

EXECUTIVE SUMMARY OF SUNSET STAFF REPORT

Texas State Soil and Water
Conservation Board

Texas Invasive Species
Coordinating Committee

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Full Report Here
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The Texas Legislature created the Texas State Soil and Water Conservation Board (TSSWCB) in 1939 as part of a national movement to mitigate the effects of the Dust Bowl. TSSWCB supports the state's 216 local soil and water conservation districts, and together they work with landowners to encourage voluntary natural resource conservation throughout the state. The last full Sunset review of TSSWCB in 2011 found the agency had grown far beyond its initial role of providing financial and technical assistance to the soil and water conservation districts. The agency's responsibilities, and its budget, had significantly expanded to include addressing water quality issues related to agriculture and forestry-related nonpoint source pollution, and providing funding to help maintain, repair, and rehabilitate the state's 2,040 flood control dams. However, that review found the agency lacked defined goals and internal processes to efficiently and effectively administer its new programs and responsibilities.

Twelve years later, this Sunset review found the Legislature had further expanded TSSWCB's budget and responsibilities related to flood control, but once again, the agency did not develop the clear goals and updated processes necessary to transparently, efficiently, and effectively handle this sudden growth. While TSSWCB successfully works with landowners on conservation and should be continued, the agency must be able to demonstrate and justify to the state and taxpayers its decisions to prioritize and fund certain projects over others.

TSSWCB must be able to demonstrate and justify its grant funding decisions.

In 2019, following Hurricane Harvey's devastating flooding, the Legislature appropriated \$150 million from the Economic Stabilization Fund, also known as the Rainy Day Fund, to TSSWCB for dam infrastructure projects. The appropriation was nearly 10 times the agency's original biennial budget for flood control, and the agency had wide latitude and flexibility on how to best distribute this funding. Having only two years to obligate the \$150 million, and until 2025 to spend the funds, agency staff undertook the herculean task of attempting to review, select, and fund several times their usual number of projects through the agency's competitive dam structural repair grant program. However, instead of proactively planning and appropriately modifying its grants administration processes to accommodate this substantial increase in

state funding, TSSWCB continued operating business as usual, limiting the efficiency and transparency of the program and reducing the effectiveness of the additional funding.

TSSWCB estimates it may lapse between \$30 million and \$45 million of the Economic Stabilization Fund appropriation due to project delays and increases in construction costs during the pandemic, but the review determined this is also due to some of the agency's own actions. Additionally, TSSWCB's lack of documentation for the program prevented Sunset staff from determining whether these funds were distributed appropriately, even according to the agency's own criteria. Also, the rarity of an Economic Stabilization Fund appropriation heightens the importance of ensuring this funding is used effectively and accountably, and lapsing funds means the Legislature cannot use those dollars to address other state priorities. As TSSWCB prepares to request more funding to continue the program to meet Texas' estimated \$2 billion in dam project needs, it is even more critical for the agency to improve its grant administration and management practices.

Finally, this review also looked at the Texas Invasive Species Coordinating Committee, which has its own separate Sunset review date and is administratively attached to TSSWCB. Sunset staff determined the committee continues to be needed, but its statute needs to be updated to refocus the committee's responsibilities on interagency coordination.

The following material highlights Sunset staff's key recommendations for the Texas State Soil and Water Conservation Board and the Texas Invasive Species Coordinating Committee.

Sunset Issues and Recommendations

ISSUE 1

TSSWCB Needs to Improve Its Administration of the Dam Structural Repair Program to Ensure Consistency, Fairness, and Accountability.

TSSWCB insufficiently prepared to administer the \$150 million appropriation from the Economic Stabilization Fund for flood control projects. The agency did not have clear goals, rules, or policies to effectively guide and efficiently obligate this funding through its dam structural repair grant program, limiting its effectiveness and transparency. Further, without proper documentation, the agency cannot show it treated grant applicants consistently or justify its funding decisions.

Key Recommendations

- Require TSSWCB to develop and adopt one clear set of overall priorities, goals, and associated measures for the dam structural repair program.
- Direct TSSWCB to establish and update its policies for administering the dam structural repair program.
- Direct TSSWCB to proactively inform dam sponsors and co-sponsors about dam structural repair funding availability.

ISSUE 2

The State Has a Continuing Need for the Texas Invasive Species Coordinating Committee, but Statute Could Better Align With the Committee's Needs.

In 2009, to address the lack of invasive species coordination among state agencies, the Legislature created the Texas Invasive Species Coordinating Committee, and attached it to TSSWCB. The committee has not met since 2017, but Texas has a continuing interest in coordinating the state's various invasive species control efforts, so the committee should be continued. However, the committee's statute should be updated to better position the committee to serve its primary purpose of interagency coordination.

Key Recommendations

- Continue the Texas Invasive Species Coordinating Committee and require it to be reviewed at the same time as TSSWCB.
- Modify statute to better align with the committee's purpose and current needs.

ISSUE 3

Texas Has a Continuing Need for the Texas State Soil and Water Conservation Board, but the Agency Needs Changes to Improve Accountability.

TSSWCB benefits the state by helping ensure landowners have the tools necessary to conserve the state's natural resources and keep agricultural practices productive and profitable to meet future needs. As such, the agency should be continued for 12 years. While TSSWCB continues to be needed, the review identified additional safeguards needed to improve its financial accountability and mitigate conflicts of interest.

Key Recommendations

- Continue TSSWCB for 12 years and remove the Sunset date of the agency's enabling statute.
- Direct TSSWCB to develop a board member recusal policy, including a written explanation for the recusal.
- Direct TSSWCB to improve its district director training, including providing a training manual the directors would have to attest to receiving and reviewing annually.

ISSUE 4

The Agency's Statute Does Not Reflect Some Standard Elements of Sunset Reviews.

Among the standard elements considered in a Sunset review are across-the-board recommendations that reflect criteria in the Sunset Act designed to ensure open, responsive, and effective government. TSSWCB's statute needs updates related to the across-the-board recommendations on board member

training, complaints management, and the separation of the board's policymaking functions from staff's day-to-day administrative functions. TSSWCB also needs to adopt a policy to meaningfully review its administrative rules every four years, and recertify its outdated records retention schedule to meet statutory requirements.

Key Recommendations

- Update the standard across-the-board requirements related to board member training, separation of duties, and complaints.
- Direct TSSWCB to adopt a policy guiding its rule review process.
- Direct TSSWCB to recertify its records retention schedule and develop a records retention policy.

Fiscal Implication Summary

Overall, these recommendations would not have a fiscal impact to the state. Some recommendations in the report will require staff time to complete, but should improve internal operations to better maximize state funding in the long term.