

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 2304**

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DATE	D-PG	OFFICIAL STATUS
03/08/2012	4238	Introduction and first reading Referred to State Government Innovation and Veterans
03/20/2012	4648a	Comm report: To pass as amended and re-refer to Health and Human Services
03/23/2012	5054a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
03/29/2012	5296a	Comm report: To pass as amended and re-refer to Finance Joint rule 2.03, referred to Rules and Administration
04/02/2012		Rules suspended Joint rule 2.03

A bill for an act

1.1 relating to state government; implementing changes to the sunset review;
1.2 changing certain agency requirements; requiring posting of convictions of
1.3 felonies or gross misdemeanors and malpractice settlements or judgments for a
1.4 regulated practitioner; requiring certain information on regulated practitioners;
1.5 requiring a study; prohibiting transfer of certain funds; requiring reports;
1.6 appropriating money; abolishing the Combative Sports Commission and
1.7 transferring duties to the commissioner of public safety; requiring a review of the
1.8 Board of Medical Practice; amending Minnesota Statutes 2010, sections 3.922,
1.9 by adding a subdivision; 3.9223, subdivision 7; 3.9225, subdivision 7; 3.9226,
1.10 subdivision 7; 147.01, subdivision 4; 147.111, by adding a subdivision; 341.21,
1.11 by adding a subdivision; 341.28, subdivision 1; 341.37; Minnesota Statutes 2011
1.12 Supplement, sections 3D.06; 3D.21, subdivisions 1, 2; proposing coding for new
1.13 law in Minnesota Statutes, chapters 3D; 16B; 214; 341; repealing Minnesota
1.14 Statutes 2010, sections 138A.01; 138A.02; 138A.03; 138A.04; 138A.05;
1.15 138A.06; 341.21, subdivisions 3, 4a; 341.22; 341.23; 341.24; 341.26.

1.16
1.17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

SUNSET REVIEW

1.18
1.19
1.20 Section 1. Minnesota Statutes 2011 Supplement, section 3D.21, subdivision 1, is
1.21 amended to read:

1.22 Subdivision 1. **Group 1.** The following agencies are sunset and, except as provided
1.23 in section 3D.14, expire on June 30, ~~2012~~ 2024: Capitol Area Architectural and Planning
1.24 Board, Amateur Sports Commission, ~~Combative Sports Commission~~, all health-related
1.25 licensing boards listed in section 214.01, Council on Affairs of Chicano/Latino People,
1.26 ~~Council on Black Minnesotans~~, Council on Asian-Pacific Minnesotans, Indian Affairs
1.27 Council, Council on Disabilities, and all advisory groups associated with these agencies.

1.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.1 Sec. 2. Minnesota Statutes 2011 Supplement, section 3D.21, subdivision 2, is amended
2.2 to read:

2.3 Subd. 2. **Group 2.** The following agencies are sunset and, except as provided in
2.4 section 3D.14, expire on June 30, 2014: Department of Health, Department of Human
2.5 Services, Department of Human Rights, Department of Education, Board of Teaching,
2.6 Minnesota Office of Higher Education, Council on Black Minnesotans, Emergency
2.7 Medical Services Regulatory Board, and all advisory groups associated with these
2.8 agencies.

2.9 Sec. 3. **COUNCIL ON BLACK MINNESOTANS INTERIM REVIEW.**

2.10 (a) The Council on Black Minnesotans is continued for two years and added to the
2.11 2014 Sunset Advisory Commission review schedule. In the council's report to the Sunset
2.12 Advisory Commission, the council must submit an interim report and respond to issues
2.13 raised in previous audits by the Office of the Legislative Auditor.

2.14 (b) The Office of the Legislative Auditor should conduct a financial audit of the
2.15 Council of Black Minnesotans by December 1, 2013, prior to sunset review in 2014.

2.16 ARTICLE 2

2.17 ADMINISTRATIVE PROCEDURES AND FEES

2.18 Section 1. Minnesota Statutes 2010, section 3.922, is amended by adding a subdivision
2.19 to read:

2.20 Subd. 11. **Report.** The council shall prepare and submit a report to the governor and
2.21 legislature by November 15 of each year. The report shall summarize the activities of the
2.22 council since its last report, list receipts and expenditures, identify the major problems and
2.23 issues confronting American Indian people, make recommendations to address issues,
2.24 and list the specific objectives that the council seeks to attain during the biennium. The
2.25 council shall report on outcome measures.

2.26 Sec. 2. Minnesota Statutes 2010, section 3.9223, subdivision 7, is amended to read:

2.27 Subd. 7. **Report.** The council shall prepare and ~~distribute~~ submit a report to the
2.28 governor and legislature by November 15 of each ~~even-numbered~~ year. The report shall
2.29 summarize the activities of the council since its last report, list receipts and expenditures,
2.30 identify the major problems and issues confronting Chicano/Latino people, make
2.31 recommendations to address issues, and list the specific objectives that the council seeks
2.32 to attain during the next biennium. The council shall report on outcome measures.

3.1 Sec. 3. Minnesota Statutes 2010, section 3.9225, subdivision 7, is amended to read:

3.2 Subd. 7. **Report.** The council shall prepare and ~~distribute~~ submit a report to the
3.3 governor and legislature by November 15 of each ~~even-numbered~~ year. The report shall
3.4 summarize the activities of the council since its last report, list receipts and expenditures,
3.5 identify the major problems and issues confronting Black people, make recommendations
3.6 to address issues, and list the specific objectives which the council seeks to attain during
3.7 the next biennium. The council shall report on outcome measures.

3.8 Sec. 4. Minnesota Statutes 2010, section 3.9226, subdivision 7, is amended to read:

3.9 Subd. 7. **Report.** The council shall prepare and ~~distribute~~ submit a report to the
3.10 governor and legislature by November 15 of each ~~even-numbered~~ year. The report
3.11 shall summarize the activities of the council since its last report, list receipts and
3.12 expenditures, identify the major problems and issues confronting Asian-Pacific people,
3.13 make recommendations to address issues, and list the specific objectives that the council
3.14 seeks to attain during the next biennium. The council shall report on outcome measures.

3.15 Sec. 5. **[3D.045] COORDINATION WITH LEGISLATIVE AUDITOR.**

3.16 To the extent possible, the commission and the Office of the Legislative Auditor
3.17 shall align their work so that audits and program evaluations conducted by the Office
3.18 of the Legislative Auditor can inform the work of the commission. The commission
3.19 may request the Office of the Legislative Auditor to provide updates on financial audits
3.20 and program evaluations the Office of the Legislative Auditor has prepared on agencies
3.21 scheduled for Sunset Advisory Commission review.

3.22 Sec. 6. Minnesota Statutes 2011 Supplement, section 3D.06, is amended to read:

3.23 **3D.06 AGENCY REPORT TO COMMISSION.**

3.24 (a) Before September 1 of the odd-numbered year before the year in which a
3.25 state agency is subject to sunset review, the agency commissioner shall report to the
3.26 commission:

3.27 (1) information regarding the application to the agency of the criteria in section
3.28 3D.10;

3.29 (2) ~~a priority-based~~ an outcome-based budget for the agency;

3.30 (3) an inventory of all boards, commissions, committees, and other entities related
3.31 to the agency; and

3.32 (4) any other information that the agency commissioner considers appropriate or that
3.33 is requested by the commission.

4.1 ~~The September 1 deadline in this section does not apply in 2011.~~

4.2 (b) The outcome-based budget required by paragraph (a) must be for each of the
4.3 agency's activities, as the term activity is used in state budgeting and must:

4.4 (1) identify the statutory authority for the activity;

4.5 (2) include one or more performance goals and associated performance measures
4.6 that measure outcomes, not inputs;

4.7 (3) discuss the extent to which each performance measure is reliable and verifiable,
4.8 and can be accurately measured;

4.9 (4) discuss the extent to which the agency has met each performance measure, and
4.10 the extent to which the budget devoted to the activity has permitted or prevented the
4.11 agency from meeting its performance goals;

4.12 (5) discuss efficiencies that would allow the agency to better meet its goals; and

4.13 (6) identify agencies at any level of government or private sector entities that provide
4.14 the same activities, and describe agency interaction with the activities provided by others.

4.15 Sec. 7. **[3D.065] REPORT ON PERSONNEL.**

4.16 By September 1 of the odd-numbered year before the year in which a state agency is
4.17 subject to sunset review, the commissioner of management and budget must report to the
4.18 Sunset Advisory Commission on the number of full-time equivalent employees and the
4.19 salary structure for each agency under review.

4.20 Sec. 8. **[16B.371] ASSISTANCE TO SMALL AGENCIES.**

4.21 (a) The commissioner may provide administrative support services to small agencies.
4.22 To promote efficiency and cost-effective use of state resources, and to improve financial
4.23 controls, the commissioner may require a small agency to receive administrative support
4.24 services through the Department of Administration or through another agency designated
4.25 by the commissioner. Services subject to this section include finance, accounting, payroll,
4.26 purchasing, human resources, and other services designated by the commissioner. The
4.27 commissioner may determine what constitutes a small agency for purposes of this section.

4.28 (b) The Chicano Latino Affairs Council, the Council on Black Minnesotans, the
4.29 Council on Asian-Pacific Minnesotans, the Indian Affairs Council, the Capitol Area
4.30 Architectural and Planning Board, the Amateur Sports Commission, the Minnesota State
4.31 Council on Disability, and the Combative Sports Commission must use the services
4.32 specified in paragraph (a).

4.33 (c) The commissioner may require agencies receiving services under this section to
4.34 reimburse the agency providing the services. Reimbursements received by a providing

5.1 agency shall be deposited in the general fund and appropriated to the agency providing the
5.2 services.

5.3 (d) For agencies covered in this section, the commissioner has the authority
5.4 to require the agency to comply with applicable state finance, accounting, payroll,
5.5 purchasing, and human resources policies.

5.6 Sec. 9. Minnesota Statutes 2010, section 147.01, subdivision 4, is amended to read:

5.7 Subd. 4. **Disclosure.** Subject to the exceptions listed in this subdivision, all
5.8 communications or information received by or disclosed to the board relating to any
5.9 person or matter subject to its regulatory jurisdiction are confidential and privileged and
5.10 any disciplinary hearing shall be closed to the public.

5.11 (a) Upon application of a party in a proceeding before the board under section
5.12 147.091, the board shall produce and permit the inspection and copying, by or on behalf of
5.13 the moving party, of any designated documents or papers relevant to the proceedings, in
5.14 accordance with the provisions of rule 34, Minnesota Rules of Civil Procedure.

5.15 (b) If the board takes corrective action or imposes disciplinary measures of any kind,
5.16 whether by contested case or by settlement agreement, the name and business address of
5.17 the licensee, the nature of the misconduct, and the action taken by the board are public
5.18 data. If disciplinary action is taken by settlement agreement, the entire agreement is public
5.19 data. The board shall decide disciplinary matters, whether by settlement or by contested
5.20 case, by roll call vote. The votes are public data.

5.21 (c) The board shall exchange information with other licensing boards, agencies, or
5.22 departments within the state, as required under section 214.10, subdivision 8, paragraph
5.23 (c), and may release information in the reports required under section 147.02, subdivision
5.24 6.

5.25 (d) The board shall upon request furnish to a person who made a complaint, or the
5.26 alleged victim of a violation of section 147.091, subdivision 1, paragraph (t), or both, a
5.27 description of the activities and actions of the board relating to that complaint, a summary
5.28 of the results of an investigation of that complaint, and the reasons for actions taken
5.29 by the board.

5.30 (e) A probable cause hearing held pursuant to section 147.092 shall be closed to the
5.31 public, except for the notices of hearing made public by operation of section 147.092.

5.32 (f) Findings of fact, conclusions, and recommendations issued by the administrative
5.33 law judge, and transcripts of oral arguments before the board pursuant to a contested case
5.34 proceeding in which an administrative law judge found a violation of section 147.091,
5.35 subdivision 1, paragraph (t), are public data.

6.1 EFFECTIVE DATE. This section is effective the day following final enactment.

6.2 Sec. 10. Minnesota Statutes 2010, section 147.111, is amended by adding a subdivision
6.3 to read:

6.4 Subd. 10. Failure to report. Any person, health care facility, business, or
6.5 organization that fails to report as required under this section shall be subject to civil
6.6 penalties for failing to report as required by law.

6.7 EFFECTIVE DATE. This section is effective the day following final enactment.

6.8 Sec. 11. **[214.056] FEES COLLECTED; FUND TRANSFER PROHIBITED.**

6.9 Fees collected by health-related licensing boards must only be used to pay the costs
6.10 associated with regulation of occupations and professions under the jurisdiction of those
6.11 boards. Surcharges collected under section 16E.22 are considered costs associated with
6.12 regulations of occupations and professions for purposes of this section. The legislature
6.13 must not transfer money generated by these fees from the state government special
6.14 revenue fund to the general fund.

6.15 Sec. 12. **[214.072] HEALTH-RELATED LICENSING BOARDS; WEB SITE.**

6.16 Each health-related licensing board, as defined in section 214.01, subdivision 2,
6.17 and the commissioner of health, as the regulator for occupational therapy practitioners,
6.18 speech-language pathologists, audiologists, and hearing instrument dispensers, are
6.19 required to post on its public Web site the name and business address of each regulated
6.20 individual who has:

6.21 (1) a conviction during the previous ten years of a felony or gross misdemeanor.
6.22 Conviction includes a conviction of an offense that if committed in this state would be
6.23 considered a felony or gross misdemeanor without regard to its designation elsewhere,
6.24 or a criminal proceeding where a finding or verdict of guilt is made or returned but the
6.25 adjudication of guilt is either withheld or not entered;

6.26 (2) a malpractice judgment entered against the regulated individual in any state or
6.27 jurisdiction within the past ten years. Information describing the judgments shall be
6.28 developed by the boards, shall be stated in plain English, and shall ensure the public
6.29 understands the context of the action involving the licensee; or

6.30 (3) any disciplinary or corrective action taken against the individual's license in
6.31 this state or in any other state or jurisdiction. The Web site shall identify the basis for
6.32 disciplinary action, the type of disciplinary action taken, and whether the action was taken

7.1 by a licensing board in this or another state, the federal government, or a health care
7.2 provider as defined in section 62A.63, subdivision 2.

7.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.4 Sec. 13. **[214.073] HEALTH-RELATED LICENSING BOARDS; AUTHORITY.**

7.5 (a) Each health-related licensing board, as defined in section 214.01, subdivision 2,
7.6 and the commissioner of health, as the regulator for occupational therapy practitioners,
7.7 speech-language pathologists, audiologists, and hearing instrument dispensers, shall
7.8 require an applicant to provide the individual's primary business address at the time of
7.9 initial application and all subsequent renewals.

7.10 (b) Each health-related licensing board, as defined in section 214.01, subdivision 2,
7.11 and the commissioner of health, as the regulator for occupational therapy practitioners,
7.12 speech-language pathologists, audiologists, and hearing instrument dispensers, shall have
7.13 the authority to conduct criminal background checks on all applicants and regulated
7.14 individuals, at the expense of the individual. The boards and the commissioner shall
7.15 establish a protocol for conducting criminal background checks no later than January 1,
7.16 2013. This protocol must require the applicant or regulated individual to:

7.17 (1) submit a full set of fingerprints to the board or its designee in a form and manner
7.18 specified by the board; and

7.19 (2) provide consent authorizing the board to obtain the individual's state and national
7.20 criminal history record information for the purpose of determining the individual's
7.21 suitability for a receiving a credential to practice.

7.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.23 Sec. 14. **HEALTH-RELATED LICENSING BOARDS; REPORTING.**

7.24 (a) By January 15, 2013, each health-related licensing board, as defined in Minnesota
7.25 Statutes, section 214.01, subdivision 2, and the commissioner of health, as the regulator
7.26 for occupational therapy practitioners, speech-language pathologists, audiologists, and
7.27 hearing instrument dispensers, shall submit to the Sunset Commission and the chairs and
7.28 ranking minority members of the legislative committees with jurisdiction over health
7.29 and human services draft legislation requiring institutions, professional societies, other
7.30 licensed professionals, insurers and other entities, and the courts to report conduct
7.31 constituting grounds for disciplinary action to the respective regulatory entity. Each board
7.32 and the commissioner must include in the draft legislation penalties that may be imposed
7.33 for failure to report.

8.1 (b) Health-related occupations with existing statutory reporting obligations are
8.2 exempt from this section.

8.3 Sec. 15. **SUNSET ADVISORY COMMISSION; DEPARTMENT OF HEALTH**
8.4 **REVIEW.**

8.5 The Sunset Advisory Commission review of the Department of Health in 2013
8.6 and 2014 must include an analysis of the extent to which health occupations should be
8.7 licensed by the Department of Health, and which occupations should be licensed by
8.8 licensing boards.

8.9 Sec. 16. **REPORT; INVESTIGATIONS FOR HEALTH-RELATED LICENSING**
8.10 **BOARDS.**

8.11 The health-related licensing boards and the attorney general shall review and
8.12 make recommendations to the legislature by January 15, 2013, on the respective roles
8.13 of the boards and the attorney general in conducting investigations of licensees of the
8.14 health-related licensing boards.

8.15 Sec. 17. **REPORT; INFORMATION SYSTEMS FOR LICENSING BOARDS.**

8.16 The chief information officer of the Office of Enterprise Technology and the
8.17 commissioner of administration shall report to the legislature by January 15, 2013, on the
8.18 best method of providing electronic licensing systems to the health-related licensing
8.19 boards.

8.20 Sec. 18. **REPORT; HEALTH-RELATED LICENSING BOARD FEES.**

8.21 Each health-related licensing board shall report to the chair and lead minority
8.22 member of the senate and house of representatives committees with jurisdiction over
8.23 health and human services finance by January 15, 2013, on the degree to which fees
8.24 imposed by the board comply with Minnesota Statutes, sections 214.055 and 214.06.
8.25 If a board determines that its fees are expected to produce more revenue than needed
8.26 to recover expenditures during a five-year period, the board must propose reductions
8.27 in those fees to the legislature.

8.28 Sec. 19. **REPORTS; ADMINISTRATIVE SUPPORT SERVICES.**

8.29 (a) The commissioner of administration shall report to the legislature by January 15,
8.30 2013, on use of the SMART program by executive branch agencies.

9.1 (b) The administrative services unit of health-related licensing boards shall report to
9.2 the legislature by January 15, 2013, evaluating use of the units' services by health-related
9.3 licensing boards.

9.4 Sec. 20. **PRACTICE ACT; STUDY.**

9.5 The Board of Medical Practice shall convene a working group to evaluate the state's
9.6 Medical Practice Act to ensure that it effectively protects the safety and well-being of the
9.7 citizens of the state and allows transparency. In this evaluation the working group shall
9.8 consider practice acts in other states, including conduct that may result in disciplinary
9.9 action. The working group shall consult with consumers and experts. The board shall
9.10 submit draft legislation modifying the practice for consideration in the 2013 legislative
9.11 session.

9.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.13 Sec. 21. **BOARD OF MEDICAL PRACTICE REVIEW.**

9.14 (a) As provided in Minnesota Statutes, section 3.97, subdivision 3a, paragraph
9.15 (b), the Legislative Audit Commission is requested to direct the legislative auditor to
9.16 prepare a scoping document in response to the Sunset Advisory Commission's request
9.17 for an evaluation of the Minnesota Medical Practice Act and its implementation by the
9.18 Minnesota Board of Medical Practice.

9.19 (b) If the Office of the Legislative Auditor is not authorized to carry out the
9.20 evaluation in paragraph (a) by July 1, 2012, the commissioner of administration shall
9.21 contract with the Federation of State Medical Boards to conduct a programmatic and
9.22 structural review of the Minnesota Board of Medical Practice. A copy of the review's work
9.23 plan must be submitted to the chair and vice-chair of the Sunset Advisory Commission
9.24 for review and comment. The review must be completed and submitted to the Sunset
9.25 Advisory Commission and the senate and house of representatives policy committees
9.26 having jurisdiction over the board by January 1, 2013.

9.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.28 Sec. 22. **APPROPRIATION.**

9.29 (a) \$..... is appropriated to the Legislative Coordinating Commission from the
9.30 general fund for the fiscal year ending June 30, 2013, to provide two staff people for the
9.31 Sunset Advisory Commission. This appropriation does not cancel.

11.1 Subdivision 1. **Regulatory authority; combative sports.** All combative sport
11.2 contests are subject to this chapter. ~~The commission shall, for every combative sport~~
11.3 ~~contest:~~

11.4 ~~(1) direct a commission member to be present; and~~
11.5 ~~(2) direct the attending commission member to make a written report of the contest.~~

11.6 All combative sport contests within this state must be conducted according to the
11.7 requirements of this chapter.

11.8 Sec. 4. Minnesota Statutes 2010, section 341.37, is amended to read:

11.9 **341.37 APPROPRIATION.**

11.10 A ~~commission~~ combative sports account is created in the special revenue fund.
11.11 Money in the account is annually appropriated to the ~~commission~~ commissioner for the
11.12 purposes of conducting its statutory responsibilities and obligations under this chapter.

11.13 Sec. 5. **TRANSFER OF DUTIES.**

11.14 The Combative Sports Commission is abolished. Duties of the commission are
11.15 transferred to the commissioner of public safety. Minnesota Statutes, section 15.039,
11.16 subdivisions 1 to 6, apply to this transfer. Members currently serving on the Combative
11.17 Sports Commission are appointed to the Combative Sports Advisory Council established
11.18 under Minnesota Statutes, section 341.221.

11.19 Sec. 6. **REVISOR'S INSTRUCTION.**

11.20 The revisor of statutes shall substitute the term "commissioner" for "commission" in
11.21 each place the term "commission" appears in Minnesota Statutes, chapter 341.

11.22 Sec. 7. **REPEALER.**

11.23 Minnesota Statutes 2010, sections 341.21, subdivisions 3 and 4a; 341.22; 341.23;
11.24 341.24; and 341.26, are repealed.

11.25 Sec. 8. **EFFECTIVE DATE.**

11.26 This article is effective July 1, 2013.

APPENDIX
Article locations in S2304-2

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