

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2018-101
HOUSE BILL 646

AN ACT TO AMEND THE PROGRAM EVALUATION STATUTES TO MAKE IT EXPLICIT THAT THE DIVISION MAY EVALUATE NON-STATE ENTITIES THAT RECEIVE OR EXPEND ANY STATE FUNDS, ADD ADMINISTRATION OF MEASURABILITY ASSESSMENTS AS A FUNCTION OF THE DIVISION, CREATE STANDARDIZED EVALUATION REPORTS, AND REVISE THE POWERS AND DUTIES OF THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7C of Chapter 120 of the General Statutes reads as rewritten:
"Article 7C.

"Program Evaluation.

"§ 120-36.11. Program Evaluation Division ~~established~~; definitions.

(a) Division. – The Program Evaluation Division of the ~~General Assembly~~ is ~~established~~ Legislative Services Commission is established as a staff agency of the General Assembly. The purpose of the Division is to assist the General Assembly in fulfilling its responsibility to oversee government functions by providing an independent, objective source of information to be used in evaluating whether public services programs or activities of a State agency, or programs or activities of a non-State entity conducted or provided using State funds, are operated and delivered in an the most effective and efficient manner and in accordance with law.

(b) Director. – The Director of the Program Evaluation Division is appointed by the Legislative Services Commission and serves at the pleasure of the Commission. The Director is responsible for hiring and dismissing employees of the Division and directing the activities of the Division. The Director may not hire or dismiss an employee without the approval of the Legislative Services Officer.

(c) Definitions. – The following definitions apply in this Article:

- (1) Committee. – The Joint Legislative Program Evaluation Oversight Committee.
- (2) Director. – The Director of the Program Evaluation Division.
- (3) Division. – The Program Evaluation Division.
- (4) Non-State entity. – Defined in G.S. 143C-1-1(d)(18) and receives or expends any State funds.
- (5) State agency. – Defined in G.S. 143C-1-1(d)(24).
- (6) State funds. – Defined in G.S. 143C-1-1(d)(25).

"§ 120-36.12. ~~Duties~~ Functions of Program Evaluation Division.

The ~~Program Evaluation Division of the Legislative Services Commission~~ has the following ~~powers and duties~~ functions:

- (1) To ~~examine a program or an activity of a State agency and evaluate the merits of the a program or an activity and the agency's effectiveness in conducting~~



- ~~the program or activity of a State agency, or a program or an activity of a non-State entity conducted or provided using State funds.~~
- (2) ~~To develop quantitative indicators for measuring the activities performed and services provided by a State agency and the extent to which the activities and services are achieving desired results, to be used in an evaluation of a program or an activity of a State agency, or a program or an activity of a non-State entity conducted or provided using State funds.~~
 - (3) ~~To develop unit cost measures to determine, in consultation with the Fiscal Research Division, the cost of activities performed and services provided by a State agency, programs or activities of a State agency, or programs or activities of a non-State entity conducted or provided using State funds.~~
 - (4) ~~To determine if a program or an activity of a State agency complies with the agency's mission, as established by law.~~
 - (5) ~~To make unannounced visits to a State agency or Non-State entity when needed to evaluate a program or an activity of the agency.~~
 - (6) ~~To make recommendations to improve the efficiency and effectiveness of a State agency, submit an evaluation report to the Committee, as provided in G.S. 120-36.14.~~
 - (7) ~~To determine the extent to which a State agency or non-State entity has implemented any of the Division's recommendations of the Committee concerning the agency.~~
 - (8) ~~To require a State agency to submit a written response to a proposed or final recommendation of the Division and to submit a written explanation of the extent to which the agency has implemented the Division's recommendations.~~
 - (9) ~~To make periodic reports of the activities and recommendations of the Division and Committee and of any savings achieved by the implementation of its Division or Committee recommendations.~~
 - (10) ~~To receive reports alleging improper activities or matters of public concern listed in G.S. 126-84. The individual making the report may, at the individual's discretion, remain anonymous. Any report received under this subdivision, in whatever form, is confidential, shall not be a "public record" as defined by G.S. 132-1, and becomes available to the public only as provided in G.S. 120-131.~~
 - (11) ~~To administer measurability assessments pursuant to Chapter 143E of the General Statutes.~~

"§ 120-36.13. ~~Work~~ Biennial work plan and requests for program evaluation, evaluations and measurability assessments.

(a) ~~Plan. – The Joint Legislative Program Evaluation Oversight~~ Every odd-numbered year, the Committee, in consultation with the ~~Director of the Program Evaluation Division, must establish a~~ Director, shall adopt a biennial work plan for the Division. ~~The Committee shall consider which programs or activities of a State agency, or programs and activities of a non-State entity conducted or provided using State funds, should be evaluated by the Division and included in the biennial work plan. The Committee shall also consider which proposed or existing State programs should be subject to measurability assessments and included in the biennial work plan. The Committee shall then review and adopt the biennial work plan. The Committee may amend the biennial work plan to add a new evaluation or measurability assessment or remove a planned evaluation or measurability assessment at any time during the biennium. The Division must shall adhere to this the biennial work plan, unless the Joint Legislative Program Evaluation Oversight Committee changes the biennial work plan to add a new evaluation or measurability assessment~~

~~or remove a planned evaluation. Any enacted legislation that directs the Program Evaluation Division to conduct a study or an evaluation is included in the work plan by operation of law; however, notwithstanding any other provision of law, if the enacted legislation did not have an impact statement, as provided in G.S. 120-36.17, completed prior to its consideration by the General Assembly, then the study or evaluation shall be included in the next work plan adopted by the Committee and one year shall be added to any required reporting dates included in the legislation, except that the impact statement is not required and the evaluation may be included in the current work plan if the impact statement was not provided pursuant to the time requirements in G.S. 120-36.17(b)-evaluation or measurability assessment.~~

The biennial work plan constitutes an information request and a drafting request made by the Committee cochair to legislative employees under Article 17 of Chapter 120 of the General Statutes. Any document prepared by a legislative employee pursuant to the biennial work plan becomes available to the public only as provided in G.S. 120-131. Any document prepared by an agency employee pursuant to a request under G.S. 120-131.1(a1) becomes available to the public only as provided in G.S. 120-131.

(b) Request. – A request to the Program Evaluation Division for an evaluation of a program or an activity of a State agency must be submitted by a member of the General Assembly. ~~The Director of the Division must review each request in accordance with the following criteria and make a recommendation to the Joint Legislative Program Evaluation Oversight Committee on whether to amend the Division's work plan to include the requested evaluation.~~ The Director shall assist the Committee cochair in developing a proposed biennial work plan based on suggestions for evaluations and measurability assessments submitted by members of the General Assembly to the cochair.

- ~~(1) The work required to conduct the requested evaluation.~~
- ~~(2) The effect that conducting the requested evaluation will have on the Division's ability to complete its work plan.~~
- ~~(3) The significance of the requested evaluation compared to the evaluations to be conducted under the work plan.~~
- ~~(4) Any overlap between the requested evaluation and other evaluations previously conducted by the Division or another agency.~~

"§ 120-36.14. ContentContents of an evaluation report of by the Program Evaluation Division.

(a) The Division shall complete an evaluation report for each evaluation required in the biennial work plan. The Division shall submit the report to the Committee for review and consideration. The Director shall notify the Committee cochair when an evaluation report is ready to become available to the public as provided in G.S. 120-131.

(b) ~~A~~An evaluation report of an evaluation of a program or an activity of a State agency prepared by the Program Evaluation Division of the General Assembly may include~~shall, unless otherwise specified by the Committee, include~~ the following:

- (1) The findings of the Division concerning the merits of the program or activity~~activity~~ based on whether the program or activity:
 - a. Is conducted efficiently by the State agency or non-State entity.
 - b. Is effective, meeting objectives, and achieving intended results.
 - c. Aligns with the State agency or non-State entity's mission.
 - d. Operates in accordance with law.
 - e. Does not duplicate another program or activity within the State agency, within another State agency, or within another non-State entity.
- (1a) The quantitative indicators, including how the indicators were measured and rated, used to determine whether the program or activity:
 - a. Is conducted efficiently by the State agency or non-State entity.

- b. Is effective, meeting objectives, and achieving intended results.
- (1b) The cost of the program or activity broken out by activities performed and services provided.
- (2) Specific recommendations for making the program or activity more efficient or effective.
- (2a) Specific recommendations for consolidation or elimination of duplicative programs or activities if duplication occurs within the State agency, within another State agency, or within another non-State entity.
- (3) ~~Any legislation needed to implement the Division's findings and recommendations concerning the program or activity.~~
- (4) An estimate of the costs or savings expected from implementing the Division's ~~findings and~~ recommendations concerning the program or activity.

(c) Upon request of the Division or Committee, a State agency or non-State entity shall submit a written response to a recommendation of the Division or Committee and a written explanation of the extent to which the State agency or non-State entity has implemented any of the recommendations of the Committee.

"§ 120-36.15. Joint Legislative Program Evaluation Oversight Committee established.

(a) Membership. – The Joint Legislative Program Evaluation Oversight Committee is established. The Committee consists of 18 members as follows:

- (1) Nine members of the Senate appointed by the President Pro Tempore of the Senate. At least two of the members ~~must~~ shall be a Cochair of the Senate Appropriations Committee or a subcommittee of the Senate Appropriations Committee. At least three of the members ~~must~~ shall be members of the minority party.
- (2) Nine members of the House of Representatives appointed by the Speaker of the House of Representatives. At least two of the members ~~must~~ shall be a Cochair of the House Appropriations Committee or a subcommittee of the House Appropriations Committee. At least three of the members ~~must~~ shall be members of the minority party.

(b) Terms. – Terms on the Committee are for two years and begin on January 15 of each odd-numbered year. Legislative members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly. Resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until a successor is appointed.

(c) Chairs and Quorum. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives ~~must~~ shall each designate a cochair of the Committee. The Committee meets upon the call of the cochairs. A quorum of the Committee is nine members. The Committee may not act except by a majority vote at a meeting at which a quorum is present.

(d) Standard Procedure. – In performing its duties, the Committee has the powers of a committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. Funding for the Committee is provided by the Legislative Services Commission from appropriations made to the General Assembly. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer ~~must~~ shall assign professional and clerical staff to assist the Committee in its work.

"§ 120-36.16. Powers and Duties of Joint Legislative Program Evaluation Oversight Committee.

The ~~Joint Legislative Program Evaluation Oversight~~ Committee has the following powers and duties:

- (1) ~~To receive and review requests for evaluations to be performed by the Program Evaluation Division of the General Assembly.~~
- (2) ~~To establish and adopt a biennial work plan for the Program Evaluation Division that describes the evaluations to be performed by the Division. Division and the measurability assessments to be administered by the Division pursuant to Chapter 143E of the General Statutes. The Committee must shall consult with the Director of the Program Evaluation Division in performing this duty.~~
- (2a) To receive status updates on the activities of the Division.
- (3) ~~To receive review evaluation reports prepared submitted by the Program Evaluation Division. Division and measurability assessments administered by the Division.~~
- (3a) To determine if any legislation or other action of the General Assembly is needed to implement the Division's recommendations.
- (4) ~~To consult as necessary with an oversight committee or another committee established in this Chapter about an evaluation report concerning a program or an activity of a State agency, or a program or an activity of a non-State entity, that is within that committee's scope of study.~~
- (5) ~~To recommend to the General Assembly any changes needed to implement a recommendation that is included in an evaluation report of the Program Evaluation Division and is endorsed by or any changes needed to implement a recommendation of the Committee.~~

~~§ 120-36.17. Program Evaluation Division impact statement.~~

(a) ~~Every bill and resolution introduced in the General Assembly proposing a study or evaluation by the Program Evaluation Division shall have attached to it at the time of its consideration by the General Assembly an impact statement prepared by the Division. The impact statement shall identify and estimate, to complete all studies and reports required by the bill or resolution, all of the following: (i) the number of personnel required; (ii) the total number of hours required; and (iii) the estimated costs.~~

- (1) ~~If, after review, the Division determines that no estimates are possible, the impact statement shall contain a statement to that effect, setting forth the reasons why no estimate can be given.~~
- (2) ~~The Division shall indicate whether the Division, based upon its current work plan, has adequate and sufficient resources to undertake the study or evaluation as part of the current annual work plan, and shall explain the basis for its determination.~~
- (3) ~~If the Division determines that it would not be able to undertake the study or evaluation as part of its current work plan, it shall indicate a time frame in which it believes the study or evaluation could be accomplished.~~

(b) ~~The sponsor of each bill or resolution to which this section applies shall present a copy of the bill or resolution with the request for an impact statement to the Program Evaluation Division. Upon receipt of the request and the copy of the bill or resolution, the Program Evaluation Division shall prepare the impact statement as promptly as possible, but shall transmit it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an extension of time. If the impact statement is not transmitted within two weeks, or by the end of any extension of time as provided under this subsection, then there shall be no impact statement required under this section.~~

(c) ~~This impact statement shall be attached to the original of each proposed bill or resolution that is reported favorably by any committee of the General Assembly, but shall be separate from the bill or resolution and shall be clearly designated as an impact statement. An~~

~~impact statement attached to a bill or resolution pursuant to this subsection is not a part of the bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.~~

~~(d) If a committee of the General Assembly reports favorably a proposed bill or resolution that directs the Program Evaluation Division to conduct a study or evaluation, the chair of the committee shall obtain from the Program Evaluation Division, and attach to the bill or resolution, an impact statement as provided in this section."~~

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of June, 2018.

s/ Bill Rabon
Presiding Officer of the Senate

s/ David R. Lewis
Presiding Officer of the House of Representatives

This bill having been presented to the Governor for signature on the 15th day of June, 2018 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law. This 26th day of June, 2018.

s/ Karen Jenkins
Enrolling Clerk