



SUNSET LEGISLATION IN THE STATES Balancing the Legislature and the Executive

Sunset review provisions are clauses embedded in legislation, usually at the state level, that allow a piece of legislation or a regulatory board to expire on a certain date unless the legislature takes action to renew the legislation or board. Sunset reviews are often advertised as good government policies, forcing governments to review and reconsider whether agencies and particular laws are still necessary.

A new study for the Mercatus Center at George Mason University shows that the sunset review process can also be seen as an effective bargaining tool for the legislature to minimize the executive branch's influence on a wide variety of state boards and agencies. It is a way for the legislature to make its veto power credible and to have influence over an agency's agenda, which is also influenced by special interests and the executive branch.

To read the study in its entirety and learn more about its authors, economists Brian Baugus and Feler Bose, see "[Sunset Legislation in the States: Balancing the Legislature and the Executive.](#)"

BACKGROUND ON SUNSET PROVISIONS

Sunset reviews come in many varieties and may be used narrowly or broadly, depending on the state. A sunset provision typically includes a requirement that specific legislation or a regulatory board undergo a review, usually conducted by legislative staff or state auditors.

The length of time between enactment/renewal and the next sunset date varies from state to state but typically runs between four and twelve years under current state laws. The process normally involves data collection, interviews with key agency staff and interested parties, financial auditing, and records review. The process results in one of four outcomes: renewal, renewal with changes, consolidation with other entities, or termination of the statute or agency.

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Sunset reviews can be broken down into four categories:

- *Comprehensive.* States require all statutory agencies to undergo sunset review on a preset schedule.
- *Regulatory.* States require licensing and regulatory boards to undergo sunset review.
- *Selective.* States require only selected agencies to undergo a sunset review.
- *Discretionary.* The legislature may choose which agencies and statutes undergo a sunset review.

SUNSET REVIEWS HELP LEGISLATURES EXERCISE CONTROL OVER GOVERNMENT

In several states examined in the study, a majority of the statutes and agencies subject to a sunset review over the last few years were allowed to continue, although many were also modified in some way as part of the renewal process.

The study considers several theories about why state legislatures use the sunset review process and what they hope to achieve by it. Ultimately, the process is best understood as an effective bargaining method that allows a legislature to assert itself and increases its ability to influence agencies' agendas.

- *Legislative disadvantages.* Legislatures tend to be part-time, which contributes to their distinct information and power disadvantages relative to the executive branch. Moreover, special interest groups with access to the executive branch can alter the role and goals of specific agencies, diverting them from their original missions as intended by the legislature.
- *Legislative influence.* While the desire to implement good government practices may drive sunset legislation to some extent, the legislature has a more self-serving reason for using sunset reviews: increasing its own influence over government. Sunset reviews allow the legislature to guarantee that some of its preferred outcomes are achieved by exercising a credible veto over executive branch execution of the laws the legislature wrote.

CONCLUSION

Sunset reviews provide an opportunity for part-time legislatures to have more control over the regulatory functions of the state and guarantee that regulations and enforcement agencies are not unduly influenced by the executive branch or special interests. Sunset reviews also provide the people of the state—through the legislature—with a voice in policies that have been unduly influenced by special interests and the executive branch.