

Sunset Commission Meeting June 22, 2022

Decision Material

Texas State Soil and Water Conservation Board
Texas Invasive Species Coordinating Committee

Texas Water Development Board
State Water Implementation Fund for Texas Advisory Committee

San Antonio River Authority

TEXAS STATE SOIL AND WATER CONSERVATION BOARD

TEXAS INVASIVE SPECIES COORDINATING COMMITTEE

Issue 1

TSSWCB Needs to Improve Its Administration of the Dam Structural Repair Program to Ensure Consistency, Fairness, and Accountability. (Page 11)

Change in Statute

Rec. 1.1 (Page 21)

Require TSSWCB to develop and adopt one clear set of overall priorities, goals, and associated measures for the dam structural repair program.

Senator Perry Proposed Modification

Modify Recommendation 1.1 to include a requirement that TSSWCB update the “Ten-Year Plan” to align with the application timelines the agency would develop for Recommendation 1.2.

Representative Bell Proposed Modification

Modify Recommendation 1.1 to require that when TSSWCB is considering changes to the program rules and policies, the agency ensures the local match requirement for state-funded dam upgrades and state-funded dam repairs equitably accounts for the financial capacity of local sponsors, especially taking into account high-hazard dams.

Management Action

Rec. 1.2 (Page 21)

Direct TSSWCB to establish and update its policies for administering the dam structural repair program.

Vice Chairman Holland Proposed Modification

Modify Recommendation 1.2 to include a deadline date to implement the recommendation by January 1, 2023. The agency should report back to the commission the status of implementing the recommendation, whether fully implemented or not, by January 1, 2023.

Rec. 1.3 (Page 22)

Direct TSSWCB to maintain a centralized master file system for dam structural repair grants.

Vice Chairman Holland Proposed Modification

Modify Recommendation 1.3 to include a deadline date to implement the recommendation by January 1, 2023. The agency should report back to the commission the status of implementing the recommendation, whether fully implemented or not, by January 1, 2023.

Rec. 1.4 (Page 22)

Direct the TSSWCB board to approve all grants and contracts over \$1 million.

Vice Chairman Holland Proposed Modification

Modify Recommendation 1.4 to include a deadline date to implement the recommendation by January 1, 2023. The agency should report back to the commission the status of implementing the recommendation, whether fully implemented or not, by January 1, 2023.

Rec. 1.5 (Page 22)

Direct TSSWCB to proactively inform dam sponsors and co-sponsors about dam structural repair funding availability.

Vice Chairman Holland Proposed Modification

Modify Recommendation 1.5 to include a deadline date to implement the recommendation by January 1, 2023. The agency should report back to the commission the status of implementing the recommendation, whether fully implemented or not, by January 1, 2023.

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. (Page 25)

Change in Statute

Rec. 2.1 (Page 28)

Continue the Texas Invasive Species Coordinating Committee and require it to be reviewed at the same time as TSSWCB.

Rec. 2.2 (Page 28)

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. (Page 31)

Change in Statute

Rec. 3.1 (Page 34)

Continue TSSWCB for 12 years and remove the Sunset date of the agency's enabling statute.

Vice Chairman Holland Proposed Modification

Modify Recommendation 3.1 to require the Sunset Commission to conduct a limited scope re-review of TSSWCB during the 2026-27 biennium. The re-review would be limited to assessing the dam structural repair grant program.

Management Action

Rec. 3.2 (Page 34)

Direct TSSWCB to develop a board member recusal policy, including a written explanation for the recusal.

Rec. 3.3 (Page 35)

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. (Page 37)

Change in Statute

Rec. 4.1 (Page 39)

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

Rec. 4.2 (Page 39)

Update the standard across-the-board requirement regarding the separation of duties of board members from those of staff.

Rec. 4.3 (Page 39)

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.

Management Action

Rec. 4.4 (Page 40)

Direct TSSWCB to adopt a policy guiding its rule review process.

Rec. 4.5 (Page 40)

Direct TSSWCB to recertify its records retention schedule and develop a records retention policy.

Proposed New Recommendations

Senator Johnson Proposed New Recommendation 1

Direct TSSWCB to include, within their current annual report, its funding activities related to dam safety grants and outreach, nonpoint source pollution grants, and activities and programs related to on-the-ground conservation. The annual report should include, either in the main body or an appendix, a list of total applications and funding applied for by program area, the number of grants awarded and the funding amount, and a list of grant recipients (as allowable under confidentiality requirements in Agriculture Code 201.006). (Management action — nonstatutory)

Senator Perry Proposed New Recommendation 2

The House Appropriations and Senate Finance committees should consider appropriating additional funding to TSSWCB to hire a full time staff member(s) to assist with financial matters, grant awards, and general administrative duties related to federal and state funding.

TEXAS WATER DEVELOPMENT BOARD

STATE WATER IMPLEMENTATION FUND FOR TEXAS ADVISORY COMMITTEE

Issue 1

TWDB's Inefficient Review Process Contributes to Project Delays and Increased Costs. (Page 11)

Change in Statute

Rec. 1.1 (Page 17)

Require TWDB to develop, collect, and analyze performance metrics and establish goals for evaluating its project review process.

Rec. 1.2 (Page 17)

Authorize TWDB to implement a risk-based approach to project review.

Management Action

Rec. 1.3 (Page 18)

Direct TWDB to develop a plan to prioritize improving its project review process to eliminate inefficiencies and inconsistencies.

Issue 2

A More Strategic, Comprehensive Evaluation of Programs and Outreach Efforts Would Benefit TWDB and Entities Eligible for Financial Assistance. (Page 21)

Change in Statute

Rec. 2.1 (Page 25)

Direct TWDB to collect and analyze information about its financial assistance applicants and outreach efforts to better inform and more effectively target agency activities.

Senator Johnson Proposed Modification

Add the following sentence to existing Staff Recommendation 2.1:

The information collected and analyzed should include relevant water loss audit data and Texas Commission on Environmental Quality enforcement action data. (Management action — nonstatutory)

Senator Springer Proposed Modification

Direct TWDB to work with the Legislative Budget Board (LBB) to report money and projects awarded to rural and economically disadvantaged communities separately and not as a combined number as they currently record to reflect the agency's efforts in those individual communities more accurately. (Management action — nonstatutory)

Rec. 2.2 (Page 26)

Direct TWDB to develop a coordinated outreach plan to more efficiently promote agency programs, improve operations, and ensure its outreach efforts meet entities' needs and expectations.

Senator Springer Proposed Modification

Direct the TWDB to use funds from the Rural Water Assistance Fund to contract with qualified outside entities to work with rural communities upon request of those communities to provide the needed expertise, services, and guidance to complete the application process when applying for TWDB funds. (Management action — nonstatutory)

Issue 3

TWDB's Outdated Statute and Policies Should Be Updated to Eliminate an Unnecessary Advisory Committee and Reflect Some Standard Elements of Sunset Reviews. (Page 27)

Change in Statute

Rec. 3.1 (Page 31)

Abolish the SWIFT Advisory Committee.

Senator Perry Proposed Modification

Modify Sunset Staff Recommendation 3.1 to instead continue the SWIFT Advisory Committee in statute for 12 years until 2035.

Rec. 3.2 (Page 31)

Amend TWDB's Sunset review date to 2035.

Rec. 3.3 (Page 31)

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

Rec. 3.4 (Page 31)

Abolish TWDB's reports on the Water Loan Assistance Program, Water Bond Insurance Program, and Storage Acquisition Fund, and continue all other reporting requirements.

Management Action

Rec. 3.5 (Page 31)

Direct TWDB to update its policy regarding the separation of duties of board members from those of staff.

Rec. 3.6 (Page 32)

Direct TWDB to adopt a rule review plan.

Proposed New Recommendations

Vice Chairman Holland New Recommendation 1

Direct TWDB to work with LBB to update the agency's General Appropriations Act performance measures to include elements of the project review process, including, but not limited to: percentage of completed application reviews initiated within a set number of days since receipt, average length of time for bid document review, average time to process financial assistance applications, and percentage of outlay reports processed within a set number of days. Also as part of this recommendation, TWDB would update the Sunset Commission on the results of its request by January 31, 2023. (Management action — nonstatutory)

Senator Perry New Recommendation 2

Require TWDB to conduct a feasibility review of certain projects in the State Water Plan. Specifically, the board would review projects in the State Water Plan it has prioritized for funding, and certain other projects in the State Water Plan regardless of whether TWDB is providing financing, including reservoirs, interstate water transfers, innovative technology projects, desalination plants, and other large projects as determined by the board. The board's feasibility review must include an analysis of the implementation timeline, costs, land acquisition considerations, and economic impacts.

Senator Johnson New Recommendation 3

Direct TWDB to consult with the Office of the State Climatologist at Texas A&M University in the preparation of regional and state water plans to receive information and projections to identify regions of the state that are likely to experience severe drought or excessive rainfall. (Management action — nonstatutory)

Representative Canales New Recommendation 4

Authorize regional water planning groups, by statute, to use a drought worse than the Drought of Record as the baseline for planning purposes.

SAN ANTONIO RIVER AUTHORITY

Issue 1

Increased Board Involvement and Transparency Would Help Ensure SARA Can Best Meet the Future Needs of the Basin. (Page 11)

Management Action

Rec. 1.1 (Page 17)

Direct SARA to conduct more comprehensive, inclusive strategic planning.

Rec. 1.2 (Page 17)

Direct SARA to establish guidelines for evaluating and selecting projects and publish them on its website.

Rec. 1.3 (Page 17)

Direct SARA to publish more digestible information about its tax revenue spending and rate setting process on its website.

Rec. 1.4 (Page 18)

Direct SARA's board to update its fund balance policy.

Issue 2

SARA Benefits From the Support of Its Affiliated Nonprofit Organization, but Additional Controls Are Needed. (Page 19)

Change in Statute

Rec. 2.1 (Page 21)

Clearly authorize SARA to work with nonprofits.

Rec. 2.2 (Page 21)

Prohibit SARA staff and limit SARA board members from serving on an affiliated nonprofit's board.

Rec. 2.3 (Page 21)

Require SARA to develop a policy governing affiliated nonprofit fundraising and criteria for corporate sponsorships.

Management Action

Rec. 2.4 (Page 21)

Direct SARA to review its relationships with affiliated nonprofits every five years.

Rec. 2.5 (Page 22)

Direct SARA to develop a policy governing the support its staff can provide to nonprofits.

Issue 3

SARA's Governing Law and Processes Do Not Reflect Some Standard Elements of Sunset Reviews. (Page 23)

Change in Statute

Rec. 3.1 (Page 26)

Apply the standard across-the-board requirement regarding board member training to SARA.

Rec. 3.2 (Page 26)

Apply the standard across-the-board requirement regarding the separation of duties of board members from those of SARA staff.

Rec. 3.3 (Page 26)

Apply the standard across-the-board requirement regarding public testimony to SARA.

Rec. 3.4 (Page 26)

Apply the standard across-the-board requirement regarding developing and maintaining a system for receiving and acting on complaints to SARA.

Rec. 3.5 (Page 27)

Amend SARA's Sunset review date to 2035.

Management Action

Rec. 3.6 (Page 27)

Direct SARA to improve its contracting processes to ensure sufficient consistency and transparency.

Rec. 3.7 (Page 27)

Direct the Texas Legislative Council to update SARA's governing law.

Proposed New Recommendations

Chairman Schwertner Proposed New Recommendation 1

Remove Section 4-A ("Master Plan") of SARA's enabling law.

Senator Johnson Proposed New Recommendation 2

Establish a fiscal year that begins on October 1.