



Legislative Commission on Planning and Fiscal Policy

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Executive Branch Advisory Groups Recommendations

December 18, 2013

The Legislative Commission on Planning and Fiscal Policy submits this report as required by Minnesota Statutes, section 3.885, subdivision 11, enacted in 2013.

Statutory Requirements

The 2013 Legislature enacted a new law requiring the Legislative Commission on Planning and Fiscal Policy (LCPFP) to review executive branch advisory groups:

Minnesota Statutes, section 3.885, subdivision 11

Review of advisory groups. (a) By September 1 of each odd-numbered year, the commission shall compile a list of executive branch advisory groups created in statute. The commission may develop a schedule for review of advisory groups, or may select particular groups for review. By December 31 of each odd-numbered year, the commission may make recommendations on the continuing need for certain advisory groups, and on any changes in laws governing a group that are needed to improve the group's efficiency and effectiveness.

(b) In conducting reviews of executive branch advisory groups, the commission shall consider:

- (1) the mission of each group, and the extent to which the mission has been satisfied;*
- (2) the extent to which each advisory group is effective in allowing persons interested in the program or activity for which the group provides advice to have input into the operations of the state agency implementing the program or activity;*
- (3) the extent to which the existence of the advisory group provides state agencies with an efficient and effective means of obtaining expert advice and opinions;*
- (4) whether there are more efficient and effective methods of accomplishing the mission of the advisory group; and*
- (5) whether the work of the advisory group overlaps or duplicates the work of other groups.*

Review Process

The LCPFP compiled a list of 162 executive branch advisory groups created in statute. This list was the basis for the reviews conducted at later hearings. This list is available through the Legislative Reference Library: <http://archive.leg.state.mn.us/docs/2013/mandated/131181.pdf>

The Commission chair, Speaker Paul Thissen, sent a letter dated August 2, 2013 to the heads of executive branch agencies that work with advisory groups. The letter identified the advisory groups associated with each agency, and asked the agency head to provide the following information for each advisory group identified:

- 1) The mission of each group;
- 2) Membership list and whether any compensation is provided to those members;
- 3) The budget of each group;
- 4) The most recent three meeting dates, including any future meeting dates;
- 5) A list of any reports or recommendations issued to the state agency, Legislature or Governor;
- 6) A link to the advisory group's website, if any.

The responses to these letters are available through the Legislative Reference Library:
<http://archive.leg.state.mn.us/docs/2013/mandated/131181.pdf>

In order to facilitate the review, a bipartisan group of four legislators from the House and Senate met on two dates to undertake a preliminary review of the advisory groups. This small group made a series of preliminary recommendations for consideration by the full Commission.

In conducting their reviews, the small group considered the agency responses to the Speaker's August 2 letter, relevant statutes, legislative history, and recent reports. When the small group felt this provided sufficient information to make a reasonable recommendation to the full Commission, agencies were not invited to testify. When more information was needed, agencies were invited to testify and the public was notified of scheduled advisory groups via the House and Senate websites and LCPFP listserv.

The small group followed a set of guidelines in conducting their preliminary reviews:

- Advisory groups created during the 2013 legislative session, with one exception, would not be reviewed. (The LCPFP asked the Minnesota Department of Health to recommend an expiration date for the newly created Laboratory Assessor Selection Committee.)
- Advisory groups previously reviewed by the Sunset Commission would not be reviewed. These included the advisory groups of several health licensing boards, among others.
- Most groups that expired in 2009 per MN Statutes 15.059 subdivision 5 were recommended for repeal but agencies were invited testify if they sought a group's continuation. In some cases, the LCPFP agreed the expiration date of an advisory group should be extended. In other cases, the LCPFP did not issue a recommendation for repeal of an expired group (see recommendations below).
- Groups that expire in 2014 or 2015 were not reviewed.
- Groups required by federal law were not reviewed.

The LCPFP held four public hearings from August to December 2013 to conduct its formal review of executive branch advisory groups. At each of its hearings, the LCPFP heard from agencies associated with the advisory groups and then discussed issues relating to the group. LCPFP discussions included some general points about potential advantages and disadvantages of advisory groups.

Of note, several members of the LCPFP thought that a particular advantage of executive branch advisory groups is that they require public hearings and provide a transparent and open process for interested individuals, experts, and affected constituencies to participate. While several agencies indicated that they replaced an advisory group with an internal working group or task force, the LCPFP expressed concern that these internal groups might not provide the same level of transparency nor the same level of public participation.

Recommendations

The LCPFP recommends as follows:

- 37 of the groups should be repealed.
- The remaining groups should be reviewed biennially by the LCPFP in the time and manner specified in section 3.855, subdivision 11, to ensure that the groups are still needed and to make recommendations on any changes in laws governing a group that are needed to improve the group's efficiency and effectiveness.
- Appropriate House and Senate policy committees should review advisory groups within their jurisdiction during the 2014 legislative session. In particular, policy committee should review groups that are scheduled to expire in 2014, and either repeal or extend these groups. Policy committee also should take testimony from state agencies and from the public on potential changes in laws governing remaining advisory groups.
- Committees should ensure newly created advisory groups include an explicit expiration date in statute. If committees elect not to include an expiration date, they should justify why the advisory groups should continue in perpetuity.
- Each agency should provide to the LCPFP on an annual basis the name, purpose and participants on any internal agency taskforce that reviews grants or otherwise makes recommendations concerning the allocation of public money.
- Legislative committees with jurisdiction over data practices and open meetings should review current law concerning public notice and transparency of internal agency taskforces and working groups.
- Several groups that expired in 2009 per MN Statutes 15.059 subdivision 5 should be continued: Automobile Theft Prevention Advisory Board, Fire Service Advisory Council, Medical Assistance Drug Formulary Committee, Environmental Health Tracking and Biomonitoring Advisory Panel, Water Supply Systems and Wastewater Treatment Facilities Advisory Council, and Prescription Electronic Reporting Advisory Committee.
- The State Government committees should review the 2013 expiration of the Veterans Health Care Advisory Council. The Department of Veterans Affairs indicated that the Advisory Council has been replaced by an internal task force. This new task force is scheduled to begin meeting in January. Committees should discuss whether this new task force has adequately assumed the duties of the expired council and provided sufficient public participation.
- The Iron Range Resource and Rehabilitation Board should consider whether it would recommend statutory changes to combine the Douglas J. Johnson Economic Protection Trust Fund and the Northeast Minnesota Economic Development Fund Technical Advisory Committee, as the agency reported they currently meet as one group to more efficiently meet the intent of the statutes.

- Public Safety committees should review how the Office of Justice Programs has assumed the duties of the Battered Women and Domestic Abuse Advisory Council. In particular, committees should review the grant making process and consider whether the current internal process provides sufficient transparency and accountability for public dollars.
- The Environment Committees should consider whether the Off-Highway Vehicle Safety Advisory Council should be extended (it expired in 2009 per MN statutes 15.059 subdivision 5) or whether the council's duties are better assumed internally by the Department of Natural Resources.
- The LCPFP recommended the repeal of the Services to Persons with Developmental or Physical Disabilities Task Force despite testimony from the Department of Human Services indicating their desire to continue to group. The Health and Human Services committees should address in the future at the appropriate time whether a new advisory group is needed to assist with the implementation of the Olmstead plan recommendations.

The appendix to this report lists LCPFP recommendations for each advisory group.