40, entitled "Agents and others must procure license."

G.S. Chapter 58, Article 4, entitled "Insurance Premium Financing."

Sec. 5. Winding-up period. Upon termination, each program or function shall continue in operational existence until July 1 of the next succeeding year as a winding-up period. During the winding-up period, termination shall not reduce or otherwise limit the powers or authority of the responsible agencies. Upon the expiration of the one-year period after termination, each such program or function shall cease operation entirely.

Sec. 6. Governmental Evaluation Commission; creation, termination, membership, compensation. (a) There is hereby created a temporary State commission, to be known as the Governmental Evaluation Commission, (hereinafter, "the commission"), which shall consist of 10 members, six to be appointed by the Governor, and two each to be appointed by the Lieutenant Governor and the Speaker of the House of Representatives. The Lieutenant Governor's appointees shall be members of the Senate, and the Speaker's appointees shall be members of the House of Representatives, but no other member of the General Assembly or officer or employee of the State or spouse of any such member, officer or employee may be a member of the commission. Commission members shall designate a chairman from among them annually. The original appointments of non-legislator members will expire on June 30, 1980. The terms of the non-legislator members appointed thereafter shall be three years, commencing on July 1 of the year in which the predecessor's term expired. The initial legislator-members shall be appointed after the effective date of this act; they and their successors shall serve until the expiration of the legislative terms which they are serving at the time of their appointment to the commission and until their successors are appointed or until they cease to be members of the General Assembly, whichever occurs first. Vacancies in the positions of legislator-members shall be filled in the same manner that the vacated position was originally filled, and the person so appointed shall serve for the remainder of the unexpired term of the person whom he succeeds. Vacancies in the positions of the Governor's appointees shall be filled by the Governor for the unexpired term.

(b) Commission members who are not legislators shall receive as compensation for their services the same per diem and travel expense allowances as members of occupational licensing boards pursuant to G.S. 93B-5. Legislator-members of the commission shall be compensated pursuant to G.S. 120-3.1.

(c) The commission shall utilize the expertise of the Attorney General and other appropriate agencies in performing its duties under this act.

(d) The commission is authorized to employ such clerical, technical and professional staff, and to obtain such consulting services, as the commission deems necessary, and to defray the expenses thereof from any funds made available to it through grants, appropriations or any other source. The number of staff persons to be employed, the salary to be paid to each, the fees to be paid to consultants, and the expenditure of funds for any purpose by the commission shall be subject to the approval of the Legislative Services Commission.

(e) Except as herein provided, commission members shall not be permanent salaried employees of the commission.

(f) The commission shall terminate and the authority granted by this act shall expire on June 30, 1983.

Sec. 7. Performance evaluation of programs scheduled for termination. (a) The Governmental Evaluation Commission shall cause to be conducted a performance evaluation of each program or function scheduled for termination under this act. The agency responsible for each program or function under review shall provide the commission with the following information:

- (1) the identity of all agencies or subunits under the direct or advisory control of the agency whose program is under review;
- (2) all powers, duties, and functions currently performed by the agency whose program is under review, or that are currently inactive;

- (3) all constitutional, statutory, or other authority under which said powers, duties, and functions of the agency are carried out;
- (4) any powers, duties, or functions which, in the opinion of the agency under review, are being performed and duplicated to any extent by another agency within the State including the manner in which, and the extent to which, this duplication of efforts is occurring and any recommendations as to eliminating such a situation;
- (5) any powers, duties, or functions which, in the opinion of the agency under review, are inconsistent with current and projected public demands and should be terminated or altered; and
- (6) any other information which the commission in its discretion, feels is necessary and proper in carrying out its duties to review.

(b) In conducting the evaluations, the commission shall take into consideration, but not be limited to considering, the factors listed in Section 8 of this act. Upon completion of the evaluation, the commission shall submit a report to the General Assembly, including the commission's recommendation as to whether the program or function in question should be terminated, reconstituted, reestablished, or continued, with or without modification of the relevant statutes, and whether the responsible agency should be terminated, reconstituted, reestablished, or continued, with or without modification of the relevant statutes. The commission shall hold public hearings as provided in Section 9 of this act for the purpose of reviewing its proposed report. A copy of the report shall be made available to each member of the General Assembly at least six months prior to the scheduled date of termination under Sections 2, 3 and 4 of this act.

(c) The commission may review related programs or functions not scheduled for termination which, in the commission's judgment, should be consolidated or better coordinated with programs scheduled for termination, and as a result of such review the commission may recommend legislation providing for consolidation or coordination of related programs or for additional related programs to be scheduled for termination.

Sec. 8. Evaluation elements. The elements used by the Governmental Evaluation Commission in making its determination of the need for continuance of an agency program or function shall include, but not be limited to:

- (1) an identification of the objectives intended for the agency program and the problem or need which the program was intended to address;
- (2) an assessment of the degree to which the original objectives of the agency program have been achieved expressed in terms of performance, impact, or accomplishments of the program and of the problem or need which it was intended to address. Such assessment shall employ procedures or methods of analysis which the commission determines to be appropriate to the type or character of the program;
- (3) a statement of the performance and accomplishments of the agency program in the last fiscal year and of the budgetary costs incurred in the operation of the program;
- (4) a statement of the number and types of persons served by the agency program;
- (5) a summary statement, for the last completed fiscal year, of the number, by grade, and cost of personnel employed in carrying out the agency program and a summary statement of the cost of personnel employed under contract in carrying out the program;
- (6) an assessment of the degree to which the overall policies of the agency program, as expressed in the rules, regulations, orders, standards, criteria,

and decisions of the agency meet the objectives of the General Assembly in establishing the program;

(7) an assessment of the effect of the agency program on the State economy including costs to consumers and businesses;

(8) an evaluation of the reporting and record-keeping requirements and activities of the agency program, including the management and control of information and records and the value of the information gathered compared to the cost to respondents, and an assessment of methods to reduce and simplify the reporting and record-keeping requirements;

(9) a summary statement of the budget and program of the agency for the current fiscal year and budget projections for the next succeeding fiscal year if the program were to be continued;

(10) an assessment of whether the agency has permitted qualified applicants to serve the public, and whether the agency has encouraged participation by the public in making its rules and decisions, as opposed to participation solely by the persons it regulates;

(11) an evaluation of the extent to which operation has been efficient and responsive to public needs;

(12) an evaluation of the extent to which complaints have been expeditiously processed to completion in the public interest; and

(13) an analysis of the services and performance estimated to be achieved if the agency or agency program were continued.

Sec. 9. Hearings by Governmental Evaluation Commission. (a) Before submitting a report to the General Assembly concerning the performance evaluation of any program or function, the commission shall hold one or more public hearings concerning its proposed report. The commission shall give notice of each such public hearing and offer any person an opportunity to present data, views, and arguments. The notice shall be given at least 10 days before the public hearing and at least 20 days before the adoption or amendment of the report. The notice shall include:

- (1) a reference to the statutory authority for the report (this act);
- (2) the time and place of the public hearing and a statement of the manner in which data, views, and arguments may be submitted either at the hearing or at other times by any person;
- (3) a statement of the terms or substance of the proposed report or a description of the subjects and issues involved.

(b) The commission shall transmit copies of the notice to the Attorney General and all persons and agencies who have requested the commission in writing for advance notice of proposed action which may affect them. The notices shall be in writing and shall be forwarded by mail or otherwise to the last address specified by the person.

(c) Any such notice shall be published at least once in one newspaper of general circulation in Wake County. The commission shall also deliver a copy of the notice to the agency or agencies responsible for the program or function that is the subject of the performance evaluation.

(d) The commission is authorized to set reasonable time limits for the oral presentation of views by any one person at any such hearing. The commission shall permit anyone who so desires to file a written argument or other statement with it in relation to the proposed report any time within 10 days following the conclusion of any public hearing or within such additional time as it may allow by notice given as prescribed in this section.

(e) Upon completion of the hearing and consideration of submitted evidence and arguments with respect to any proposed report pursuant to this section, the commission shall adopt its final action with respect thereto and shall file a duly certified copy thereof with the

Attorney General, with the members of the General Assembly and with the agency or agencies responsible for the program or function that is the subject of the report.

(f) The procedure set forth in this section shall be a complete procedure for the report, hearings, notices, and filing requirements that are the subject of this section. The commission and its proceedings shall be exempt from the requirements of the Administrative Procedure Act (G.S. Chapter 150A), and any other requirements of law concerning the subjects of this section including without limitation any statutory requirements concerning filing of notices or reports with the Secretary of State or the Attorney General.

(g) The commission is authorized to meet or to hold hearings in the State Legislative Building when the General Assembly is not in session, subject to the determination by the Legislative Services Commission that space is available.

Sec. 10. Hearings by legislative committees of reference. (a) Prior to the termination, continuation, or reestablishment of any such program or function a committee of reference in each house of the General Assembly shall hold a public hearing, receiving testimony from the public and the agency involved, and in such a hearing the agency shall have the burden of demonstrating a public need for the continued existence of the program or function. The "committees of reference" shall be the Senate and House Committees on State Government, respectively, or such other committees as the respective presiding officers may determine. The committees of reference may hold joint public hearings and may meet jointly to formulate their recommendations.

(b) In developing their legislative recommendations the committees of reference shall consider the evaluation elements listed in Section 8 of this act; shall proceed with a view to continuing productive, efficient and active programs which are in the public interest, to eliminating inactive programs, and to eliminating or consolidating overlapping or duplicating programs; and shall consider the extent to which changes are needed in enabling laws.

Sec. 11. Separate bills required for each agency. No more than one agency, board, council, committee, commission, or association shall be continued or reestablished in any bill recommended under this act, and such agency, board, council, commission, or association shall be mentioned in the bill's title.

Sec. 12. Claims against agencies not to be terminated. This act shall not cause the dismissal of any claim or right of a citizen against any such agency or any claim or right of agency terminated pursuant to this section which is subject to litigation.

Sec. 13. Severability. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances, is not affected.

Sec. 14. All references in Sections 2 through 4 of this act to various General Statutes provisions that are repealed refer to these statutes as they appear in the latest G.S. Replacement Volume, as amended by the 1975 Supplements.

Sec. 15. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to implement the provisions of this act.

Sec. 16. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.