

# SUNSET ADVISORY COMMISSION

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**Report to the 87th  
Legislature**

**2020–2021**

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**87TH LEGISLATURE**

# SUNSET ADVISORY COMMISSION



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**Representative John Cyrier**  
*Chair*

**Senator Dawn Buckingham, M.D.**  
*Vice Chair*

**Representative Terry Canales**

**Senator Bob Hall**

**Representative Craig Goldman**

**Senator Eddie Lucio, Jr.**

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**Ralph Duggins, Public Member**

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*Executive Director*

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*Cover photo: The Texas Capitol is a marvel of craftsmanship down to the smallest details. Elaborate, custom-designed hardware accentuates the beautifully carved wooden doors. The Sargent and Co. of New Haven, Connecticut created the glass molds especially for the building in the 1880s. The Capitol hardware features incised designs of geometric and stylized floral motifs. This reflects the shift from the Renaissance Revival style of the building's interior architecture to the simpler Aesthetic Movement for its decorative details. Photo credit: Janet Wood*



# SUNSET ADVISORY COMMISSION

PO Box 13066 ❖ Austin Texas 78711-3066

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Rep. Craig Goldman  
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Rep. Stan Lambert  
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Rep. Chris Paddie  
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Julie Harris-Lawrence  
Surfside Beach

February 26, 2021

The Honorable Greg Abbott  
Governor of Texas

The Honorable Dan Patrick  
Lieutenant Governor of Texas

The Honorable Dade Phelan  
Speaker, Texas House of Representatives

Honorable Members of the 87th Legislature  
Assembled in Regular Session

Ladies and Gentlemen:

## Senate Members

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Sen. Dawn Buckingham, M.D.  
Lakeway

Sen. Bob Hall  
Edgewood

Sen. Eddie Lucio, Jr.  
Brownsville

Sen. Angela Paxton  
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As we begin the 87th Legislative Session, the members of the Sunset Advisory Commission present to you the enclosed results of a review cycle that took place amidst unprecedented challenges resulting from the COVID-19 pandemic, and included thousands of hours of staff work and commission hearings, debate, and decisions. As you know, the Texas Sunset Act directs commission members and staff to evaluate the performance of agencies scheduled for review each biennium and recommend abolishing or continuing these agencies, propose statutory or management changes needed to better serve Texans, and prepare legislation to implement the commission's proposed statutory changes.

The Sunset Commission reviewed 19 entities for the 87th Legislative Session, resulting in 261 recommendations to streamline state government while enhancing services to our citizens. Generally, the recommendations eliminate unnecessary regulations, align agencies' procedures with best practices, and strengthen accountability and effective delivery of services to the citizens of Texas. Notable recommendations include abolishing the Anatomical Board of the State of Texas and transferring its functions to the Texas Funeral Service Commission, and fully consolidating the Texas Holocaust and Genocide Commission within the Texas Historical Commission. The commission also recommends establishing a blue ribbon panel to comprehensively review and recommend needed changes to repair the state's fundamentally broken law enforcement regulatory system. Finally, transferring the Texas Racing Commission to the Comptroller of Public Accounts would better ensure the safety, integrity, and fairness of pari-mutuel racing and wagering in Texas.

On behalf of the Sunset Advisory Commission, we are pleased to share with you the commission's findings and recommendations to streamline and improve state government for the benefit of those we serve — the people of Texas.

Respectfully submitted,

Representative John Cyrier  
Chair  
Sunset Advisory Commission

Senator Dawn Buckingham, M.D.  
Vice Chair  
Sunset Advisory Commission



# REPORT TO THE 87TH LEGISLATURE

2020–2021  
87TH LEGISLATURE



# TABLE OF CONTENTS

| Page

## Introduction

..... 1

## Sunset Commission Recommendations

Agriculture, Texas Department of ..... 5  
    Boll Weevil Eradication Foundation, Texas  
    Prescribed Burning Board  
    Early Childhood Health and Nutrition Interagency Council

Anatomical Board of the State of Texas ..... 9

Animal Health Commission, Texas ..... 11

Brazos River Authority ..... 15

Credit Union Department ..... 17

Fire Protection, Texas Commission on ..... 19

Holocaust and Genocide Commission, Texas ..... 21

Jail Standards, Texas Commission on ..... 23

Law Enforcement, Texas Commission on ..... 27

Licensing and Regulation, Texas Department of ..... 31

Parks and Wildlife Department, Texas ..... 35

Prepaid Higher Education Tuition Board ..... 39

Racing Commission, Texas ..... 41

San Jacinto River Authority ..... 45

Teacher Retirement System of Texas ..... 47

Veterinary Medical Examiners, State Board of ..... 51

## Appendixes

Appendix A — Sunset Review Schedule — 2023 ..... 53

Appendix B — Summary of the Texas Sunset Act ..... 55





# INTRODUCTION

Sunset is the regular assessment of the continuing need for a state agency or program to exist. The Sunset process works by setting an automatic termination (Sunset) date in state law on which an agency will be abolished unless the Legislature passes a bill to continue it, typically for another 12 years. This date determines when an agency is subject to Sunset review and provides the Legislature a unique opportunity and a strong incentive to closely examine an agency's mission, priorities, and performance and take action to address problems identified.

## Sunset for the 87th Legislative Session

The Sunset Commission successfully reviewed 19 entities this biennium, notwithstanding significant adjustments to its review processes resulting from the COVID-19 pandemic. Beginning in March 2020, Sunset staff conducted most review activities virtually, including agency and stakeholder meetings and report production and publication. The commission held in-person meetings with a mix of invited in-person and virtual testimony while members of the public and others were able to submit written testimony on the agencies under review.

Sunset adopted 261 recommendations to improve the 19 entities reviewed.

This biennium, the regulation of agriculture and animals featured prominently, with reviews of the Texas Department of Agriculture (TDA), Texas Animal Health Commission, Texas Parks and Wildlife Department (TPWD), and Texas Racing Commission. Law enforcement was another focus area, with reviews of the Texas Commission on Law Enforcement (TCOLE) and Texas Commission on Jail Standards. Other reviews included the Texas Department of Licensing and Regulation (TDLR), the state's largest umbrella occupational licensing agency, as well as the Credit Union Department and Texas Commission on Fire Protection. Sunset also conducted its first ever review of the Texas Holocaust and Genocide Commission, and the first review of the Anatomical Board of the State of Texas since 1984. The commission also reviewed three entities not subject to abolishment — the Teacher Retirement System of Texas, San Jacinto River Authority, and Brazos River Authority. Though also tasked with reviewing two divisions within the governor's office — the Office of State-Federal Relations and the Texas Economic Development and Tourism Office — the commission concluded reviews of these entities could potentially detract from the governor's response to the COVID-19 pandemic and recommends postponing these reviews to the 2022–23 biennium.

## Results

Following extensive analysis, testimony, and deliberations, the Sunset Commission recommends the 87th Legislature pass legislation continuing 12 entities. In addition, the commission recommends the Legislature reconstitute the Texas Racing Commission as a semi-independent board and transfer it

to the Comptroller of Public Accounts, abolish the already disbanded Early Childhood Health and Nutrition Interagency Council, consolidate the Texas Holocaust and Genocide Commission as an advisory committee of the Texas Historical Commission, and abolish the Anatomical Board of the State of Texas and transfer its functions to the Texas Funeral Service Commission. The chart on Page 3, *87th Session Sunset Summary Information*, summarizes the commission's decisions regarding the continuation of the entities under review and provides an estimated two-year fiscal impact of recommended changes. In total, the commission adopted 261 recommendations — 147 that require statutory changes and 114 nonstatutory management actions — to improve these entities' accountability and operations, use their available funds more efficiently, and position them to better serve and protect the people of Texas.

Every biennium, Sunset makes recommendations to improve the efficiency, effectiveness, transparency, and accountability of state government. Notably, the review of TCOLE found the state's regulation of law enforcement is fundamentally broken, requiring improvements far beyond agency operational changes. The commission recommends establishing a blue ribbon panel to comprehensively review and recommend needed changes to significantly improve law enforcement regulation in Texas.

Another hallmark of the Sunset process is elimination of unnecessary or burdensome regulation, and the Sunset Act specifically requires an assessment of whether regulation can be less burdensome while still adequately protecting the public. In keeping with this mandate, through the TDLR review, the commission recommends eliminating 31 types of occupational licenses, as well as streamlining the state's driver training programs and the regulation of barbers and cosmetologists. The commission also recommends applying numerous best practices for occupational licensing and contracting functions to several of the other agencies reviewed this biennium, including TDA, Texas Racing Commission, and TPWD. Overall, the commission's recommendations are estimated to result in a savings to the state of about \$363,240 during the next two fiscal years. Long-term efficiency gains stemming from these recommendations would likely result in additional savings to the state, but these savings cannot be estimated.

## Guide to Recommendations

Individual sections in this report summarize the Sunset Commission's recommendations for each agency reviewed this biennium, including the two types of recommendations described below, followed by the estimated fiscal impact of the recommended changes.

- **Statutory Change.** Changes in law that require consideration and action by the full Legislature and are drafted into Sunset legislation on each agency.
- **Management Action.** Changes that require consideration and action by the agency and do not require legislative action. As adopted by the Sunset Commission, these recommendations should be implemented by each agency over the next two years or as specified by the commission.

The discussion of the Sunset Commission's recommendations has been shortened for this report. However, more detailed information on the recommended changes can be found in the individual Sunset staff report on each agency, available on Sunset's website, [www.sunset.texas.gov](http://www.sunset.texas.gov), or by contacting Sunset staff directly.

**87th Session Sunset Summary Information<sup>1</sup>**

<b>Agency</b>	<b>Recommended Action</b>	<b>Two-Year Net Fiscal Impact<sup>2</sup></b>
Agriculture, Texas Department of	Continue	(\$9,000)
Boll Weevil Eradication Foundation, Texas	Continue	
Prescribed Burning Board	Continue	
Early Childhood Health and Nutrition Interagency Council	Abolish	
Anatomical Board of the State of Texas	Abolish and Transfer <sup>3</sup>	\$373,896
Animal Health Commission, Texas	Continue	\$1,016,774
Brazos River Authority	N/A	No Impact
Credit Union Department	Continue	No Impact
Fire Protection, Texas Commission on	Continue	No Impact
Holocaust and Genocide Commission, Texas	Consolidate <sup>4</sup>	No Impact
Jail Standards, Texas Commission on	Continue	No Impact
Law Enforcement, Texas Commission on	Continue	No Impact
Licensing and Regulation, Texas Department of	Continue	(\$1,018,430)
Parks and Wildlife Department, Texas	Continue	No Impact
Prepaid Higher Education Tuition Board	Continue	No Impact
Racing Commission, Texas	Continue and Transfer <sup>5</sup>	No Impact
San Jacinto River Authority	N/A	No Impact
Teacher Retirement System of Texas	N/A	No Impact
Veterinary Medical Examiners, State Board of	Continue	No Impact
<b>Net Fiscal Impact</b>		<b>\$363,240</b>

<sup>1</sup> Postponing the reviews of the Office of State and Federal Relations and the Texas Economic Development and Tourism Office until the 2022–23 biennium, as recommended by the Sunset Commission, requires approval by the 87th Legislature.

<sup>2</sup> Estimate of the two-year fiscal impact to state general revenue appropriations.

<sup>3</sup> The Sunset recommendation would transfer regulation of willed body programs to the Texas Funeral Service Commission and create the State Anatomical Advisory Committee at the commission.

<sup>4</sup> The Sunset recommendation would continue the Texas Holocaust and Genocide Commission as an advisory committee of the Texas Historical Commission.

<sup>5</sup> The Sunset recommendation would transfer the Texas Racing Commission to the Comptroller of Public Accounts and continue the commission as a semi-independent board.



# TEXAS DEPARTMENT OF AGRICULTURE

## TEXAS BOLL WEEVIL ERADICATION FOUNDATION

### PRESCRIBED BURNING BOARD

### EARLY CHILDHOOD HEALTH AND NUTRITION INTERAGENCY COUNCIL

Robert Romig, Project Manager

## Summary

Since its creation in 1907, the Texas Department of Agriculture (TDA) has grown to play a significant role in agricultural and rural affairs across the state. The Sunset Commission concluded TDA is well-managed, but identified several opportunities to provide a firmer foundation for staff to successfully perform TDA's many functions. For example, the department should use violation trend data and risk-based analyses to prioritize its regulatory inspections, and make regular use of stakeholder input to evaluate the effectiveness of agency rules and procedures. Additionally, the commission determined TDA's regulation of aquaculture businesses provides no meaningful public benefit and should be eliminated.

The commission found the Texas Boll Weevil Eradication Foundation, a nonprofit quasi-governmental entity overseen by TDA, plays a critical role in preventing the re-infestation of the boll weevil in the United States and recommends continuing it for 12 years. Similarly, the commission found the Prescribed Burning Board, which regulates standards for using prescribed burning to reduce the risk of wildfires on Texas property, should be continued but recommends clarifying the board's rulemaking authority and administrative attachment to TDA. Finally, the commission recommends formally abolishing the Early Childhood Health and Nutrition Interagency Council, which issued its final report on early childhood nutrition and physical activity and voluntarily disbanded in 2018.

TDA should better use trend data, risk-based analyses, and stakeholder input to improve its operations.

## Recommendations

### Continue

- Continue the Texas Department of Agriculture, the Prescribed Burning Board, and the Texas Boll Weevil Eradication Foundation for 12 years.

### Abolish

- Abolish the Early Childhood Health and Nutrition Interagency Council.

- Eliminate TDA's aquaculture licensing program and the inactive Texas Rural Foundation.

### **Governance**

- Clearly authorize the Prescribed Burning Board to adopt all rules related to prescribed burning, including the schedule of sanctions currently adopted by TDA, and continue the board as a semi-independent board administratively attached to the department.
- Remove the TDA staff appointee from the State Seed and Plant Board to align with constitutional requirements.
- Direct the State Seed and Plant Board to adopt policies regarding the separation of duties of board members from those of the department by February 1, 2021. (Management action – nonstatutory)
- Direct the Texas Boll Weevil Eradication Foundation to implement a reserve fund balance policy by February 1, 2021. (Management action – nonstatutory)
- Direct TDA to improve its stakeholder engagement, website content, and public information. (Management action – nonstatutory)
- Direct TDA to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law, and to adopt policies implementing alternative rulemaking and dispute resolution, by February 1, 2021. (Management action – nonstatutory)
- Apply the standard across-the-board requirements regarding the separation of board and staff duties and developing and maintaining a system for receiving and acting on complaints to the Texas Boll Weevil Eradication Foundation.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.
- Abolish three and modify one of TDA's reporting requirements.
- Update TDA's statute to reflect the requirements of the person-first respectful language initiative.

### **GO TEXAN Program**

- Re-establish the GO TEXAN program and its purpose in statute, ensuring the new statutory framework includes all elements of the current program, including promotion of agricultural, non-agricultural, and value-added products in Texas.
- Direct TDA to establish a mission, goals, objectives, and clear performance measures for the GO TEXAN program. (Management action – nonstatutory)
- Direct TDA to develop a policy to ensure expired members comply with department rules. (Management action – nonstatutory)

### **Licensing**

- Require TDA to develop guidelines for evaluating applicants' criminal history in all of its occupational licensing programs.

- Direct TDA to comply with statute directing rules and procedures for military service members, veterans, and military spouses by February 1, 2021. (Management action – nonstatutory)
- Provide clear statutory authority for the Prescribed Burning Board to issue licenses by reciprocity for substantially equivalent states.
- Direct the Prescribed Burning Board to remove subjective criteria from its certification application by February 1, 2021. (Management action – nonstatutory)
- Remove subjective requirements for becoming a licensed seed producer.

### **Enforcement**

- Require a memorandum of understanding between TDA and the Office of the Attorney General to facilitate better coordination and handling of consumer protection cases.
- Statutorily require TDA to develop a strategic plan with public input for inspections that tracks and measures the effectiveness of its enforcement efforts.
- Direct TDA and the Health and Human Services Commission to share information about the licensing and registration status of food program participants. (Management action – nonstatutory)
- Direct TDA to collect and analyze data from its regulatory programs to increase their effectiveness. (Management action – nonstatutory)
- Direct TDA to establish a consistent policy for auditing continuing education providers and courses. (Management action – nonstatutory)

### **Advisory Committees**

- Continue three of TDA's statutory advisory committees and eliminate 24 advisory committees that are inactive or already abolished by operation of law.
- Authorize the department to create advisory committees in rule.
- Recreate the Citrus Budwood Advisory Council in statute to continue the composition, responsibilities, and oversight of the council currently found in Agriculture Code Chapter 19, exempt from the expiration provisions of Government Code Chapter 2110.
- Direct TDA to provide a list to the Sunset Commission of any committees under this recommendation that would be removed from statute, but that are actively being used and that TDA intends to re-create by February 1, 2021. (Management action – nonstatutory)

## **Fiscal Implication Summary**

Overall, the Sunset Commission's recommendations would not have a significant fiscal impact to the state. The department should be able to implement most recommendations with existing resources. In addition, the department is required to generate revenue to cover the cost of its regulatory programs, so any loss of revenue or increase in expenditures that result from recommendations associated with these programs should be cost-neutral. However, discontinuing TDA's Aquaculture program would result

in a loss of about \$4,500 annually to general revenue. A decrease of approximately \$12,300 annually in licensing fee revenue currently collected by TDA would be offset by a savings of about \$7,800 for administering the program.

### Texas Department of Agriculture

<b>Fiscal Year</b>	<b>Savings to the General Revenue Fund</b>	<b>Loss to the General Revenue Fund</b>	<b>Net Loss to the General Revenue Fund</b>
2022	\$7,800	\$12,300	\$4,500
2023	\$7,800	\$12,300	\$4,500
2024	\$7,800	\$12,300	\$4,500
2025	\$7,800	\$12,300	\$4,500
2026	\$7,800	\$12,300	\$4,500



# ANATOMICAL BOARD OF THE STATE OF TEXAS

Darren McDivitt, Project Manager

## Summary

Willed body programs (WBPs) allow adults to donate their deceased bodies to further education and research, and serve as a primary resource for higher education institutions and other health professions by ensuring affordable access to cadavers, which are essential for teaching and training. The Anatomical Board of the State of Texas (SAB) oversees the distribution of these donated or unclaimed deceased bodies to board-approved higher education institutions for use in medical or forensic science education and research. Today, Texas has 13 WBPs subject to board oversight, including periodic inspections. Additionally, statute allows these programs to transfer donated bodies to other board-inspected and approved facilities, including medical training facilities, medical device companies, search and rescue organizations, and other higher education institutions that do not operate their own WBPs.

In the first Sunset review of SAB since 1984, staff found Texas' higher education institutions could operate WBPs without the board and recommended abolishing SAB. However, the Sunset Commission instead voted to abolish SAB as a standalone board and transfer its functions to the Texas Funeral Service Commission (TFSC). The board would be reconstituted as an advisory committee composed of higher education institutions with WBPs, which would provide expertise to TFSC and have direct input on TFSC rulemaking that affects WBPs and other anatomical facilities. TFSC staff would carry out SAB functions, including inspections and administrative work previously performed by board members.

Abolishing SAB and transferring its functions to TFSC would provide more effective oversight of willed body programs in Texas.

## Recommendation

### Abolish and Transfer

- Abolish SAB and transfer its functions to TFSC, and reconstitute the board as an advisory committee composed of higher education institutions with willed body programs.

## Fiscal Implication Summary

Overall, the recommendation to abolish the Anatomical Board of the State of Texas as a standalone board and transfer its functions to TFSC would result in a one-time gain to the General Revenue Fund. While the board has no staff and does not receive state appropriations, all unexpended and unobligated funds under its management, which totaled about \$373,896 in 2020, would be transferred to general

revenue for the purpose of TFSC administering the board's duties. Additionally, the commission, under its current authority, could charge willled body programs a fee to help cover the cost of the board's duties, if necessary.

### Anatomical Board of the State of Texas

Fiscal Year	Gain to the General Revenue Fund	Change in Number of FTEs From FY 2019
2022	\$373,896	0
2023	\$0	0
2024	\$0	0
2025	\$0	0
2026	\$0	0

# TEXAS ANIMAL HEALTH COMMISSION

Darren McDivitt, Project Manager

## Summary

The Texas Animal Health Commission (TAHC) works to ensure the health and marketability of the state's animal agriculture industry by protecting livestock and fowl from foreign and domestic diseases, and controlling the spread of outbreaks that occur. The commission found TAHC remains necessary and recommends continuing it for 12 years as an independent, standalone agency, but also recognized TAHC has not fully kept up with Texas' shifting disease landscape.

One of the most significant shifts occurred in recent years as Texas was declared free of cattle brucellosis and federal funding to test for this disease was eliminated, significantly reducing the workload of TAHC's lab. Because of this reduction, along with other problems, the commission determined TAHC's lab is no longer cost-effective or needed, particularly when the better-equipped Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) is capable of serving as the state's regulatory animal health lab. The commission also recognized a need to bring the agency's statute and operations in line with current best practices for disease and pest management. Finally, the commission found TAHC needs to strengthen and improve the consistency of its investigation and enforcement activities across its six regions to better mitigate the risk of disease outbreak in Texas.

Texas continues to need TAHC to help prevent animal disease outbreaks and mitigate their effects.

## Recommendations

### Continue

- Continue the Texas Animal Health Commission for 12 years.

### Animal Health Lab

- Require TAHC to close its lab and designate TVMDL as the state's regulatory animal health lab in statute to the extent testing is available, efficient, and cost effective.

### Animal Health Programs

- Direct TAHC and the Texas Department of Agriculture to enter into a memorandum of understanding by February 1, 2021, to ensure TAHC is notified when animals are rejected at state animal export facilities and to conduct a study that tracks animals rejected at any export facility. (Management action – nonstatutory)
- Remove outdated, overly prescriptive, restrictive provisions in statute to provide TAHC more flexibility to prevent, manage, and eradicate reportable animal diseases.

- Direct TAHC to provide clear, consistent public information about state animal health laws and rules, regulatory programs, and appeals processes by February 1, 2021. (Management action – nonstatutory)
- Direct TAHC and Texas A&M AgriLife Extension Service to enter into a memorandum of understanding to jointly develop and coordinate educational programs and information about animal health. (Management action – nonstatutory)

### **Enforcement**

- Require TAHC to regularly conduct trend analysis of its compliance data.
- Direct TAHC to complete and implement its penalty matrix by February 1, 2021. (Management action – nonstatutory)
- Direct TAHC to include explicit guidance in all field manuals on documenting incidents of noncompliance and corresponding educational conversations. (Management action – nonstatutory)
- Direct TAHC to share its compliance database with regional office staff to facilitate information flow between Austin and the field by February 1, 2021. (Management action – nonstatutory)
- Direct TAHC to review and update all training materials and guidelines for consistency and conformity with statute and rules. (Management action – nonstatutory)

### **Governance**

- Authorize TAHC to establish advisory committees by rule.
- Direct TAHC to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law, and update the Sunset Commission on its progress by February 1, 2021. (Management action – nonstatutory)
- Update the standard across-the-board requirements on board member training and grounds for removal of a board member.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

## **Fiscal Implication Summary**

Overall, the Sunset Commission's recommendations would result in an estimated positive fiscal impact to the state of \$2,547,335 over the next five years. The recommendation to close TAHC's lab and designate TVMDL as the state's regulatory animal health lab would result in estimated annual savings to general revenue of \$506,587 in fiscal year 2022, and \$510,187 in each of the following four fiscal years. The recommendation would also result in an overall reduction of three full-time positions.

This estimate is based on the lab's fiscal year 2019 budget and employee count, and savings associated with eliminating the TAHC lab's expenditures and seven employees. Estimated savings based on eliminating the lab's expenditures of \$1,167,273 would be offset by TAHC's continuing need for \$607,086 in appropriations to pay TVMDL for lab services, and a staff position to coordinate these services. TVMDL

would need four additional staff positions and would incur a one-time cost of \$3,600 in fiscal year 2022 to train employees for testing.

### Texas Animal Health Commission

Fiscal Year	Savings to the General Revenue Fund	Change in Number of FTEs From FY 2019
2022	\$506,587	-3
2023	\$510,187	-3
2024	\$510,187	-3
2025	\$510,187	-3
2026	\$510,187	-3



# BRAZOS RIVER AUTHORITY

Robert Romig, Project Manager

## Summary

Since its creation in 1929, the Brazos River Authority (BRA) has managed the largest river basin in Texas, stretching 36,000 square miles from the panhandle to the Gulf of Mexico. In response to population and water demand increases, the authority is embarking on an ambitious, multi-decade endeavor to identify and develop new sources of water. The Sunset Commission concluded BRA is at a pivotal moment that will determine whether it can successfully grow into the large-scale water provider it aims to become. Expanding its water supply portfolio will necessarily impact water customers who fund BRA's operations, as well as the local governments and landowners where projects are built.

To successfully carry out this endeavor while also addressing aging infrastructure issues, the Sunset Commission concluded BRA must increase its transparency and objectivity to avoid political, reputational, and financial pitfalls experienced by other river authorities. BRA should develop a more comprehensive approach to planning and prioritizing its numerous projects, including soliciting more input from its board of directors and the public. BRA should also implement several standard contracting practices to ensure fairness and transparency in the way it awards and monitors its contracts. Finally, the commission recommends several statutory changes and good government practices related to openness and accountability applied during Sunset reviews. Together, these recommendations would shore up BRA's operations as it expands to meet the growing demands of the state in the coming decades.

**BRA must increase its transparency and accountability to successfully achieve its multi-decade endeavor to develop new water sources.**

## Recommendations

### Project Planning

- Direct BRA to develop and adopt an objective process and evaluation criteria for prioritizing its projects. (Management action – nonstatutory)
- Direct BRA to provide clearer information on project progression and expenditures to its board and the public. (Management action – nonstatutory)
- Direct BRA to involve its board of directors more directly in developing its strategic plan. (Management action – nonstatutory)
- Direct BRA to develop a public engagement policy for water supply projects. (Management action – nonstatutory)

### **Contracting**

- Direct BRA to adopt objective criteria for awarding professional services contracts and document the basis for award decisions. (Management action – nonstatutory)
- Direct BRA to evaluate and document vendor performance. (Management action – nonstatutory)
- Direct BRA to improve its contracting processes to ensure sufficient transparency and fairness, including publishing on its website the conflict-of-interest statements of the members of the vendor evaluation committees. (Management action – nonstatutory)

### **Governance and Organizational Best Practices**

- Apply the standard across-the-board requirements related to grounds for removal of a board member, board member training, separating policy making and staff functions, and public testimony.
- Apply the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.
- Direct BRA to more comprehensively plan and monitor its efforts to increase workforce diversity. (Management action – nonstatutory)

## **Fiscal Implication Summary**

The Sunset Commission's recommendations would not have a significant impact to the state or BRA. BRA would be able to implement most of the recommendations with existing resources. However, the full impact on BRA will depend on how the authority chooses to implement certain recommendations, such as developing a public engagement policy, and cannot be estimated.



# CREDIT UNION DEPARTMENT

Merrell Foote, Project Manager

## Summary

Texas regulated banks and credit unions under one agency from 1913 until 1969, when increasing competition and regulatory friction between them led the Legislature to create the Credit Union Department. In 2009, the Legislature gave the department self-directed semi-independent (SDSI) status to set its own fees, budget, and performance measures outside of the legislative appropriations process.

The Sunset Commission found the department and its functions are still needed and that it should remain separate from the Finance Commission of Texas, which oversees three other SDSI agencies that regulate banks and other financial institutions and occupations. Texas-chartered credit unions have fared well under the state's current regulatory framework and transferring the department would have no benefit at this time. The commission also recommends changes to align the department's funding policies and procedures with best practices, and to improve its handling of complaints and communications with the industry and the public.

The Sunset Commission recommends continuing the Credit Union Department and aligning its procedures with regulatory best practices.

## Recommendations

### Continue

- Continue the Credit Union Department for 12 years.

### Complaints

- Require the department to track more comprehensive complaint and enforcement data to support analysis and guide regulatory activities.
- Direct the department to regularly analyze and report on complaint and enforcement data and trends. (Management action – nonstatutory)
- Direct the department to establish clear procedures for processing and investigating all complaints it receives. (Management action – nonstatutory)
- Direct the department to disclose summary complaint resolution information to complainants and document final disposition. (Management action – nonstatutory)
- Direct the department to develop a penalty matrix. (Management action – nonstatutory)
- Direct the department to more clearly communicate its authority, processes for investigating complaints, and complaint determinations. (Management action – nonstatutory)

- Direct the department to incorporate examiners' review of all jurisdictional complaints into the examination process. (Management action – nonstatutory)

### **Fees and Budgeting**

- Direct the Credit Union Commission to implement a more streamlined and reliable fee assessment policy and process. (Management action – nonstatutory)
- Direct the commission to update its reserve fund policy to address long-term capital funding needs and maintain an adequate reserve balance. (Management action – nonstatutory)
- Direct the commission to implement an independent audit process for the department. (Management action – nonstatutory)

### **Communications**

- Require the department to develop a process for notifying credit unions about federal regulatory changes that override state regulations.
- Direct the department to regularly update its website content. (Management action – nonstatutory)

### **Governance**

- Eliminate the statutory notarization requirement for articles of incorporation in new charter applications.
- Update the standard across-the-board requirement related to board member training.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

## **Fiscal Implication Summary**

The Sunset Commission's recommendations would not have a fiscal impact to the state because the department is an SDSI agency exempt from the legislative appropriations process. These recommendations also would not have a significant fiscal impact to the department or the credit unions it regulates, since the department could address them with existing resources. Further, the department could use existing reserve funds set aside to pay for audits to fund an independent audit program.

# TEXAS COMMISSION ON FIRE PROTECTION

Lauren Ames, Project Manager

## Summary

The Texas Commission on Fire Protection (TCFP) regulates training for paid fire fighters in Texas. The Sunset Commission found TCFP's current regulatory scope is appropriate and that the agency should be continued. The commission also found TCFP's certifications provide an important benefit to the state by ensuring paid fire fighters receive standardized training statewide to help prevent injury and death, and TCFP depends on the certification fees to finance its operations and to meet the requirement in the state budget to provide \$1.5 million to the General Revenue Fund.

The Sunset Commission's recommendations address several ongoing concerns with TCFP's Fire Fighter Advisory Committee, which has continued to operate even though it has been abolished by general law. The recommendations require TCFP to regularly evaluate its advisory committees' usefulness and effectiveness, and specify each committee's purpose, role, responsibility, and goals along with an abolishment date in rule. The Sunset Commission also adopted a new recommendation to specify advisory committee members serve six-year terms and may not be appointed to consecutive terms. Other recommendations align TCFP's licensing and rulemaking processes with regulatory best practices.

TCFP should be continued but needs to improve the effectiveness and transparency of its advisory committees.

## Recommendations

### Continue

- Continue the Texas Commission on Fire Protection for 12 years.

### Licensing and Enforcement

- Authorize TCFP to provide biennial renewal for certifications.
- Authorize TCFP to enter into reciprocity agreements with other state fire personnel certification agencies.
- Direct the commission to review rules covering how criminal convictions relate to eligibility for certification. (Management action – nonstatutory)
- Direct TCFP to create a standard complaint form and publish it in a prominent location on the agency's website. (Management action – nonstatutory)

### Governance

- Update the standard across-the-board requirement related to board member training.

- Direct TCFP to evaluate the continued usefulness and effectiveness of its advisory committees. (Management action – nonstatutory)
- Specify advisory committee members serve six-year staggered terms and may not be appointed to consecutive terms.
- Abolish TCFP’s general reporting requirement on the commission’s activities.
- Update TCFP’s statute to reflect the requirements of the person-first respectful language initiative.
- Direct TCFP to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law. (Management action – nonstatutory)
- Direct TCFP to maintain documentation on complaints. (Management action – nonstatutory)
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

## **Fiscal Implication Summary**

Overall, these recommendations would not have a fiscal impact to the state. Based on fiscal year 2019 appropriations, continuing TCFP would require about \$2.1 million annually. These costs are entirely paid for by the certification and other fees the agency collects.

# TEXAS HOLOCAUST AND GENOCIDE COMMISSION

Merrell Foote, Project Manager

## Summary

In 2009, the Legislature created the Texas Holocaust and Genocide Commission (THGC) as an advisory body to advise, assist, and support others in educating Texans about the Holocaust and other genocides. The Legislature administratively attached THGC to the Texas Historical Commission (THC) and appropriated general revenue to pay for THGC's operating expenses and THC's administrative support services.

This Sunset review is the state's first comprehensive independent evaluation of THGC. The review did not assess or judge the importance of educating Texans about the Holocaust and other genocides, which is beyond the Sunset Commission's purview. Rather, the review evaluated THGC based on the statutory criteria in the Texas Sunset Act to determine the need for the commission and assess its effectiveness. The review found a disorganized and unsupervised advisory commission that has exceeded its statutory authority, neglected some of its original advisory duties, and significantly increased its expenditures without any clearly articulated goals or measurable outcomes.

THGC has exceeded its statutory authority, neglected certain duties, and increased expenditures without any measurable benefit to the state.

Based on THGC's failure to meet the Sunset Act's review criteria and inability to show any measurable benefit to the state, Sunset staff recommended abolishing THGC. Instead, to improve THGC's oversight and operations, the Sunset Commission voted to continue but fully consolidate THGC as an advisory committee of THC. THC would have ultimate responsibility for fulfilling THGC's statutory responsibilities and ensuring it operates within its statutory authority.

## Recommendations

### Continue

- Continue the Texas Holocaust and Genocide Commission as an advisory committee of the Texas Historical Commission.
- Require THC and THGC to provide a written update to the Sunset Commission by December 1, 2022 on their progress implementing the Sunset recommendations and any obstacles or concerns encountered during implementation.

### Governance

- Require THC to oversee THGC's advisory duties and approve THGC's rules, budget, expenditures, contracts, and matching grant awards. Authorize THC to delegate final decision authority to THGC as appropriate for an advisory body.

- Reduce the size of the advisory commission by eliminating three ex officio positions and authorize THC and THGC to coordinate with the agencies they represent: the Texas Education Agency, Texas Higher Education Coordinating Board, and Texas Veterans Commission. Also eliminate two legislative advisor positions.
- Authorize THC to hire, manage, and evaluate staff and to provide administrative support as necessary to support THGC's advisory duties.

### **Accountability**

- Require THC to receive, manage, and oversee any appropriations made to carry out THGC's advisory duties.
- Require THC to work with THGC and the Legislative Budget Board to develop goals, outcomes, strategies, and performance measures for THGC during the state appropriations process.
- Require THC and THGC to develop and enter into a memorandum of understanding to establish each entity's roles and responsibilities, as well as policies and processes for how they will be carried out.
- Require THC to provide training for THGC commission members on their advisory role, duties, and relationship with THC.
- Require THC, in coordination with THGC, to establish and adopt rules, policies, procedures, annual budget, goals, and performance measures for THGC's matching grant program.
- Eliminate a statutory provision requiring THGC to determine which, if any, existing Holocaust or other genocide memorials, exhibits, or other resources could be included in or used to support Holocaust and genocide courses of study and awareness programs.
- Require THC to report on THGC in its statutorily mandated biennial report to the Legislature and the governor, and specify THGC is subject to THC's internal audit program and external evaluations and reviews, such as state audits.

## **Fiscal Implication Summary**

Overall, the Sunset Commission's recommendations would not have a significant fiscal impact to the state. Based on fiscal year 2021 appropriations, continuing THGC as an advisory committee of THC and carrying out its functions would require about \$707,000 annually.

# TEXAS COMMISSION ON JAIL STANDARDS

Rachel Gandy, Project Manager

## Summary

While state law charges local elected officials with funding and operating jails, the Texas Commission on Jail Standards sets and enforces minimum standards to help ensure these facilities are safe and secure, regardless of their varying sizes, operations, and available resources. The Sunset Commission found the agency remains necessary and recommends continuing it for 12 years.

However, the commission also identified areas in which the agency has not kept pace with dynamic jail environments and recommends the agency update its standards development process to clarify vague requirements and account for jails' different risks. The commission also recommends the agency adjust inspection procedures, expand enforcement strategies, and align complaint investigations with best practices to mitigate inconsistencies across jails and incentivize prompt, sustained compliance with state standards. Finally, the agency needs to improve its data collection and analysis practices to increase efficiency for staff and transparency for taxpayers.

The agency's standards and procedures have not kept pace with dynamic jail environments.

## Recommendations

### Continue

- Continue the Texas Commission on Jail Standards for 12 years.

### Standards Development

- Require the commission to ensure minimum standards account for varying needs and levels of risk among different jails.
- Clarify the commission has authority to revise, amend, and change rules as needed without specific legislative action or approval.
- Direct the commission to review its rules for vague and ineffective standards, and improve their specificity and usefulness. (Management action – nonstatutory)
- Direct the agency to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law. (Management action – nonstatutory)
- Direct the agency to adjust its operational plan approval process so jails may have plans that implement higher-than-minimum standards. (Management action – nonstatutory)

### Inspections and Enforcement

- Require the commission to establish a risk-based approach to inspections.



- Require the commission to adopt rules and policies for taking escalating actions against jails that remain out of compliance for extended or recurring periods of time.
- Require the commission to adopt rules and procedures to assess compliance with all standards during a certain percentage of jail re-inspections.
- Direct the agency to conduct a staffing analysis to better align resource allocation with its core inspection function. (Management action – nonstatutory)
- Direct the agency to develop clear, consistent procedures for conducting its monthly risk assessment. (Management action – nonstatutory)
- Direct the agency to create a procedures manual detailing its inspection process. (Management action – nonstatutory)

### **Complaint and Investigation Procedures**

- Update statute to enhance existing requirements for tracking, analyzing, and reporting on complaints.
- Require the commission to adopt rules directing jails to post information on the commission's complaints process.
- Require a law enforcement agency, once appointed by the commission, to conduct an investigation of a jail inmate's death in custody, unless the law enforcement agency can provide evidence of a clear conflict of interest that cannot be mitigated.
- Direct the agency to develop clear, detailed procedures for investigating complaints. (Management action – nonstatutory)
- Direct the agency to develop a formal process to refer non-jurisdictional complaints to the appropriate agency. (Management action – nonstatutory)
- Direct the commission to prioritize complaint investigations by risk level. (Management action – nonstatutory)
- Direct the agency to publicize additional information about its complaints process. (Management action – nonstatutory)

### **Data Analysis and Reporting**

- Require the agency to conduct trend analysis with the data it collects.
- Remove statutory requirements for jail officials to report certain juvenile justice information to the agency each year.
- Direct the agency to publish certain information on its website for a specified amount of time. (Management action – nonstatutory)
- Direct the agency to regularly review its Public Information Act requests and determine what information could be proactively published to optimize staff resources. (Management action – nonstatutory)
- Direct the agency to ensure consistent, cohesive data tracking. (Management action – nonstatutory)



- Direct the agency to expand certain procedures for information gathering and sharing to include more diverse groups of stakeholders. (Management action – nonstatutory)

### **Governance**

- Authorize the commission to establish advisory committees by rule.
- Update the standard across-the-board requirement related to board member training.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.
- The agency should use its annual reporting requirement to proactively identify statutory changes needed to conduct its work more efficiently and effectively. (Management action – nonstatutory)

### **Fiscal Implication Summary**

Overall, some of the Sunset Commission’s recommendations would have upfront costs in staff time but should also result in efficiencies for the agency. Most of the recommendations are intended to ensure the agency most efficiently uses its limited resources, including by targeting inspections toward high-risk jails and improving the clarity of minimum standards. However, the exact fiscal impact of these changes cannot be estimated without knowing how the agency would implement them.



# TEXAS COMMISSION ON LAW ENFORCEMENT

Andrew McConnell, Project Manager

## Summary

Texas has a bifurcated approach to law enforcement regulation. At the state level, the Texas Commission on Law Enforcement (TCOLE) sets and enforces minimum licensing and training standards for law enforcement personnel while local law enforcement agencies set their own professional conduct standards and disciplinary policies, as well as additional training requirements. While Texas has a continuing need to regulate law enforcement, the Sunset Commission found the state's current regulation is, by and large, toothless. Texas' bifurcated approach has resulted in a fragmented, outdated system with poor accountability, lack of statewide standards, and inadequate training.

The public presumes TCOLE has full authority to set high standards for individuals to receive and maintain a law enforcement license, and to hold licensees fully accountable for their actions. In reality, TCOLE only has authority to set and enforce minimum licensure standards, and no authority to set or enforce standards of professional conduct except in the case of a licensee's criminal conviction or deferred adjudication. TCOLE also has no meaningful authority over law enforcement agencies.

The state's current regulation of law enforcement is, by and large, toothless.

These significant regulatory gaps cannot be addressed through changes to TCOLE's operations. Rather, it is the state's regulatory system that is fundamentally broken. As a result, the Sunset Commission recommends continuing TCOLE for two years while establishing a blue ribbon panel to comprehensively review and recommend needed changes to improve law enforcement regulation in Texas, including TCOLE's role in the system.

The Sunset Commission also recommends changes TCOLE could currently implement to improve its efficiency and effectiveness, regardless of future policy decisions. These recommendations include following certain contracting best practices to improve TCOLE's contracting processes, especially for IT. The commission also recommends aligning TCOLE's statutes and procedures with best practices for licensing and regulatory agencies. Finally, the commission recommends changes to encourage more meaningful review of TCOLE's rules, authorize the appointment of advisory committees, and conform TCOLE's statutes to standards Sunset generally applies to all state agencies.

## Recommendations

### Continue

- Continue the Texas Commission on Law Enforcement for two years, until 2023.

- Establish a 15-member blue ribbon panel to comprehensively evaluate and provide recommendations on the regulation of law enforcement in Texas, focusing on standards of professional conduct for licensees, licensee training and education requirements, and accountability for licensees and law enforcement agencies.

### **Licensing**

- Authorize TCOLE to require confidential examinations of licensees suspected of being impaired, while providing privacy protection for officers.
- Require TCOLE to conduct fingerprint-based criminal background checks of all licensure applicants and licensees.
- Remove a subjective qualification for licensure from statute.
- Direct TCOLE to remove subjective and anticompetitive requirements for contracted training providers. (Management action – nonstatutory)

### **Enforcement**

- Authorize TCOLE to temporarily suspend a license if it finds an imminent threat to public health, safety, or welfare.
- Clearly authorize TCOLE to issue subpoenas for investigative records.
- Clearly authorize TCOLE to maintain confidentiality of complainants when possible.
- Direct TCOLE to develop a penalty matrix. (Management action – nonstatutory)
- Direct TCOLE to adopt rules to comply with the statutory requirement to establish a risk-based approach to audits. (Management action – nonstatutory)
- Direct TCOLE to establish a written policy more clearly separating its administrative and criminal investigations and staff. (Management action – nonstatutory)
- Direct TCOLE to develop an online complaint submission form. (Management action – nonstatutory)

### **Governance**

- Update the standard across-the-board requirement related to board member training.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.
- Authorize the commission to establish advisory committees in rule.
- Direct TCOLE to develop a strategy to analyze and use data in commission decision making and publish relevant commission information online. (Management action – nonstatutory)
- Direct the commission to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law. (Management action – nonstatutory)
- Update the commission's statute to reflect the requirements of the person-first respectful language initiative.

**Contracting**

- Direct TCOLE to improve IT contracting by requiring regular training, a formal contracting process, and performance incentives in its contracts. (Management action – nonstatutory)

**Fiscal Implication Summary**

These recommendations would not result in a significant fiscal impact to the state. The recommendation to establish a blue ribbon panel would have some costs associated with reimbursements for travel, and other reasonable and necessary costs, but the amount is contingent on the number and locations of meetings, and cannot be estimated at this time. TCOLE's administrative support of the blue ribbon panel could be implemented with the commission's existing resources, as could the other recommendations in this report.



# TEXAS DEPARTMENT OF LICENSING AND REGULATION

Emily Johnson, Project Manager

## Summary

For three decades, the Legislature has established new programs at the Texas Department of Licensing and Regulation (TDLR) and transferred several troubled programs to the agency. Compared to its previous Sunset review in 2002, the agency now oversees more than twice the number of programs and roughly eight times as many licensees. Overall, the commission found TDLR performs critical functions for the state and recommends continuing the agency for 12 years.

TDLR's functionally aligned structure allows it to eliminate duplicate administrative functions and maximize efficiency by performing similar licensing, customer service, and enforcement processes across all its programs. However, TDLR's ability to take on additional responsibilities without jeopardizing the quality of service to licensees and the general public is not limitless. To help free up some of the agency's capacity and allow it to become even more efficient, the commission recommends eliminating 31 license types, removing burdensome regulations, and streamlining certain programs — particularly those regulating barbers, cosmetologists, and driver training providers.

TDLR's ability to take on additional responsibilities without jeopardizing quality of service is not limitless.

The commission also identified certain processes inconsistent with best practices for licensing agencies and found TDLR's decision making for key regulatory functions is largely driven by a reactive process reliant more on qualitative information than consistent, reliable data. Additional tools and a comprehensive, risk-based strategy should guide TDLR's inspection and enforcement functions and ensure the most efficient allocation of resources toward the highest risks to the public.

## Recommendations

### Continue

- Continue TDLR for 12 years and remove the statutory provision requiring TDLR programs transferred to the agency on or after September 1, 2016, to undergo a limited scope Sunset review in 2022–23.

### Governance and Advisory Boards

- Remove advisory board meeting requirements from statute and authorize TDLR to call meetings as needed.

- Authorize TDLR's advisory boards to continue holding fully telephonic or videoconference meetings.
- Authorize TDLR to create interdisciplinary advisory boards to coordinate the expertise and input for similar industries.
- Update the standard across-the-board requirement related to board member training.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

### **Polygraph, Auctioneers, and Combative Sports Programs**

- Eliminate the Polygraph Examiners Program.
- Eliminate the Auctioneers Program.
- Eliminate the combative sports matchmaker license.
- Eliminate the combative sports event coordinator license.
- Eliminate the combative sports second license.

### **Barbering and Cosmetology Programs**

- Consolidate Texas' regulation of barbers and cosmetologists, and administer the two programs as one.
- Eliminate barbering and cosmetology instructor licenses.
- Eliminate all wig-related licenses.
- Eliminate state regulation of barber poles.

### **Driver Training Programs**

#### ***Driver Improvement***

- Eliminate the separate drug and alcohol driving awareness course and associated licenses.
- Eliminate the separate specialized driving safety course and associated licenses.
- Eliminate the separate driving safety course for drivers under 25 years old.
- Eliminate the redundant driving safety school license.
- Eliminate the driving safety instructor license.

#### ***Driver Education and Parent-Taught Driver Education***

- Modernize the licensing of driver education businesses by establishing three different license types, including a separate license with distinct regulatory requirements for parent-taught driver education providers, and creating more parity among businesses.
- Eliminate pre-license and continuing education requirements for driver education instructors.
- Require a memorandum of understanding to facilitate better coordination between TDLR and the Department of Public Safety.



- Direct TDLR to remove from rule certain driver education school inspection requirements. (Management action – nonstatutory)

### **Driver Improvement and Driver Education**

- Eliminate prescriptive curriculum hours and authorize TDLR to set minimum hours in rule.
- Eliminate costly course approval fees and streamline TDLR's process for approving driver training curricula.
- Modify the membership of the Driver Training and Traffic Safety Advisory Committee to conform to the new licensing structure.
- Direct TDLR to list on its website only licensed instructors and providers, not the specific courses they offer. (Management action – nonstatutory)

### **Inspection and Complaint Priorities**

- Require TDLR to establish a risk-based approach to inspections.
- Require TDLR to prioritize complaints based on the risk they pose to the public.
- Direct TDLR to develop a comprehensive, data-driven strategy for assessing program risks and setting regulatory priorities. (Management action – nonstatutory)

### **Licensing and Enforcement**

- Remove subjective licensure provisions from TDLR's statute.
- Authorize TDLR to require disclosure of additional financial and controlling information of applicants for certain business licenses.
- Clarify TDLR's general authority to adopt rules requiring continuing education, as necessary.
- Authorize TDLR to deny license renewal applications for noncompliant applicants.
- Provide TDLR general authority to order refunds.
- Require TDLR to collect, maintain, and make publicly available detailed statistical information on complaints regarding its licensees.
- Authorize the Texas Commission of Licensing and Regulation to dismiss low-level complaints and to delegate this authority to agency staff.
- Direct TDLR to maintain complainants' confidentiality when possible. (Management action – nonstatutory)

## **Fiscal Implication Summary**

Overall, the Sunset Commission's recommendations would result in long-term efficiency gains by eliminating duplicate and unnecessary administrative functions. Of the 201 different license types TDLR administers across its programs, the commission recommends eliminating 31 of them. While

the elimination of these license types would result in a revenue loss, the exact fiscal impact of other recommendations would depend on timing and implementation. As such, the overall impact of the commission's recommendations cannot be estimated.

The recommendations to eliminate the licensing of polygraph examiners and auctioneers, as well as matchmakers, event coordinators, and "seconds" in the Combative Sports Program would result in a loss of \$259,931 each year, partially offset by an estimated annual savings of \$152,011 in operating expenses, and a reduction of 1.9 full-time positions, beginning in fiscal year 2022.

The recommendation to consolidate the Barbering and Cosmetology programs would improve TDLR's operations by eliminating duplicate administrative functions, but the agency may incur some upfront costs to implement the recommendation, such as staff time to modify information technology systems and update rules, procedures, and other materials. The recommendations to eliminate instructor and wig-related license types would result in an annual loss of about \$190,000 in revenue that would be partially offset by savings in operating expenses.

The recommendations to streamline TDLR's licensing structure for driver training would improve TDLR's operations by eliminating burdensome and unnecessary administrative functions, but again, the agency may incur some upfront costs to implement the recommendations. The recommendations to eliminate course approvals and certain driver improvement license types would result in an annual loss of about \$212,000 in revenue, or less based on last year's approved fee reductions, that would be partially offset by savings in operating expenses.

# TEXAS PARKS AND WILDLIFE DEPARTMENT

Danielle Nasr, Project Manager

## Summary

The Texas Parks and Wildlife Department (TPWD) has the important responsibility of managing, conserving, and providing access to Texas' lands and natural resources. Because of the importance of these functions, the commission found the state continues to benefit from the agency's existence and recommends continuing the agency for 12 years. Keeping the agency's critical functions in mind, the commission's other recommendations aim to better position the agency for success in an ever-changing environment. Thousands of individuals and small business owners obtain licenses from TPWD to make their livelihoods in occupations like commercial fishing, retail and wholesale fish dealing, alligator farming, and deer breeding. These licensees and the state rely on fair and effective regulation from TPWD, and the commission identified opportunities to ensure the agency provides adequate due process and treats licensees consistently and fairly across its regulatory programs.

The commission also found the agency's strategic planning processes have become muddled over time, impeding the agency's ability to best plan its operations and identify and address its future needs. The commission recommends requiring the agency to refine the scope and measure the effectiveness of its Land and Water Resources Conservation and Recreation Plan. The agency should also include more concrete objectives and outcome-based performance measures in its strategic plan. Finally, the commission determined the agency's internal auditing program faces challenges, which the agency should address through a stronger risk assessment process and more formalized input from the Texas Parks and Wildlife Commission.

The Sunset Commission's recommendations aim to better position TPWD for success in an ever-changing environment.

## Recommendations

### Continue

- Continue the Texas Parks and Wildlife Department for 12 years.

### Permits and Licenses

- Authorize the Texas Parks and Wildlife Commission to provide an opportunity to access an informal review panel process for nonrecreational license and permit types at its discretion. (Management action – nonstatutory)
- Require TPWD to establish a risk-based approach to inspections.
- Direct the agency to adopt policies for using its full range of existing enforcement authority, including revocation and suspension in appropriate cases. (Management action – nonstatutory)

- Direct TPWD to clearly and actively communicate enforcement processes and outcomes to licensees. (Management action – nonstatutory)
- Direct TPWD to standardize administration of its regulatory programs to the extent feasible and appropriate. (Management action – nonstatutory)
- Direct TPWD to review and update all reporting deadlines and timeframes for licenses. (Management action – nonstatutory)

### **Strategic Planning**

- Require TPWD to measure the effectiveness of the Land and Water Plan and refine its scope.
- Direct TPWD to improve and use the Natural Agenda as the agency's sole, agencywide strategic plan. (Management action – nonstatutory)
- Direct TPWD to institute processes to better ensure consistent, actionable policies and practices across the agency's divisions. (Management action – nonstatutory)
- Direct the Texas Parks and Wildlife Commission to establish a conservation and recreation planning subcommittee. (Management action – nonstatutory)

### **Internal Audit**

- Direct TPWD to fully identify and prioritize the risks of all of the agency's activities in its risk assessment process. (Management action – nonstatutory)
- Direct TPWD to develop a more complete and diversified internal audit plan. (Management action – nonstatutory)
- Direct the Texas Parks and Wildlife Commission to formally establish an internal audit subcommittee. (Management action – nonstatutory)
- Direct TPWD to use its newly developed quarterly audit status report to provide more information about the status and implementation of audit recommendations. (Management action – nonstatutory)

### **Public Input and Transparency**

- Direct the agency to ensure there is an opportunity for the public to submit written comments online for every Texas Parks and Wildlife Commission action item that requires a vote. (Management action – nonstatutory)
- Direct the agency to improve transparency of its advisory committees by providing easy access to the names of the advisory committees, the members and who they represent, and the committees' meeting dates and minutes. (Management action – nonstatutory)

### **Governance**

- Direct TPWD to actively monitor its efforts to increase workforce diversity and report success measures to the Texas Parks and Wildlife Commission. (Management action – nonstatutory)
- Apply the standard across-the-board requirement regarding board member training.

- Apply the standard across-the-board requirements regarding developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.
- Update TPWD's statute to reflect the requirements of the person-first respectful language initiative.

## **Fiscal Implication Summary**

Overall, the Sunset Commission's recommendations would have some upfront costs but should also result in efficiencies for the agency. Most of the recommendations in the report are intended to ensure TPWD makes the most efficient use of its resources, such as streamlining its regulatory programs, but the exact fiscal impact cannot be estimated without knowing how TPWD would implement them.



# PREPAID HIGHER EDUCATION TUITION BOARD

Morgan Constantino, Project Manager

## Summary

The Prepaid Higher Education Tuition Board helps Texans save for education and disability-related expenses through a variety of tax-advantaged savings plans. Currently, four of the board's five plans are open for enrollment. While the types of plans and investments have evolved over time, the plans continue to provide a clear benefit for tens of thousands of Texans, especially as the cost of higher education tuition and fees increases each academic year.

The Sunset Commission found the board effectively manages and administers the plans, and should be continued. The commission also recommends improving the information the board provides to the public about itself and its activities, as well as the user friendliness and understandability of the plans' websites. Lastly, the commission recommends authorizing the board to appoint advisory committees as necessary, to help improve and increase awareness of the plans.

The board's plans benefit tens of thousands of Texans.

## Recommendations

### Continue

- Continue the Prepaid Higher Education Tuition Board for 12 years.

### Governance

- Update the standard across-the-board requirement related to board member training.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.
- Authorize the board to appoint advisory committees by rule.

### Website

- Direct the board to update its websites to provide more user-friendly information, including information about the board and its operations. (Management action – nonstatutory)

## Fiscal Implication Summary

Overall, the Sunset Commission's recommendations would not have a fiscal impact to the state because the board does not receive state appropriations and operates primarily from interest income and administrative fees collected from each plan.





# TEXAS RACING COMMISSION

Lauren Ames, Project Manager

## Summary

In 1986, facing a budget shortfall, the Legislature passed the Texas Racing Act, which authorized pari-mutuel wagering on horse and greyhound races and created the Texas Racing Commission to regulate the industry. However, the Texas racing industry has never been the economic driver originally envisioned. As racetrack attendance, race days, and wagers have declined, so too has the agency's revenue, which comes in part from racetrack and license fees. The reduced revenue in turn affects the agency's ability to most effectively regulate racing in Texas. The Sunset Commission found this funding structure creates a constant push and pull between the Texas Racing Commission as regulator and racetracks as licensees, with the level of regulation contingent on how much licensees are willing and able to pay. Additionally, the lack of revenue during the COVID-19 pandemic almost forced the commission to close in July 2020, jeopardizing the continued operation and regulation of the Texas racing industry.

The Texas Racing Commission can no longer efficiently regulate the state's pari-mutuel racing.

As a result, the Sunset Commission determined the Texas Racing Commission can no longer efficiently carry out its important mission of ensuring the safety, integrity, and fairness of Texas pari-mutuel racing and wagering and recommends transferring the commission to the Comptroller of Public Accounts as a semi-independent board. The Sunset Commission also found the Texas Racing Commission does not effectively administer its horse event grant program, and recommends transferring it and the Horse Industry Escrow Account to the Comptroller of Public Accounts. Other recommendations aim to improve the commission's licensing practices for its more than 6,000 licensees and apply standard, across-the-board Sunset recommendations regarding commission membership and training.

## Recommendations

### Continue and Transfer

- Transfer the Texas Racing Commission to the Comptroller of Public Accounts and continue the commission for 12 years as a semi-independent board with the current composition and authority to regulate pari-mutuel racing in the state of Texas.
- Transfer administration of the Horse Industry Escrow Account to the Comptroller of Public Accounts.

### Grants Administration

- Direct the Comptroller of Public Accounts to develop and publish guidelines for evaluating grant applications. (Management action – nonstatutory)

- Direct the Comptroller of Public Accounts to develop processes for monitoring grant recipients and tracking performance measures. (Management action – nonstatutory)
- Direct the Comptroller of Public Accounts to develop and implement a consistent timeline for grant applications. (Management action – nonstatutory)

### **Licensing and Enforcement**

- Clearly define the categories of licenses requiring a fingerprint-based criminal background check.
- Remove the requirement for licensees to resubmit fingerprints every 36 months.
- Remove subjective licensure requirements from statute.
- Require administrative penalty revenue be deposited into the General Revenue Fund.
- Direct the commission to establish policies for uniform use of its reciprocity authority. (Management action – nonstatutory)
- Direct the commission to establish and consistently apply policies for testing certain licensure applicants. (Management action – nonstatutory)
- Direct the commission to remove potential barriers to licensing in its examination process. (Management action – nonstatutory)
- Direct the commission to adopt policies to improve racetrack inspections. (Management action – nonstatutory)

### **Governance**

- Update the standard across-the-board requirements related to public membership on policymaking bodies and board member training.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.
- Update statute to reflect the requirements of the person-first respectful language initiative.

## **Fiscal Implication Summary**

Overall, the Sunset Commission's recommendations are anticipated to result in a savings in general revenue-dedicated funds, but the savings cannot be estimated at this time.

Transferring state regulation of pari-mutuel racing from the commission to the Comptroller of Public Accounts would result in administrative efficiencies due to shared services such as HR and IT, but the savings from these efficiencies cannot be determined at this time.

The recommendation to require administrative penalties to be deposited into the General Revenue Fund would result in a gain of \$387,250 over the next five fiscal years and a corresponding loss to the commission's general revenue-dedicated account. The recommendation to discontinue the 36-month

refingerprinting requirement will save licensees \$28.25 every three years. The other recommendations streamline processes and ensure consistent application of racing licensure and enforcement standards, and could be implemented with existing resources.

### Texas Racing Commission

<b>Fiscal Year</b>	<b>Loss to the General Revenue Dedicated – Texas Racing Commission Account</b>	<b>Gain to the General Revenue Fund</b>
2022	\$77,450	\$77,450
2023	\$77,450	\$77,450
2024	\$77,450	\$77,450
2025	\$77,450	\$77,450
2026	\$77,450	\$77,450



# SAN JACINTO RIVER AUTHORITY

Alan Leonard, Project Manager

## Summary

Established in 1937, the San Jacinto River Authority (SJRA) is one of 16 remaining river authorities the Legislature created during the 20th century to control and harness the state's rivers for public benefit. Today, SJRA collects over \$112 million in annual revenue from providing wholesale water and wastewater services in Montgomery County and Eastern Harris County. SJRA also maintains Lake Conroe with the city of Houston. SJRA does not levy taxes or receive state appropriations.

Like other river authorities, the Sunset Act does not subject SJRA to abolishment but instead places its governance, management, operating structure, and compliance with legislative requirements under a limited review. While the Sunset Commission received extensive public input about matters outside the scope of this limited review, including topics under litigation and broader water policy issues, it did not address them directly. Instead, the commission focused on aspects of SJRA's operations as a governmental entity that indirectly affect some of these topics and public concerns.

SJRA executes its core water supply operations well but needs to improve key support functions.

With these parameters in mind, the Sunset Commission found SJRA executes its core water supply operations well but needs to improve key support functions. Accordingly, the commission recommends requiring SJRA to develop a public engagement policy and directed SJRA to improve its public communications strategy and online content. SJRA leadership should also establish more formal processes and direction for the authority's contracting functions, and adhere to statutory good government practices in the areas of transparency and accountability.

## Recommendations

### Public Engagement and Communication

- Require SJRA to adopt a public engagement policy that guides and encourages public involvement on key decisions.
- Direct SJRA to develop a strategic communications plan. (Management action – nonstatutory)
- Direct SJRA to provide prominently on its website clear, understandable information on its rates and fees, and the associated expenses paid for by these rates and fees. (Management action – nonstatutory)
- Direct SJRA to regularly update its website to provide current, easily accessible information. (Management action – nonstatutory)

## **Governance and Organizational Best Practices**

- Apply the standard across-the-board requirements relating to the governor's appointment of the presiding officer, grounds for removal of a board member, board member training, separating policymaking and staff functions, and public testimony.
- Apply the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.
- Direct the Texas Legislative Council to update SJRA's governing law. (Management action – nonstatutory)
- Direct SJRA to plan and monitor its efforts to increase workforce diversity. (Management action – nonstatutory)

## **Contracting**

- Direct SJRA to establish additional guidance for contracting needs and procurement methods and use open solicitations except in documented exceptions. (Management action – nonstatutory)
- Direct SJRA to consistently monitor, document, and evaluate vendor performance. (Management action – nonstatutory)
- Direct SJRA to improve the transparency, fairness, and effectiveness of its contracting process, including publishing on its website conflict-of-interest statements from employees who evaluate vendor responses to solicitations. (Management action – nonstatutory)

## **Fiscal Implication Summary**

The Sunset Commission's recommendations would not have a significant impact to the state or SJRA. SJRA should be able to implement the recommendations within its existing resources, though the full impact on the authority will depend on the implementation of recommendations and cannot be estimated.

# TEACHER RETIREMENT SYSTEM OF TEXAS

Tamara Aronstein, Project Manager

## Summary

Unlike most state agencies Sunset reviews, the Teacher Retirement System of Texas (TRS) is constitutionally created and not subject to abolishment. The Sunset Commission therefore did not consider the question of the fundamental need for the agency. Instead, the Sunset Commission focused on whether TRS operates efficiently, effectively, and in the best interest of its 1.6 million members.

The commission determined that TRS generally manages its \$157 billion trust fund well, but needs to focus more on its members, including improving communications to ensure members have the support and information needed to be secure in retirement. The commission also determined changes are needed to the agency's process for and information about appeals, and that reductions to certain retirees' benefits for exceeding employment after retirement limitations should be restructured to lessen the burden on members. TRS should also create an ombudsman position to investigate complaints and identify ways to increase input from members. Finally, TRS should report additional information about out-of-pocket costs for TRS-Care members and incentive payments to investment staff to increase transparency.

TRS should ensure members have the support needed to be secure in retirement.

## Recommendations

### Member Communication and Engagement

- Require TRS to develop a communication and outreach plan to better help members and employers plan for retirement, create communication and engagement materials informing members of the existing option to request an external review of healthcare coverage appeals denied by third-party health plan administrators, and ensure members are aware they may work directly with TRS for assistance in navigating the appeals process.
- Require TRS to respond to appeals at all levels of staff review within the same amount of time that members have to appeal agency decisions.
- Require the TRS Board of Trustees to appoint an ombudsman to monitor the agency's interactions with members; investigate, escalate, and report to the board on member complaints; and recommend changes to agency operations that would benefit members and increase their input into agency decisions.
- Require TRS to make improved efforts to return contributions to inactive members before funds are forfeit and, as a management action, direct TRS to develop a process to submit inactive member information to the Comptroller of Public Accounts upon its request.

- Direct TRS to adopt a member engagement policy to increase transparency on key decisions by February 1, 2021. As part of this provision, direct TRS to review the TRS-Care Retirees Advisory Committee and make any changes needed to more effectively receive feedback from retirees on TRS-Care. (Management action – nonstatutory)

### **Employment After Retirement Reductions**

- Specify that TRS members who retire after January 1, 2011, and exceed employment after retirement limitations are subject to either a dollar-for-dollar reduction in their monthly annuity or forfeiture of their full monthly annuity, whichever is less. The dollar-for-dollar reduction does not apply if a disability retiree exceeds the 90-day limit for a school year, unless other existing exceptions for disability retirees apply.

### **Contracting**

- Direct TRS to fully centralize contracting functions and clarify roles and responsibilities between central contracts department staff and division staff managing contracts, and report its progress on implementing this recommendation to the Sunset Commission by February 1, 2021. (Management action – nonstatutory)
- Direct TRS to enhance its contract monitoring process and report its progress on this recommendation to the Sunset Commission by February 1, 2021. (Management action – nonstatutory)
- Direct TRS to include standard remedies in contracts and consistently apply enforcement tools. Direct TRS to provide an update on the implementation of this recommendation to the Sunset Commission by February 1, 2021. (Management action – nonstatutory)
- Direct TRS to require staff who procure or manage contracts to complete the comptroller’s contract training and report to the Sunset Commission on its implementation of this recommendation by February 1, 2021. (Management action – nonstatutory)

### **Investments**

- Direct TRS to perform a cost-benefit analysis of implementing an enhanced investment accounting system to provide increased oversight of the custodian bank’s accounting data and report to the Sunset Commission on the estimated costs and benefits and the agency’s recommended approach by February 1, 2021. (Management action – nonstatutory)
- Direct TRS to have its Internal Investment Committee review internal investments and strategies. (Management action – nonstatutory)
- Direct TRS to include clear, easily understandable information about alternative investments in its *Comprehensive Annual Financial Report* and report on its status in implementing this recommendation to the Sunset Commission by February 1, 2021. (Management action – nonstatutory)

### **Governance**

- Update the standard across-the-board requirement related to board member training.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.



- Abolish three, modify two, and consolidate two of TRS' reporting requirements and, as a management action, direct TRS to provide more comprehensive information on TRS-Care healthcare costs to the Legislature and the Texas Department of Insurance in the consolidated TRS-Care report.
- Direct TRS to provide information on incentive payments to TRS investment staff in its *Comprehensive Annual Financial Report*. (Management action – nonstatutory)
- Direct TRS to develop and maintain a system for receiving and responding to complaints and report its progress to the Sunset Commission by February 1, 2021. (Management action – nonstatutory)
- Update TRS' statute to reflect the requirements of the person-first respectful language initiative.

## Fiscal Implication Summary

Overall, the Sunset Commission's recommendations would not have a fiscal impact to the state, because TRS' operating expenses are not appropriated from general revenue. Most recommendations could be accomplished within TRS' existing resources and should not result in a significant cost to the pension trust fund.

The recommendation to create an ombudsman position could have a fiscal impact to the pension trust fund if TRS needs to hire an additional employee to serve as ombudsman, which cannot be predicted at this time.

The recommendations to centralize the agency's contracting functions and increase contract monitoring could result in some additional operating expenses. TRS is currently hiring additional contract management staff, and these recommendations would not require expanding that effort.

The recommendation to centrally track and report on complaints could result in a cost to the agency, but the cost would depend on how TRS chooses to implement a complaint tracking system and cannot be estimated at this time.

The recommendation regarding employment after retirement reductions could have a fiscal impact to the pension trust fund, but the impact would depend on the number of members affected and their annuity amounts, and therefore cannot be estimated.



# STATE BOARD OF VETERINARY MEDICAL EXAMINERS

Morgan Constantino, Project Manager

## Summary

The limited scope review of the State Board of Veterinary Medical Examiners follows up on the full Sunset review of the agency conducted in the 2016–17 biennium. At that time, the Sunset Commission and the 85th Legislature adopted changes to address significant issues with the agency’s management and information technology, as well as growing concerns about controlled substance monitoring and enforcement in veterinary practices. The agency’s Sunset bill, Senate Bill 319, continued the agency for only four years, and limited the scope of this current Sunset staff review on evaluating the ongoing appropriateness of the statutory recommendations previously adopted by the commission. The commission determined the agency has implemented all of the previous statutory recommendations, and recommends continuing the agency for eight years, instead of the standard 12 years, to coincide with the Sunset reviews of the other boards regulating the prescribing and dispensing of controlled substances.

More oversight is needed to ensure ongoing issues with the agency’s IT and data collection are addressed.

However, the commission determined the previous management recommendations related to improving the agency’s data collection, tracking, and analysis have not been fully implemented and remain appropriate. To monitor and ensure their ongoing implementation, the commission recommends a special purpose Sunset review during the 2022–23 biennium, as well as a limited scope audit by the State Auditor’s Office in its 2024–25 audit period. Lastly, the commission recommends two standard across-the-board recommendations to update existing provisions for board member training and complaints information.

## Recommendations

### Continue and Ongoing Oversight

- Continue the State Board of Veterinary Medical Examiners for eight years.
- Require the State Board of Veterinary Medical Examiners to undergo a special purpose Sunset review during the 2022–23 biennium to evaluate the agency’s implementation of its database system and the agency’s processes and procedures for collecting and analyzing data.
- Require the State Auditor’s Office, during its 2024–25 audit period, to conduct a limited scope audit of the State Board of Veterinary Medical Examiners, focusing on the agency’s implementation of the previously adopted but not fully implemented Sunset data-related recommendations made to the 85th Legislature.

**Governance**

- Update the standard across-the-board requirement related to board member training.
- Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

**Fiscal Implication Summary**

Overall, if the Legislature continues the agency, an annual appropriation of about \$1.4 million in general revenue would be needed for its operations.

# APPENDIX A

## Sunset Review Schedule — 2023

### 27 Reviews<sup>1</sup>

Cancer Prevention and Research Institute of Texas

Emergency Communications, Commission on State

Environmental Quality, Texas Commission on

Low-Level Radioactive Waste Disposal Compact Commission, Texas<sup>2</sup>

Family and Protective Services, Department of<sup>3</sup>

Forest Service, Texas A&M

Health and Human Services Commission<sup>3</sup>

Inspector General, Health and Human Services Commission, Office of<sup>2</sup>

Health Services, Department of State<sup>3</sup>

Housing Corporation, Texas State Affordable

Injured Employee Counsel, Office of

Insurance, Texas Department of

Joint Underwriting and Advisory Organizations, Texas Department of Insurance<sup>2</sup>

Insurance Counsel, Office of Public

Invasive Species Coordinating Committee, Texas

Juvenile Justice Department, Texas

Independent Ombudsman for the Texas Juvenile Justice Department, Office of<sup>2</sup>

Licensing and Regulation, Texas Department of<sup>3</sup>

Public Finance Authority, Texas

River Authorities

Bandera County River Authority and Groundwater District

Lavaca-Navidad River Authority

San Antonio River Authority

Upper Guadalupe River Authority

Soil and Water Conservation Board, Texas State

Water Development Board, Texas

## ***Appendix A***

Water Implementation Fund for Texas, State

Workers' Compensation, Texas Department of Insurance Division of

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<sup>1</sup> The Sunset Commission has also recommended reviewing the Office of State and Federal Relations, the State Board of Veterinary Medical Examiners (special purpose review), the Texas Commission on Law Enforcement, and the Texas Economic Development and Tourism Office during the 2022–23 biennium, which would require approval by the 87th Legislature.

<sup>2</sup> Statute requires this agency to be reviewed in conjunction with the agency listed above it.

<sup>3</sup> Limited or special purpose review.

# APPENDIX B | Summary of the Texas Sunset Act

## Sunset Act

The Texas Sunset Act (Chapter 325, Government Code) went into effect in August 1977. It provides for automatic termination of most agencies under Sunset review, although a few agencies under review are exempt from automatic termination.

## Sunset Advisory Commission

The 12-member Sunset Advisory Commission has five members of the Senate, five members of the House, and two public members, appointed by the lieutenant governor and the speaker of the House, respectively. The chairmanship rotates between the Senate and the House every two years.

## Reviewing an Agency

When reviewing an agency, the commission's staff must consider statutory criteria as shown in the textbox, *Sunset Review Questions*, on the following page. The commission's report on most agencies must include a recommendation to abolish or continue the agency, and may contain recommendations to correct problems identified during the review. These problems may include other agencies not under review that overlap or duplicate, or otherwise relate to the agency under review.

## Continuing an Agency

If the commission recommends that an agency be continued, it has legislation drafted for that purpose, and to correct the problems found during the Sunset review. Sunset legislation usually continues an agency for 12 years.

## Abolishing an Agency

If the commission recommends abolishment of an agency, the agency generally has a one-year period to wind down its operations. The agency retains full authority and responsibility until the end of that year, at which time its property and records are transferred to the appropriate state agency.

## Compliance Reviews

The commission is required to examine an agency's actions after a Sunset bill is passed to determine if the agency has implemented the new statutory requirements. In addition, the state auditor may evaluate the agency's compliance with nonstatutory management changes recommended by the commission.

## Appendix B

### Sunset Review Questions

#### All Agencies

1. How efficiently and effectively do the agency and its advisory committees operate?
2. How successful has the agency been in achieving its mission, goals, and objectives?
3. Does the agency perform any duties that are not statutorily authorized? If so, what is the authority for those activities and are they necessary?
4. What authority does the agency have related to fees, inspections, enforcement, and penalties?
5. In what ways could the agency's functions and operations be less burdensome or restrictive and still adequately protect and serve the public?
6. How much do the agency's programs and jurisdiction duplicate those of other agencies and how well does the agency coordinate with those agencies?
7. Does the agency promptly and effectively address complaints?
8. To what extent does the agency encourage and use public participation when making rules and decisions?
9. How has the agency complied with state and federal requirements regarding equal employment opportunity, the rights and privacy of individuals, and purchasing guidelines for historically underutilized businesses?
10. How effectively does the agency enforce rules on potential conflicts of interest of its employees?
11. How effectively and efficiently does the agency comply with the Public Information Act and the Open Meetings Act?
12. Would abolishing the agency cause federal government intervention or loss of federal funds?
13. Do the agency's statutory reporting requirements effectively fulfill a useful purpose?
14. Does the agency comply with cybersecurity best practices?

#### Occupational Licensing Agencies

1. Does the agency's occupational licensing program serve a meaningful, defined public interest and provide the least restrictive form of regulation that adequately protects the public interest?
2. To what extent may the program's regulatory objective be achieved through market forces, private or industry certification and accreditation programs, or enforcement of other law?
3. To what extent do licensing criteria ensure applicants entering the occupation have competencies consistent with the public interest and what impact do these criteria have on applicants?
4. What is the impact of the regulation on competition, consumer choice, and cost of services?



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