



**STATE OF VERMONT**  
**SUNSET ADVISORY COMMISSION**

**MEMORANDUM**

To: House Committee on Government Operations  
Senate Committee on Government Operations

From: Rep. John Gannon and Sen. Jeanette White, Co-Chairs, Sunset Advisory Commission

CC: BetsyAnn Wrask, Legislative Counsel, Office of Legislative Counsel

Date: **XX, YY, 2020**

Subject: Request to review prohibition applicable to the Commission on Women

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The Sunset Advisory Commission (SAC) was created in [3 V.S.A. § 268](#) to review and make recommendations on whether to maintain as is, amend, or repeal the State's boards and commissions. In accordance with this duty, SAC has twice reviewed the Commission on Women (Commission) set forth in [3 V.S.A. § 22](#). As a result of this review, SAC is requesting that you, as committees of jurisdiction, review the Commission's prohibition on using State-appropriated funds for legislative or administrative advocacy that is currently set forth in its enabling law.

The Commission was created in law as a successor to a former Governor's Commission on Women, which was created by executive order. As stated in its current enabling law, the Commission is an independent agency of the State, with responsibilities that include conducting studies of matters concerning women and providing advice to the Executive and Legislative Branches on policies affecting the status of women in Vermont. The General Assembly recently permitted members of the Commission to receive per diem compensation and amended its membership pursuant to [2018 Sp. Sess. Act No. 2](#), Sec. 6.

In regard to the prohibition at issue, subsection (i) of the Commission's enabling law states that "[n]o part of any funds appropriated to the Commission by the General Assembly shall, in the absence of express authorization by the General Assembly, be used directly or indirectly for legislative or administrative advocacy[.]" and requires the Commission to review and amend as necessary all existing contracts and grants to ensure compliance with this subsection. The subsection defines "legislative or administrative advocacy" to mean employment of a lobbyist (as defined in [2 V.S.A. ch. 11](#)) or "employment, establishment, or maintenance of a lobbyist position whose primary

function is to influence legislators or State officials with respect to pending legislation or rules.”

The SAC reviewed the Commission twice due in part to this prohibition on using State–appropriated funds for advocacy. The SAC noted that this prohibition appears to be unique to this specific State commission. The SAC also noted that lobbying law set forth in [2 V.S.A. § 262\(2\)](#) acknowledges that advocacy may be part of a State entity’s duties: this subdivision exempts a State official or employee from registering and reporting as a lobbyist if the person is acting solely in connection with matters relating to the person’s office or public duties (but requires the person or the person’s State entity to register and report under the lobbying law if the person or entity contracts with a lobbyist).

The Commission’s [written](#) and verbal testimony to SAC noted that among the State’s boards and commission, this prohibition appears to only be applied in law to the Commission and specifically does not appear in the enabling laws of other independent State entities, such as the Human Rights Commission or the State Ethics Commission. The Commission also testified that while it does not employ a lobbyist, the prohibition has impacted its contracting abilities.

SAC members had varying perspectives on whether to recommend the elimination of this prohibition. At least one SAC member felt this prohibition should be added to the enabling law of other State entities. Two SAC members discussed that the prohibition’s impacts on contracting could be addressed in the Commission’s contracts. At least one SAC member supported eliminating the prohibition. Ultimately, the SAC voted to request that committees of jurisdiction determine whether to maintain this current law prohibition.

Note that the SAC also voted to propose several amendments to the Commission’s enabling law in a bill for 2021: 1) to codify the Commission in a different chapter of Title 3, since it is an independent commission but is currently codified under a chapter of law regarding the Governor; 2) to clarify that each legislative chamber can appoint a maximum of two legislators who cannot be from the same party; 3) to remove the party limitation from the Governor’s appointees; and 4) to establish a maximum of four legislators on the entire Commission. Perhaps when your committees review the proposed SAC legislation in 2021, you can consider at that time whether to maintain the Commission’s prohibition on using State funds for advocacy.

Thank you for your consideration of this matter. Please do not hesitate to contact us for further information.