

The logo for the Texas Sunset Advisory Commission is a semi-circular emblem. It features a thick black outer border and a white inner border. The center of the emblem is a solid black semi-circle containing the words "Texas", "Sunset", "Advisory", and "Commission" stacked vertically in a white, bold, serif font.

**Texas  
Sunset  
Advisory  
Commission**

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**STAFF EVALUATION**

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**Office of Fire Fighters' Pension  
Commissioner**

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**A Staff Report  
to the  
Sunset Advisory Commission**



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**OFFICE OF THE FIRE FIGHTERS'  
PENSION COMMISSIONER**

November 1990

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## **SUMMARY**

## Summary

The Office of the Fire Fighters' Pension Commissioner is subject to the Sunset Act and will be automatically abolished unless statutorily continued by the 72nd Legislature in 1991. The review of the agency included an assessment of: the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another existing agency; and changes needed if the agency were continued using its current organizational structure. The results are summarized below.

### Assessment of Need for Agency Functions

The review concluded that the functions of the Office of the Fire Fighters' Pension Commissioner should be continued for a 12-year period. The state needs to continue its oversight role regarding fire fighter pension systems because of the importance and complexity of these systems. In addition, having the state maintain a statewide pension fund provides secure pension benefits to volunteer fire fighters.

### Assessment of Organizational Alternatives

If the agency's functions are continued, the review concluded that the Office of the Fire Fighters' Pension Commissioner should be continued as a separate agency. No other agency provides the same set of functions and no major benefit would be derived from transferring the functions of this agency to another agency.

### Recommendation if Agency is Continued

The nominations process for the Office of the Fire Fighters' Pension Commissioner should be broadened to include the Texas Association of Fire Fighters.

The composition of the state board of trustees for the Texas Statewide Volunteer Fire Fighter Fund should be changed to include two members who have technical expertise in the areas of finance, investments, or pension administration.

### Fiscal Impact

No additional fiscal impact is anticipated as a result of the recommendations.



## **BACKGROUND**



## Creation and Powers

Fire protection is typically provided in Texas through county and municipal governments. The state has approximately 1,840 fire departments. These departments are generally staffed by paid fire fighters or by volunteers. Currently, about 240 departments are staffed by paid fire fighters and 1,600 by volunteers. Generally, paid fire departments offer pension benefits to their employees. In addition, a portion of the volunteer departments also provide pension benefits. Since 1937, the state has played a role in the oversight of these pension systems and in the actual provision of pension benefits. This role has been carried out by the Office of the Fire Fighters' Pension Commissioner (OFFPC).

The agency was created in 1937 with the enactment of H.B. No. 258 of the 45th Legislature. The legislation established guidelines for fire fighters' retirement systems at the local level, requiring cities, towns, and villages with over \$1,000 worth of fire fighting equipment to establish a firemen's relief and retirement fund with a local board of trustees. The fire fighters' pension commissioner was required to oversee the local retirement systems.

These responsibilities have changed over time, while other responsibilities have been added. Legislation was passed to create independent retirement systems in the larger metropolitan areas of the state. Cities with retirement systems governed by specific state statutes include Dallas, El Paso, San Antonio, Houston, and Austin. Still other cities decided to provide for their fire fighters' retirement through the Texas Municipal Retirement System (TMRS). The agency's oversight authority over local fire department pension plans, not governed by a specific state statute, or not participating in TMRS, continued. The commissioner monitored the distribution of benefits and status of the local funds. The commissioner also continued to hear appeals from individuals aggrieved by the local pension board of trustees. In 1989, the pension law was rewritten by the 71st Legislature and the Texas Local Fire Fighters Retirement Act (TLFFRA) was enacted. However, it essentially retained the same regulatory framework over the local pensions that existed previously. Today, under TLFFRA, 170 departments report to the agency. Of these, 128 are volunteer departments, 37 are staffed by paid fire fighters, and five are staffed by both volunteers and paid fire fighters.

While the oversight function has existed since 1937, the agency was assigned another function related exclusively to volunteer fire departments in 1977. In that year, the legislature expanded the agency's authority to include administration of the Texas Statewide Volunteer Fire Fighters' Retirement Fund. The fund was created to provide benefits to those fire fighters in the state who serve without pay. A state board of trustees was established for oversight and the commissioner assists the trustees in managing and investing the fund.

## Policy-making Body

The fire fighters' pension commissioner is appointed by the governor from nominations provided by the State Firemen's and Fire Marshals' Association. The commissioner serves a two-year term and is statutorily required to perform duties related to both the Texas Local Fire Fighters Retirement Act (TLFFRA) (Article

6243e, V.A.C.S.) and the Texas Statewide Volunteer Fire Fighters Retirement Fund (Article 6243e.3, V.A.C.S.).

The commissioner monitors local fire fighters' pension funds established under TLFFRA to determine if statutory requirements on pension eligibility, contributions, benefits, length of service, and beneficiaries are being followed. The commissioner reviews retirement records kept by local pension boards and is required to hear appeals from any person aggrieved by a decision of a local pension board.

The commissioner administers the statewide volunteer fund with additional oversight provided by a six member board of trustees. The board is appointed by the governor for six-year terms. Nominations for the trustees are submitted by the State Firemen's and Fire Marshals' Association. The statute requires that each trustee be a member of the fund. The board meets on a quarterly basis and is responsible for managing the pension fund including the investment of surplus revenues generated by the fund.

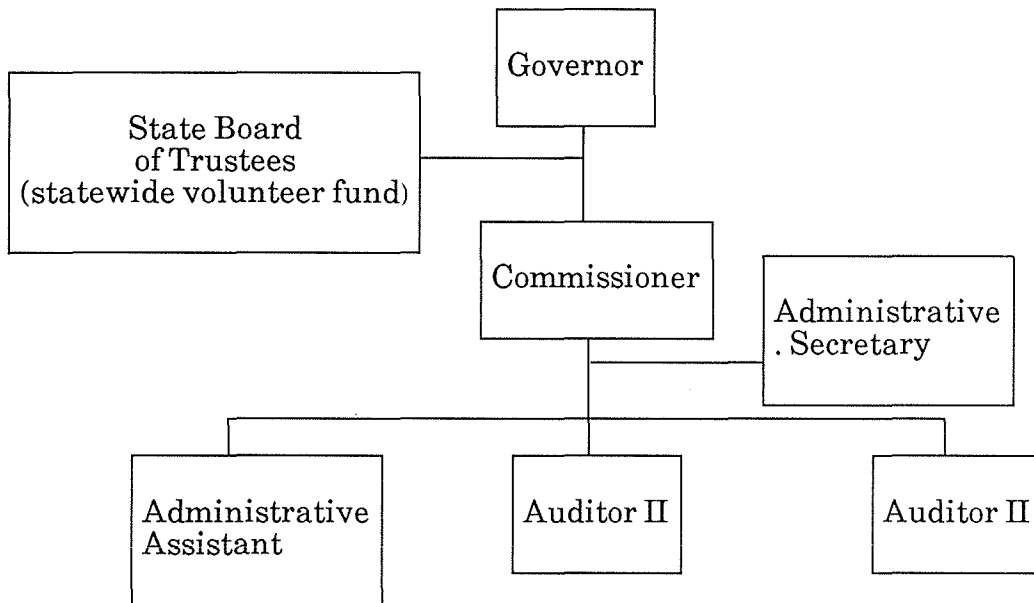
The Office of the Fire Fighters' Pension Commissioner is subject to the Sunset Act and is scheduled to be abolished in 1991. However, the board of trustees for the statewide fund is not subject to the sunset provision.

## Funding and Organization

In fiscal year 1990, the agency was appropriated approximately \$177,730 from the general revenue fund. All expenditures of the legislative appropriation were set for administration of the agency. The agency expended \$177,590 in fiscal year 1990.

The OFFPC is located in Austin and has five full-time employees including the commissioner, an administrative assistant, two auditors, and an administrative secretary. The two exhibits that follow show the agency's organization and describe its work force. The first exhibit, Exhibit A, shows the organizational structure for the five employees. The second of these exhibits, Exhibit B, depicts how the agency's work force has changed over a five year period in categories of employment. Since the state Appropriations Act establishes minority employment goals for these categories, the agency's minority employment is also depicted by category over this time period.

**Exhibit A**  
**Office of the Fire Fighters' Pension Commissioner**  
**Organization Chart**  
**1989**



**Exhibit B**  
**Percentage of Minorities in Agency's Workforce**

| Job Category           | 1986 Total Workforce<br>4 |            | 1990 Total Workforce<br>5 |            | 1990-1991 Appropriations Act Statewide Goal for Minority Workforce Representation |
|------------------------|---------------------------|------------|---------------------------|------------|---|
|                        | Total Positions           | % Minority | Total Positions           | % Minority |   |
| Administrators         | 1                         | 0%         | 1                         | 0%         | 14%   |
| Professionals          | 1                         | 0%         | 3                         | 33%        | 18%   |
| Para-Professionals     | 1                         | 0%         | 0                         | 0%         | 25%   |
| Administrative Support | 1                         | 0%         | 1                         | 0%         | 25%   |

## **Programs and Functions**

The Fire Fighters' Pension Commissioner is responsible for overseeing local fire fighter pension systems operating under provisions of the TLFFRA and administering the statewide volunteer fund. The following material describes how the commissioner addresses these responsibilities.

### **Texas Local Fire Fighters Retirement Act (TLFFRA)**

The fire fighter's pension commissioner provides technical assistance and administrative oversight to local fire fighter retirement systems under TLFFRA. TLFFRA applies to fire departments with both volunteer and paid fire fighters. The act covers 128 volunteer fire departments, 37 paid fire departments, and five partially-paid departments. Total assets held by the TLFFRA pension systems - volunteer, paid, and partially-paid - totaled approximately \$278 million in fiscal year 1989.

All participating fire departments are required to submit reports on their pension plans describing benefits and member credit earned toward retirement. The departments must also provide information on their pension funds indicating fund worth and return on investments. Based on the information submitted, the commissioner tracks each member's contributions to the retirement system and verifies the computation of the pension benefits for the local board of trustees. When reviewing the local board's reports, the commissioner also determines if statutory requirements on fund management, pension eligibility, contributions, benefits, length of service, and beneficiaries are being followed and suggests methods for improving the local fund if appropriate.

In addition to reviewing local retirement system information, the commissioner hears appeals from any person aggrieved by a decision of a local pension board. To file an appeal, the individual must give notice to the local pension board providing a description of the reasons for appeal. The same notice is filed with the commissioner who then receives a transcript of all relevant proceedings from the local board of trustees. A hearing is held in Austin according to the Administrative Procedure and Texas Register Act. An individual may appeal the commissioner's decision to district court. The OFFPC conducted five hearings in fiscal year 1988 and four hearings in fiscal year 1989.

### **Texas Statewide Volunteer Fire Fighters' Retirement Fund**

The fire fighters' pension commissioner is responsible for administering the statewide volunteer fund. The fund is specifically designed for fire fighters who serve without pay in their local community. Participation in the fund is optional and the agency actively recruits volunteer fire departments to join the fund. The fund is structured so that the agency can design individual retirement plans to fit the needs of volunteer fire departments interested in participating. The volunteer fire departments must vote to join the statewide fund and departments frequently merge their existing pension system with the statewide fund. Participation in the fund has grown from 40 volunteer departments in 1978, which was its first year of operation, to 123 volunteer departments in 1990. Exhibit C shows participation in the statewide fund since 1978.

Exhibit C  
Texas Statewide Volunteer  
Fire Fighters' Retirement Fund

| Year | Active Fire Fighters | Number of Departments | Number of Retirees and Beneficiaries |
|------|----------------------|-----------------------|--------------------------------------|
| 1978 | 1,224                | 40                    | *                                    |
| 1979 | 1,652                | 54                    | *                                    |
| 1980 | 1,836                | 60                    | *                                    |
| 1981 | 1,845                | 63                    | 529                                  |
| 1982 | 1,957                | 67                    | 580                                  |
| 1983 | 2,228                | 75                    | 686                                  |
| 1984 | 2,490                | 84                    | 817                                  |
| 1985 | 2,676                | 91                    | 901                                  |
| 1986 | 2,878                | 98                    | 1008                                 |
| 1987 | 3,140                | 103                   | 1106                                 |
| 1988 | 3,485                | 114                   | 1223                                 |
| 1989 | 3,423                | 120                   | 1341                                 |
| 1990 | 3,464                | 123                   | 1386                                 |

\* Data not available

The agency is responsible for collecting all of the volunteer fire department contributions to the fund as well as maintaining records on credit toward retirement for the individual fire fighters. The agency also calculates and distributes all benefits. Retirees receive an average of \$70 in monthly pension benefits. In fiscal year 1989, the statewide fund paid out approximately \$700,000 in pension benefits.

Other commissioner duties related to the statewide fund include hearing appeals from the local boards of trustees, distributing fund information to participating departments, recovering fraudulently acquired benefits, seeking emergency state funds when necessary, and preparing the commissioner's annual report summarizing the status of the fund.

The statewide volunteer fund is currently estimated to be worth approximately \$11 million. The commissioner and the state board of trustees are responsible for investing fund assets. Historically, the board of trustees only invested in cash deposit certificates. However, beginning in 1985, the board of trustees expanded its investment practices to include higher earning investments such as government guaranteed securities, stocks and bonds. The average rate of return on investments is 9.5 percent.



## **RESULTS OF REVIEW**

## **Overall Approach to the Review**



## Overall Approach to the Review

The Texas Sunset Act requires an assessment of several factors as part of the review of an agency. These factors include a determination of whether there is a continued need for the functions performed by the agency; whether benefits could be gained by performing the functions through another organizational structure; and finally, if the function is continued, whether changes are needed to improve the efficiency and effectiveness of the board.

The assessment of the need for the agency's functions focused on whether the state should continue to oversee local fire fighter retirement funds and administer a statewide retirement fund for volunteer fire fighters. The review then examined whether benefits would result from transferring the agency's functions to another state agency. The remainder of the report covers changes needed if the agency's current structure is maintained.

To make a determination in each of the review areas, the staff performed a number of activities. These activities include:

- review of various agency documents and records, legislative and budget documents, and literature concerning retirement systems;
- interviews with agency staff in Austin;
- attendance at a board of trustees meeting;
- interviews with personnel from state agencies that interact with the agency; and
- telephone discussions with interest groups and individuals affected by the agency.

The principal findings and conclusions resulting from the review are set out in three sections of the report: 1) Assessment of Need to Regulate; 2) Assessment of Organizational Alternatives; and 3) Recommendations if Agency is Continued.



# **Assessment of Need for Agency Functions**

**ISSUE 1: The functions of the Office of the Fire Fighters' Pension Commissioner should be continued.**

## BACKGROUND

The state has assumed various roles in the provision of retirement benefits for public employees throughout the state. The state has large statewide retirement systems for state employees, teachers, higher education personnel, and elected state officials. The state administers retirement systems for municipal, county and district employees. The state also provides oversight of retirement systems for law enforcement officers and fire fighters that are administered at the local level.

The state became involved in fire fighter pensions in 1937 with creation of the Office of the Fire Fighters' Pension Commissioner (OFFPC). The office administered a firemen's retirement system composed of individual pension funds in almost all fire departments in the state. Firemen's Relief and Retirement Funds were required in all fire departments with over \$1,000 worth of fire fighting equipment and the local fire departments were required to follow the retirement system guidelines established in law. The OFFPC was responsible for overseeing and monitoring the local funds for such things as accuracy of benefit payments and proper investment of fund surplus.

Over time, the agency's responsibilities have shifted. The larger metropolitan areas of the state established independent retirement systems and the agency focused on smaller fire fighter pensions, particularly those in volunteer fire departments. Then, in 1977, the legislature created a statewide fund for volunteer fire fighters and made the commissioner responsible for administering the fund. A state board of trustees was also established for fund oversight and the commissioner assists the trustees in managing and investing the fund. Today, 124 volunteer fire departments participate in the statewide fund out of approximately 1,600 volunteer departments.

Administration of the statewide fund for volunteer fire fighters is one of the two agency functions today. As its second function, the agency continues to monitor local fire fighters pension funds. The monitoring function is currently carried out under the authority of the Texas Local Fire Fighters Retirement Act (TLFFRA) passed in 1989 to replace the outdated fire fighter pension law first established in 1937.

A review of the agency to determine whether it is useful for the state to continue providing oversight of local fire fighter retirement funds and administering the statewide volunteer fund indicated the following:

- ▶ **Oversight and administrative assistance provided for local fire fighter retirement systems under TLFFRA is important and beneficial.**

- Through its oversight of the TLFFRA funds, the agency has identified 76 local volunteer funds that are not actuarially sound and is providing technical assistance to improve the status of these funds.
- The agency routinely secures proper benefit payments for local fire fighters by correcting errors in calculations made by local boards of trustees.
- The agency has assisted in safeguarding local retirement funds. The agency has prevented local pension funds from raising benefits without first gaining actuarial approval to make sure the fund could afford the change in benefits. In addition, the agency assists local pension boards in accurately tracking pension fund revenue by identifying and correcting bookkeeping errors in the annual financial reports submitted by the local retirement fund.
- ▶ **The state has a role in providing oversight for other local retirement systems.**
  - In 1979, the State Pension Review Board was created to oversee public pension funds in Texas. The agency compiles and compares information on benefits, service requirements, financing, and administration of pension systems. In addition, the board assesses the impact of proposed pension legislation and advises the legislature accordingly.
- ▶ **The Texas Statewide Volunteer Fire Fighter Fund is growing and provides a secure pension for many local communities with volunteer fire fighters.**
  - In the statewide volunteer fund's first year of operation in 1978, 40 volunteer departments joined the fund which was worth approximately \$400,000. Currently, the fund has 124 member volunteer departments and is now worth approximately \$12 million.
  - In comparing the statewide volunteer fund to the majority of local volunteer retirement funds, the statewide fund pays a superior benefit and is likely to be less costly for cities to participate.
- ▶ **In addition to the statewide volunteer fund, the state administers other statewide retirement funds for employees of local governments.**
  - The state administers the statewide Texas Municipal Retirement System (TMRS) for almost 500 member cities. This retirement system provides pension benefits for over 78,000 active municipal employees.
  - The state also administers the statewide Texas County and District Retirement System (TCDRS) for over 350 member subdivisions. This retirement system provides pension benefits for over 76,000 active county and district employees.

- ▶ **The state's oversight of local fire fighter funds and provision of the statewide volunteer fire fighters' fund results in benefits that could not be realized as effectively by other means.**
  - The statewide fund structure allows widespread participation from multiple fire departments throughout the state, thus enhancing the benefit pool and a community's ability to provide retirement benefits.
  - Many local communities do not have ample resources to administer and oversee the local fire fighter pension funds under TLFFRA. The state's oversight of the local funds improves local administration and safeguards the retirement fund.
  - Important coordination between the statewide volunteer fund and local volunteer pensions funds under TLFFRA is possible by having the commissioner responsible for both programs. In monitoring the TLFFRA volunteer departments, the commissioner identifies insolvent or problem pension funds and encourages them to transfer to the statewide volunteer fund. Since the statewide fund was established, 91 volunteer departments under TLFFRA have transferred to the statewide volunteer fund, improving benefits for the volunteer fire fighters and giving member communities a more actuarially sound pension fund.

Based on these factors, the review concluded that there is a continuing need for the functions of the agency.

### **RECOMMENDATION**

- **The functions of the Office of the Fire Fighters' Pension Commissioner should be continued.**

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Continuing the functions of the office would ensure sufficient oversight and administration of fire fighter retirement systems operating under TLFFRA and increase the transfer of unsound volunteer pensions to the statewide fund.

### **FISCAL IMPACT**

General revenue appropriations to the commission were approximately \$170,000 for each year of the 1990-1991 biennium. Similar appropriations can be expected in the future if the commission is continued.



## **Assessment of Organizational Alternatives**



**ISSUE 2: The Office of the Fire Fighters' Pension Commissioner should be continued as a separate agency with its current functions.**

## **BACKGROUND**

As a part of each review, the potential benefits of transferring the agency's duties and functions to other state agencies are routinely examined. Combining the activities of different agencies can have several benefits, such as eliminating the duplication of agency activities, reducing state expenditures, and increasing the amount and quality of services provided to consumers.

The Office of the Fire Fighters' Pension Commissioner (OFFPC) is an independent agency whose primary responsibility is to oversee fire fighter retirement systems operating under the Texas Local Fire Fighters Retirement Act (TLFFRA) and to administer the Texas Statewide Volunteer Fire Fighters' Retirement Fund.

An assessment of the potential for transfer of the commissioner's functions to another agency revealed no reasonable alternatives. The review for organizational alternatives indicated the following:

- ▶ **The primary functions of the OFFPC are to oversee local fire fighter retirement funds operating under the Texas Local Fire Fighters Retirement Act (TLFFRA) and to administer the Texas Statewide Volunteer Fire Fighters' Retirement Fund. No other state agency performs this same set of functions.**
  - The Employees Retirement System (ERS), the statewide retirement system for state employees and primary target for OFFPC transfer, does not monitor, verify benefits, or provide technical assistance to locally organized retirement systems. The OFFPC's role in supporting locally administered systems is unique.
  - The State Pension Review Board (SPRB), a state agency providing oversight of public pensions throughout the state, does not verify the calculation of retirement benefits for pension recipients. In addition, the SPRB does not resolve disputes involving a local pension board's distribution of benefits as is currently done by the OFFPC.
- ▶ **No major benefit would be derived from transferring the functions of this agency to another agency.**
  - The Legislative Budget Board's Performance Report to the 71st Legislature in 1989 indicated that a transfer of the OFFPC to ERS would not improve the administration of the OFFPC and that significant cost savings would not be gained.

- A review of the statewide volunteer fund administered by the OFFPC has not revealed any problems that would be better addressed by placing the fund in a larger agency such as ERS.
- ▶ **Transferring the OFFPC to another agency with other functions would diminish the sharp focus on fire fighters' pension systems that is currently provided through an independent agency.**
  - The agency has operated as an independent entity since 1937, providing state government the opportunity to oversee and support locally organized fire fighter retirement systems. Over 50 years of service to fire fighters has created strong support for its independent status.
  - Combining the OFFPC with another state retirement system could reduce participation in the statewide volunteer fund. Fire fighters expressed dissatisfaction in transferring control over fire fighter pension funds to a large system that did not serve the exclusive interest of fire fighters. Transferring the programs to a larger state agency could limit the statewide fund's ability to keep current membership and attract future volunteer fire departments.

### RECOMMENDATION

- **The Office of the Fire Fighters' Pension Commissioner should be continued as a separate agency with its current functions.**

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The functions of the OFFPC are appropriately placed in an independent agency. No significant benefits would be achieved by transferring any duties or activities to another agency.

### FISCAL IMPACT

No change in agency expenditures would be required as a result of this recommendation.

## **Recommendations if Agency is Continued**

**ISSUE 3: The nominations process for the Office of Fire Fighters' Pension Commissioner should be broadened to include the Texas Association of Fire Fighters.**

## **BACKGROUND**

The Office of the Fire Fighters' Pension Commissioner (OFFPC) is responsible for overseeing a portion of the retirement systems for fire fighters throughout the state. In fulfilling this responsibility, the commissioner administers the Texas Local Fire Fighters Retirement Act (TLFFRA) and the Texas Statewide Volunteer Fire Fighter Fund. Under TLFFRA, the commissioner monitors and oversees the pension funds for 170 paid, volunteer, and partially paid, fire departments to see that benefits are distributed appropriately and that the funds are managed according to guidelines set by state law. The commissioner also administers the statewide volunteer fund which serves 124 volunteer fire departments.

The commissioner is selected for this top agency position in a unique way. In most cases, the head of an agency is selected by the agency's policy-making body; however, this agency does not have a single oversight board. In this case, the governor appoints the commissioner for a two-year term with advice and consent of the senate. Another distinctive characteristic of this selection process is that the governor makes the appointment from a list of nominees submitted by the State Firemen's and Fire Marshals' Association of Texas.

The purpose of the nominations process is to give groups affected by the agency an opportunity to participate in the process of selecting the commissioner. The review examined the nominations approach currently required in statute to determine how well it met this standard. This review of the nominations process indicated the following:

- ▶ **Only one state association currently submits nominees to the governor for selection of the commissioner.**
  - The State Firemen's and Fire Marshal's Association submits from three to 10 nominations to the governor. This association has a membership of over 12,000 fire fighters. The major focus of the association is the Texas Volunteer Fire Fighter Certification Program which serves to certify individuals and departments for volunteer fire protection services. In addition, the association focuses on issues related to fire protection training and equipment certification.
- ▶ **When the nominations process was initiated, only one major association existed that represented the interests of fire fighters. However, the interests of state fire fighters are no longer represented by only one state association.**

- An additional state association exists which represents the interests of state fire fighters. The Texas Association of Fire Fighters has a membership of approximately 8,300 fire fighters. A significant portion of the membership of this association works for fire departments subject to oversight by the OFFPC.
- The State Firemen's and Fire Marshals' Association and the Texas Association of Fire Fighters are the two largest organizations representing the interests of fire fighters.
- ▶ **Other state fire officers are appointed through a nominations process that includes both state associations.**
- Both the State Firemen's and Fire Marshals' Association and the Texas Association of Fire Fighters participate in the appointment of the Fire Department Emergency Board. This board was created by the legislature in 1989 as an adjunct to the State Fire Marshal's Office. The seven member board is designed to provide financial assistance to local fire departments for training and equipment. The governor appoints three board members from a list submitted by the State Firemen's and Fire Marshals' Association and two board members from the list submitted by the Texas Association of Fire Fighters.

## PROBLEM

The current process for submitting nominations for the office of commissioner is not sufficiently open to groups affected by the agency. The statute limits nominations to a single association of fire fighters. Consequently, not all state associations affected by the commissioner are represented in the nominations process.

## RECOMMENDATION

- **The statute should be changed to include the Texas Association of Fire Fighters as one of the groups to submit nominations to the governor for the Office of the Fire Fighters' Pension Commissioner.**

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This recommendation will ensure that the two main fire fighter associations affected by the agency are represented in the process of selecting the fire fighters' pension commissioner. The Texas Association of Fire Fighters would submit nominations according to the same statutory requirements set for the State Firemen's and Fire Marshals' Association. The law requires the association to submit a list of not fewer than three and not more than 10 nominees to the governor. Giving the Texas Association of Fire Fighters the opportunity to provide the governor with a list of nominations for the commissioner's office gives additional representation in the selection process for fire fighters who belong to this association.

**FISCAL IMPACT**

No fiscal impact is anticipated.



**ISSUE 4: The composition of the state board of trustees for the statewide volunteer fund should be changed to provide additional expertise.**

## **BACKGROUND**

The state board of trustees for the Texas Statewide Volunteer Fire Fighters' Retirement Fund is a six-member board originally created in 1977. Trustees are appointed by the governor to serve six-year terms. The only statutory qualification for office is that the trustee be a member of the fund.

The state board of trustees is responsible for overseeing the financial soundness of the statewide fund and distribution of benefits to its members. The trustees monitor the benefit plans selected by participating departments, contribution rates, the benefit formula, transferability of service credit earned, and the return on fund investments. The statute does requires the board to employ a certified public accountant, an actuary, and investment advisors for fund administration. These services are provided on a contract basis.

In addition, the board of trustees hears appeals from pension participants who contest the commissioner's decision on distribution of benefits. The board generally meets quarterly to fulfill their responsibilities.

The review compared the structure of the statewide volunteer fund's board of trustees to other retirement systems' boards and assessed the need for trustees to have financial or pension administration expertise. The review indicated the following:

- ▶ **Pension administration and the management of pension fund investments presents an important, technical and complex task. To provide effective oversight of the statewide volunteer retirement fund, a high degree of competence and expertise is necessary.**
  - Poor management of the statewide volunteer fund would jeopardize benefits received by pension members as well as the investment made by participating municipalities. The statewide volunteer fund provides retirement and disability benefits to over 1300 individuals. One hundred and twenty-three municipalities with volunteer fire departments contribute monthly dues to the statewide volunteer fund.
  - As the statewide volunteer fund grows, the surplus revenue available for investment increases. Since the fund was created in 1977, it has grown from \$430,000 to almost \$11 million in 1990. This growth has caused the investment of funds to become more complex and the potential for loss greater.
- ▶ **Legislative and academic reviews of public pension systems have demonstrated a need to include members with expertise in finance and pension administration on a pension fund's board of trustees.**



- The Governor's Task Force on State Trust and Asset Management in October 1982, recommended that the boards of trustees for the statewide retirement systems include members who have financial, investment, or pension administration expertise.
- In a study conducted at Cornell University on public employee retirement systems in 1986, it was recommended that trustees for a pension system have experience in pension administration and investment principles and practices.
- ▶ **One statewide retirement system and other local fire fighter retirement systems require at least one member of the board of trustees to have some related experience to finance.**
  - The board of trustees for the Teachers' Retirement System is required to have two members who have demonstrated financial expertise in private business or industry and experience in investments.
  - The city treasurer is required to serve on the board of at least two city fire fighter retirement systems. Those pension systems are the Austin Firemen's Retirement System and the Houston Firemen's Retirement System.
  - The Texas Local Fire Fighters' Retirement Act, also administered by the fire fighter pension commissioner, requires the local pension board of trustees to include, in its membership, the chief municipal financial officer.
- ▶ **Other states require board expertise for managing state pension funds or rely on other state sources for expertise.**
  - Nine states require their statewide retirement systems to have financial experts on the boards of trustees. These states are California, Hawaii, Indiana, Iowa, Kansas, Maine, Rhode Island, Tennessee, and Virginia.
  - Some other states place responsibility for investments in an independent advisory board or in a state investment board to provide expert management of state pension funds. In the states of Maryland, Minnesota, New Jersey and Wisconsin, responsibility for investment of all public funds is handled by a state investment council or agency.

## PROBLEM

The effective management of public pension funds is a technical and complex responsibility requiring financial expertise. Current composition of the state board of trustees for the statewide volunteer fund does not include members with expertise related to finance, investment, or pension administration.

## RECOMMENDATION

- The statute should be changed to require that two of the six members of the state board of trustees for the statewide volunteer fund have experience in the fields of investment, finance, or pension administration.

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Changing the composition of the board of trustees will provide additional expertise in handling the growing statewide volunteer fund. Current board members would continue to serve their terms and the two members with technical expertise would be appointed during the next two appointment periods. The new composition would be complete with the 1993 appointments. The two members with technical expertise would be exempt from the current requirement that board trustees must be members of the statewide volunteer fund. With this recommendation, the board of trustees will be better equipped to invest surplus revenues and evaluate the financial status of the fund.

## FISCAL IMPACT

No change in agency expenditures would be required as a result of this recommendation.



## **Across-the-Board Recommendations**

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From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies is denoted in abbreviated chart form.

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| <b>Fire Fighters' Pension Commissioner</b> |                 |                    |   |
|--|-----------------|--------------------|---|
| <b>Applied</b>                             | <b>Modified</b> | <b>Not Applied</b> | <b>Across-the-Board Recommendations</b>   |
|  |                 |                    | <b>A. GENERAL</b>   |
|  | x               |                    | 1. Require public membership on boards and commissions.   |
|  |                 | x                  | 2. Require specific provisions relating to conflicts of interest.   |
|  |                 | x                  | 3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. |
|  | x               |                    | 4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.          |
|  |                 | x                  | 5. Specify grounds for removal of a board member.   |
| x  |                 |                    | 6. Require the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.     |
| x  |                 |                    | 7. Require the board to establish skill-oriented career ladders.  |
| x  |                 |                    | 8. Require a system of merit pay based on documented employee performance.  |
|  |                 | x                  | 9. Provide for notification and information to the public concerning board activities.  |
| *  |                 |                    | 10. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process.                                     |
|  |                 | x                  | 11. Require files to be maintained on complaints.   |
|  |                 | x                  | 12. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.  |
| x  |                 |                    | 13. Require development of an E.E.O. policy.  |
| x  |                 |                    | 14. Require the agency to provide information on standards of conduct to board members and employees.   |
|  |                 | x                  | 15. Provide for public testimony at agency meetings.  |
|  |                 | x                  | 16. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.                                    |
| x  |                 |                    | 17. Require development of accessibility plan.  |

\* Already in law -- no statutory change needed.

\*\* Already in law -- requires updating to reflect standard ATB language.

| <b>Fire Fighters' Pension Commissioner</b><br>(cont.) |          |             |   |
|---|----------|-------------|---|
| Applied   | Modified | Not Applied | Across-the-Board Recommendations  |
|   |          |             | <b>B. LICENSING</b>   |
|   |          | x           | 1. Require standard time frames for licensees who are delinquent in renewal of licenses.  |
|   |          | x           | 2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.          |
|   |          | x           | 3. Provide an analysis, on request, to individuals failing the examination.   |
|   |          | x           | 4. Require licensing disqualifications to be: 1) easily determined, and 2) related to currently existing conditions.                      |
|   |          | x           | 5. (a) Provide for licensing by endorsement rather than reciprocity.<br>(b) Provide for licensing by reciprocity rather than endorsement. |
|   |          | x           | 6. Authorize the staggered renewal of licenses.   |
|   |          | x           | 7. Authorize agencies to use a full range of penalties.   |
|   |          | x           | 8. Specify board hearing requirements.  |
|   |          | x           | 9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.     |
|   |          | x           | 10. Authorize the board to adopt a system of voluntary continuing education.  |

\* Already in law -- no statutory change needed.

\*\* Already in law -- requires updating to reflect standard ATB language.

| <b>State Board of Trustees for the Texas Statewide<br/>Volunteer Fire Fighters' Retirement Fund</b> |                 |                        |   |
|---|-----------------|------------------------|---|
| <b>Applied</b>  | <b>Modified</b> | <b>Not<br/>Applied</b> | <b>Across-the-Board Recommendations</b>   |
|   |                 |                        | <b>A. GENERAL</b>   |
|   | x               |                        | 1. Require public membership on boards and commissions.   |
|   |                 | x                      | 2. Require specific provisions relating to conflicts of interest.   |
| x   |                 |                        | 3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. |
| x   |                 |                        | 4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.          |
| x   |                 |                        | 5. Specify grounds for removal of a board member.   |
|   |                 | x                      | 6. Require the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.     |
|   |                 | x                      | 7. Require the board to establish skill-oriented career ladders.  |
|   |                 | x                      | 8. Require a system of merit pay based on documented employee performance.  |
|   |                 | x                      | 9. Provide for notification and information to the public concerning board activities.  |
|   |                 | x                      | 10. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process.                                     |
|   |                 | x                      | 11. Require files to be maintained on complaints.   |
|   |                 | x                      | 12. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.  |
|   |                 | x                      | 13. Require development of an E.E.O. policy.  |
|   |                 | x                      | 14. Require the agency to provide information on standards of conduct to board members and employees.   |
|   |                 | x                      | 15. Provide for public testimony at agency meetings.  |
|   |                 | x                      | 16. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.                                    |
|   |                 | x                      | 17. Require development of accessibility plan.  |

\* Already in law -- no statutory change needed.

\*\* Already in law -- requires updating to reflect standard ATB language.



**State Board of Trustees for the Texas Statewide  
Volunteer Fire Fighters' Retirement Fund**  
(cont.)

| Applied | Modified | Not Applied | Across-the-Board Recommendations  |
|---------|----------|-------------|---|
|         |          |             | <b>B. LICENSING</b>   |
|         |          | x           | 1. Require standard time frames for licensees who are delinquent in renewal of licenses.  |
|         |          | x           | 2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.          |
|         |          | x           | 3. Provide an analysis, on request, to individuals failing the examination.   |
|         |          | x           | 4. Require licensing disqualifications to be: 1) easily determined, and 2) related to currently existing conditions.                      |
|         |          | x           | 5. (a) Provide for licensing by endorsement rather than reciprocity.<br>(b) Provide for licensing by reciprocity rather than endorsement. |
|         |          | x           | 6. Authorize the staggered renewal of licenses.   |
|         |          | x           | 7. Authorize agencies to use a full range of penalties.   |
|         |          | x           | 8. Specify board hearing requirements.  |
|         |          | x           | 9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.     |
|         |          | x           | 10. Authorize the board to adopt a system of voluntary continuing education.  |

\* Already in law -- no statutory change needed.

\*\* Already in law -- requires updating to reflect standard ATB language.

## **Minor Statutory Modifications**

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Discussions with agency personnel concerning the agency and its statute indicated a need to make minor statutory changes. The changes are non-substantive in nature and are made to comply with federal requirements or to remove out-dated references. The following material provides a description of the needed changes and the rationale for each.

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**Minor Modifications to the  
Office of Fire Fighters' Pension Commissioner  
(Article 6243e.3, V.A.C.S.)**

| Change   | Reason                        | Location in Statute |
|--|-------------------------------|---------------------|
| Delete the term "qualified" in one location where it is inappropriately applied. | To eliminate inaccurate term. | Section 2A(a)       |

**Office of the Fire Fighters'  
Pension Commissioner**

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