

Texas Sunset Advisory Commission

**Analysis of Legislation
74th Legislature**

July 1995

Table of Contents

	<u>Page Nos.</u>
Summary	1
Sunset Process	5
Analysis of Legislation	
Texas Department of Agriculture	11
Texas Animal Health Commission	23
Texas Commission on the Arts	29
Texas Food and Fibers Commission	35
Guadalupe-Blanco River Authority	39
Texas Historical Commission/Antiquities Committee	41
Texas State Library and Archives Commission	49
State Preservation Board	55
Public Utility Commission and Office of Public Utility Counsel	59
Texas Racing Commission	63
Equine Research Account Advisory Committee	67
Office of State-Federal Relations	71
Teacher Retirement System of Texas	77
Texas Workers' Compensation Commission	89
Texas Workers' Compensation Insurance Fund	101
Texas Workers' Compensation Research Center	109
Appendix	115



Summary

Summary

Efforts and recommendations of the Texas Sunset Advisory Commission for the 74th Legislature resulted in significant improvements to the operations of several agencies, the abolition and absorption of two agencies and the renewal of 14 others.

Virtually all of the Commission's recommendations were included in reauthorization measures as finally passed, with the exception of those for the Texas Racing Commission, which was held over for a second review and presentation of recommendations to the 75th Legislature.

Highlights of legislation based on the Sunset Commission's recommendations include:

- The largest pension increase in the history of the Teacher Retirement System of Texas, benefiting every education worker who retired before September 1, 1993, and weighted to provide the biggest increases to those teachers who had been retired longest--at the lowest pension rates. Average increase for all retirees was \$1,800 per year; average increase for a career education worker who retired prior to 1960 was \$5,500.
- A savings of approximately \$10 million per biennium resulting from increased accountability and performance incentives for state agencies in administering workers compensation benefits for state employees injured on the job. These savings are expected to continue in future budget periods, for a five-year total of \$26,730,000 and came as a result of the Sunset review of all three state workers' compensation entities--the Workers' Compensation Commission; Fund and Research Center.

The Sunset Commission's examination found the present Texas workers' compensation system sound and needing only fine tuning. Several months after the Sunset Workers' Compensation report, these findings were borne out by a report of the national Workers' Compensation Research Center.

- Merger of the Texas Workers' Compensation Research Center with the Workers' Compensation Legislative Oversight Committee to form the Research and Oversight Council, to improve the usefulness of information to decision makers on performance of the Texas system and establish early-warning mechanisms to anticipate and timely deal with future problems.
- Abolition of the vestigial Texas Antiquities Committee and simultaneous strengthening of Antiquities Code enforcement by the Texas Historical Commission, along with clarification and agreement on pre-notification requirements when public and private projects could potentially affect state archeological resources.
- Permanent stationing of a staff member of the Legislative Budget Board in Washington, D.C., to work with the Office of State-Federal Relations to protect federal funding to the State of Texas and provide an improved flow of decision-making information between Austin and the nation's capitol.
- Relief from outmoded, archaic regulation of Texas agriculture along with strengthening of needed regulation of pesticide

application; and consolidating authority for agriculture finance programs.

- Electronic access to state documents through development of an on-line index of all such available publications at the Texas State Library. In the months and years to come, this recommendation will help the state provide better access for taxpayers to vital state information via the electronic information superhighway.
- Elimination of potential conflicts of interest in awarding of equine research grants by the Texas Equine Research Advisory Committee.

In addition, the Sunset staff worked hand in hand with interim committees charged with updating functions of the Texas Public Utility Commission and Office of Public Utility Counsel. The Sunset Commission's review of these functions prepared for the 73rd Legislature was the starting point of the interim committees' work. Sunset Commission staff provided support throughout the process to bring this effort to fruition in the passage of S.B. 373 and H.B. 2128 which redefine the Public Utility Commission's role in regulation of the rapidly-changing electricity and telecommunications industries.

The Commission staff is proud to have contributed to decisions creating an infrastructure fund to provide needed technological advancements in the delivery of public and higher education and telemedicine in the years to come.

Although the 74th Legislature accepted and enacted nearly all the Sunset Commission's recommendations in 1995, work in the operational improvement of several agencies reviewed during 1994-95 continues.

In addition to the program of work set out in Appendix 1 on page 115, the Commission and staff will work closely with the Legislative Audit Committee toward successful completion of performance reviews of investment and insurance programs at the Teacher Retirement System, as mandated by the 74th Legislature.

The Sunset Commission staff will also monitor conclusion of remaining contracts with the State Preservation Board for refurbishing and new construction surrounding the historic renovation of the state capitol, presenting recommendations concerning the Preservation Board's duties to the 75th Legislature.

Further, all agencies reviewed during the 1994-95 budget cycle will be subject to Sunset Compliance Review to gauge their effectiveness in implementing legislative directives resulting from their 1994-95 Sunset Review. The State Auditor will also evaluate each agency's response to management recommendations included in most agency Sunset reports.

With enactment of all measures described in this report, the fiscal effect of all Sunset Advisory Commission adopted recommendations for the 1996-97 state budget periods will amount to \$47,683,700 in savings and efficiencies, or almost 50 times the annual \$1 million budget of the Commission. These fiscal effects, by agency and budget period, appear in the following chart.

Summary of Legislative Action 74th Legislature					
Agency	Bill	Senate Sponsor	House Sponsor	Action	Fiscal Impact 1996 - 2000
Texas Department of Agriculture	SB 372	Armbrister	Black	Continued	\$17,489,000
Texas Animal Health Commission	HB 2245	Sims/Armbrister	Black	Continued	No fiscal impact
Texas Commission on the Arts	SB 360	Montford	Telford	Continued	No fiscal impact
Texas Food and Fibers Commission	SB 371	Sims/Armbrister	Black	Continued	No fiscal impact
Guadalupe-Blanco River Authority	SB 361	Armbrister	Counts	Continued	No fiscal impact
Texas Historical Commission and Antiquities Committee	SB 365	Moncrief	Gray	Continued	No fiscal impact
	Abolished -- Functions Transferred				\$9,000
Texas State Library and Archives Commission	SB 366	Armbrister	Telford	Continued	\$15,700
State Preservation Board	SB 369	Moncrief	Black	Continued	No fiscal impact
Public Utility Commission Office of Public Utility Counsel	SB 373	Armbrister	Seidlits	Continued	**
Texas Racing Commission	HB 1305	Armbrister	Gray et. al.	*	No fiscal impact
Equine Research Account Advisory Committee	SB 368	Armbrister	Gray	Continued	No fiscal impact
Office of State-Federal Relations	HB 1399	Sibley	Gray	Continued	No fiscal impact
Teacher Retirement System	SB 9	Armbrister et. al	Gray/Junell	Continued	\$3,440,000
Texas Workers' Compensation Commission	HB 1089	Armbrister/ Montford	Brimer/ Counts/ Junell	Continued	\$26,730,000
Texas Workers' Compensation Insurance Fund	HB 1090	Armbrister\ Montford	Brimer\ Counts\ Junell	Continued	No fiscal impact
Texas Workers' Compensation Research Center	HB 1091	Armbrister\ Montford	Brimer\ Counts\ Junell	Continued	No fiscal impact
				TOTAL	\$47,683,700

* The Texas Racing Commission was continued for two years in S.B. 374. The agency will be reviewed again in the 1996-97 biennium.

** S.B. 373 contained major changes not attributable to continuation of the two agencies. Therefore, the fiscal impact of this legislation was not included in the impact summary.

Sunset Process

Sunset Process

The Sunset Act

The Texas Sunset Act (Chapter 325, Government Code) was passed by the 65th Legislature and went into effect in August 1977. The Sunset Act is a comprehensive law establishing a process to evaluate the necessity of state agencies. Most agencies under review are set for automatic termination, although a few agencies are exempt from automatic termination. A state agency is subject to the Sunset Act if it has a date for review or abolishment set in its statute. When a state agency is reviewed, all of its programs and functions are also evaluated and abolished unless specifically recreated.

Commission

The 10-member Sunset Advisory Commission has four members of the Senate and one public member appointed by the Lieutenant Governor, and four members of the House and one public member appointed by the Speaker of the House. The chairmanship rotates between the Senate and the House every two years.

Review Procedure

The Commission is required by law to review the agencies scheduled for termination. The Commission may also expand the scope of a Sunset review to include agencies not under review that overlap or duplicate the programs of the agency being reviewed. The Sunset Act sets specific timeframes for the review process and lists the criteria for determining whether a need for the agency exists and reviewing the operations of the agency. The Commission's report on an agency must include a recommendation to abolish or continue the agency and may also contain recommendations

to correct problems identified during the review.

Sunset Review Criteria

The Texas Sunset Act sets out specific criteria that must be considered when evaluating the need to continue an agency. The Sunset Act also requires all agencies and boards that are subject to review to submit a self-evaluation report to the Sunset Advisory Commission. The report must address each of the criteria set forth in the Sunset Act.

In addition, the Sunset Act requires the Commission's staff to evaluate each agency on the basis of the criteria contained in the law and to issue a report detailing the findings of the evaluation. A summary of the criteria established by the Sunset Act is provided on page 7.

Sunset Across-the-Board Recommendations

Using the criteria established by the Sunset Act for reviewing agencies, the Commission has developed specific overall standards to ensure that agencies meet these criteria. These Across-the-Board recommendations apply to all agencies regardless of their function, while licensing standards apply only to agencies or programs with a licensing function. These standards address common problems, particularly a lack of public representation on the board or commission, unresponsiveness to complaints filed by the public, absence of a standard approach to equal employment, and avoidance of legislative review of expenditures through the appropriations process. The Commission has developed and followed a policy of including these Across-the-Board recommendations in any legislation that

continues an agency. These recommendations are set out and briefly explained on page 8.

Continuing an Agency

If the Commission recommends that an agency be continued, the Commission must have legislation drafted for that purpose and to correct problems identified during the review. An agency is usually continued for 12 years, although shorter periods are sometimes recommended to deal with specific situations.

Legislative Action

Although not required by law, the Commission's legislative members traditionally sponsor the legislation to continue an agency. Once introduced, Sunset bills are considered by the Legislature in the same manner as all other legislation. However, for most agencies reviewed, legislation must pass to continue the agency or it is automatically abolished.

Terminating an Agency

If an agency is abolished, the Sunset Act provides a one-year period for the agency to wind down its operations.

Summary of Review Criteria

- Efficiency of operation.
- Extent to which statutory objectives have been achieved.
- Assessment of less restrictive or alternative methods of regulation.
- Extent to which existing advisory committees are needed and used.
- Extent of duplication or overlapping jurisdictions and possibilities for consolidation with other agencies.
- Whether the agency has recommended statutory changes that benefit the general public rather than regulated entities.
- Promptness and effectiveness with which the agency handles complaints.
- Extent to which the agency has encouraged participation by the public and the extent to which resulting rules are compatible with agency objectives.
- Extent of compliance with federal and state requirements regarding equality of employment opportunity and the rights and privacy of individuals.
- Extent to which changes are needed to the agency's statute to enable it to comply with Sunset criteria.
- Extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees.
- Extent to which the agency complies with the Open Records Act and the Open Meetings Act.
- Impact in terms of federal intervention or loss of federal funds if the agency is abolished.

Across-the-Board Recommendations

A. General

1. Require at least one-third public membership on state agency policymaking bodies.
2. Require specific provisions relating to conflicts of interest.
3. Prohibit persons required to register as a lobbyist from acting as general counsel to the agency or policymaking body or serving as a member of the policymaking body.
4. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
5. Specify grounds for removal of a member of the policymaking body.
6. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
7. Require the agency to establish career ladders.
8. Require a system of merit pay based on documented employee performance.
9. Provide for notification and information to the public concerning agency activities.
10. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
11. Require information to be maintained on complaints.
12. Require that all parties to written complaints be periodically informed in writing as to the status of the complaint.
13. Require development of an Equal Employment Opportunity policy.
14. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
15. Provide for public testimony at meetings of the policymaking body.
16. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
17. Require development of an accessibility plan and compliance with state and federal accessibility laws.
18. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
19. Require the agency to comply with the state's open meetings law and administrative procedures law.
20. Require training for members of policymaking bodies.

Across-the-Board Recommendations**B. Licensing**

1. Require standard time frames for licensees who are delinquent in renewal of licenses.
2. Provide for notice to a person taking an examination of the results of the examination within a reasonable time of the testing date.
3. Provide an analysis, on request, to individuals failing the examination.
4. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
5. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
6. Authorize the staggered renewal of licenses.
7. Authorize agencies to use a full range of penalties.
8. Specify disciplinary hearing requirements.
9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
10. Require the policymaking body to adopt a system of continuing education.

Analysis of Legislation

TEXAS DEPARTMENT OF AGRICULTURE



Texas Department of Agriculture

Final Action: The Department of Agriculture was continued for a 12-year period with changes.

S.B. 372 by Armbrister

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 372, as introduced, contained the Sunset Commission's recommendations for the Texas Department of Agriculture (TDA). All of the recommendations remained in the final version of the bill, along with a number of new provisions added by the Legislature. The major Sunset provisions in the final bill are discussed below.

Major Provision: Restructure and refocus the Agriculture Resources Protection Authority (ARPA) for pesticide regulation.

Based on the recommendation of the Sunset Commission, the Legislature added four additional Governor-appointed members to the Authority, as well as the directors of the Structural Pest Control Board and the State and Soil Water Conservation Board. The Legislature removed ARPA's authority to hear appeals of agency orders and approve the rules of agencies under its oversight. In addition, the Legislature required agencies subject to oversight to submit quarterly pesticide enforcement activity reports, along with providing the Authority the opportunity to review and comment on their strategic plans and appropriation requests.

Major Provision: Place all Texas agricultural finance programs under the Texas Agricultural Finance Authority and modify these programs.

The Legislature adopted the recommendation of the Sunset Commission to transfer the administration of all agricultural finance programs to the Texas Agricultural Finance Authority (TAFA). The Legislature also strengthened TAFA's authority by allowing the Board to approve the annual budgets of TAFA programs, conduct a cost benefit analysis of agricultural finance programs, and provide review and comment on TDA's strategic plan and appropriations request. In addition, the Legislature modified loan limits by lowering the maximums available. However, this provision is effective only if proposed constitutional amendments to maintain higher limits are rejected.

Major Provision: Remove statutory fee limits and require TDA to set fees to recover 100 percent of the cost of regulatory programs.

Based on the recommendation of the Sunset Commission, the Legislature removed specific fee limits and amounts in TDA's statutes and required the Department to set fees by rule. Since 1989, a rider in the Appropriations Bill has required the Department to set fees that

fully recover regulatory program costs. Statutory caps and limits were removed to allow the Department to meet this requirement. The Legislature modified the date this provision would take effect from January 1 to September 1, 1996, to better match language in the General Appropriations Act.

Major Provision: Authorize TDA to privatize official inspections of weighing and measuring devices.

The Legislature modified the Sunset Commission recommendation to expand a private licensure program currently authorized for the inspection of liquid petroleum gas meters and ranch scales. The Legislature authorized the Department to license private inspectors for the inspection of any weight or measure device, but only after TDA reaches performance goals set by the LBB for the existing private licensure programs. The provision requires that a repair offer be made before removing a device from service and that the initial inspection after a repair be free of charge.

Major Provision: Require TDA to establish a consolidated licensure and inspection process for grocery retailers.

The Legislature adopted provisions recommended by the Sunset Commission that allow grocery retailers to consolidate numerous required TDA licenses and inspections without reducing the level of regulation. This procedure reduces the amount of paperwork and inspections required to be in compliance with TDA regulations.

Major Provision: Require better coordination of egg regulation and inspections in Texas.

The Legislature adopted the Sunset Commission recommendation requiring the Texas Department of Health and the Department to adopt a memorandum of understanding to improve the coordination of egg regulation and inspections. The Legislature also required TDA to adopt egg standards equivalent to standards used by the U.S. Department of Agriculture and the federal Food and Drug Administration.

Major Provision: Repeal obsolete regulatory programs.

The Legislature modified the Sunset Commission recommendation to repeal TDA authority for low priority regulatory programs by expanding the number of programs repealed. Activities abolished included the licensure of butterfat testers, registration of cotton classers, brake fluid certification, and raw milk tank gauge testing.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of the final version S.B. 372 with the bill, as introduced, shows that all Sunset Commission specific program and across-the-board recommendations were included in the final bill. In addition, several provisions were added in the final version of S.B. 372.

Provisions Added by the Legislature

Added Provision: Consolidate administrative penalty provisions and expand the authority to other regulatory programs.

The Legislature adopted provisions that consolidate the administrative penalties for violations of TDA herbicide and pesticide regulations. The Legislature also authorized TDA to assess administrative penalties up to \$500 for violations related to organic certification, citrus standards, citrus coloring, rose grading, farmworker Right-to-Know laws, and aquaculture.

Added Provision: Authorize the Department to stagger pesticide registration renewals and exempt certain pesticide products from registration.

This provision will allow the Department to better use resources for the registration of pesticides. The Legislature adopted provisions to change pesticide product registration from

an annual to a biennial registration, authorize staggered registration renewals, and exempt pesticide products not required to be registered with the federal Environmental Protection Agency.

Fiscal Impact

The changes adopted by the Legislature will have a fiscal impact. The most significant fiscal impact to the general revenue fund will result from increased fee revenue due to 100 percent cost recovery for TDA regulatory programs, effective September 1, 1996. The annual net revenue gain from increased fee revenue is estimated to be \$4,390,510 in fiscal years 1997 - 2000. Removing the registration requirement for pesticide products not registered by the Environmental Protection Agency will result in an estimated loss to general revenue of \$10,000 per year. Additionally, adding six new members to the Agriculture Resources Protection Authority is expected to result in additional costs of \$4,608 per year.

The estimated fiscal implication of implementing the provisions of the bill during the first five years following passage is as follows:

Fiscal Year	Probably Cost Out of General Revenue Fund 001	Probable Revenue Gain/(Loss) to General Revenue Fund	Change in Number of State Employees from FY 1995
1996	\$4,608	(\$10,000)	0
1997	\$4,608	\$4,380,510	0
1998	\$4,608	\$4,380,510	0
1999	\$4,608	\$4,380,510	0
2000	\$4,608	\$4,380,510	0

Bill Summary Enrolled Version TEXAS DEPARTMENT OF AGRICULTURE S.B. 372 by Armbrister	
Bill Reference	Bill Provision
Article 1. General Provisions	
Page 3, Line 16	Authorizes the Department to adopt rules for the administration of all Agriculture Code Chapters under its jurisdiction.
Page 7, Line 23	Authorizes the Department to refuse to renew licenses for the same violations that they can deny an initial license.
Page 8, Line 17	Requires marketing associations that allow more than one vote per member to comply with Section 52.012 (a)(2) of the Agriculture Code.
Sunset Across-the-Board Recommendations Applied to the Texas Department of Agriculture	
Page 1, Line 12	Requires the Department's funds to be managed in accordance with the State Funds Reform Act. (ATB)
Page 2, Line 2	Requires the Commissioner or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based. (ATB)
Page 2, Line 7	Requires the Commissioner or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Department and requires intra-agency postings of job openings concurrently with any public posting. (ATB)
Page 2, Line 15 thru Page 3, Line 7	Requires the Commissioner or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB)
Page 3, Line 20 thru Page 4, Line 7	Requires the Department to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 4, Line 8	Entitles licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license. (ATB)

Bill Summary Enrolled Version TEXAS DEPARTMENT OF AGRICULTURE S.B. 372 by Armbrister	
Bill Reference	Bill Provision
Page 4, Line 20 thru Page 5, Line 2	Authorizes the Department to adopt a staggered license renewal system. (ATB)
Page 5, Line 8	Requires the Department to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Department's programs. (ATB)
Page 5, Line 18 thru Page 6, Line 4	Requires the Department to collect and maintain information about all complaints filed with the Department. (ATB)
Page 6, Line 5	Requires the Department to maintain files on written complaints that the Department has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition. (ATB)
Page 6, Line 19	Requires the Department to comply with the administrative procedures law. The Commissioner of Agriculture is an elected official and therefore is not subject to open meeting requirements. (ATB)
Page 6, Line 23 thru Page 7, Line 11 Page 17, Line 23	Requires the Department to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 7, Line 12 Page 17, Line 25 thru Page 18, Line 7	Authorizes the Department to waive any license requirements and grant a license to an applicant with a valid license from another state that has license requirements substantially equivalent to those of this state. (ATB)
Page 7, Line 18	Requires the Department to develop and administer voluntary continuing education programs for licensees. (ATB)
Sunset Across-the-Board Recommendations Applied to the Texas Agriculture Finance Authority	
Page 8, Line 25 thru Page 9, Line 2	Requires appointments to the Board be made without regard to race, color, disability, sex, religion, age or national origin. (ATB)
Page 9, Line 5	Requires the Governor to designate the presiding officer of the Board. (ATB)

Bill Summary Enrolled Version TEXAS DEPARTMENT OF AGRICULTURE S.B. 372 by Armbrister	
Bill Reference	Bill Provision
Page 9, Line 15	Requires the Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Board. (ATB)
Page 9, Line 19	Requires the Board to comply with the open meetings and administrative procedures laws. (ATB)
Page 9, Line 24 thru Page 10, Line 10	Prohibits Board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related Texas trade association. Also defines Texas trade association. (ATB)
Page 10, Line 11	Prohibits registered lobbyists from serving as a member of the Board or from being employed as the Board's general counsel. (ATB)
Page 10, Line 16 thru Page 11, Line 16	Defines the grounds for removing a Board member and requires notification of the Board's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the members. (ATB)
Page 11, Line 17	Requires the Board to inform its members of the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 11, Line 23 thru Page 12, Line 2	Requires the Board to clearly separate its policymaking responsibilities from the management responsibilities of the Commissioner and staff of the Department. (ATB)
Page 12, Line 3	Requires the Board members be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate. (ATB)
Sunset Across-the-Board Recommendations Applied to the State Seed and Plant Board	
Page 13, Line 3	Requires the Governor to designate the presiding officer of the Board. (ATB)
Page 13, Line 8	Requires appointments to the Board be made without regard to race, color, disability, sex, religion, age or national origin. (ATB)

Bill Summary Enrolled Version TEXAS DEPARTMENT OF AGRICULTURE S.B. 372 by Armbrister	
Bill Reference	Bill Provision
Page 13, Line 14	Prohibits Board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related Texas trade association. Also defines Texas trade association. (ATB)
Page 14, Line 1	Prohibits registered lobbyists from serving as a member of the Board or from being employed as the Board's general counsel. (ATB)
Page 14, Line 6 thru Page 15, Line 6	Defines the grounds for removing a Board member and requires notification of the Board's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the members. (ATB)
Page 15, Line 7	Requires the Board to inform its members of the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 15, Line 14	Requires the Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Board. (ATB)
Page 15, Line 17	Requires the Board to comply with the open meetings and administrative procedures laws. (ATB)
Page 15, Line 19	Requires the Board to clearly separate its policymaking responsibilities from the management responsibilities of the Commissioner and staff of the Department. (ATB)
Page 15, Line 24 thru Page 16, Line 18	Requires the Board members be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate. (ATB)
Page 17, Line 6	Requires the Department to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Sunset Across-the-Board Recommendations Applied to the Produce Recovery Fund Board	
Page 18, Line 10	Requires appointments to the Board be made without regard to race, color, disability, sex, religion, age or national origin. (ATB)

Bill Summary Enrolled Version TEXAS DEPARTMENT OF AGRICULTURE S.B. 372 by Armbrister	
Bill Reference	Bill Provision
Page 18, Line 13	Requires the Governor to designate the presiding officer of the Board. (ATB)
Page 18, Line 16	Requires the Board to comply with the open meetings and administrative procedures laws. (ATB)
Page 19, Line 4	Requires the Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Board. (ATB)
Page 19, Line 8	Requires the Board to clearly separate its policymaking responsibilities from the management responsibilities of the Commissioner and staff of the Department. (ATB)
Page 19, Line 15 thru Page 20, Line 1	Prohibits Board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related Texas trade association. Also defines Texas trade association. (ATB)
Page 20, Line 2	Prohibits registered lobbyists from serving as a member of the Board or from being employed as the Board's general counsel. (ATB)
Page 20, Line 7 thru Page 21, Line 7	Defines the grounds for removing a Board member and requires notification of the Board's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the members. (ATB)
Page 21, Line 8	Requires the Board to inform its members of the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 21, Line 14 thru Page 22, Line 8	Requires the Board members be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate. (ATB)
Article 2. Fees	
Page 22, Line 12 thru Page 47, Line 5 Page 106, Line 5	Removes fee limits for regulatory programs, allows exemption for certain programs designated by appropriation rider, and moves the effective date for the provision from 1/1/96 to 9/1/96 to conform with the appropriations act.

Bill Summary Enrolled Version TEXAS DEPARTMENT OF AGRICULTURE S.B. 372 by Armbrister	
Bill Reference	Bill Provision
Page 23, Line 16 thru Page 25, Line 11	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 34, Line 20 Page 35, Line 3 Page 35 Line 15 Page 35, Line 23	Requires Nursery/Floral products imported into Texas to be inspected and identified as inspected if the exporting Country or State requires the same of Texas products. Provides for inspection fees to be set by Department rule.
Article 3. Hearings	
Page 47, Line 11 thru Page 74, Line 22 Page 106, Line 11	Transfers administrative hearings to the State Office of Administrative Hearings, but exempts Produce Recovery Fund claims from the transfer.
Page 49, Line 21 thru Page 57, Line 14	Consolidates pesticide and other administrative penalty authority language and expands the authority to include enforcement of other Agriculture Code chapters administered by TDA.
Article 4. Weights and Measures	
Page 75, Line 6 thru Page 83, Line 5 Page 106, Line 23 thru Page 107, Line 7	Requires TDA to enter into interagency contracts for weighing and measuring device inspections when practical and cost-effective. Requires inspectors to offer repair for fee before removing the device from service. Requires the first inspection after a device was removed from service to be provided free of charge. A detail written estimate of the cost to repair the device must be provided.
Article 5. Texas Agriculture Finance Authority	
Page 83, Line 11 thru Page 87, Line 18 Page 88, Line 15 thru Page 89, Line 17	Transfers responsibility for administering the Linked Deposit, Agricultural Diversification Grant, and Rural Microenterprise Loan programs to TAFA.
Page 87, Line 24 thru Page 88, Line 8	Authorizes the Department to establish loan priorities for the Linked Deposit Program to encourage emphasis on the value-added processing industry and geographical diversity.

Bill Summary Enrolled Version TEXAS DEPARTMENT OF AGRICULTURE S.B. 372 by Armbrister	
Bill Reference	Bill Provision
Page 90, Line 4 Page 91, Line 15 thru Page 92, Line 10 Page 93, Line 6 Page 93, Line 15 Page 108, Line 9	Strengthens the Texas Agricultural Finance Authority. Allows the Board to approve the budget of TAFE programs. Provides for review and comment by TAFE on the Department's strategic plan and appropriations request.
Page 92, Line 13 thru Page 93, Line 3	Requires TDA and TAFE to conduct a biennial cost/benefit study of each agricultural business finance program and submission of a report for review to the State Auditor by the chairman of the Board.
Page 93, Line 25 thru Page 94, Line 4 Page 94, Line 7 Page 108, Line 25 thru Page 109, Line 7	Strengthens protection of the TAFE Loan Guaranty Program.
Article 6. Agriculture Resources Protection Authority	
Page 95, Line 13 thru Page 101, Line 6 Page 107, Line 8 Page 108, Line 9	Restructures ARPA by adding four additional Governor-appointed members and the Directors of the Structural Pest Control Board and the State Soil and Water Conservation Board. Removes ARPA's authority to hear appeals of agency orders and approval of agency rules. Allows action based on a quorum of present members, and allows designees to act in place of appointees.
Page 101, Line 17	Modifies existing state law to eliminate the need to register non-EPA registered pesticide products.
Page 101, Line 23 thru Page 102, Line 3 Page 107, Line 22	Authorizes the Department to implement a biennial, instead of annual, pesticide product registration program. Authorizes the Department to stagger the registration of pesticide products.
Article 7. Egg regulation	
Page 102, Line 12 Page 103, Line 4 Page 103, Line 11 thru Page 104, Line 2 Page 104, Line 15	Requires standard egg regulations but eliminates requirement to have the Attorney General approve rules and the publication by TDA of egg statistics. Expands the MOU beyond egg regulation to include ways to eliminate all conflicting food regulation requirements.

Bill Summary Enrolled Version TEXAS DEPARTMENT OF AGRICULTURE S.B. 372 by Armbrister	
Bill Reference	Bill Provision
Article 8. Consolidated Licensing	
Page 104, Line 21 thru Page 105, Line 20	Requires TDA to consolidate multiple licenses and negotiate inter-agency contracts to conduct inspections of weighing and measuring devices.
Article 9. Sunset Provision	
Page 106, Line 2	Continues the Texas Department of Agriculture for 12 years.
Article 10. Repealers	
Page 109, Line 8	Abolishes low priority TDA regulatory programs. Included among these programs are the following: Cotton Classer, Egg Retailer, Antifreeze, Agriculture Development Corporations, Butterfat Testers, and packaged weight standards for processed grain.
Page 110, Line 6	Establishes the effective date of the Act as September 1, 1995.
Page 110, Line 8	Emergency Clause.

TEXAS ANIMAL HEALTH COMMISSION

Texas Animal Health Commission

Final Action: The Texas Animal Health Commission was continued for a 12-year period with changes.

H.B. 2245 by Black

Analysis of Major Sunset Provisions in the Final Bill

House Bill 2245, as introduced, contained the Sunset Commission's original recommendations for the Texas Animal Health Commission (TAHC). Many of these recommendations remained in the final version of the bill. The major provisions in the final bill are discussed below.

Major Provision: Strengthen enforcement authority by authorizing the Commission to use administrative penalties for violations.

The Legislature modified the Sunset Commission's recommendation regarding strengthening TAHC enforcement authority. The Legislature adopted standard language authorizing the use of administrative penalties in enforcing animal health regulations. The language provides for a maximum penalty of \$1,000 per day per violation. The Legislature clarified the basis for assessing a penalty by explicitly stating an amount cannot be based on a per head basis.

Major Provision: Provide the Commission with specific authority for the regulation of exotic livestock and fowl.

The Legislature adopted the recommendation of the Sunset Commission for standardizing animal health regulations of exotic and traditional livestock. The Legislature extended existing statutory authority for traditional livestock to exotic livestock including quarantine, recordkeeping, and inspection authority. The recommendation also extended criminal penalty authority for violations of animal health rules and regulations to exotic livestock.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of H.B. 2245 with the original Sunset bill, as introduced, shows that all standard Sunset Commission across-the-board recommendations proposed by the Commission were included in the final bill. However, two of the Sunset Commission's specific recommendations were removed during the legislative process.

Provisions Deleted by the Legislature

Deleted Provision: Provide TAHC with fee authority and require the development of a cost-recovery fee schedule.

The Sunset Commission recommended authorizing TAHC to set and collect fees to recover the costs of administering animal health programs. The recommendation included a requirement that the Commission submit a cost-recovery fee schedule with their Legislative Appropriations Request and allowed certain programs to be exempt from fees. The Legislature did not enact these provisions because animal health programs were perceived as benefiting both producers and consumers. Additionally, a Commission fee study in response to an appropriation rider was unable to identify an equitable fee structure that could be assessed industry wide.

Deleted Provision: Authorize the registration of livestock dealers to improve animal disease control efforts.

The Sunset Commission recommended that TAHC register livestock dealers to improve the ability to trace diseased animals back to the herd of origin. The recommendation also provided for a registration fee to pay for the cost of administering the registration program. The Legislature did not enact these provisions because of an existing dealer registration program administered by the USDA Packers and Stockyards program and the increased penalty authority provided to the Commission to assist with tracebacks.

Fiscal Impact

The fiscal impact to the state could not be estimated. The provision authorizing the Commission to use administrative penalties is permissive, therefore the penalties assessed and resulting revenue to the General Revenue Fund cannot be determined.

Bill Summary Enrolled Version TEXAS ANIMAL HEALTH COMMISSION H.B. 2245 by Black	
Bill Reference	Bill Provision
Page 1, Line 12 Page 11, Line 16	Authorize the Texas Animal Health Commission to enter into cooperative agreements with the Texas Department of Agriculture for the use of its livestock export pens for animal health purposes.
Page 1, Line 18 Page 8, Line 26 thru Page 9, Line 6 Page 9, Line 26 thru Page 10, Line 2 Page 10, Line 13 Page 10, Line 23 Page 11, Line 3 Page 11, Line 20 Page 12, Line 1 Page 12, Line 6 Page 12, Line 15 Page 12, Line 22 Page 13, Line 13 Page 13, Line 24 Page 14, Line 4 Page 14, Line 8 Page 14, Line 17 Page 14, Line 20 Page 14, Line 26 Page 15, Line 2 Page 15, Line 7 Page 15, Line 11 Page 15, Line 25 Page 16, Line 12	Strengthen regulation of exotic livestock and fowl diseases in Texas.
Page 2, Line 14	Requires the Commission funds to be managed in accordance with the State Funds Reform Act. (ATB)
Page 2, Line 21	Requires appointments to the Commission be made without regard to race, color, disability, sex, religion, age or national origin. (ATB)
Page 2, Line 23 thru Page 3, Line 9	Prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)

Bill Summary Enrolled Version TEXAS ANIMAL HEALTH COMMISSION H.B. 2245 by Black	
Bill Reference	Bill Provision
Page 3, Line 12 thru Page 4, Line 11	Requires the Commission members be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate. (ATB)
Page 4, Line 14	Requires the Governor to designate the presiding officer of the Commission. (ATB)
Page 4, Line 23	Continue the Texas Animal Health Commission for 12 years.
Page 5, Line 1	Defines the grounds for removing a Commission member and requires notification of the Commission's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists.
Page 5, Line 11	Requires the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the executive director and staff of the commission. (ATB)
Page 5, Line 18	Requires the executive director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the commission and requires intra-agency postings of job openings concurrently with any public posting. (ATB)
Page 5, Line 23	Requires the executive director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based. (ATB)
Page 6, Line 6	Requires the executive director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB)
Page 7, Line 8	Requires the Commission to prepare an annual financial report that meets the reporting requirements in the appropriations act. (ATB)
Page 7, Line 18	Requires the Commission to maintain files on written complaints that the agency has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition. (ATB)

Bill Summary Enrolled Version TEXAS ANIMAL HEALTH COMMISSION H.B. 2245 by Black	
Bill Reference	Bill Provision
Page 8, Line 2	Requires the Commission to collect and maintain information about all complaints filed with the commission. (ATB)
Page 8, Line 17 Page 9, Line 21	Requires the Commission to comply with the open meetings and administrative procedures laws. (ATB)
Page 9, Line 7	Requires the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the commission's programs. (ATB)
Page 9, Line 13	Require the Texas Animal Health Commission to consult with the Council on Competitive Government to privatize those services it provides that are available in the private sector, particularly laboratory services.
Page 16, Line 19 thru Page 21, Line 6	Authorizes Commission use of administrative penalties. Establishes the penalty process and clarifies that a penalty shall not be based on a per head basis.
Page 24, Line 4	Specifies that a public member of the Commission appointed prior to September 1, 1995 is governed by the law in effect when the appointment was made.
Page 24, Line 10	Specifies that the changes made related to a member of the Commission apply only to a member appointed on or after September 1, 1995.
Page 24, Line 16	Specifies that the changes made by the Act related to offenses committee applies only to an offense committed on or after the effective date of this Act.
Page 24, Line 24	Establishes the effective date of the Act as September 1, 1995.
Page 24, Line 25	Emergency Clause.

TEXAS COMMISSION ON THE ARTS



Texas Commission on the Arts

Final Action: The Texas Commission on the Arts was continued for a 12-year period with changes.

S.B. 360 by Montford

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 360, as introduced, contained the Sunset Commission's recommendations for the Texas Commission on the Arts. All of these recommendations remained in the final version of the bill, along with a new provision added by the Legislature. The main provisions in the final bill are discussed below.

Major Provision: Require that at least two members of the 18-member Commission be from rural counties with a population less than 50,000.

Based on a recommendation of the Sunset Commission, the Legislature added a requirement to help the Commission remain sensitive to the needs of the rural areas and aware of the important opportunities for the arts in rural Texas. The bill required that at least two members of the 18-member Commission be selected from residents of the state's rural counties.

Major Provision: Require the Commission to establish formal coordination agreements with related state agencies.

Based on the recommendation of the Sunset Commission, the Legislature required the Texas

Commission on the Arts to negotiate interagency coordination agreements with related state agencies. The agreements were recommended to ensure that state agencies' policies compliment instead of duplicate each other. Agreements were required between TCA and the following: the Texas Education Agency concerning the Arts in Education program in public schools; the Texas Music, Film, Television and Multimedia Office concerning work with the Texas music and film industries; and the Texas Department of Commerce, Texas Department of Transportation and the Texas Department of Parks and Wildlife concerning state tourism promotion efforts. The agreements must be adopted by each agency board and published in the Texas Register.

Major Provision: Authorize a public hearing on applying the state Percent for the Arts provision when agencies propose the construction of new state buildings.

Based on a recommendation of the Sunset Commission, the Legislature modified the provisions concerning setting aside a portion of state construction project costs to buy art for a new state building (Percent for the Arts). The change authorized a voluntary hearing regarding the benefits of implementing the Percent for Arts provision. Joint public hearings with an agency that proposes a building, the General Services Commission

(which oversees the building project), and TCA were intended to provide additional information about the cost and benefits of incorporating art in the building design. The agency proposing the building retains the decision on whether to include art in its proposal while the Legislature retains the final authority on spending through the appropriation process.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of SB 360 with the original Sunset bill, as introduced, shows all Sunset Commission recommendations and across-the-board provisions were included in the final bill. One provision was added by the Legislature which was not raised during the Sunset review process.

Provision Added by the Legislature

Added Provision: Prohibit the Texas Commission for the Arts from funding or promoting projects which include obscene material.

The Legislature added a provision that explicitly prohibits the Commission from knowingly promoting, encouraging, or funding any project that includes obscene material as defined by the Texas Penal Code.

Fiscal Impact

The legislation will not result in any fiscal impact to the state.

Bill Summary Enrolled Version TEXAS COMMISSION ON THE ARTS S.B. 360 by Montford	
Bill Reference	Bill Provision
Page 1, Line 10	Continues the Texas Commission on the Arts for the usual 12 year period.
Page 1, Line 12	Technical change to update statutory citations regarding compliance with open meetings and administrative procedure law.
Page 1, Line 23 through Page 2, Line 1	Requires that at least two of the 18 Commission members must be residents of a rural county with a population under 50,000.
Page 2, Line 2	Requires that appointments to the Commission be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 2, Line 5	Prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the Commission, or otherwise has financial ties to the regulated industry. (ATB)
Page 2, Line 16	Requires the Governor to designate the chair of the Commission. (ATB)
Page 2, Line 23 through Page 3, Line 4	Prohibits registered lobbyists from serving as a member of the Commission or from being employed as general counsel to the Commission. (ATB)
Page 3, Line 5 Page 4, Line 20	Prohibits Commission members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 3, Line 22 through Page 4, Line 19	Defines grounds for removing a Commission member and requires the director to notify the Commission chair if knowledge that a potential ground for removal exists. Affirms that an action of the Commission is valid even if it is taken when a ground for removal exists. (ATB)
Page 5, Line 2	Requires the Commission to develop and implement policies that clearly define the respective responsibilities of the Commission and the staff. (ATB-Updated)
Page 5, Line 13	Requires the Commission to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB-Updated)

Bill Summary Enrolled Version TEXAS COMMISSION ON THE ARTS S.B. 360 by Montford	
Bill Reference	Bill Provision
Page 5, Line 23 thru Page 6, Line 4	Requires the director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 6, Line 7	Requires the director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 6, Line 13 thru Page 8, Line 2	Requires the director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 8, Line 5	Requires the Commission to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 8, Line 14	Requires the Commission to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 8, Line 21 thru Page 9, Line 12	Requires the Commission to maintain files on complaints. (ATB)
Page 9, Line 17 thru Page 10, Line 1	Requires that all parties to written complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 11, Line 4	Prohibits the Commission from knowingly promoting or funding any project which contains obscene material as defined by the Penal Code.
Page 11, Line 9	Requires the Commission to develop a plan that describes how non-English speaking persons can be provided reasonable access to the commission's programs. Also requires the Commission to comply with federal and state laws for program and facility accessibility. (ATB)
Page 11, Line 15 thru Page 12, Line 15	Requires the Commission to establish a training program for its members and specifies the required components of that training. (ATB)
Page 12, Line 18	Requires the Commission to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)

Bill Summary Enrolled Version TEXAS COMMISSION ON THE ARTS S.B. 360 by Montford	
Bill Reference	Bill Provision
Page 12, Line 23	Requires that all Commission funds, except those in the Cultural Endowment Fund, must be deposited to the State Treasury. (ATB-Modified)
Page 13, Line 3 thru Page 14, Line 1	Requires TCA to negotiate memoranda of understanding with the Texas Education Commission; Music, Film, Television, and Multimedia Office; Texas Department of Commerce; Texas Parks and Wildlife Department; and Texas Department of Transportation.
Page 14, Line 8 thru Page 15, Line 16	Modifies the existing process for planning the construction of a new state building. TCA is required to work with the General Services Commission to establish a voluntary public hearings procedure to evaluate the costs and benefits of dedicating funds for art for the building. The provision requires any agency that proposes a new building to determine early in the planning whether to dedicate funds for art for the building and clarifies that agencies may consult with TCA in this planning. TCA and GSC are required to formalize the guidelines of this process through a memorandum of understanding.
Page 16, Line 3	Instructional provision specifying that the changes in law made by this bill relating to qualifications and prohibitions do not affect the current members of the Commission during their current term of appointment.
Page 16, Line 14	Specifies the effective date of the Act.
Page 16, Line 15	Emergency clause.

TEXAS FOOD AND FIBERS COMMISSION



Texas Food and Fibers Commission

Final Action: The Texas Food and Fibers Commission was continued and removed from the Sunset review process.

S.B. 371 by Sims, Armbrister

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 371, as introduced, contained the Sunset Commission's recommendations for the Texas Food and Fibers Commission. All of these recommendations remained in the final version of the bill. The one major provision in the final bill is discussed below.

Major Provision: Continue the Texas Food and Fibers Commission and remove it from continued review through the Sunset process.

The Legislature adopted the Sunset Commission's recommendation to continue the Texas Food and Fibers Commission (TFFC) and remove its Sunset review date, thus allowing TFFC to continue without another Sunset review in 12 years. In making its recommendation, the Commission determined that the Texas Food and Fibers Commission had one main function, to fund research and development projects at higher education institutions. Other legislative oversight agencies, the State Auditor and the Legislative Budget Board, can adequately monitor this funding activity; therefore, Sunset oversight is no longer needed.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of S.B. 371 with the original Sunset bill as introduced shows that, in addition to the one major provision, all Sunset Commission across-the-board recommendations were included in the final bill.

Fiscal Impact

This legislation will not result in any fiscal impact to the state.

Bill Summary Enrolled Version FOOD AND FIBERS COMMISSION S.B. 371 by Sims, Armbrister	
Bill Reference	Bill Provision
Page 1, Line 13	Removes the Texas Food and Fibers Commission from Sunset review.
Page 1, Line 21 thru Page 2, Line 3	Prohibits registered lobbyists from serving as a member of the board or from being employed as the commission's general counsel. (ATB)
Page 2, Line 7 Page 2, Line 11	Requires the Commission to file an annual report that meets the reporting requirements in the appropriations act. (ATB)
Page 2, Line 15	Requires the Commission's funds to be managed in accordance with the State Funds Reform Act. (ATB)
Page 2, Line 21	Requires the executive director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 3, Line 3	Requires the executive director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit increases must be based. (ATB)
Page 3, Line 6	Requires the Commission to inform its members and employees of the qualifications for office or employment and each person's responsibility under the law. (ATB)
Page 3, Line 17 thru Page 4, Line 9	Requires the executive director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the governor's office. (ATB)
Page 4, Line 11	Requires the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the Commission and staff of the Commission. (ATB)
Page 4, Line 15	Requires the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. (ATB)

Bill Summary Enrolled Version FOOD AND FIBERS COMMISSION S.B. 371 by Sims, Armbrister	
Bill Reference	Bill Provision
Page 4, Line 25 thru Page 5, Line 14	Prohibits Commission members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines Texas trade association. (ATB)
Page 6, Line 6	Requires the Commission to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 6, Line 10	Requires that all parties to written complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 7, Line 1	Requires the Commission to collect and maintain information about all complaints filed with the commission. (ATB)
Page 7, Line 13	Requires the Commission to comply with the open meetings and administrative procedures laws. (ATB)
Page 7, Line 16	Effective date.
Page 7, Line 17	Emergency clause.

GUADALUPE-BLANCO RIVER AUTHORITY



Guadalupe-Blanco River Authority

Final Action: The Guadalupe-Blanco River Authority was continued and removed from review under the Texas Sunset Act.

S.B. 361 by Armbrister

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 361, as introduced, contained the Sunset Commission's recommendation for the Guadalupe-Blanco River Authority (GBRA). The bill was not modified by the Legislature.

Major Provision: Continue the terms of the current members of the Guadalupe-Blanco River Authority Board of Directors and remove the Board from review under the Sunset Act.

Fiscal Impact

This legislation will not result in a fiscal impact to the state.

This change continues the Authority and its Board of Directors and removes the Sunset date, allowing the Authority to exist without the requirement of another Sunset review in 12 years. This recommendation recognizes the recent changes in direction and management of GBRA and returns oversight of the river authority to the Texas Natural Resource Conservation Commission.

Bill Summary Enrolled Version GUADALUPE-BLANCO RIVER AUTHORITY S.B. 361 by Armbrister	
Bill Reference	Bill Provision
Page 1, Line 4	Removes the Board of Directors of the Guadalupe-Blanco River Authority from the Sunset Act.
Page 1, Line 6	Effective date is September 1, 1995.
Page 1, Line 7	Emergency Clause.

TEXAS HISTORICAL COMMISSION/ANTIQUITIES COMMITTEE



Texas Historical Commission and Antiquities Committee

Final Action: The Texas Historical Commission was continued for a 12-year period with changes. The Antiquities Committee was abolished.

S.B. 365 by Moncrief

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 365, as introduced, contained the Sunset Commission's recommendations for the Texas Historical Commission (THC) and Antiquities Committee. With some modifications, all of these recommendations remained in the final version of the bill. The major provisions in the final bill are discussed below.

Major Provision: Abolish the Texas Antiquities Committee and transfer the responsibilities of the Committee for the Texas Antiquities Code to THC.

Enacted by the Legislature as recommended by Sunset, the bill continues the Texas Antiquities Code and the activities mandated by that code but moves responsibility for those activities to THC. One agency will be the focal point for efforts to protect the state's historic and archeological heritage. THC also may appoint ad hoc advisory committees to consider matters related to the antiquities code and to make recommendations to the full Commission.

Major Provision: Change the Historical Commission's composition to provide expertise in archeology, architecture, and history. In addition, require rural representation on the Commission.

As also recommended by the Sunset Commission, the Governor is now required to appoint a professional archeologist, a licensed architect, and a professional historian to the Historical Commission. In addition, two members of the 18-member Commission must be from rural counties with a population of less than 50,000. This recommendation ensures that THC has adequate expertise to carry out the Antiquities Committee's functions, benefits THC's traditional activities, and assures that rural areas of the state continue to be represented in the Commission's decisions.

The three members with expertise will be appointed as soon as commission seats become available. The Commission already has two professional historians and three members from rural counties.

Major Provision: Require notification prior to construction or excavation of projects that could impact archeological sites on state and local public property.

As modified by the Legislature, this Sunset recommendation further protects the state's archeological resources by ensuring that THC is notified before projects have impacted designated state archeological landmarks or other significant archeological sites on property owned by the state or its political subdivisions. The agency must adopt rules implementing the notification process to ensure adequate public input on making the process as efficient as possible. The Legislature exempted from prior notification requirements certain activities that normally do not pose threats to archeological resources, including oil and gas activities on already disturbed public land. Regardless of their nature, however, all project sponsors must still notify the Commission when they discover an archeological site on public land. In addition, the Legislature made the recommendation more flexible by allowing a state agency or local government and the Commission to enter into a memorandum of understanding that tailors the notice requirements to their particular situations.

Major Provision: Require the Historical Commission to develop a state register listing all the sites that the Commission has officially designated as historic or archeological landmarks.

Based on a recommendation of the Sunset Commission, the Historical Commission must develop a state register of historic places and archeological sites within existing statutory provisions and report back to the 75th Legislature with recommendations to eliminate gaps, inconsistencies, and duplication in the

state's preservation policies. The Commission was also authorized to adopt rules as necessary to develop and implement the state register. The legislation does not set a deadline for the state register to be in place.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of S.B. 365 with the original Sunset bill as introduced shows that all the Sunset Commission's specific recommendations and proposed standard, across-the-board recommendations were included in the final bill. The Legislature made changes to one of the recommendations and added several new provisions.

Added Provision: Require the Historical Commission and the Parks and Wildlife Commission to jointly study the possibility of transferring various historical sites currently under the management and control of the Parks and Wildlife Department to THC.

The study must consider the costs and benefits of the potential transfer of each individual site. Funding considerations and public comments must also be considered. The Texas Historical Commission and the Parks & Wildlife Commission must report the results of the study, and a proposed transfer schedule if the two agencies agree to transfer any sites, to the 75th Legislature.

Added Provision: Allow the Commission to develop tourism in the state by promoting historical sites.

The added provision broadens the purpose section of the Historical Commission statute from a narrow requirement to stimulate the development of historical resources to a broader purpose which includes the promotion of historic sites and structures through coordinated effort to encourage tourism.

Added Provision: Require the Commission to identify historic military sites for possible designation as landmarks.

The Commission must identify historically important military sites both in and outside of Texas that are of significance to Texas. The Commission may also designate or encourage the designation of these sites through existing history programs.

Added Provision: Require anyone who desires to nominate a building or site owned by a political subdivision as a *State Archeological Landmark* to provide advance notice of the nomination in a local newspaper.

An individual or a private group that wishes to nominate a building or site owned by a political subdivision as a state archeological landmark is required to publish advance notice of the nomination in a local newspaper. The Commission may not consider any building or site for designation as a state archeological landmark unless proof of advance notice has been supplied by the applicant.

Fiscal Impact

A small gain to the General Revenue Fund results from the merger of the Antiquities Committee with the Historical Commission. This provision eliminates the per diem and other travel expenses incurred by the three citizen members of the Antiquities Committee but does not increase the membership of the Historical Commission.

Fiscal Year	Gain to General Revenue Fund
1996	\$1,800
1997	\$1,800
1998	\$1,800
1999	\$1,800
2000	\$1,800

Bill Summary Enrolled Version TEXAS HISTORICAL COMMISSION AND ANTIQUITIES COMMITTEE S.B. 365 by Moncrief	
Bill Reference	Bill Provision
Page 1, Line 10	Changes the composition of the 18-member Texas Historical Commission (THC) by requiring it to have at least one professional archeologist, one professional historian, and one licensed architect with expertise in historical preservation and architectural history.
Page 1, Line 13 thru Page 2, Line 1	Requires five-sixths of the members on the Commission to be public members and prohibits appointment as a public member if the person or the person's spouse conducts business with THC or receives substantial benefits from the agency. (ATB)
Page 2, Line 12	Requires two members of the Commission to be from rural counties with under 50,000 population.
Page 2, Line 15	Prohibits registered lobbyists from serving as a member of the Commission or from being employed as the Commission's general counsel. (ATB)
Page 2, Line 22 thru Page 3, Line 3	Deletes old language defining the grounds for removal of a Commission member. This provision is updated and replaced in Sec. 442.0023.
Page 3, Line 8	Requires the Governor to designate the presiding officer of the Commission. (ATB)
Page 3, Line 18	Requires the Commission to comply with the open meetings and administrative procedure laws. (ATB)
Page 3, Line 22 thru Page 4, Line 4	Requires the Commission to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of THC. (ATB)
Page 4, Line 8	Continues the Texas Historical Commission until 2007.
Page 4, Line 9	Requires that appointments to the Commission be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 4, Line 15 thru Page 5, Line 13	Requires Commission members to be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate. (ATB)

Bill Summary Enrolled Version TEXAS HISTORICAL COMMISSION AND ANTIQUITIES COMMITTEE S.B. 365 by Moncrief	
Bill Reference	Bill Provision
Page 5, Line 14 thru Page 6, Line 10	Prohibits Commission members or their spouses and THC employees compensated at or above salary group 17 or their spouses from being an officer, employee, or paid consultant of a related Texas trade association. Also defines Texas trade association. (ATB)
Page 6, Line 11 thru Page 7, Line 12	Defines the grounds for removing a Commission member and requires notification of the Commission's presiding officer, the Governor, and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of Commission is valid even if it is taken when a ground for removal exists for one of the members. (ATB)
Page 8, Line 8	Requires the Commission to inform its members and employees of their qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 8, Line 16	Requires THC's executive director or a designee to develop an intra-agency career ladder program that addresses advancement opportunities for employees within the THC and requires intra-agency postings of job openings concurrently with any public posting. (ATB)
Page 9, Line 1	Requires THC's executive director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based. (ATB)
Page 9, Line 4 thru Page 10, Line 16	Requires THC's executive director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, filed with the Governor's office, and reported to the Legislature. (ATB)
Page 11, Line 2	Requires the Commission to clearly separate its policymaking responsibilities from the management responsibilities of THC's executive director and staff. (ATB)
Page 11, Line 15	Makes THC responsible for administering the Texas Antiquities Code and directs THC to establish working relationships among parties interested in history, architecture, and archeology.

Bill Summary Enrolled Version TEXAS HISTORICAL COMMISSION AND ANTIQUITIES COMMITTEE S.B. 365 by Moncrief	
Bill Reference	Bill Provision
Page 11, Line 24 thru Page 12, Line 14, Page 26, Line 25 thru Page 27, line 4	Deletes the requirement that THC provide the General Services Commission (GSC) with a list of owners of available historic structures suitable for state purchase or lease.
Page 12, Line 20	Allows the Commission to set up advisory committees to advise it on historical and archeological matters.
Page 12, Line 24 thru Page 13, Line 1	Allows the Commission to develop tourism in the state by promoting historic sites.
Page 13, Line 4	Requires THC to develop a state register of official historical and archeological designations and grants rulemaking authority to implement the register.
Page 13, Line 13 thru Page 14, Line 20	Requires THC to identify historic military sites for possible designation as landmarks.
Page 14, Line 24 thru Page 15, Line 8	Requires THC to prepare and distribute information to the public concerning THC's functions and complaint procedures. (ATB)
Page 15, Line 9	Requires THC to collect and maintain information about all complaints filed with the agency. (ATB)
Page 15, Line 22 thru Page 16, Line 8	Requires THC to maintain files on written complaints that the Commission has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition. (ATB)
Page 16, Line 11	Requires THC to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to THC's programs. (ATB)
Page 16, Line 19 thru Page 17, Line 1	Requires the THC to prepare an annual financial report that meets the reporting requirements in the appropriations act. (ATB)

Bill Summary Enrolled Version TEXAS HISTORICAL COMMISSION AND ANTIQUITIES COMMITTEE S.B. 365 by Moncrief	
Bill Reference	Bill Provision
Page 17, Line 5 thru Page 18, Line 13	Makes the Texas preservation trust fund a separate account in the General Revenue Fund. Dedicates interest and other income received by the trust fund account to the account. Dedicates expenditures from the account to historic architectural and archeological projects.
Page 18, Line 16	Requires THC's funds to be managed in accordance with the State Funds Reform Act by having them held in the state treasury. (ATB)
Page 20, Line 3 thru Page 24, Line 2	Requires projects on state or local public land to notify THC before breaking ground. Provides categorical exclusions and threshold exemptions for projects unlikely to affect archeological sites. Requires all projects to notify THC of any discovery of significant archeological deposits. Imposes deadlines for agency responses to project notifications and discoveries of archeological sites. Requires the Commission to adopt rules implementing this section.
Page 24, Line 6 thru Page 25, Line 2	Requires an individual or a private group that desires to nominate a building or site owned by a political subdivision as a state archeological landmark to give advance notice of the nomination in a local newspaper.
Page 25, Line 19 thru Page 26, Line 1	Authorizes local property tax exemptions for privately owned archeological sites that have been designated as landmarks by the state or a local governing body.
Page 26, Line 19 Page 28, Line 17	Requires GSC to give first consideration to designated historic buildings in purchasing or leasing real property for use by the state.
Page 27, Line 5	Removes the requirement that GSC include in a project analysis for new construction information related to the rejection of a historic building.
Page 29, Line 6	Requires THC to report to the 75th Legislature on the development of a state register of historic places.
Page 29, Line 13	Requires the Governor to appoint members with newly mandated expertise or who come from rural counties as soon as vacancies on the Commission occur. Exempts current Commission members from training requirement and conflict-of-interest prohibition.

Bill Summary Enrolled Version	
TEXAS HISTORICAL COMMISSION AND ANTIQUITIES COMMITTEE	
S.B. 365 by Moncrief	
Bill Reference	Bill Provision
Page 29, Line 24 thru Page 30, Line 14	Abolishes the Antiquities Committee and transfers all powers, duties, rights, funds, property, and obligations of the Committee to THC. Substitutes THC for the Antiquities Committee in all the Committee's contracts and other agreements. Transfers the Antiquities Committee's rules and rulemaking authority to the Historical Commission.
Page 30, Line 15 thru Page 31, Line 9	Requires the Historical Commission and the Parks and Wildlife Commission to jointly study the possibility of transferring various historical sites currently under the management and control of the Parks and Wildlife Department to THC.
Page 31, Line 10	Repeals provisions regarding the administration of the Antiquities Committee, except for restrictions on the designation of public university and college buildings as state archeological landmarks.
Page 31, Line 13	Effective Date: August 30, 1995.
Page 31, Line 14	Emergency Clause.

TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

Texas State Library and Archives Commission

Final Action: The Texas State Library and Archives Commission was continued for a 12-year period with changes.

S.B. 366 by Armbrister

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 366, as introduced, contained the Sunset Commission's original recommendations for the Texas State Library and Archives Commission. These recommendations, along with a new provision added by the Legislature, remained in the final version of the bill. The major Sunset provisions in the final bill are discussed below.

Major Provision: Require the Texas State Library to develop an index of state agency publications available on-line and provide access to state agency electronic publications in cooperation with other state agencies.

The Legislature adopted the recommendation of the Sunset Commission to require the State Library to index all state publications available in an electronic format and make the index available in an electronic format. Implementation costs for providing this electronic access should be insignificant due to other the State Library initiatives.

Major Provision: Authorize local governments to file a written certification of compliance with minimum records retention requirements developed by the Texas State Library.

The Legislature modified the Sunset Commission's recommendation authorizing local governments to adopt records retention schedules issued by the State Library as their own. Under the Legislature's approach, the records management officer for each local government may file a written certification of compliance with minimum record retention requirements in lieu of filing a records control schedule with the director and librarian. This provision provides local governments increased flexibility and autonomy in administering records management programs by streamlining the means for compliance with minimum retention requirements established by the State Library.

Major Provision: Reduce the size and modify the composition of the Local Government Records Committee.

The Legislature modified the Sunset Commission's recommendation to remove the requirement that the Local Government Records Committee (LGRC) approve all records related rules and retention schedules. Under the Legislature's approach, the LGRC will continue to approve record schedules and rules, but will no longer need a majority vote of the entire LGRC membership. The Legislature also added provisions requiring that at least one LGRC member be either a county or district clerk. The modified composition provision also provides for rural representation

on the LGRC and changes the nominations and selection process.

Major Provision: Abolish the Records Management and Preservation Advisory Committee and replace it with a seven-member interagency coordinating council.

The Legislature adopted the recommendation of the Sunset Commission to abolish the existing Records Management and Preservation Advisory Committee and create an interagency coordinating council to improve records management at the state level. The coordinating council is to be composed of the seven state agencies that affect records management statewide. The provision specifies the council's membership, duties and obligation of state agencies to adopt the council's policies.

Major Provision: Provide state agencies as well as the Commission with authority to recover state government documents that were illegally removed from state possession.

The Legislature adopted the recommendation of the Sunset Commission to provide state agencies as well as the State Library with the same authority to recover state government documents that is currently available for recovery of local government documents.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of S.B. 366 with the original sunset bill as introduced shows that all Sunset Commission program specific and across-the-board recommendations were included in the final bill. In addition, the Legislature added one provision which is discussed below.

Provision Added by the Legislature

Added Provision: Authorize local governments to transfer local government records to public institutions after the expiration of the record's retention period.

The Legislature added a provision clarifying that local government records may be sold or donated, loaned, transferred, or otherwise passed out of the custody of a local government to any public institution of higher education, public museum, public library or other public entity. The provision requires that such records may only be transferred after the expiration of the record's retention period and with the approval of the local government's records management officer.

Fiscal Impact

This legislation will result in a fiscal impact. The gain to the General Revenue Fund results from the provision relating to the Local Government Records Committee. This provision reduces the size of the LGRC from 35 to 10 members who receive per diem when conducting committee business. The annual savings to the state resulting from this reduction is estimated to be \$3,140.

Fiscal Year	Gain to the General Revenue Fund
1996	\$3,140
1997	\$3,140
1998	\$3,140
1999	\$3,140
2000	\$3,140

Bill Summary Enrolled Version TEXAS STATE LIBRARY AND ARCHIVES COMMISSION S.B. 366 by Armbrister	
Bill Reference	Bill Provision
Page 1, Line 10 thru Page 2, Line 3	Requires all six members on the Commission to be public members and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 2, Line 10	Requires appointments to the Commission be made without regard to race, color, disability, sex, religion, age or national origin. (ATB)
Page 2, Line 12	Prohibits registered lobbyists from serving as a member of the Commission or from being employed as the Commission's general counsel. (ATB)
Page 2, Line 18 Page 3, Line 17	Prohibits Commission members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related Texas trade association. Also defines Texas trade association. (ATB)
Page 3, Line 18 thru Page 4, Line 20	Defines the grounds for removing a Commission member and requires notification of the Commission's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Commission is valid even if it is taken when a ground for removal exists for one of the members. (ATB)
Page 4, Line 25 thru Page 5, Line 3	Requires the Governor to designate the presiding officer of the Commission. (ATB)
Page 5, Line 11	Requires the Commission to comply with the open meetings and administrative procedures laws. (ATB)
Page 5, Line 24 thru Page 6, Line 2	Continues the Texas State Library and Archives Commission for 12 years and updates the Sunset date to 2007.
Page 5, Line 17	Requires the Commission to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Commission. (ATB)
Page 6, Line 5 thru Page 7, Line 3	Requires the Commission members be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate. (ATB)

Bill Summary Enrolled Version TEXAS STATE LIBRARY AND ARCHIVES COMMISSION S.B. 366 by Armbrister	
Bill Reference	Bill Provision
Page 7, Line 10	Requires the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs. (ATB)
Page 7, Line 6	Requires the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the director and librarian and staff of the Commission. (ATB)
Page 7, Line 17	Requires the director and librarian or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency postings of job openings concurrently with any public posting. (ATB)
Page 8, Line 1	Requires the director and librarian or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based. (ATB)
Page 8, Line 17 thru Page 10, Line 9	Requires the director and librarian or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB)
Page 8, Line 10	Requires the Commission to inform its members and employees of the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 11, Line 8 Page 17, Line 10	Requires the Commission's funds to be managed in accordance with the State Funds Reform Act. (ATB)
Page 11, Line 3 Page 11, Line 22	Requires the Commission to prepare and distribute information to the public concerning the Commission's functions and complaint procedures. (ATB)
Page 12, Line 16 thru Page 13, Line 2	Requires the Commission to maintain files on written complaints that the Commission has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition. (ATB)
Page 12, Line 3 thru Page 13, Line 2	Requires the Commission to collect and maintain information about all complaints filed with the Commission. (ATB)

Bill Summary Enrolled Version TEXAS STATE LIBRARY AND ARCHIVES COMMISSION S.B. 366 by Armbrister	
Bill Reference	Bill Provision
Page 13, Line 6 thru Page 14, Line 11	Establishes a method for certificate renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 14, Line 18 thru Page 15, Line 1	Authorizes the Commission to adopt a staggered license renewal system. (ATB)
Page 14, Line 12	Authorizes the Commission to waive any license requirements and grant a license to an applicant with a valid license from another state that has license requirements substantially equivalent to those of this state. (ATB)
Page 15, Line 13	Authorizes the TSL to create a state-funded grant program to meet the information needs of Texans and local libraries that cannot be adequately addressed by other programs. Also removes the requirements that the Texas Department of Commerce (TDOC) participate in allocating state grants to Texas Library System members.
Page 15, Line 2	Entitles licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license. (ATB)
Page 16, Line 2 thru Page 17, Line 7	Provides state agencies as well as the commission with the same ability to recover state government documents that is currently available to recover local government documents.
Page 18, Line 15 thru Page 20, Line 2	Establishes a cost recovery procedure for records storage services at the State Records Center. Also requires agencies to submit an estimate of services to the TSL each biennium.
Page 18, Line 4	Requires the Commission to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Page 20, Line 5 thru Page 22, Line 23 Page 42, Line 8	Abolishes the Records Management and Preservation Advisory Committee and replaces it with a seven-member interagency coordinating council. Specifies council membership, duties, and obligation of state agencies to adopt council's policies. Also, that the State Auditor is a non-voting ex-officio member.

Bill Summary Enrolled Version TEXAS STATE LIBRARY AND ARCHIVES COMMISSION S.B. 366 by Armbrister	
Bill Reference	Bill Provision
Page 23, Line 1 thru Page 27, Line 1 Page 41, Line 21 thru Page 42, Line 7	Requires the TSL to develop an index of state agency publications available on-line and provide access to state agency electronic publications in cooperation with other agencies. Defines "state publication" and allows for a four-year phase-in period. Also, clarifies that access will be provided free to state depository libraries.
Page 27, Line 5 thru Page 29, Line 6	Allows libraries operated by local school districts, institutions of higher education or units of state or local government to become members of major resource systems.
Page 29, Line 14 Page 36, Line 10 thru Page 40, Line 18	Authorizes local governments to file a written certification of compliance with minimum records retention requirements established by TSL. Requires local governments to file amendments to TSL generic schedules with the director and librarian.
Page 29, Line 10 Page 29, Line 19 thru Page 35, Line 9 Page 42, Line 18 thru Page 43, Line 5	Reduces the size and specifies the membership of the Local Government Records Committee. Specifies the nominations and appointment process to provide for rural representation and requires at least one member be a county or district clerk. Requires that records related rules and schedules be approved by the LGRC.
Page 35, Line 12 thru Page 36, Line 9	Authorizes local governments, with the approval of the records management officer, to sell, donate or loan local government records to any public entity after the expiration of the record's retention period. (ATB)
Page 40, Line 21 Page 41, Line 10	Requires the Council on Competitive Government to review the Texas State Library's commercially available microfilming, records storage and records destruction services to determine if the services should be competitively procured no later than September 1, 1997.
Page 43, Line 6	Establishes the effective date of the Act as September 1, 1995.
Page 43, Line 7	Emergency clause.

STATE PRESERVATION BOARD



State Preservation Board

Final Action: The State Preservation Board was continued for a two-year period with changes.

S.B. 369 by Moncrief

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 369, as introduced, contained the Sunset Commission's recommendations for the State Preservation Board. All of these recommendations remained in the final version of the bill, along with a new provision added by the Legislature. The major provisions in the final bill are discussed below.

Major Provision: Continue the State Preservation Board until September 1, 1997.

This Sunset recommendation adopted by the Legislature continues the current functions of the State Preservation Board under its existing organizational structure. This time frame allows for a full Sunset review of the Board's functions now that the refurbishing of the Capitol is substantially complete.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of S.B. 369 with the original Sunset bill as introduced shows that the Sunset Commission's specific recommendation and proposed standard, across-the-board recommendations were included in the final bill. The Legislature modified standard Sunset language requiring all the agency's funds to be held in the state treasury to exempt the Capitol

Fund, which contains private donations for the Capitol restoration. One significant provision was added to the bill.

Added Provision: Clarify enforcement authority over unauthorized vendors and visitors in the Capitol complex.

The Legislature added a provision that requires the Preservation Board to adopt rules prohibiting vendors and other commercial enterprises from operating within the Capitol complex, unless they have been approved by the Board; and banning skateboarders, rollerbladers, and rollerskaters from the Capitol. Violation of these rules would be a criminal offense punishable as a Class C misdemeanor.

Fiscal Impact

S.B. 369 will not result in a new fiscal impact to the state. Continuing the current functions of the State Preservation Board required an annual appropriation of about \$1 million, plus an additional \$400,000 per year in contingency funds made available for emergency repairs to the Capitol complex buildings. These funds come from general revenue, private donations, and unexpended balances carried forward for existing projects and continuing programs.

Bill Summary Enrolled Version STATE PRESERVATION BOARD S.B. 369 by Moncrief	
Bill Reference	Bill Provision
Page 1, Line 9	Continues the State Preservation Board until September 1, 1997.
Page 1, Line 16 thru Page 2, Line 6	Requires the Board member appointed by the Governor to be a member of the general public. Prohibits appointment as a public member if the person or the person's spouse is employed by or participates in the management of a business receiving funds from the Board, owns or controls more than 10 percent of a business receiving funds from the Board, or uses or receives tangible goods, services, or funds from the Board. (ATB)
Page 2, Line 10	Prohibits registered lobbyists from serving as the public member of the Board or from being employed as the Board's general counsel. (ATB)
Page 2, Line 15	Requires appointments to the Board to be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 2, Line 19 thru Page 3, Line 11	Defines the grounds for removing the public member of the Board and requires notification of the Board's executive director, the Governor, and the Attorney General if a potential ground for removal exists. (ATB)
Page 3, Line 14	Requires the Board to comply with the open meetings and administrative procedure laws. (ATB)
Page 3, Line 18	Requires the Board to inform its members and employees of their qualifications for office or employment and each person's responsibilities under the law. (ATB).
Page 3, Line 24 thru Page 4, Line 3	Requires the Board to clearly separate its policymaking responsibilities from the management responsibilities of the executive director and staff of the Board. (ATB)
Page 4, Line 4	Requires the Board to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Board's programs. (ATB)
Page 4, Line 10	Requires the Board to prepare and distribute information to the public concerning the Board's functions and complaint procedures. (ATB)
Page 4, Line 22	Requires the Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the board. (ATB)

Bill Summary Enrolled Version STATE PRESERVATION BOARD S.B. 369 by Moncrief	
Bill Reference	Bill Provision
Page 5, Line 1	Requires the Board to collect and maintain information about all complaints filed with the Board. (ATB)
Page 5, Line 14	Requires the Board to maintain files on written complaints that the Board has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition. (ATB)
Page 5, Line 25 thru Page 6, Line 4	Requires the executive director to prepare an annual financial report that meets the reporting requirements in the General Appropriations Act. (ATB)
Page 6, Line 7 thru Page 7, Line 8	Requires the executive director to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, filed with the Governor's office, and reported to the Legislature. (ATB)
Page 7, Line 9	Requires the executive director to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based. (ATB)
Page 7, Line 17	Requires the Board's funds, with the exception of the Capitol Fund, to be managed in accordance with the State Funds Reform Act. (ATB)
Page 8, Line 2 thru Page 9, Line 9	Requires the Board to adopt rules prohibiting the following persons from using the Capitol or Capitol grounds: (1) rollerskaters, skateboarders, and rollerbladers; and (2) vendors not authorized by SPB.
Page 9, Line 21	Effective date: September 1, 1995.
Page 9, Line 22	Emergency clause.

**PUBLIC UTILITY COMMISSION AND
OFFICE OF PUBLIC UTILITY COUNSEL**

Public Utility Commission and Office of Public Utility Counsel

Final Action: The Public Utility Commission and the Office of Public Utility Counsel were continued for six years with changes.

S.B. 373 by Armbrister

Analysis of Major Sunset Provisions in the Final Bill

The Legislature enacted two main pieces of legislation regarding the Public Utility Commission (PUC) and the Office of Public Utility Counsel (OPUC). Senate Bill 373, by Armbrister, primarily dealt with the regulation of electric utilities and House Bill 2128, by Seidlits, dealt with telecommunications. While both bills contained provisions continuing PUC and OPUC for six years, S.B. 373 was considered the Sunset bill.

The two bills resulted from the efforts of the Joint Interim Committee on PUC and the Joint Interim Committee on telecommunications. After the Sunset review in the previous biennium, the 73rd Legislature did not adopt the Sunset Commission's recommendations, but continued both agencies for two years and made them subject to another review by the Sunset Commission and the two interim committees. The Commission made no separate recommendations regarding PUC and OPUC and instead joined the interim committees in issuing a report and recommendations.

Senate Bill 373, as introduced, contained many provisions relating to the regulation of electric utilities in Texas that were developed by the Joint Interim Committee on PUC. The bill also contained recommendations for the

administration of PUC and OPUC that were developed by the Sunset Commission for the 73rd Legislature. The Joint Interim Committee, in conjunction with the Sunset Commission, made recommendations regarding PUC and OPUC that are contained in S.B. 373 and are based almost exclusively on the earlier recommendations of the Sunset Commission or legislative issues that were developed during the 73rd Legislature. The significant provisions in S.B. 373 that were first developed by the Sunset Commission are summarized below.

Major Provision: Transfer the responsibility for utility hearings from PUC to the State Office of Administrative Hearings (SOAH).

Based on a recommendation of the Sunset Commission, the Legislature transferred responsibility for utility hearings from PUC to SOAH, but added a provision for hearings to be held in hearing rooms provided by PUC. The Legislature also added a provision specifying that SOAH is to charge PUC a fixed annual fee, negotiated biennially and subject to the Governor's approval, rather than an hourly rate for services provided by the utility division. This transfer improves independence and objectivity of administrative hearings while maintaining existing expertise of administrative

law judges and assuring the final authority of the Public Utility Commission on contested matters.

Major Provision: Provide for streamlining contested cases before PUC and SOAH.

Based on recommendations of the Sunset Commission, the Legislature required PUC to adopt rules to streamline practice and procedure before the Public Utility Commission and administrative law judges of the State Office of Administrative Hearings. The rules must allow administrative law judges to limit the length of cases, limit discovery, identify issues and facts subject to discovery, and group parties (other than OPUC) to facilitate cross examination. The Legislature also adopted a recommendation developed last session authorizing an administrative law judge to impose sanctions, such as limiting discovery, charging expenses of discovery, or citing parties for contempt, abusing the discovery process or failing to obey an order of an administrative law judge or the Commission.

Major Provision: Require PUC to adopt procedures for using settlements to resolve contested cases.

The Legislature adopted the recommendation of the Sunset Commission requiring PUC to adopt rules governing settlements to resolve contested cases, while maintaining each party's right to hearing before PUC and judicial review of issues that remain in dispute and assuring the right of nonsettling parties to raise issues of fact. Establishing a written, clearly defined process while protecting the rights of nonsettling parties ensures consistency and fairness in resolving cases by settlement.

Major Provision: Authorize PUC to assess administrative penalties for violations of the Act or a PUC rule.

The Legislature adopted the recommendation of the Sunset Commission to authorize PUC to impose administrative penalties up to \$5,000 for violations of the Act or a PUC rule or order. The Legislature added a provision giving persons 30 days after receiving a notice of violation to correct the violation before a penalty may be assessed and specifying that those persons have the burden of proving that the violation has been corrected and that the violation was accidental or inadvertent. Penalty amounts are to be deposited into general revenue. Authorizing PUC to assess administrative penalties provides the agency with another enforcement tool to allow it to deal appropriately with different levels of violations and circumstances that surround them.

Major Provision: Allow electric cooperatives to vote to opt out of PUC regulation, with certain safeguards.

The Legislature adopted the recommendation of the Sunset Commission to exempt electric cooperatives from rate regulation upon a majority vote of the members of the cooperative. The provision also establishes several safeguards to protect the interests of cooperative customers. While cooperatives are monopolies, they are consumer-owned and not in business to make a profit. Safeguards will allow members to petition for a PUC rate case review if problems arise and will allow PUC to review a cooperative's rates upon a complaint.

Major Provision: Require PUC to develop rules to allow timely fuel recovery.

The Legislature adopted the recommendation of the Sunset Commission to require PUC to implement procedures for the timely correction of utility fuel billings, with or without a hearing. By having PUC implement streamlined cost recovery procedures, ratepayers would not be paying more than the reasonable cost of fuel, and utilities would be able to recover in a timely manner the cost of fuel needed to generate electricity.

Other Provisions Adopted by the Legislature

S.B. 373 also contained several significant changes regarding the regulation of electric utilities. These changes include:

- Extending PUC's authority to require reports from utilities relating to utility-affiliate transactions to the extent the transactions are subject to PUC's jurisdiction;
- Removing certain river authorities from PUC regulation;
- Requiring a study by PUC on the scope of competition in electric markets and associated impacts on customers;
- Establishing an integrated resource planning process for providing reliable energy service at the lowest reasonable system cost instead of existing requirements for electrical energy forecasts, notice of intent, and certificate of convenience and necessity;

- Allowing municipalities to be reimbursed through a surcharge in the utility's rates for expenses incurred in the integrated resource planning process;
- Providing for competition in the wholesale electric market, including provisions to:
 - allow exempt wholesale generators and power marketers to sell electric energy at wholesale;
 - authorize PUC to require a utility to provide transmission service at wholesale to another utility, qualifying facility, exempt wholesale generator, or power marketer;
 - require a study to interconnect the electric utilities within the Electric Reliability Council of Texas to the electric utilities within the Southwest Power Pool; and
 - establish standards for transmission service and require a study of stranded investment, including methods for recovering stranded costs;
- Authorizing PUC to allow a utility to add a mark-up to its cost of purchasing capacity and energy to compensate for financial risks associated with the purchased power obligations and the value added by the utility in making the purchased power available to customers; and
- Providing discounted rates for electric service for certain institutions of higher education.

H.B. 2128, while not considered the Sunset bill, contained a number of changes affecting PUC and the regulation of telecommunications. One provision was based on a recommendation of the Sunset Commission last biennium providing for the partial deregulation of small

telephone companies and telephone cooperatives. Other major changes include:

- Creating a certificate of operating authority and service provider certificate of operating authority for new entrants to the telecommunications market to provide more flexibility in regulation;
- Establishing an incentive regulatory structure for electing local exchange companies that regulates price not cost of telecommunications services in three baskets of services depending on the level of competition in return for infrastructure commitments to benefit schools, libraries, and hospitals;
- Requiring PUC to establish competitive safeguards to ensure fair competition and to accelerate improvement of telecommunications;
- Establishing requirements for the use of specific customer proprietary network information;
- Establishing requirements for audio and video programming, and for audio and video carriage;
- Limiting the involvement of local exchange companies in electronic publishing;
- Creating the Telecommunications Infrastructure Fund Board to administer the Telecommunications Infrastructure Fund to award grants and loans for the purchase of equipment for educational programs and specifying that \$150 million is to be paid into the fund for the each of the next 10 years; and
- Requiring the delivery of certain exchange company monies to rural and urban scholarship funds.

TEXAS RACING COMMISSION



Texas Racing Commission

Final Action: The Texas Racing Commission was continued for a two-year period without changes.

S.B. 374 by Armbrister

Analysis of Major Sunset Provisions in the Last Version of the Bill

House Bill 1305, as introduced, contained the Sunset Commission's recommendations for the Texas Racing Commission. All of these recommendations remained in the bill throughout the legislative process along with changes made by both houses of the Legislature. However, H.B. 1305 did not pass because the Conference Committee Report was not adopted before the deadline for House action in the last hours of the legislative session. Instead, the Texas Racing Commission was continued for a two-year period subject to review under the Sunset Act by Senate Bill 374, which also made changes to the Sunset Commission's review schedule. The major Sunset recommendations contained in H.B. 1305 when it died are discussed below.

Major Provision: Change the composition of the Texas Racing Commission (TxRC) by requiring public members who have general knowledge of business or agribusiness. Also, require the Commission to operate as a single body by eliminating the separate sections for horse and greyhound racing.

The Sunset Commission's original recommendation was to make the members of the Racing Commission, except for the two ex officio members, all public members with business or agribusiness backgrounds. This

would have eliminated the requirements for two members to have greyhound racing backgrounds, two members to have horse racing backgrounds and two members to have veterinarian credentials. Instead, the Legislature modified this approach by requiring four public members with business or agribusiness backgrounds and by designating one member with horse racing experience and one member with greyhound racing experience. This approach would have addressed the need for additional business expertise on the Commission to effectively oversee the complex business affairs of the racing industry. Also, with racetrack licensing basically complete, the original reason for separate Commission panels no longer exists. A divided board has prevented full member participation and has resulted in inconsistent policymaking regarding issues like simulcasting and racing industry involvement. The Legislature's approach would have resolved these problems; however, the provisions were not enacted because the bill died at the end of the legislative session.

Major Provision: Focus the Texas Racing Commission on regulation of the racing industry, not promotion.

The Racing Commission has been under pressure to promote the racing industry because of slow growth in the industry and because of language in the statute that refers to the encouragement and promotion of horse and greyhound racing by the Commission. To

avoid having one agency perform both regulatory and promotional duties, the bill would have removed all references to promotion of the industry. The legislation would have also directed the Texas Department of Commerce to assume responsibility for the promotion of racing if the Legislature authorizes economic development funds for this purpose. Further, the bill would have required the Commission to consider the effects of its actions on the state's agricultural, race animal breeding and training industry.

Major Provision: Improve TxRC's inspection and regulation of racetracks.

This change would have required reporting and correction of inappropriate and unsafe conditions at a racetrack facility. The bill would have required the executive secretary to issue a notice of violation for noncompliance and request corrective measures within a specified period of time. If a racetrack failed to take action, the executive secretary would have been required to initiate an enforcement action and been allowed to rescind race dates. The bill also would have required the Commission to improve its oversight of construction and improvement of racetrack facilities by approving building plans and specifications, reviewing progress reports, and conducting inspections. If a racetrack failed to meet requirements, the racetrack licensee would have been required to appear at a public hearing before the Commission to consider the issue. Also, if a racetrack failed to comply with requests for corrective action, the Commission would have been required to initiate enforcement action and been allowed to rescind race dates.

Major Provision: Increase the Commission's oversight of organizations and programs that receive funds generated by racing.

Under current law, the Racing Commission has provided limited oversight of breed registries and the recognized horsemen's organization. Since 1989, horse breed registries have received more than \$7.8 million in revenues through the Commission from racetracks. The bill would have authorized the Commission to more closely monitor and audit these organizations and would have required the development of performance measures so that the Commission and the Legislature could evaluate whether these funds are being used effectively. The bill would have also required the Texas Racing Commission to set standards for recognizing any organization which holds itself out as a representative of participants in the racing industry.

Major Provision: Require the Texas Racing Commission to employ all stewards and judges, the top regulatory officials, at each track.

To help ensure the integrity and safety of racing, the bill would have required all track stewards and judges at each racetrack to be employed by the state. Currently, two racetrack employees and one state employee serve as stewards and judges. This change would have eliminated an apparent conflict of interest in having a racetrack employ its own stewards and judges. It would have also eliminated an inappropriate delegation of the state's licensing authority to the regulated entity that occurs when racetrack employed stewards and judges issue rulings against state-issued licenses.

Major Provision: Require the Texas Racing Commission to collect licensing fees that cover the cost of conducting criminal history checks and require the Commission to reimburse Department of Public Safety (DPS) for the associated costs.

The agency currently does not recover any of the costs of conducting the criminal history checks that are required when applying for an occupational license from the Racing Commission. DPS currently pays the cost of performing criminal history checks out of its appropriations. Requiring TxRC to recover these costs from license applicants would have represented a gain to state revenue from increased licensing fees.

Major Provision: Continue the Texas Racing Commission for a six-year period and require all rules to be evaluated and either readopted or repealed by January 1, 1998.

The racing industry has not developed to the extent that was originally expected and little information is available to evaluate the overall impact of pari-mutuel racing. A shorter review cycle of six years was recommended to give the Legislature a more timely opportunity to make changes needed after the racing industry becomes more established. A review of all rules by 1998 would have helped the agency move completely into a regulatory mode of operation.

Comparison of Original Sunset Legislation with Final Legislation

The Legislature made numerous changes to the Sunset bill throughout the legislative process. One change to the bill added on the Senate floor, the authorization of off-track betting (OTB), was opposed by some members of the Texas House. Opponents of the provision generated considerable debate that extended beyond a deadline for considering conference committee reports causing the Sunset bill to die on a point of order late in the legislative session. A list of the OTB and other provisions added to H.B. 1305, but not enacted by the Legislature, is provided below:

- Authorize OTB through registered simulcast facilities by allowing each track to have two off-track betting sites;
- Require the Racing Commission to establish all regulations for off-track betting before OTB could begin. Also require the Comptroller to certify that sufficient financial controls exist;
- Provide the Commission with full authority to take disciplinary action against racetracks for any violations occurring at their OTB facilities;
- Authorize the Commission to charge a fee for registered simulcasting facilities;
- Change the Commission's rule development process by authorizing the Commission to establish subcommittees to review or propose rules. Require meetings on proposed rules to solicit input from the racing industry before the rules are published in the Texas Register. Require the Commission to post a notice of the meeting with an agenda and summary of the proposed rules at each racetrack;

- Consolidate all criminal offenses into one article of the Texas Racing Act, separating them from rule violations. Add several new offenses and reword existing ones to conform to Texas Penal Code language;
- Allow cross-species simulcasting so that greyhound simulcast signals could be received by the horse tracks and horse simulcast signals could be received by the greyhound tracks;
- Allow automatic banking machines that only access checking accounts at the racetracks. Provide that one dollar from each transaction would go to the commission to pay off its debt to the General Revenue Fund;
- Require a two percent grant from the amount set aside for the state greyhound breed registries to go to a greyhound adoption service;
- Allow the commission to adopt standards relating to greyhound farms;
- Authorize the commission to exempt out-of-state applicants from fingerprinting requirements if applicants meet requirements for reciprocal licensing;
- Allow off-duty police officers employed as racetrack security officers to carry firearms at racetracks;
- Allow the sale of lottery tickets at a racetrack;
- Change residency requirements for racetrack licensure so that if an applicant is a publicly traded company and the racetrack facility is within 100 miles of the Texas-Mexico border, the applicant would no longer have to be a Texas resident of 10 years, be incorporated within the state of Texas or have the majority of corporate stock owned by Texas residents;
- Change the method that the Racing Commission uses to repay its general revenue debt by allowing the Comptroller to credit the Commission's debt balance in an amount equal to 20 percent of the state tax revenue generated by racing; and
- Specify that when a racetrack association makes an authorized deduction for payments to a horsemen's organization that the organization be recognized as an official representative of the horsemen licensed by the commission.

Fiscal Impact

Continuation of the Texas Racing Commission for two years will not result in a fiscal impact to the state other than the continued funding for the agency.

EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE

Equine Research Account Advisory Committee

Final Action: The Equine Research Account Advisory Committee was continued for a six-year period with changes.

S.B. 368 by Armbrister

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 368, as introduced, contained the Sunset Commission's recommendations for the Equine Research Account Advisory Committee. With some modifications, all of these recommendations except one remained in the final version of the bill. The major provisions in the final bill are discussed below.

Major Provision: Remove potential conflicts of interest from the Equine Research Account Advisory Committee process.

The Legislature adopted the Sunset recommendation to prohibit any member of the Advisory Committee from participating in the proposal review process if they have also submitted a research proposal. This will prevent Advisory Committee members from participating and voting on matters in which they have an interest.

Major Provision: Allow the Advisory Committee to expend up to 10 percent of its funds for administrative costs and require the director to consult annually with the Texas Racing Commission concerning the use of the account and impact of equine research.

Based on a recommendation of the Sunset Commission, the committee will be allowed to expend up to 10 percent of its funds for administrative costs. The previous statute did not allow any funds to be expended on administrative costs. In addition, the director of the Texas Agricultural Experiment Station will now be required to consult with the Texas Racing Commission on the use of the account to ensure that the perspectives of the state's lead agency for horse racing in Texas are considered in the direction of equine research.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of S.B. 368 with the original Sunset bill, as introduced, shows that with one exception all the Sunset Commission's specific recommendations and standard, across-the-board recommendations were included in the final bill. The Legislature added one new provision and removed one of the Sunset recommendations.

Provision Added by the Legislature

Added Provision: The director of the Advisory Committee shall attempt to recruit minority members to the Committee.

This language commonly appears in state statutes to encourage the placement of qualified minorities on state boards and commissions. This language was specifically tailored to mirror language in the Texas Racing Act.

Provision Removed by the Legislature

Deleted Provision: Make the executive secretary of the Texas Racing Commission an ex officio member of the Advisory Committee.

While the Texas Racing Commission is responsible for overseeing the use of other revenue generated by racing in Texas, it has no formal role in the equine research program. The Sunset recommendation to place the executive secretary of the Texas Racing Commission on the Advisory Committee was an attempt to give the Racing Commission a more formal role in equine research and allow input from the state's regulatory agency into the Advisory Committee. Members of the Advisory Committee were opposed to this change and the provision was removed during Senate consideration of the bill.

Fiscal Impact

No fiscal impact.

Bill Summary Enrolled Version EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE S.B. 368 by Armbrister	
Bill Reference	Bill Provision
Page 1, Line 6	Allows the Equine Research Account Advisory Committee (ERAAC) to expend up to 10 percent of its funds for administrative costs.
Page 1, Line 9	Requires that all agency funds, including the equine research account fund, be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Page 1, Line 12	Exempts the equine research account from the funds consolidation requirement.
Page 1, Line 16	Requires appointments to the advisory committee be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 1, Line 19	Requires the director of the advisory committee to recruit minority members to the committee.
Page 2, Line 1	Requires the director of ERAAC to inform advisory committee members and employees of the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 2, Line 7	Prohibits any member of the advisory committee from participating in the proposal review process if they have also submitted a research proposal.
Page 2, Line 12	Prohibits registered lobbyists from acting as general counsel to the advisory committee or serving as a member of the advisory committee. (ATB)
Page 2, Line 18 thru Page 3, Line 16	Defines the grounds for removing an advisory committee member and requires notification of the chair of the advisory committee if knowledge that a potential ground for removal exists. Affirms that an action of the advisory committee is valid even if it is taken when a ground for removal exists for one of the members. (ATB)
Page 3, Line 19 thru Page 4, Line 1	Requires ERAAC to comply with the open meetings and administrative procedure laws. (ATB)
Page 4, Line 6	Continues ERAAC until September 1, 2001.

Bill Summary Enrolled Version EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE S.B. 368 by Armbrister	
Bill Reference	Bill Provision
Page 4, Line 9	Requires the advisory committee to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the advisory committee. (ATB)
Page 4, Line 15	Requires the director of ERAAC to consult annually with the Texas Racing Commission on the use of the account and the impact of equine research funded by the account.
Page 4, Line 18	Makes the effective date of the Act September 1, 1995.
Page 4, Line 19	Emergency clause.

OFFICE OF STATE-FEDERAL RELATIONS



Office of State-Federal Relations

Final Action: The Office of State-Federal Relations was continued for a 12-year period with changes.

H.B. 1399 by Gray

Analysis of Major Sunset Provisions in the Final Bill

House Bill 1399, as introduced contained the Sunset Commission recommendations for the Office of State-Federal Relations (OSFR). All of the recommendations remained in the final version of the bill, along with a new provision added by the Legislature. The major Sunset provisions in the final bill are discussed below.

Major Provision: Increase coordination between OSFR and the Legislative Budget Board to strengthen the budget link between Austin and Washington, D.C.

The Legislature adopted language developed by Sunset Commission staff requiring LBB to locate an employee in OSFR's Washington office. This change will improve the link between the state and federal budget processes.

Major Provision: Increase coordination between OSFR and other state agencies affected by federal decisions.

The Legislature adopted the Sunset Commission's recommendation requiring state agencies to coordinate with OSFR when providing information or communicating policy positions to federal agencies or the U.S.

Congress. Designated state agencies are also required to develop a coordination plan, study the benefits of placing a staff person in OSFR's Washington office, and submit the plan and benefit study to OSFR and the LBB.

Major Provision: Establish a standard approach for working arrangements of agency representatives working in the Washington office.

The Legislature adopted language developed by Sunset Commission requiring that the agency representatives report directly to their agency's director, commissioner, or board chair. Agency representatives must also have a formal link to their agency's budget planning process and provide periodic updates of activities at their agency's board or commission meetings. This provision also requires the State Auditor's office to recommend a standard salary schedule for state employees working in Washington. The schedule would have a salary range to reflect expertise on state-federal relations and include a standard cost-of-living adjustment to compensate an employee for the cost of living in Washington. OSFR staff working in Washington, including the Director, would receive the cost-of-living adjustment included in the salary schedule. Agencies placing staff in Washington would adhere to the established pay scale.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of House Bill 1399 with the original sunset bill as introduced shows that all of the Sunset Commission's specific recommendations remained in the final bill. In addition, all standard Sunset Commission across-the-board recommendations proposed by the Commission were included in the final bill. The following provision was added by the Legislature.

Provision Added by the Legislature

Added Provision: Transfer responsibility to establish a grant writing team from OSFR to the Governor's Office of Budget and Planning.

The legislature removed OSFR's responsibility for grant writing assistance and made this a responsibility of the Governor's Budget Office. The language clarified that OSFR is responsible for providing information, monitoring, coordinating, and reporting on the receipt of federal formula funds and that the Governor's Office of Budget and Planning is responsible for federal discretionary grants.

Fiscal Impact

No fiscal impact is expected as a result of the provisions in the final bill. The transfer of responsibility for grant writing from OSFR to the Governor's Budget and Planning Office will result in no additional expense as a transfer of funds will accompany the transferred responsibility.

Bill Summary Enrolled Version OFFICE OF STATE-FEDERAL RELATIONS H.B. 1399 by Gray	
Bill Reference	Bill Provision
Page 1, Line 11	Continues the Office of State-Federal Relations (OSFR) for 12 years.
Page 1, Line 17	Requires OSFR to comply with the administrative procedures law. (ATB).
Page 2, Line 20	Requires OSFR to prepare an annual financial report that meets the reporting requirements in the appropriations act. (ATB)
Page 3, Line 4	Requires the Director or a designee to inform employees of the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 3, Line 11	Requires the Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within OSFR and requires intra-agency postings of job openings concurrently with any public posting. (ATB)
Page 3, Line 17	Requires the Director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based. (ATB)
Page 3, Line 21 thru Page 4, Line 19	Requires the Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB)
Page 4, Line 20	Authorizes the Director and office staff working in Washington, D.C. to receive the cost-of-living increase included in the salary schedule developed by the State Auditor.
Page 5, Line 2	Requires the Director to prepare and distribute information to the public concerning OSFR's functions and complaint procedures. (ATB)
Page 5, Line 13	Requires OSFR to collect and maintain information about all complaints filed with OSFR. (ATB)
Page 5, Line 25 thru Page 6, Line 7	Requires OSFR to maintain files on written complaints that OSFR has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition. (ATB)
Page 6, Line 13	Technical clean up.
Page 6, Line 18	Requires the Board to work with the Director to hold periodic meetings in Austin to discuss federal activities and issues with state agency representatives.

Bill Summary Enrolled Version OFFICE OF STATE-FEDERAL RELATIONS H.B. 1399 by Gray	
Bill Reference	Bill Provision
Page 6, Line 27 thru Page 7, Line 2	Requires the Board to review and approve any interagency contract with other state agencies.
Page 7, Line 8 thru Page 8, Line 1 Page 18, Line 13	Requires OSFR to increase coordination between OSFR and other state agencies, and improve the working arrangements of state agency staff located in OSFR's Washington office. Directs the State Auditor to establish a salary schedule for state employees working in Washington, D.C.
Page 8, Line 2 Page 8, Line 14	Requires increased coordination between OSFR and the Legislative Budget Board to better link the state and federal budget processes.
Page 8, Line 17	Requires OSFR to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to OSFR's programs. (ATB)
Page 8, Line 25	Requires that all OSFR funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process. (ATB)
Page 9, Line 3	Defines "federal formula funds" to mean only those funds coming to the state based on federal formula funding or other wise legislated by congress. Does not include "federal discretionary grant funds."
Page 9, Line 8 thru Page 10, Line 3	Deletes definitions of other types of federal funds.
Page 10, Line 15	Deletes language requiring OSFR to monitor for federal funding opportunities, develop procedures to notify state agencies of federal funding opportunities, and periodically review funding strategies of other states.
Page 11, Line 24	Deletes language requiring OSFR to include in its comprehensive report to the legislature instances in which the state or a state agency did not pursue federal funding opportunities.
Page 12, Line 8 thru Page 13, Line 8	Deletes language (1) requiring each agency to designate a federal funds coordinator, (2) requiring each agency to file an annual report with OSFR concerning its efforts to acquire available federal funds, and (3) allowing either the governor or the LBB to affect the agency's appropriations.

Bill Summary Enrolled Version OFFICE OF STATE-FEDERAL RELATIONS H.B. 1399 by Gray	
Bill Reference	Bill Provision
Page 13, Line 11	Requires state agencies to contact OSFR before providing information about state policy or conditions to the U.S. Congress or federal agencies. Exempts agencies that are headed by statewide-elected officials.
Page 13, Line 19 thru Page 14, Line 4	Requires state agencies and institutions of higher learning to report to the LBB applications for federal funds, awards or designations for federal funds, and waivers of grant requirements.
Page 14, Line 7 thru Page 18, Line 12	Establishes the grant assistance team in the Governor's Office of Budget and Planning. Defines the duties and functions of the grant assistance team.
Page 18, Line 19 thru Page 19, Line 1	Transfers all records relating to the grant assistance team from OSFR to the Governor's Office of Budget and Planning. Also, provides for the Governor's Office of Budget and Planning, to assume the outstanding obligations incurred by the grant assistance team prior to the effective date of the Act.
Page 19, Line 2	Establishes the effective date of the Act as September 1, 1995.
Page 19, Line 3	Emergency clause.

TEACHER RETIREMENT SYSTEM OF TEXAS

Teacher Retirement System of Texas

Final Action: The Teacher Retirement System of Texas was continued for a 12-year period with changes.

S.B. 9 by Armbrister, et al

Analysis of Major Sunset Provisions in the Final Bill

Senate Bill 9, as introduced and co-sponsored by 30 members of the Texas Senate, contained the Sunset Commission's recommendations for the Teacher Retirement System (TRS) of Texas. All of the recommendations remained in the final version of the bill, along with a number of new provisions added by the Legislature. The major Sunset provisions in the final bill are discussed below.

Major Provision: Use available pension funds to raise retirement benefits for TRS retirees.

The Legislature adopted provisions recommended by the Sunset Commission which raise the retirement benefits for TRS retirees by \$1.8 billion. The benefit increase, which is more than 2 1/2 times greater than the largest previous increase, focuses the largest increases on the oldest retired teachers, yet provides benefit increases to the more than 124,000 retirees who retired before September 1, 1993. For those oldest members who retired prior to 1960, the average benefit increase is more than \$5,500 per year. For all members who retired before September 1, 1993, the average benefit increase is about \$1,800 per year. Provisions in the bill allow retirees to take the highest of three options:

- an ad hoc increase in current benefits based upon 33.3 percent of the difference between the retiree's annuity and what it would have been had the annuity kept up with inflation;
- a recalculation of benefits based on the current retirement formula (three highest years final average salary times a 2.0 percent multiplier) plus all intervening ad hoc increases and the 33.3 percent of inflation ad hoc; or
- a minimum benefit calculated on the minimum starting-teacher salary as set in the Education Code.

The bill also provides a retroactive application of the "pop-up" provision to affected retirees who retired before the enactment of this provision. A pop-up provision allows retirees who are preceded in death by their beneficiaries to return to an unreduced annuity.

In addition, the bill provides that future retiring teachers and full-time librarians will have their minimum retirement benefits based upon the state-set minimum starting salary for teachers or full-time librarians.

Major Provision: Expand the TRS health insurance program to cover the entire public education community.

To address concerns about the availability and affordability of health insurance for teachers,

the Legislature adopted provisions recommended by the Sunset Commission that authorize TRS trustees to offer TRS-Care 3 health insurance to school districts to cover active employees. Costs of the program will be funded by the school district and participants. A provision added by the Legislature requires an in-depth, independent study of the TRS health insurance program.

Major Provision: Improve monitoring of investment performance for the Trustees and the Legislature.

Based on a Sunset Commission recommendation to improve investment performance monitoring, the Legislature adopted provisions which require an independent firm selected by the Legislative Audit Committee to evaluate TRS investment performance and to develop a uniform reporting process and format for investment performance reports by state retirement funds.

To adequately perform their oversight duties, the Legislature and Trustees need quality information in a timely manner that they can use to assess the overall investment performance of the retirement fund. This information will be used to assist the Legislature in making decisions about future benefit increases, state and member contributions, and the health of the Fund and its ongoing ability to pay retirement benefits.

Major Provision: Bring more business expertise to the Board of Trustees.

Based on a recommendation by the Sunset Commission, the Legislature increased the level of investment and business expertise on the TRS Board of Trustees and required the State Board of Education to nominate, instead of appoint, two members for the Governor to appoint. Currently, only two members of the

board are required to have investment or business expertise. The Sunset recommendation requires five members of the board to have investment or business expertise.

Major Provision: Increase legislative oversight of Teacher Retirement System's operating expenses to allow educators' money to be used solely for member benefits.

Acting on a Sunset recommendation to control rapidly rising administrative spending, the Legislature placed TRS operating expenses under the state appropriation process including the administrative provisions in the General Appropriations Act. As a result, the bill requires TRS to fully participate in the state's strategic planning and performance budgeting process. The Legislature appropriated \$52.2 million to TRS during the 1996-97 biennium for administration. TRS may use money from the retirement fund if administrative costs exceed the amount appropriated; however, the trustees would have to report to the Legislature and members of the system why extra money was needed and what it was used for.

Major Provision: Prohibit TRS from lobbying and improve the accuracy of information provided to members.

Based on Sunset Commission recommendations, the Legislature prohibited TRS trustees and staff from using Fund resources, state contributions, or members' contributions to influence legislative action or inaction. In addition, the Legislature prescribed that advocacy by employees of the system may be grounds for dismissal and added a mission statement that stated the primary purpose of agency staff was to manage the system and invest the fund, not to advocate for benefit increases. These changes in no way prevent rank and file members of the system from

obtaining information from TRS or from advocating for changes on behalf of themselves or other members.

Major Provision: Increase funds for retiree benefits by making economical use of TRS headquarters facilities.

As recommended by the Sunset Commission, the Legislature required TRS to comply with the provisions related to space usage in the General Appropriations Act and the state purchasing statute. Currently, TRS occupies about 320 square feet per employee while the state standard is 153 square feet per employee. If TRS leased available space at market rates, the system could increase revenue by \$1.72 million per biennium.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of S.B. 9 with the original Sunset bill introduced shows that all of the Sunset Commission's specific recommendations and all of the standard Sunset Commission across-the-board recommendations proposed by the Commission were included in the final bill. Several other major provisions added by the Legislature are summarized below.

Provisions Added by the Legislature

Added Provision: Allow persons to retire and receive the standard service retirement annuity at age 50 with 30 years of service.

The Legislature lowered the normal retirement age in TRS to 50 with 30 years of service. This provision was derived from a similar provision in H.B. 651 by Dear. Currently, to

qualify for the standard annuity, a person must be 55 years of age and have 30 years of service.

Added Provision: Increase the ceiling on the lump-sum death benefit option from \$60,000 to \$80,000.

Five death-benefit options exist for beneficiaries of active members. One option is a lump sum payment equal to twice the member's annual compensation up to a ceiling of \$60,000. The Legislature adopted a provision to increase that ceiling to \$80,000.

Added Provision: Provide for the establishment of an additional joint survivor benefit option.

Upon retirement, members may choose from the standard annuity or several optional annuity plans. The standard annuity provides the highest benefit for the member, but does not provide an annuity for the member's beneficiary. Options 1 and 2 are joint life annuity plans that provide an actuarially reduced annuity throughout the life of the member's beneficiary. Option 1 provides the beneficiary with 100 percent of the reduced annuity and Option 2 provides the beneficiary with 50 percent of the reduced annuity. The Legislature adopted a new option that will provide the beneficiary with 75 percent of the reduced annuity.

Added Provision: Raise the minimum monthly payment for disability retirements.

The minimum benefit for disability retirees with less than 10 years of service is \$50 per month for the shortest of the duration of the disability, the number of months of creditable

service, or the retiree's life. The minimum benefit for disability retirees with 10 or more years of service is \$6.50 per month per year of service. The Legislature increased both of these minimum payments to \$150 per month.

Added Provision: Eliminate the collection of membership fees to fund the administration of the retirement system.

TRS members have been required to pay an annual \$10 membership fee used to partially fund the administration of the system. With the decision to fund TRS administrative expenses from general revenue appropriations, the Legislature abolished the collection of this fee.

Added Provision: Base future benefit increases on the Fund's performance.

Future benefit improvements will be based upon legislative determinations of retirement system trust fund performance. These determinations will include the factors of the years of unfunded liabilities, the rate of return of investments over and above the inflation rate, economic projections, the cost of providing benefit increases to current retirees, and the diversity of fund investments.

Fiscal Impact

Three provisions in the bill resulted in a fiscal impact to the Teacher Retirement Fund or the General Revenue Fund. The bill's provision for increases in retirement benefits would result in an actuarial impact to the Teacher Retirement Fund. An actuarial analysis indicates that the bill would increase the TRS unfunded liability by \$1.8 billion. The period to amortize the unfunded liability would increase from 1.4 years to 15.7 years — an additional 14.3 years — based on the six percent state contribution rate contained in the General Appropriation Act. This amortization period is under the statutory limit of 30.9 years.

The bill also provides authorization for the Legislature to appropriate funds for the administration of the retirement system. A cost to the state General Revenue Fund would result from this appropriation. The appropriations bill provides \$26.1 million per year for this purpose. In turn, the TRS Fund saves \$26.1 million per year which will be used for the benefit of members.

The bill also contains a provision which would result in a positive fiscal impact to the Teacher Retirement Fund. This provision, which would require the Teacher Retirement System to comply with the state space allocation standard, would result in a revenue increase to the Teacher Retirement Fund of approximately \$860,000 per year starting in fiscal year 1997. This revenue increase would occur as a result of the system leasing out its excess space.

Bill Summary Enrolled Version TEACHER RETIREMENT SYSTEM OF TEXAS S.B. 9 by Armbrister, et al	
Bill Reference	Bill Provision
Page 1, Line 6 Page 38, Line 3	Redefines "Employer" to remove archaic reference to SBOE and CEA and redefines "School Year" to include oral and written agreements.
Page 2 Line 3 Page 58, Line 7	Requires the agency to comply with provisions related to space usage in the General Appropriations Act, the state purchasing statute, and other state law, and lease all significant unused space to other persons at fair market value. The agency is required to develop a space allocation plan for GSC approval no later than March 1, 1996, and implement the plan no later than September 1, 1996.
Page 2, Line 15	Declares purpose of retirement system.
Page 2, Line 22 thru Page 3, Line 20	Clarifies that members terminate membership by allowing accounts to go dormant for five consecutive years.
Page 3, Line 23 thru Page 4, Line 6 Page 38, Line 19 thru Page 39, Line 9	Limits maximum compensation for retirement purposes to limits imposed by IRC 401(a)(17) and IRC 415. Grandfathers members before 9/1/95. Authorizes board to adopt rules to ensure benefits are in line with 415 provisions.
Page 4, Line 9	Clarifies that TRS does not have to correct errors older than 5 years.
Page 4, Line 20 thru Page 5, Line 2	Bases computation of service credit on normal school years.
Page 5, Line 3	Allows TRS to accept roll-over distributions from other qualified plans for payment of service credit.
Page 5, Line 16	Clarifies insurance referred to in section is the Texas Public School Employees Group Insurance.
Page 5, Line 25 thru Page 6, Line 3	Grants board rulemaking authority for purpose of compliance with Uniformed Services Employment and Reemployment Rights Act of 1994.
Page 6, Line 7	Clarifies that TRS calculates membership credit based on full-time status.
Page 7, Line 3 thru Page 8, Line 3 Page 8, Line 14 thru Page 9, Line 4 Page 12, Line 10	Creates a 3-month retirement window where a member may retire and removes the revocation period.

Bill Summary Enrolled Version TEACHER RETIREMENT SYSTEM OF TEXAS S.B. 9 by Armbrister, et al	
Bill Reference	Bill Provision
Page 8, Line 6 Page 9, Line 7	Provides for retirement payments to be made for the month of a member's death and states that payments are due on the 1st working day of the month.
Page 9, Line 20 thru Page 10, Line 3 Page 11, Line 11 thru Page 12, Line 7 Page 15, Line 12 thru Page 16, Line 15 Page 17, Line 14 thru Page 19, Line 5 Page 20, Line 6	Creates a new joint-annuity option of 75 percent of the reduced annuity for service and disability retirees.
Page 10, Line 6 thru Page 11, Line 8 Page 57, Line 11	Permits TRS Annuitants to select a beneficiary after retirement under certain circumstances.
Page 12, Line 19 Page 13, Line 15	Provides for full retirement at age 50 with 30 years of service.

Bill Summary Enrolled Version TEACHER RETIREMENT SYSTEM OF TEXAS S.B. 9 by Armbrister, et al	
Bill Reference	Bill Provision
Page 13, Line 19 thru Page 14, Line 8 Page 54, Line 15 thru Page 56, Line 21	<p>Provides a three-layered benefit increase. Retirees would receive the option that benefits them most.</p> <p>(1) Raises the minimum standard annuity to a level that equals one-twelfth the annual salary for a classroom teacher or full-time librarian multiplied by 2 percent for each year of service credit in the retirement system for those who retired before the effective date of the Act. (Currently, the annual minimum salary is \$17,000. The minimum standard annuity for a retiree service would equal \$28.33 per month per year of service.)</p> <p>Increases the minimum standard annuity for future teacher and full-time librarian retirees based on increases to the minimum annual salary for a classroom teacher or full-time librarian.</p> <p style="text-align: center;">-OR-</p> <p>(2) Recalculates a retirees annuity based upon current retirement formulas (2 percent per year of service times the three highest years of salary) and the current retirement age and service limits.</p> <p style="text-align: center;">-OR-</p> <p>(3) Provides an ad hoc benefit increase equal to 33.3 percent of the difference between the member's benefit and what the benefit would have been had it kept pace with inflation.</p> <p style="text-align: center;">-PLUS-</p> <p>A retroactive application of the pop-up provision that applies to retirees who chose a joint survivor annuity option that did not have the pop-up provision. (Allows retirees who survive beneficiary to "pop-up" to full annuity.)</p>
Page 14, Line 11 Page 15, Line 2	Provides for legislative benefit increases to be based upon determinations on the performance of the fund.
Page 14, Line 21 thru Page 15, Line 1	Provides that the determination of performance must be partly based upon comparisons of the rate of return of private investment entities to that of TRS in-house investment managers.

Bill Summary Enrolled Version TEACHER RETIREMENT SYSTEM OF TEXAS S.B. 9 by Armbrister, et al	
Bill Reference	Bill Provision
Page 16, Line 18 thru Page 17, Line 11 Page 57, Line 2	Increases minimum disability retirement to \$150 per month.
Page 19, Line 8 thru Page 20, Line 3	Increases cap on death benefit option for active members to \$80,000.
Page 20, Line 25 thru Page 21, Line 7	Clarifies that TRS may send annuity payments to annuitant's bank.
Page 21, Line 8 thru Page 22, Line 8	Removes limit on number of days that a retiree may work as a substitute.
Page 22, Line 11 thru Page 23, Line 4	Requires gubernatorial appointees to have financial and investment expertise. Transfers appointment authority for two trustees from the State Board of Education to the Governor to appoint from a list submitted by the State Board of Education, and requires that these appointees have financial and investment expertise. Includes new instructional provision establishing the expiration dates of current Board member terms.
Page 23, Line 5 thru Page 24, Line 5	Prohibits appointment to the Board if a person or the person's spouse uses or receives a substantial amount of tangible goods, services, or funds from the system, other than normal compensation authorized by statute for board membership. Clarifies that language does not apply to members nominated by education peer groups. (ATB)
Page 24, Line 1	Prohibits registered lobbyists from serving as a member of the Board or from being employed as the Board's or system's general counsel. (ATB)
Page 24, Line 8 thru Page 25, Line 7	Requires the Board members be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate. (ATB)

Bill Summary Enrolled Version TEACHER RETIREMENT SYSTEM OF TEXAS S.B. 9 by Armbrister, et al	
Bill Reference	Bill Provision
Page 25, Line 10	Requires TRS to remain under the Sunset process and be reviewed after the standard 12-year period in 2007, if TRS is subject to the appropriation process. If TRS is not subject to the appropriation process, requires TRS to be reviewed under the Sunset process in 1997.
Page 25, Line 21 thru Page 26, Line 20	Defines the grounds for removing a Board member and requires notification of the Board's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. (ATB)
Page 26, Line 23 thru Page 27, Line 13	Requires the Board to prepare an annual financial report that meets the reporting requirements in the appropriations act. (ATB)
Page 27, Line 16	Requires the Board to inform its members and employees of the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 27, Line 22	Requires the Board to clearly separate its policymaking responsibilities from the management responsibilities of the executive director and staff of the system. (ATB)
Page 28, Line 1	Requires the system to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the system's programs. (ATB)
Page 28, Line 10	Requires the Board to comply with the open meetings and administrative procedure laws. (ATB)
Page 28, Line 15	Requires the Governor to designate the presiding officer of the Board. (ATB)
Page 28, Line 22 thru Page 26, Line 8	Requires each actuarial experience study to include a review of all actuarial assumptions in light of economic trends and projections and requires each actuarial valuation to include an analysis comparing experience factors to their actuarial assumptions.
Page 29, Line 11	Requires the executive director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the system and requires intra-agency postings of job openings concurrently with any public posting. (ATB)

Bill Summary Enrolled Version TEACHER RETIREMENT SYSTEM OF TEXAS S.B. 9 by Armbrister, et al	
Bill Reference	Bill Provision
Page 29, Line 17	Requires the executive director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based. (ATB)
Page 29, Line 22 thru Page 30, Line 15	Requires the executive director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB)
Page 30, Line 18 Page 34, Line 7 Page 41, Line 41 thru Page 42, Line 4	<p>Requires TRS to report biennially to the Legislature detailing the uses of appropriated funds, member funds or other resources used for governmental relations, member counseling, or official publication of positions.</p> <p>Prohibits TRS Trustees and staff from using fund resources, state contributions, or member contributions for advocacy to influence legislative action.</p> <p>Provides that advocacy shall be grounds for termination.</p> <p>Requires TRS to obtain balanced information from the Pension Review Board on the effects of proposed legislation on members' retirement benefits and report such information to its members.</p>
Page 30, Line 25 thru Page 31, Line 15 Page 56, Line 22 Page 57, Line 8	Repeals Benefit Increase Reserve Account.

Bill Summary Enrolled Version TEACHER RETIREMENT SYSTEM OF TEXAS S.B. 9 by Armbrister, et al	
Bill Reference	Bill Provision
Page 31, Line 18 thru Page 34, Line 4 Page 35, Line 22 thru Page 36, Line 10	Places TRS under the appropriations process for operating expenses and the state's strategic planning and performance budgeting process; makes TRS subject to the General Appropriations Act including general administrative provisions; authorizes TRS to use retirement funds to supplement appropriations for operating expenses only when necessary to meet constitutional requirements; and requires TRS to report to the Legislature and TRS members the amount of retirement funds used to supplement appropriated funds, how funds were used, and why they were needed. Includes instructional provision establishing the expiration dates of current board member terms. Includes new provision establishing a review by the 76th Legislature on whether TRS will remain subject to the appropriations process.
Page 34, Line 22 thru Page 35, Line 19	Requires employer to use electronic fund transfers except in certain circumstances and clarifies proof of service requirements.
Page 36, Line 13 thru Page 37, Line 25	Permits TRS use of electronic records and storage.
Page 39, Line 12	Updates reference to power of attorney to reflect current statute.
Page 39, Line 17 thru Page 40, Line 1	Requires the system to collect and maintain information about all complaints filed with the system. (ATB)
Page 40, Line 2	Requires the system to maintain files on written complaints that the system has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition. (ATB)
Page 40, Line 22 thru Page 42, Line 4	Requires the agency's investment practices and performance to be evaluated by an independent firm selected by the Legislative Audit Committee and a report detailing the evaluation to be submitted to the LAC by December 1 of even-numbered years. Authorizes the LAC to determine the scope of the evaluation, although the first evaluation is to be comprehensive, and requires TRS to pay the costs of the independent evaluation. Requires TRS to submit their annual investment performance report to the appropriate legislative committees and the Legislative Budget Board in a format based on recommendations of the independent firm within 25 days of the end of each fiscal year.

Bill Summary Enrolled Version TEACHER RETIREMENT SYSTEM OF TEXAS S.B. 9 by Armbrister, et al	
Bill Reference	Bill Provision
Page 42, Line 5	Requires TRS to follow provisions in the State Purchasing and General Services Act regarding historically underutilized businesses.
Page 42, Line 10	Requires the retirement system to compile and maintain information identifying members and the types of positions they have held and whether service was full or part-time. Provides for confidentiality of records under this subsection.
Page 43, Line 1 thru Page 51, Line 1 Page 51, Line 24 thru Page 54, Line 14	Provides TRS Trustees with authority to expand TRS-Care 3 to cover school district personnel and develop rules to govern entry into and exit from the program as necessary to maintain the financial health of the program. Specifies that the program is optional and all costs of the program are paid by the school districts and active members participating in the program.
Page 51, Line 4	Provides for a study by the Legislative Audit Committee on Health Insurance Options for active and retired members.
Page 57, Line 1	Repeals collection of membership fees.
Page 58, Line 12	Effective date.
Page 58, Line	Emergency clause.

TEXAS WORKERS' COMPENSATION COMMISSION



Texas Workers' Compensation Commission (TWCC)

Final Action: The Texas Workers' Compensation Commission was continued for a 12-year period with changes.

H.B. 1089 by Brimer, Counts, and Junell

Analysis of Major Sunset Provisions in the Final Bill

House Bill 1089, as introduced, contained the Sunset Commission's original recommendations for TWCC. These recommendations, along with new provisions added by the Legislature, remained in the final version of the bill. The major provisions of the final bill are discussed below.

Major Provision: Reduce state losses from worker injuries through stronger risk management programs.

The Legislature adopted the recommendation of the Sunset Commission regarding the risk management program for state agencies. The Legislature made state agencies responsible for managing state employees' workers' compensation claims by making state agencies responsible as the employer for workers' compensation purposes. The Legislature also required TWCC's risk management division to review, monitor, and approve agency risk management programs. Because agencies do not have an incentive to develop risk management programs, the Legislature required state agencies to actively manage risks by implementing health and safety, and return-to-work programs. Finally, the Legislature determined that legislative reporting requirements can be a strong incentive for state agencies to take risk management seriously,

and so required TWCC's risk management division to identify and report state agencies that do not comply with statutory risk management requirements.

Major Provision: Strengthen ombudsmen qualifications and training.

The Legislature modified the Sunset Commission's recommendation regarding strengthening ombudsmen qualifications and training. The Legislature adopted Sunset provisions requiring ombudsmen to demonstrate knowledge of the Texas Workers' Compensation Act (Act), related laws and rules; to have experience in people problems; to possess strong interpersonal skills; and to have three years of experience in workers' compensation. The Legislature also adopted a provision requiring TWCC to establish training guidelines and continuing education requirements for ombudsmen, but did not include the requirement that an ombudsman have an insurance adjusters license.

Major Provision: Improve programs to explain injured workers' rights in the workers' compensation system.

The Legislature adopted the recommendation of the Sunset Commission to require TWCC to develop plain language information for injured

workers about the workers' compensation process both in English and Spanish; and to require TWCC, by mail or phone if possible, to contact injured workers who have missed eight or more days of work, providing them with information about the process.

Major Provision: Provide TWCC with more authority and flexibility in dealing with companies with the highest workplace accident rates.

The Legislature modified the Sunset Commission's recommendations regarding TWCC's Extra-Hazardous Employers Program. The Legislature gave the executive director the discretion to exclude a business from being identified as an extra-hazardous employer if the business can show that it qualified as a result of a fatal accident not related to the work environment.

The bill also required TWCC to adopt rules to address fatalities that may not be related to the work environment--including heart attacks, diseases of life, homicides, suicides, third party vehicle accidents, common carrier accidents, and natural events. Further, H.B.1089 established an inspection time window so that TWCC can conduct an accident prevention plan implementation inspection between six and nine months after the plan has been implemented.

In addition, the Legislature required TWCC to establish that the employer or the work environment was a proximate cause of the fatality in order to place the business in the program. The provision places the burden of proof on TWCC to determine whether or not the fatal accident was related to the work environment or the employer.

Major Provision: Allow TWCC to fine non-covered employers for failure to report injuries and illnesses just like covered employers.

The Legislature modified the recommendation of the Sunset Commission to allow TWCC to fine non-covered employers in the same way as covered employers for failure to report injuries and occupational illnesses. The Legislature adopted the Sunset recommendation to authorize TWCC to impose an administrative fine of up to \$500 on non-covered employers with five or more employees who fail to file required reports on injuries and illnesses. A related provision added by the Legislature provides a criminal penalty for disclosure of non-covered employee information that is equal to the penalty for disclosure of covered employee information. The Legislature also added a provision requiring cases related to the disclosure of confidential information to be prosecuted in the county where the violation occurred instead of in Travis County.

Major Provision: Provide for consistency in qualifications of TWCC safety experts.

The Legislature adopted the recommendation of the Sunset Commission to authorize TWCC to develop the qualifications for field safety representatives by rule. Currently, field safety representatives are not required to have a college degree or experience related to occupational health or safety, or industrial hygiene. The provision adopted by the Legislature would allow TWCC to require more specific education and experience requirements for field safety representatives.

Major Provision: Streamline the claims process by letting insurance companies report worker injuries electronically.

The Legislature modified the recommendation of the Sunset Commission to set up a procedure whereby insurance carriers must electronically file injury reports with TWCC. The original Sunset Commission recommendation required insurance carriers to electronically file a report with TWCC within five days, rather than seven days, and did not authorize the executive director to waive electronic filing requirements or to set up alternative procedures. The provision adopted by the Legislature requires employers to file a report of injury with the insurance carrier within eight days of the day the injury results in the workers' absence from work for more than one day. The provision also requires insurance carriers to electronically file a report with TWCC within seven days and requires the worker to receive a copy of the injury report including a summary of the workers' rights and responsibilities under the statute, written in plain language. The Legislature gave the executive director the authority to waive electronic filing requirements if it is not feasible for the carrier to do so and to set up an alternative procedure within the same time frame.

Major Provision: Improve the administrative violation hearings process by transferring it to the State Office of Administrative Hearings.

Based on a recommendation of the Sunset Commission, the Legislature transferred administrative hearings conducted by TWCC to the State Office of Administrative Hearings. Adding to the Sunset recommendation, the

Legislature specified the procedures for when the administrative law judge (ALJ) makes the final decision and when TWCC approves the final decision of the ALJ. Hearings related to the level of benefits or entitlement to benefits were not transferred.

Major Provision: Eliminate an inherent conflict in the TWCC executive director's service as a voting member of the Texas Certified Self-Insurer Guaranty Association Board.

The Legislature modified the recommendation of the Sunset Commission to remove the executive director of TWCC as a voting member of the Texas Certified Self-Insurer Guaranty Association Board. The Sunset recommendation removed the executive director of TWCC as a voting member of the Guaranty Association and required the executive director to continue service on the Guaranty Association as a non-voting member. The Legislature removed the executive director from the Guaranty Association, replacing the director with a self-insurer to serve as a voting member.

Major Provision: Strengthen TWCC's ability to take administrative action against participants in the system when warranted.

Based on a recommendation of the Sunset Commission, the Legislature authorized TWCC to take administrative action against insurance carriers and health care providers in the system for certain violations of the Act or TWCC rules without having to establish a pattern of practice. The Legislature added language clarifying that the violations do not have to be committed in relation to any other offenses.

Major Provision: Prohibit inappropriate contacts with designated doctors.

Based on a recommendation of the Sunset Commission, the Legislature adopted a provision that prohibits any party except the injured worker or TWCC staff from communicating with the designated doctor about the injured worker's medical condition or history before, during, or after the doctor has determined a workers' impairment rating. In addition, the Legislature added language that created a Class C administrative penalty for violating this provision.

Major Provision: Reinstate criminal penalties for workers' compensation fraud.

As part of the overall reform of the workers' compensation system in 1989, the Legislature added specific criminal penalties for workers' compensation insurance fraud to the Penal Code. The subsequent recodification of the Penal Code in 1993 removed the workers' compensation insurance fraud criminal penalties. Based on a recommendation of the Sunset Commission, the Legislature addressed workers' compensation fraud by creating specific criminal penalties for fraudulently obtaining or denying benefits or fraudulently obtaining workers' compensation coverage within the auspices of the Act.

Major Provision: Improve TWCC's ability to investigate fraud.

To further facilitate the investigation of fraud, the Sunset Commission recommended that investigative files be protected from disclosure

under the Open Records Act. The Legislature adopted this provision protecting TWCC investigative files from public disclosure in order to improve TWCC's ability to investigate fraud and develop cases. In addition, the Legislature added language that requires TWCC to disclose the identity of the complainant if TWCC finds that the complaint is frivolous, made in bad faith, lacks any basis in fact or evidence, or is done for competitive or economic advantage. The Legislature also required TWCC to notify the person who was the subject of the complaint of its findings and the identity of the complainant if it is determined that the complaint is groundless, made in bad faith, not supported by evidence, or is done specifically for competitive advantage.

Major Provision: Improve TWCC's oversight of doctors.

Based on a recommendation by the Sunset Commission, the Legislature required designated doctors to meet specific qualifications set by the executive director, including training in determining impairment ratings. TWCC is also required to monitor and evaluate the performance of doctors in the system, and based on the evaluation, sanction doctors who do not meet norms set by TWCC for medical policies, fee guidelines, and impairment ratings. The Legislature added language that would require designated doctors to be in the same discipline and licensed by the same board of examiners as the employee's doctor of choice.

Major Provision: Clarify timing of benefits for occupational illnesses.

Based on a recommendation of the Sunset Commission, the Legislature clarified that the

401 weeks of benefits for occupational illnesses start when benefits begin to accrue, not when the injury occurred.

Major Provision: Clarify workers' compensation coverage for business owners and operators.

Based on a recommendation of the Sunset Commission, the Legislature added a provision that provides that executive officers, sole proprietors, and partners are covered and defined as employees under the Act unless affirmatively excluded from coverage by endorsement or by rejection of coverage on the policy application. The provision added by the Legislature clarifies when the dual capacity doctrine applies.

Major Provision: Extend liability protection to the Texas Certified Self-Insurer Guaranty Association Board.

Based on a recommendation of the Sunset Commission, the Legislature added a provision that provides the Texas Certified Self-Insurer Guaranty Association Board and the members of its staff with liability protection for acts performed in good faith in the execution of their powers and duties.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of H.B. 1089 with the original Sunset bill as introduced shows that all Sunset Commission across-the-board recommendations were included in the final bill. In addition, the Sunset Commission's specific program recommendations were included in the final version of H.B. 1089.

Fiscal Impact

The most significant savings to general revenue will result from the implementation of risk management provisions of the bill. The annual savings to the state resulting from the implementation of health and safety and return-to-work programs is estimated to be \$2,970,000 in fiscal year 1996 and \$5,940,000 in fiscal year 1997.

The bill will require employers to file a report of injury with insurance carriers and will require insurance carriers to electronically file a report of injury with TWCC. This provision will reduce the number of personnel required for data entry and will reduce the cost of storing these forms. Annual savings to the state of \$122,705 result from streamlining of the claims process and reduction of data entry personnel.

Several provisions result in costs to the state. Strengthening the ombudsmen program is expected to result in additional training and travel expenses and costs of \$77,780 annually.

In addition, requiring TWCC to monitor and evaluate the performance of doctors in the system and take enforcement action against doctors who do not meet standards set by TWCC is estimated to cost the state \$46,559 in fiscal year 1996 and \$41,559 in fiscal year 1997.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Fiscal Year	Probable Savings to the General Revenue Fund 001 (Workers' Compensation Payments-State Employees)	Probable Savings to the General Revenue Fund 001 (Texas Workers' Compensation Commission)	Probable Cost Out of General Revenue Fund 001 (Texas Workers' Compensation Commission)	Change in Number of State Employees from FY 1995
1996	\$2,970,000	\$122,705	\$124,339	(5.0)
1997	5,940,000	122,705	119,339	(5.0)
1998	5,940,000	122,705	119,339	(5.0)
1999	5,940,000	122,705	119,339	(5.0)
2000	5,940,000	122,705	119,339	(5.0)

Bill Summary Enrolled Version TEXAS WORKERS' COMPENSATION COMMISSION H.B. 1089 by Brimer, Counts, and Junell	
Bill Reference	Bill Provision
Page 1, Line 9	Updates the commission's Sunset date to 2007 to provide for the usual 12 year review period.
Page 1, Line 18 Page 35, Line 12	Prohibits appointments as commissioner if the person provides services subject to regulation by the Commission or charges fees that are subject to regulation by the Commission. (ATB)
Page 2, Line 1 Page 35, Line 20	Requires Commission members be provided with adequate information and training to perform their duties prior to assuming their duties. (ATB)
Page 3, Line 2	Prohibits registered lobbyists from serving as a member of the commission or from being employed as the Commission's general counsel. (ATB)
Page 3, Line 14 thru Page 4, Line 10 Page 35, Line 12	Defines grounds for removing a Commission member and requires notification of the Commission's chairman, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Commission is valid even if it is taken when a ground for removal exists for one of the members. (ATB)
Page 4, Line 13	Requires the Governor to designate the chairman of the Commission and to alternate the chairmanship between the members who are employers and members who are wage earners. (ATB)
Page 4, Line 21 thru Page 5, Line 13 Page 35, Line 12	Prohibits Commission members and employees compensated at or above Group 17 in the appropriations act from being an officer or employee of a related Texas trade association. Allows a person to accept an appointment to the Commission if the person resigns from the position with the trade association or terminates the contract with the trade association. Defines Texas trade association and specifically excludes a labor union or an employee's association group from the definition. (ATB - modified)
Page 5, Line 19 thru Page 6, Line 2	Requires TWCC to collect and maintain an information file about all written complaints filed with TWCC. (ATB)

Bill Summary Enrolled Version TEXAS WORKERS' COMPENSATION COMMISSION H.B. 1089 by Brimer, Counts, and Junell	
Bill Reference	Bill Provision
Page 6, Line 3	Requires TWCC to maintain files on written complaints that TWCC has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition. Technical modifications. (ATB)
Page 6, Line 20 thru Page 7, Line 2	Requires TWCC to comply with state and federal program and facility accessibility laws and requires the executive director to develop a plan that describes how non-English speaking persons can be provided reasonable access to TWCC's programs. (ATB)
Page 7, Line 5	Requires the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the executive director and staff of TWCC. (ATB)
Page 7, Line 13	Requires the executive director to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within TWCC and requires intra-agency postings of job openings concurrently with any public posting. (ATB)
Page 7, Line 18	Requires the executive director to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based. (ATB)
Page 7, Line 25 thru Page 8, Line 24	Requires the executive director to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB)
Page 9, Line 1	Clarifies legislative authority for oversight of TWCC and the workers' compensation system.
Page 9, Line 8	Prohibits the Commission from delegating rights or duties unless otherwise authorized by the Act.
Page 9, Line 15	Requires the executive director to inform members of the Commission and TWCC employees of the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 9, Line 25 thru Page 10, Line 4	Requires the Commission to prepare an annual financial report that meets the reporting requirements in the appropriations act. (ATB)

Bill Summary Enrolled Version TEXAS WORKERS' COMPENSATION COMMISSION H.B. 1089 by Brimer, Counts, and Junell	
Bill Reference	Bill Provision
Page 10, Line 8 Page 13, Line 13 Page 26, Line 16 Page 28, Line 26 thru Page 29, Line 4 Page 33, Line 22 thru Page 34, Line 2 Page 37, Line 27 thru Page 38, Line 5 Page 40, Line 18 thru Page 41, Line 13	Transfers TWCC's administrative procedures hearings to the State Office of Administrative Hearings. The transfer does not include claims hearings. Specifically indicates those cases in which the administrative law judge makes the final decision and those cases in which the commission makes the final decision. Requires that a hearing be held within 90 days for a medical dispute.
Page 11, Line 4	Requires cases related to the disclosure of confidential information to be prosecuted in the county where the violation occurred instead of Travis County.
Page 11, Line 9 thru Page 12, Line 16 Page 37, Line 7	Protects TWCC investigation files from public disclosure in order to improve TWCC's ability to investigate fraud and develop cases. Requires TWCC, upon request, to disclose the identity of a complainant if TWCC makes certain findings. After completion of an investigation that makes certain determinations, requires TWCC to notify the person who was the subject of the complaint of its finding and the identity of the complainant.
Page 12, Line 19 thru Page 13, Line 8 Page 36, Line 1	Provides that executive officers, sole proprietors, and partners are covered and defined as employees under the Act unless affirmatively excluded from coverage by endorsement or by rejection of coverage on the policy application. Clarifies when the dual capacity doctrine applies.
Page 13, Line 27 thru Page 14, Line 13	Modifies the tax base formula used to assess the maintenance tax for self-insurers.
Page 14, Line 19	Adds a self-insurer as a voting member of the Texas Certified Self-Insurer Guaranty Association Board of Directors to replace the TWCC executive director. TWCC executive director remains a non-voting member of the Board of Directors.
Page 15, Line 2	Provides the Texas Certified Self-Insurer Guaranty Association Board of Directors and the members of its staff with liability protection for acts performed in good faith in the execution of their powers or duties.

Bill Summary Enrolled Version TEXAS WORKERS' COMPENSATION COMMISSION H.B. 1089 by Brimer, Counts, and Junell	
Bill Reference	Bill Provision
Page 15, Line 8	Extends the period of time from five years to ten years for the self-insurers to build the trust fund to at least \$1 million. Requires the Texas Certified Self-Insurer Guaranty Association Board of Directors to adopt a year-by-year schedule to meet the 10-year funding goal.
Page 16, Line 5	Includes violation of the medical review section of the statute as provisions for removing doctors from the approved list. The medical review section of the statute includes fee guidelines, preauthorization provisions, and disclosure requirements.
Page 16, Line 19 thru Page 17, Line 1 Page 36, Line 9	Specifies that the 401 weeks of benefits for occupational illnesses begin when benefits begin to accrue, not when the injury occurred.
Page 17, Line 4	Requires designated doctors to meet specific qualifications set by the executive director, including training in determining impairment ratings. Specifies that designated doctors must be in the same discipline and licensed by the same board of examiners as the employee's doctor of choice.
Page 18, Line 7	Prohibits any party except the injured worker or TWCC staff from communicating with the designated doctor before, during, or after the impairment rating. Allows insurance carriers and representatives to contact the designated doctor on business and technical matters. Adds a Class C administrative violation.
Page 18, Line 23 thru Page 20, Line 19 Page 36, Line 16	Sets up a procedure whereby insurance carriers will electronically file injury reports with TWCC. Requires employers to file a report of injury with the insurance carrier within 8 days of the day the injury results in the workers' absence from work for more than one day. Requires insurance carriers to electronically file a report with TWCC within 7 days. Requires the injured worker to receive a copy of the injury report including a summary of the workers' rights and responsibilities under the statute written in plain language.
Page 20, Line 24 thru Page 21, Line 9	Requires TWCC to develop plain language information in both English and in Spanish about the workers' compensation process and requires TWCC to contact injured workers having missed eight or more days of work and provide the injured workers with information about the process.

Bill Summary Enrolled Version TEXAS WORKERS' COMPENSATION COMMISSION H.B. 1089 by Brimer, Counts, and Junell	
Bill Reference	Bill Provision
Page 21, Line 13 thru Page 23, Line 10 Page 36, Line 23 thru Page 37, Line 6	Requires ombudsmen to have three years of experience in workers' compensation; demonstrate knowledge of the Act, related laws and rules; have experience in people problems; and possess strong interpersonal skills. Requires TWCC to establish training guidelines and continuing education requirements for ombudsmen.
Page 23, Line 15 thru Page 24, Line 21	Authorizes the Commission to impose an administrative fine of up to \$500 on non-covered employers with five or more employees who fail to file required reports on injuries and illnesses; and requires confidentiality of the information. Requires cases related to the disclosure of confidential information to be prosecuted in the county where the violation occurred instead of Travis County.
Page 24, Line 24 thru Page 26, Line 8	Allows the executive director to exclude a business from being identified as extra-hazardous if it can show it qualified as a result of a fatal accident not related to the work environment. Authorizes TWCC to request a hearing to dispute the employer's exclusion from the program and requires TWCC to establish that the employer or the work environment was the proximate cause of the fatality. Establishes an accident prevention plan implementation inspection window of six to nine months.
Page 26, Line 25 thru Page 27, Line 12 Page 37, Line 13	Authorizes TWCC to develop the qualifications for field safety representatives by rule.
Page 27, Line 15 thru Page 28, Line 9 Page 37, Line 24 Page 38, Line 21 thru Page 40, Line 14	Defines individual state agencies as employers for workers' compensation purposes; requires risk management division to review and approve risk management programs; requires state agencies to develop health and safety and return-to-work programs; and requires the risk management division to identify state agencies that do not comply with statutory requirements.
Page 28, Line 17 Page 29, Line 7	Requires TWCC to monitor and evaluate the performance of designated doctors in the system, and based on the evaluation, allows sanctions of designated doctors who do not meet norms set by the Commission for fees, treatment, and ratings.
Page 29, Line 25 thru Page 33, Line 19	Authorizes TWCC to take administrative action against insurance carriers and health care providers in the system for certain violations of the Act or rules without having to establish a pattern of practice.

Bill Summary Enrolled Version TEXAS WORKERS' COMPENSATION COMMISSION H.B. 1089 by Brimer, Counts, and Junell	
Bill Reference	Bill Provision
Page 34, Line 5 thru Page 35, Line 11	Creates specific criminal penalties for fraudulently obtaining or denying benefits or fraudulently obtaining workers' compensation coverage.
Page 35, Line 25	Instructional provision related to general rulemaking authority. Requires TWCC to adopt rules related to provisions of this bill by March 1, 1996.
Page 38, Line 6	Establishes the effective date for penalties and sanctions as after the effective date of the Act.
Page 41, Line 14	Establishes the effective date of the Act as September 1, 1995.
Page 41, Line 15	Emergency Clause

TEXAS WORKERS' COMPENSATION INSURANCE FUND



Texas Workers' Compensation Insurance Fund

Final Action: The Fund was continued for a twelve-year period with changes.

H.B. 1090 by Brimer, Counts, and Junell

Analysis of Major Sunset Provisions in the Final Bill

House Bill 1090, as introduced, contained the Sunset Commission's original recommendations for the Fund. These recommendations, along with a number of provisions added by the Legislature, were included in the final version of the bill. The major provisions of the final bill are discussed below.

Major Provision: Increase the oversight of the Fund to ensure the state's interests are fully protected.

The Legislature adopted provisions recommended by the Sunset Commission which increase oversight of the Fund by the State Auditor's Office (SAO). SAO will specify issues to be addressed by the Fund's internal and independent auditors and will examine the balance of policies written between the rejected risk (START) program and the voluntary market. SAO will also evaluate the effect of the Fund on workers' compensation insurance premiums written in the state, and the effect of the Fund on the overall workers' compensation industry in Texas. Conclusions reached by the Fund's independent and internal auditors will be submitted to SAO and forwarded to the Legislative Audit Committee by memorandum. These provisions also require the Fund to develop policies consistent with the Internal Audit Act, require the Attorney General's

Office to review its use of outside counsel and apply the minority hiring guidelines found in the General Appropriations Act to the Fund.

Major Provision: Allow the Fund to require an applicant to the insurer of last resort program to insure commonly-owned or controlled businesses if the Fund suspects fraud or conditions that may lead to fraud.

Based on a recommendation by the Sunset Commission, the Legislature authorized the Fund to take proactive action against a type of insurance fraud known as employee swapping. Employee swapping occurs when the owner or controlling person of multiple businesses only insures one company against workers' compensation claims and illegally alters employee records in order to avoid paying premiums. The provision would authorize the Fund to require a business seeking coverage through the insurer of last resort program to have workers' compensation insurance from an authorized workers' compensation insurance company in the state on all commonly-owned or controlled entities, if the Fund suspects fraud or identifies conditions that may result in acts of fraud.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of H.B. 1090 with the original Sunset bill as introduced shows that all Sunset Commission specific program and across-the-board recommendations were included in the final bill. In addition, several additional provisions added by the Legislature were included in the final version of H.B. 1090.

Provisions Added by the Legislature

Added Provision: Authorize the Commissioner of Insurance to overturn a decision of the Fund's Board of Directors relating to policy cancellation.

For a Fund policyholder to appeal a ruling of the Fund's board, the policyholder must file for a temporary restraining order in district court. This practice can be tedious and requires a large amount of resources on the part of the Fund and the policyholder. Authority by the Commissioner of Insurance to overturn decisions of the Fund's board provides a mechanism short of going to court through which policyholders can address grievances. This language is similar to language found in the Texas Workers' Compensation Insurance Facility's statute.

Added Provision: Clarify that the Fund is not required to designate agents to sell policies.

The Fund is statutorily charged with increasing the availability of workers' compensation insurance policies in Texas. To accomplish this goal, the Fund does not designate agents to sell Fund policies. Rather, the Fund allows

any insurance agent in the state to sell its policies. However, the Texas Insurance Code requires insurance companies to designate agents. This provision clarifies that the Fund does not have to designate agents so as to make policies readily available to businesses in the state.

Added Provision: Clarify that any information submitted by an insurance agent to the Fund is the agent's work product and cannot be provided to another agent except as required by the Open Records law nor can the material be used for marketing or direct sales activities.

This provision is current Fund policy. Placing this provision in statute institutionalizes the practice. Similar agreements are made between private insurance carriers and their designated agents.

Added Provision: Authorize the Texas Workers' Compensation Commission (TWCC) to charge for inspections required of Fund policyholders.

Policyholders insured through the Fund's insurer of last resort program are required to obtain a safety consultation, an accident prevention plan and an implementation inspection of that plan from TWCC. However, TWCC is only authorized to collect a fee for the safety consultation and development of the accident prevention plan. No funding mechanism was provided for the implementation inspection. As a result, TWCC has contracted with the Fund to have the Fund provide the inspections of Fund policyholders. This provision will authorize TWCC to collect a fee for the implementation inspection at a cost-reimbursement level in order to carry-out