

# **Executive Summary**

## **Background**

Delaware's Legislative Oversight and Sunset Law, enacted in 1979 in Chapter 102 of Title 29, provides for the periodic legislative review of state agencies, boards, and commissions (collectively, "entity" or "entities"). The purpose of review is to determine if there is a public need for an entity and, if so, to determine if it is effectively performing to meet that need. Generally, an entity cannot be reviewed more than once every six years.

The Joint Legislative Oversight and Sunset Committee ("JLOSC" or "Committee") is responsible for guiding the review process. JLOSC is a bipartisan committee comprised of ten legislators. Five senators are appointed to serve on the Committee by the Senate President Pro Tempore and five representatives are appointed by the Speaker of the House.

Reviews are generally conducted over a ten to twelve month time period commencing in July. The Committee's Analyst compiles a comprehensive review of each entity, based on the responses each entity provides on a questionnaire designed to meet statutory criteria, and then prepares a preliminary report for the Committee members' use during public hearings held in February and March of each year. Public hearings serve as a critical component of the review process because they provide the best opportunity for JLOSC to determine if there is a genuine public need for the entity, and if the entity is beneficial to the public's health, safety, and welfare.

At the conclusion of a review, JLOSC may recommend the continuance, consolidation, reorganization, transfer, or termination (sunset) of an entity. Although the Committee has "sunset" a small number of entities since its first reviews in 1980, the more common approach has been for the Committee to work with an entity under review to formalize specific statutory and non-statutory recommendations with an end goal of improving the entity's overall performance and government accountability.

## **2017 Sunset Reviews**

This report details the work of the Committee from July 2016 through June 2017. Specifically, it focuses on the following entities:

- State Board of Education
- Delaware Information and Analysis Center
- Agricultural Farmland Preservation Foundation
- Human Relations Commission
- Board of Medical Licensure and Discipline
- Board of Clinical Social Work Examiners
- Diamond State Port Corporation

## **Guide to this Report**

The following pages detail the work of the Committee during the first session of the 149<sup>th</sup> General Assembly, including the Committee's Final Recommendations and the individual entity reports developed by the Committee's Analyst. The reports served as references for the

Committee during public hearings and facilitated the development of the Final Recommendations.

### **Summary of 2017 Joint Legislative Oversight and Sunset Committee Actions**

The Committee held public hearings regarding the State Board of Education, Delaware Information and Analysis Center, Agricultural Farmland Preservation Foundation, and Human Relations Commission. As a result of the public hearings and subsequent Committee meetings and deliberations, the Committee recommended the continuation and release of three entities, and hold over of one entity.

#### *State Board of Education – Held Over to 2018*

The Committee made several Recommendations for the **State Board of Education** (“SBE”), an advisory Board to the Department of Education (“Department”). The Committee’s Recommendations include amending the Board’s governing statute, clarifying SBE’s duties, revising the Executive Director’s job description, modifying meeting time and locations, providing additional opportunity for public comment at meetings, and adding two non-voting Board members. At the time of the Final Report’s publication, the recommended legislation has not yet been released. The Committee recommended to hold over SBE, which must report back to the Committee in January 2018. At that time, the Committee will consider whether to continue and release the Board from review upon enacted legislation or terminate the Board. In May 2017, the Joint Finance Committee voted during budget markup to eliminate SBE. The Committee’s Analyst will continue to monitor SBE’s status as the budget bill is finalized.

#### *Delaware Information and Analysis Center – Released from Review.*

The Committee recommended continuing the **Delaware Information and Analysis Center** (“DIAC”) and releasing it from review, with a letter of support to the Joint Finance Committee for funding for an Intelligence Analyst. Such funding which will support DIAC’s goal of being a 24/7 operation. The Committee considered adding DIAC to the Delaware Code, but made no recommendation to do so.

#### *Agricultural Farmland Preservation Foundation – Released Upon Enactment of Recommended Legislation.*

The Committee recommended continuing the **Agricultural Farmland Preservation Foundation** (“**Foundation**”) and releasing it from review upon the enactment of recommended legislation, which includes adding standard language to the Foundation’s governing statute regarding removal of Trustees and limiting review of a preservation easement after 25 years. At the time of the Final Report’s publication, Senate Bill 74 has not yet been enacted.

#### *Human Relations Commission – Released Upon Enactment of Recommended Legislation.*

The Committee recommended continuing the **Human Relations Commission** (“**Commission**”) and releasing it from review upon enactment of recommended legislation, which includes amendments to its governing statute to reduce the Commission’s size, adding standard language quorum and removal of Commission members, increasing availability of Commission meetings to public through video meetings, and references its powers and duties under the Equal Accommodations and Fair Housing Acts. At the time of the Final Report’s publication, Senate Bill 122 has not yet been enacted.

*Board of Medical Licensure and Discipline – Released Upon Enactment of Recommended Legislation.*

The review for the **Board of Medical Licensure and Discipline** was conducted in 2016 and the Board was continued and released from review, with reporting requirements. The Committee also recommended legislation to amend the Board’s governing statute; HB 426 of the 148<sup>th</sup> General Assembly did not pass. With the assistance of the Director of the Division of Professional Regulation, the legislation was reintroduced as Senate Bill 39 in the 149<sup>th</sup> General Assembly. The Committee recommended in 2017 to release the Board upon enactment of Senate Bill 39.

*Board of Clinical Social Work Examiners – Released Upon Enactment of Recommended Legislation.*

The Committee and staff will continue to work with the **Board of Clinical Social Work Examiners (“Board”)** and the Division of Professional Regulation to meet the 2015 recommendation that the Board revise its governing statute. This revision will modernize the practice of social work throughout the State. The Committee and Board expect this legislation to be addressed in January 2018. At the time of the Final Report’s publication, the recommended legislation has not yet been released.

*Diamond State Port Corporation – Released with Reporting Requirements.*

The Committee released the Diamond State Port Corporation (“DSPC”) with reporting requirements regarding the status of the hiring hall and cranes. In January 2017, the Committee received updates from DSPC and recommended additional monitoring of the hiring hall and cranes.

*JLOSC Improvement – Legislation to Clarify the Committee’s Governing Statute.*

The Committee voted to amend § 10214, Title 29, to clarify the Committee’s authority to hold over entities or recall entities that could have but failed to meet a JLOSC recommendation, or when legislation recommended by the Committee fails to be enacted. At the time of the Final Report’s publication, Senate Bill 74 has not yet been enacted.

**Entities Under Review in 2018**

The Committee selected the following entities for review in 2018:

- **Division of Waste and Hazardous Substances**
  - **Restricted to that Division’s Management of the HSCA fund.**
- **Council on Correction**
- **Child Protection Accountability Commission**
- **Board of Occupational Therapy**