

Sunset Commission Meeting

January 11, 2023

Decision Material

Lavaca-Navidad River Authority
Upper Guadalupe River Authority
San Jacinto River Authority
Bandera County River Authority and Groundwater District
Texas Economic Development and Tourism Office Office of
State-Federal Relations

Anatomical Board of the State of Texas

Texas Commission on Law Enforcement

Public Utility Commission
Electric Reliability Council of Texas
Office of Public Utility Counsel

LAVACA-NAVIDAD RIVER AUTHORITY

UPPER GUADALUPE RIVER AUTHORITY

SAN JACINTO RIVER AUTHORITY

BANDERA COUNTY RIVER AUTHORITY AND GROUNDWATER DISTRICT

Issue 1

LNRA Lacks Some Standard Practices to Ensure Fairness and Accountability, Including in Its Grant Program. (Page 9)

Change in Statute

Rec. 1.1 (Page 15)

Apply the standard across-the-board requirement regarding public membership on the board.

Rec. 1.2 (Page 15)

Apply the standard across-the-board requirement regarding the governor's appointment of the presiding officer to LNRA's board.

Rec. 1.3 (Page 15)

Apply the standard across-the-board requirement regarding grounds for removal of a board member to LNRA.

Rec. 1.4 (Page 15)

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

Rec. 1.5 (Page 15)

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

Rec. 1.6 (Page 15)

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

Rec. 1.7 (Page 16)

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.

Rec. 1.8 (Page 16)

Amend LNRA's board member terms to four years to comply with constitutional requirements.

Rec. 1.9 (Page 16)

Amend LNRA's Sunset review date to 2035.

Management Action

Rec. 1.10 (Page 16)

Direct LNRA to establish policies requiring conflicted members of its grant review committee, staff, and the board to recuse themselves from the grant award process.

Rec. 1.11 (Page 16)

Direct LNRA to establish and document in writing the goals, terms, and conditions for partnership grants.

Rec. 1.12 (Page 16)

Direct LNRA to establish policies and procedures for formally monitoring grant awardees.

Rec. 1.13 (Page 16)

Direct LNRA to develop policies to consider the past performance of grantees before awarding future grants.

Rec. 1.14 (Page 17)

Direct LNRA to create and publish policies and procedures governing the service grant and publicly post information about the grant.

Rec. 1.15 (Page 17)

Direct LNRA to develop and implement a reserve fund balance policy.

Rec. 1.16 (Page 17)

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

Issue 2

UGRA Would Benefit from Implementing Common Good Governance Practices To Ensure Greater Fairness, Transparency, and Accountability. (Page 23)

Change in Statute

Rec. 2.1 (Page 27)

Apply the standard across-the-board requirement regarding the appointment of the presiding officer to UGRA's board.

Rec. 2.2 (Page 27)

Apply the standard across-the-board requirement regarding grounds for removal of a board member to UGRA.

Rec. 2.3 (Page 28)

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

Rec. 2.4 (Page 28)

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

Rec. 2.5 (Page 28)

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

Rec. 2.6 (Page 28)

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.

Rec. 2.7 (Page 28)

Amend UGRA's board member terms to four years to comply with constitutional requirements.

Rec. 2.8 (Page 28)

Amend UGRA's Sunset review date to 2035.

Management Action

Rec. 2.9 (Page 29)

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

Rec. 2.10 (Page 29)

Direct UGRA's board to develop and adopt a reserve fund balance policy.

Rec. 2.11 (Page 29)

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

Issue 3

SJRA Would Benefit From Improved Communication and Common Good Governance Practices. (Page 39)

Change in Statute

Rec. 3.1 (Page 43)

Statutorily require SJRA to adopt a public engagement policy that guides and encourages public involvement on key decisions.

Rec. 3.2 (Page 43)

Apply the standard across-the-board requirement regarding the governor's appointment of the presiding officer to SJRA's board.

Rec. 3.3 (Page 43)

Apply the standard across-the-board requirement regarding grounds for removal of a board member to SJRA.

Rec. 3.4 (Page 43)

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

Rec. 3.5 (Page 44)

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

Rec. 3.6 (Page 44)

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

Rec. 3.7 (Page 44)

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.

Rec. 3.8 (Page 44)

Amend SJRA's board member terms to four years to comply with constitutional requirements.

Rec. 3.9 (Page 44)

Amend SJRA's Sunset review date to 2035.

Management Action

Rec. 3.10 (Page 44)

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

Issue 4

The Bandera County River Authority and Groundwater District Is Not Subject to Sunset Review. (Page 51)

Change in Statute

Rec. 4.1 (Page 52)

Remove the Bandera County River Authority from Sunset review.

Proposed New Recommendation

Representative Canales Proposed New Recommendation 1

Direct Sunset staff to study administrative operations and structure across all Texas river authorities during the 2024-25 review cycle and make recommendations to the 89th Legislature regarding options to create uniformity across all river authorities that ensure each authority effectively represents its geographic river basin while also maintaining efficient administrative operations. This recommendation would be based on past Sunset river authority reviews and would not be expected to involve Sunset having to request new documents from river authorities. (Management action - nonstatutory)

TEXAS ECONOMIC DEVELOPMENT AND TOURISM OFFICE

OFFICE OF STATE-FEDERAL RELATIONS

Issue 1

The State Has a Continuing Need for the Texas Economic Development and Tourism Office. (Page 13)

Change in Statute

Rec. 1.1 (Page 18)

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

Rec. 1.2 (Page 18)

Authorize EDT to create advisory committees in rule.

Rec. 1.3 (Page 19)

Remove the Aerospace and Aviation Advisory Committee from statute.

Rec. 1.4 (Page 19)

Continue the Small Business Advisory Task Force and exempt it from automatic abolishment.

Rec. 1.5 (Page 19)

Consolidate four of EDT's reporting requirements and abolish one.

Issue 2

EDT Has Not Adequately Addressed or Communicated Problems With Its Bank Programs. (Page 21)

Change in Statute

Rec. 2.1 (Page 27)

Require EDT to adopt rules governing how it disburses funds for OCAP and its other access to capital programs.

Vice Chairman Holland Proposed Modification

Modify Recommendation 2.1 by removing the Original Capital Access Program (OCAP) from statute. Under this recommendation, EDT would still be required to adopt rules with timelines and clear procedures for disbursing funds to borrowers and lending partners for its new access to capital programs, and rules outlining requirements for the recovery efforts and documentation required of participating partners for a claim against a reserve account.

Rec. 2.2 (Page 27)

Require EDT to develop a plan for administering and communicating about its lending programs.

Rec. 2.3 (Page 27)

Require the Annual Bank Report to include additional information on the status of each program to better inform the Legislature.

Management Action

Rec. 2.4 (Page 28)

EDT should report to the Legislature on how to adjust or terminate the PDSBI program while limiting state losses.

Chairman Schwertner Proposed Modification

Replace Recommendation 2.4 with the following: Eliminate the Product Development and Small Business Incubator (PDSBI) program as it no longer aligns with the state's approach to supporting priority industries. Under this recommendation, EDT should convene the PDSBI board to approve the redemption of the bonds issued to fund the program. Sunset Commission staff would work with the staff of relevant state entities, including the Texas Legislative Council, Office of the Attorney General, Bond Review Board, Comptroller of Public Accounts, Legislative Budget Board, and EDT to take the necessary steps to wind up the program, redeem the bonds, and pay down the bond debt (principal and interest) and any remaining costs for the program's administration and financial services. This recommendation would remove the PDSBI program from statute, but EDT would continue to collect any outstanding collateral from loans made through the program.

Issue 3

EDT Could Provide More Efficient and Effective Assistance to Communities for Tourism Expansion. (Page 31)

Change in Statute

Rec. 3.1 (Page 36)

Require EDT and its MOU partners to produce the state's strategic tourism plan biennially, and update statutory submission deadlines.

Management Action

Rec. 3.2 (Page 36)

EDT should consider adjusting its community tourism assessment procedures to improve their efficiency and expand their impact.

Rec. 3.3 (Page 36)

EDT should consider increasing accessible research and educational opportunities for communities attempting to boost their tourism economies.

Rec. 3.4 (Page 36)

EDT should consider creating a Tourism Friendly Community designation to foster additional economic development across Texas.

Issue 4

The State Has a Continuing Need for the Office of State-Federal Relations. (Page 39)

Change in Statute

Rec. 4.1 (Page 43)

Continue OSFR for 12 years and remove the Sunset date of the office's enabling statute.

Rec. 4.2 (Page 43)

Repeal outdated and unnecessary statutory provisions relating to OSFR's federal funds management.

Rec. 4.3 (Page 43)

Amend OSFR's annual reporting requirement to remove outdated provisions and require OSFR to post each annual report on its website.

Management Action

Rec. 4.4 (Page 43)

OSFR should consider opportunities for improving the distribution process for its weekly update.

Proposed New Recommendations

None received.

ANATOMICAL BOARD OF THE STATE OF TEXAS

Issue 1

The State Anatomical Board Cannot Continue to Effectively Oversee Whole Body Donation in Texas. (Page 9)

Change in Statute

Option 1 Abolish SAB and establish the State Anatomical Advisory Council at the Texas Higher Education Coordinating Board. (Page 16)

This option would abolish the State Anatomical Board (SAB) and reconstitute it as an advisory council at the Texas Higher Education Coordinating Board (THECB). The council and THECB would not perform regulatory elements currently conducted by SAB, and oversight would be limited to higher education institutions. Together, the council and THECB would ensure Texas higher education institutions maintain access to affordable cadavers and anatomical specimens for education and research. Since Texas has more higher education institutions than most other states, the council's primary function would be to help coordinate and facilitate the equitable distribution of cadavers donated to willed body programs (WBPs) among Texas colleges and universities, forensic science programs, and search and rescue organizations.

The advisory council would be composed of one representative from each Texas higher education institution eligible to operate a WBP appointed by the chief executive officer of each institution. Members of the advisory council would serve two-year terms. The members of the advisory council would elect a presiding officer among the membership and would be required to meet at least annually.

THECB, with the assistance of the advisory council, would:

- coordinate the distribution of donated bodies and anatomical specimens to eligible institutions;
- ensure each body and anatomical specimen in the custody of an institution is treated with respect;
- keep identification records of each body and anatomical specimen donated to and distributed by the eligible institutions through final disposition;
- set and collect reasonable and necessary fees for coordinating and distributing bodies and anatomical specimens; and

- be required to provide an annual report to the governor, Legislature, and THECB, on the advisory council's activities and any proposed rule changes necessary. The annual report shall include WBP data including but not limited to the total number of donations received by each program, the total number received from another WBP, method of final disposition, type of use, number transferred in or out of state, and location or type of facility transferred to.

Administration. THECB would provide administrative support to the council, but would be authorized to delegate the management of the council and its functions to one of the WBPs in Texas. SAB's fund balance would be transferred to THECB for the purpose of administering these duties.

Statute and rules. An adult would still be able to donate their body directly to a college or university with a medical school, dental school, or forensic science program, as currently authorized in law. Political subdivisions would continue to be authorized to work with WBPs to account for a body not claimed for burial or a body required to be buried at public expense, as is current practice.

THECB would have general rulemaking authority for the administration of the council and its functions, and to administer and oversee Chapter 691 of the Health and Safety Code using the expertise and advice of the council, but regulatory provisions would be eliminated from this statute as discussed below. Violations of Chapter 691 of the Health and Safety Code would exclusively be criminal violations. This option would include the following statutory changes:

- Repeal regulatory provisions in the board's statute, including its inspection, investigation, and suspension or revocation authority. Criminal penalties associated with abuse of a corpse or an offense under Chapter 691 of the Texas Health and Safety Code would not be repealed.
- Update Chapter 691 of the Texas Health and Safety Code to include requirements for entities eligible to receive bodies to maintain chain of custody, treat any body or specimen in its custody with respect, require proper labeling, and require the body is not kept or transported in a manner visible to the public. Additionally, WBPs would maintain responsibility for ensuring the final disposition of all WBP donations meets applicable regulations and requirements.
- Authorize THECB to charge fees to cover its costs related to recordkeeping, registering, and tagging donations, and authorize THECB to delegate this activity to a WBP, as is already current practice by SAB.
- Require each active WBP to conduct or contract for an audit at least once every five years covering its recordkeeping, procedures, and methods for the

intake, storage, use, and transport of bodies and specimens. The WBP would also be required to provide the audit to the institution's board of regents or trustees.

- Authorize individual WBPs to determine which anatomical facilities they choose to transfer cadavers and specimens to if WBP supplies in Texas exceed needs. WBPs would have authority to cover costs of transfers by charging fees to cadaver and specimen recipients, as is current practice.

Chapters 691 and 692A, Texas Health and Safety Code would be updated to reflect these changes, and Sunset staff would work with staff from the Texas Legislative Council in drafting bill language to accurately account for them. Additionally, all existing SAB rules would continue upon transfer to THECB, which would be responsible for updating and adopting rules by September 1, 2024, to reflect changes in rulemaking authority.

Option 2 Abolish SAB and transfer its functions to the Texas Funeral Service Commission or another appropriate state regulatory agency, and establish a WBP advisory committee at the agency. (Page 17)

This option is based on the recommendation the Sunset Commission adopted during the 2020 review, but allows the Legislature to transfer SAB's functions to a state agency other than TFSC. This option would abolish SAB as a stand-alone board, reconstitute it as an advisory committee, and transfer its regulatory and administrative functions to one of the following state agencies: TFSC, the Texas Department of Licensing and Regulation (TDLR), or the Texas Department of State Health Services. This recommendation would allow for the state to continue its oversight of WBPs and other approved anatomical facilities, but would allow for the administering agency to mitigate the problems and workload challenges resulting from the board's current structure. This option would include the following statutory changes:

- Amend the policymaking body by abolishing SAB as a stand-alone board and require policymaking body members from the administering agency to appoint an advisory committee composed of one representative from each higher education institution eligible to operate a WBP to provide expert advice to the agency.
- Amend SAB's statute to replace its administrative and enforcement provisions with those of the administering agency's, including a full range of enforcement authority and authorizing fees for anatomical facility inspections at an amount covering the cost of administering the program.

- Transfer SAB's fund balance to the administering agency for the purpose of administering duties under Chapter 691 of the Texas Health and Safety Code.

Chapters 691 and 692A, Texas Health and Safety Code would be updated to reflect these changes, and Sunset staff would work with staff from the Texas Legislative Council in drafting bill language to accurately account for them.

Option 3 Continue SAB, but restructure it as a traditional state agency with funding and staff to regulate whole body donations in Texas. (Page 18)

This option would continue the board and restructure it as a fully resourced state agency and subject it to the state appropriations process. Additionally, the Sunset Commission and 88th Legislature could determine whether SAB should or should not regulate all WBPs and Non-transplant Anatomical Donation Organizations (NADOs) in Texas. The agency's statute and operations would be aligned with regulatory best practices, much like those of other licensing and regulatory agencies such as TDLR. This option would include the following statutory changes:

- Amend the policymaking body to comply with the state constitution by structuring it as a nine-member body. The board would consist of three public members, five members from higher education institutions that operate willied body programs, and one member from a bioskills training or research facility eligible to use cadavers or anatomical specimens.
- Align the board's statute with best practices for policymaking bodies, including requiring the governor to appoint the board members and presiding officer, requiring the advice and consent of the Senate on appointments, and establishing staggered, six-year terms for board members.
- Apply and update all standard Sunset across-the-board recommendations.
- Authorize the board to hire an executive director and to delegate its statutory authority to the executive director and other staff hired by that individual.
- Authorize the board to charge fees for applications and inspections, and require the board to recover its costs through those fees.
- Authorize the board to investigate and enforce the provisions in its statute, and to adopt rules to guide that activity.
- Authorize the board to use a full range of enforcement tools, including reprimands, cease and desist authority, and administrative penalties.

- Transfer SAB's existing fund balance to the General Revenue Fund, which should be appropriated to the board for startup costs. SAB would be part of the standard state appropriations process thereafter.

Sunset staff would work with staff from the Texas Legislative Council in drafting bill language to accurately reflect these provisions and work with Legislative Budget Board staff on estimates for the necessary appropriations for the board to hire and support sufficient staff.

Finally, as a management action, the board and its staff would be directed to develop an administrative improvement plan, including the planned steps and timeline to establish and adopt all rules mentioned above. The plan would also establish administrative processes including but not limited to the application process, rule review, and website and communications. The plan should also include an anticipated timeline for hiring staff after the effective date of the bill should the bill pass. The board should submit this plan to the Sunset Commission by January 1, 2024.

Additional Policy Considerations Regarding Regulation of NADOs (Page 19)

As discussed previously, the Sunset review of SAB presents the opportunity to look at the whole body donation industry holistically. The number of participants in the whole body donation industry in Texas and the rest of the nation is growing, particularly NADOs. While Texas does not currently regulate NADOs, several other states have begun to do so. When looking at any industry, a key question is what level of state oversight and regulation is needed to best protect the public and this is true for the whole body donation industry.

The Sunset Commission could choose to raise the policy question of if and how to regulate NADOs in Texas for deliberation during the 88th Legislative Session. The following considerations are offered to help with any discussions or deliberations about how to regulate NADOs in Texas should they occur.

- What, if any, level of oversight or regulation is appropriate for NADOs in Texas?
 - Should WBPs and NADOs have the same requirements or be regulated in the same way?
 - Should the state require a registration or license for NADOs?
 - Would accreditation by the AATB provide enough oversight and protection?
 - Should requirements for donor consent forms be prescribed in statute?

- What, if any, general standards should apply to NADOs?
 - Should statute require NADOs to treat donated bodies with respect?
 - Should statute require NADOs to maintain records and chain of custody for donated bodies and specimens?
- If the state regulates NADOs, which agency or entity should be responsible for oversight and regulation?
- Should NADOs be authorized to transfer bodies from Texas to outside the U.S.?

Proposed New Recommendations

Senator Schwertner Proposed New Recommendation 1

This recommendation would abolish SAB and transfer its functions to the Texas Funeral Service Commission (TFSC), and establish a whole body donation advisory committee to advise and provide expertise to TFSC. The advisory committee would include seven members appointed by TFSC: two from higher education institutions with WBPs, two from NADOs, two from anatomical facilities, and one public member. WBPs and NADOs operating in Texas would be required to register with TFSC. NADOs would be required to have American Association of Tissue Banks accreditation and would be exempted from certain WBP requirements, including inspections. Statute would require all registrants to obtain informed donor consent and require tracking and recordkeeping covering whole body donation use from intake to final disposition. TFSC would have authority to enforce Chapter 691, Health and Safety Code, including rulemaking and fee authority, and statute would authorize fees for facility inspections. TFSC members and licensees would be prohibited from owning more than a 10 percent interest in a NADO. Sunset Commission staff would work with the Texas Legislative Council, SAB, and TFSC in the drafting of bill language to accurately account for this transfer as intended.

Senator Perry Proposed New Recommendation 2

This recommendation would include all of the elements in Option 3, which statutorily continues SAB as a standalone agency; updates and modernizes the agency and its statutes; improves its mission; and clarifies its regulatory purpose and function. However, this recommendation would establish a different makeup of the proposed nine-member board. The board would include three public members and two representatives from each of the following groups: university suppliers that operate WBPs, private sector suppliers, and users that are not suppliers.

TEXAS COMMISSION ON LAW ENFORCEMENT

Issue 1

Texas' Approach to Regulating Law Enforcement Is Ineffective. (Page 13)

Change in Statute

Rec. 1.1 (Page 23)

Establish a blue ribbon panel on law enforcement professionalism to comprehensively evaluate and make recommendations on the needed professional standards for law enforcement in Texas.

Vice Chairman Holland and Senator Paxton Proposed Modification

Replace Recommendation 1.1 with the following: Require TCOLE to create, in rule no later than April 1, 2024, a set of statewide minimum law enforcement standards for:

- pursuit
- arrest & control tactics
- high-risk warrants.
- traffic stops (specifically a uniformed rubric on Class C Misdemeanor or “fine-only” stops)
- utilization of the National Decertification Index during the hiring process;

In addition, establish an appointed commission on law enforcement professionalism to evaluate and make statutory recommendations to the Legislature on:

- professional conduct standards,
- training and education requirements, and
- professionalism

for law enforcement in Texas. (See the proposed statutory language on Page 21.)

These recommendations would build upon any standards TCOLE is required to establish in rule.

Rec. 1.2 (Page 25)

Continue the Texas Commission on Law Enforcement for two years.

Senator Paxton Proposed Modification

Continue TCOLE for the standard 12 years instead of two.

Issue 2

Key Elements of TCOLE's Statute and Procedures Do Not Conform to Common Licensing and Regulatory Standards. (Page 27)

Change in Statute

Rec. 2.1 (Page 30)

Remove a subjective qualification for licensure from statute.

Rec. 2.2 (Page 30)

Clearly authorize TCOLE to maintain confidentiality of complainants when possible.

Rec. 2.3 (Page 30)

Clearly define TCOLE's authority to issue administrative subpoenas.

Rec. 2.4 (Page 30)

Require TCOLE to establish and maintain a system for LEAs to report failed fit-for-duty exams or refusals to be examined, and authorize TCOLE to suspend licensees under limited circumstances.

Rec. 2.5 (Page 31)

Explicitly authorize TCOLE to temporarily suspend a license in cases of imminent threat to public health, safety, or welfare, and require a timeline for due process hearings.

Management Action

Rec. 2.6 (Page 31)

Direct TCOLE to work with DPS to subscribe to rap backs on fingerprint-based criminal background checks for all licensure applicants and licensees.

Issue 3

TCOLE's Statute Does Not Reflect Some Standard Elements of Sunset Reviews.
(Page 33)

Change in Statute

Rec. 3.1 (Page 35)

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

Rec. 3.2 (Page 35)

Update the commission's statute to reflect the requirements of the person-first respectful language initiative.

Rec. 3.3 (Page 35)

Authorize the commission to establish advisory committees in rule.

Proposed New Recommendations

Chairman Schwertner Proposed New Recommendation 1

Amend statute to require TCOLE, with input from an advisory committee, to set and enforce minimum standards for law enforcement agencies in rule. (See the proposed statutory language on Page 22.)

Senator Perry Proposed New Recommendation 2

Remove the separation categories of honorable, general, and dishonorable from the F-5 form. The F-5 form should simply report the date that the peace officer left the law enforcement agency. This modification would also delete Sections 1701.4521 and 1701.4525, Texas Occupations Code, since the dishonorable discharge designation would no longer exist.

Vice Chairman Holland Proposed New Recommendation 3

Require TCOLE to create a public facing, searchable database that identifies information about a peace officer's license status, including but not limited to:

- whether the individual has completed Basic Peace Officer Courses training;
- whether the individual has completed continuing education;
- the total amount of training the individual has completed; and
- the length of time the individual has been licensed.

TCOLE would establish exemptions for certain individuals, such as undercover law enforcement officers or those that work in high-security functioning positions such as peace officers in narcotics departments.

Senator Johnson Proposed New Recommendation 4

Require law enforcement agencies to conduct a review of a national law enforcement database prior to hiring and before a license is granted. Authorize TCOLE to designate one or more databases for use by law enforcement agencies when conducting pre-employment background checks. A designated database must 1) contain records of officer commendations, awards, misconduct, license and certification actions; 2) be maintained by the federal government or a recognized law enforcement accreditation association; and 3) include a due process system for officers to amend erroneous information.

Senator Paxton Proposed New Recommendation 5

Remove the statutory deadlines for all TCOLE licensees' continuing education requirements and require the TCOLE, by rule, to establish deadlines aligned with the agency's established training cycle.

Senator Perry Proposed New Recommendation 6

Direct TCOLE, in consultation with the Health and Human Services Commission and the Department of Public Safety, to report on what the requirements would be for peace officers and 911 dispatchers to access the Continuity of Care Query system to the Sunset Commission and the appropriate legislative committees no later than February 17, 2023. TCOLE should specifically address financial considerations and administrative challenges with providing access to peace officers and 911 dispatchers. (Management action - nonstatutory)

Proposed Statutory Language

Senator Paxton Proposed Modification to Recommendation 1.1

SUBCHAPTER X. TEXAS COMMISSION ON LAW ENFORCEMENT PROFESSIONALISM

Sec. XX.XXX. DEFINITION. In this subchapter, “commission” means the Texas Commission on Law Enforcement Professionalism.

Sec. XX.XXX. TEXAS COMMISSION ON LAW ENFORCEMENT PROFESSIONALISM.

(a) The commission is established to develop and make recommendations regarding law enforcement professionalism.

(b) The commission is composed of seven members, appointed as follows:

- (1) one member appointed by the governor;
- (2) three members appointed by the lieutenant governor; and
- (3) three members appointed by the speaker of the house of

representatives.

(c) In making appointments under Subsection (b), the governor, lieutenant governor, and speaker of the house of representatives shall coordinate to ensure that membership of the commission, to the extent possible, reflects the ethnic and geographic diversity of this state

(d) The members appointed by:

- (1) the governor must have an interest in law enforcement;
- (2) the lieutenant governor must be three members of the senate; and
- (3) the speaker of the house of representatives must be three members of the house of representatives.

Sec. XX.XXX. PRESIDING OFFICER. The governor shall designate the presiding officer of the commission.

Sec. XX.XXX. COMPENSATION AND REIMBURSEMENT. A member of the commission is not entitled to compensation for service on the commission but is entitled to reimbursement for actual and necessary expenses incurred in performing commission duties.

Sec. XX.XXX. ADMINISTRATIVE SUPPORT AND FUNDING. (a) The Texas Commission on Law Enforcement may provide administrative support for the commission

(b) Funding for the administrative and operational expenses of the commission shall be provided by legislative appropriation made to the agency for that purpose.

Sec. XX.XXX. RECOMMENDATIONS. (a) The commission shall develop recommendations under this subchapter to address issues related to:

- (1) law enforcement professional conduct standards,
- (2) licensee training and education requirements, and
- (3) ensuring the professionalism of law enforcement licensees and agencies

(b) The commission may establish one or more working groups composed of not more than three members of the commission to study, discuss, and address specific policy issues and recommendations to refer to the commission for consideration.

Sec. XX.XXX. REPORT. Not later than December 1, 2024, the commission shall prepare and deliver a report to the Governor, Lieutenant Governor, Speaker of the House, and the chairs of the Senate Criminal Justice and House Homeland Security and Public Safety Committees that recommends statutory changes to improve law enforcement professionalism.

Sec. XX.XXX. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) The commission may hold public meetings as needed to fulfill its duties under this subchapter.

(b) The commission is subject to Chapters 551 and 552, Government Code.

Sec. XX.XXX. COMMISSION ABOLISHED; EXPIRATION OF SUBCHAPTER. The commission is abolished and this subchapter expires January 1, 2025.

Chairman Schwertner Proposed New Recommendation 1

Sec. 1701.163. **STANDARDS FOR COMMISSIONING ENTITIES:** (a) This section applies only to an entity authorized by statute or by the constitution to create a law enforcement agency or police department and commission, appoint, or employ officers

(b) TCOLE, with input from an advisory committee, shall set minimum standards for law enforcement agencies in rule including as a minimum:
~~INFORMATION PROVIDED BY COMMISSIONING ENTITIES. that first creates a law enforcement agency or police department and first begins to commission, appoint, or employ officers on or after September 1, 2009.~~

~~(b) The entity shall submit to the commission on creation of the law enforcement agency or police department information regarding:~~

(1) the need for the law enforcement agency ~~or police department~~ in the community;

(2) the sustainable funding sources for the law enforcement agency or ~~police department~~;

(3) the physical resources available to officers; based on the number of officers employed; including:

(A) duty firearms, including patrol rifles and shotguns;

(B) less lethal force options (such as baton, taser, pepper spray, etc.) (minimum of at least one per on-duty officer);

(C) effective communications equipment (such as radios, information systems, etc.);

(D) protective equipment (such as ballistic shields, at least a protective vest per officer);

(E) uniforms requirements;

(F) patrol vehicles, including required equipment such as radios and protective barriers;

(4) the physical facilities that the law enforcement agency or police department will operate, including descriptions of the evidence room, dispatch area, and public area;

(5) law enforcement policies of the law enforcement agency or police department, including policies on:

(A) use of force;

(B) vehicle pursuit;

(C) professional conduct of officers;

(D) domestic abuse protocols;

(E) response to missing persons;

(F) supervision of part-time officers; and

(G) impartial policing;

(H) active shooter;

(I) barricaded subject or hostage situations;

(6) the administrative structure of the law enforcement agency or police department;

(7) liability insurance; and

(8) any other information the commission requires by rule.

PUBLIC UTILITY COMMISSION OF TEXAS

ELECTRIC RELIABILITY COUNCIL OF TEXAS

OFFICE OF PUBLIC UTILITY COUNSEL

Issue 1

Without Additional Resources and Clear Decision-Making Processes in Place, PUC Cannot Truly Fulfill Expectations for Ensuring a Reliable Electric Grid. (Page 35)

Change in Appropriation

Rec. 1.1 (Page 43)

The House Appropriations and Senate Finance committees should consider appropriating PUC its exceptional item requests for funding a data analytics team and additional engineering expertise.

Senator Springer Proposed Modification

Modify Recommendation 1.1. to also direct PUC to work with the Legislative Budget Board and Sunset Commission staff to update the agency's General Appropriations Act performance measures to track the agency's achievement in using the funds appropriated by the exceptional item requests identified in the recommendation. PUC would also update the Sunset Commission on the status of the recommended performance measures by February 15, 2023.

(Management action - nonstatutory)

Change in Statute

Rec. 1.2 (Page 43)

Authorize PUC to issue directives to ERCOT outside formal rulemaking and contested cases and authorize stakeholders to formally provide input on these directives.

Chairman Schwertner Proposed Modification

Modify Recommendation 1.2 to specify that in addition to contested cases and rulemakings, PUC may only use written memos and orders, not informal verbal directives, to instruct and provide direction to ERCOT. Also modify the recommendation to clarify that PUC can only direct ERCOT outside of these methods in an emergency or other urgent situation that poses an imminent threat to public health, safety, or grid reliability. If PUC's direction to ERCOT is still necessary 72 hours after the emergency or urgent situation, PUC must use the more formal process established under the recommendation to provide documentation of its direction to ERCOT. Other aspects of the staff recommendation would remain unchanged.

Chairman Schwertner Proposed Modification

Modify Recommendation 1.2. to also direct the ERCOT chief executive officer to provide an update about any new directive issued by PUC to ERCOT at the first ERCOT Board meeting following the directive's issuance. (Management action - nonstatutory)

Rec. 1.3 (Page 44)

Clarify PUC's authority over ERCOT protocols to include the ability to reject or remand them.

Rec. 1.4 (Page 44)

Authorize ERCOT to restrict commissioners' presence at executive sessions.

Rec. 1.5 (Page 44)

Consolidate three electric-related reporting requirements.

Chairman Schwertner Proposed Modification

Replace Recommendation 1.5 with the following: Continue the *Long Term System Assessment Report* and *Grid Reliability Assessment* as separate reports in statute and consolidate the *Report on Constraints and Needs* with other key information into a new *Electric Industry Report*. Specifically, this new report would not only include information previously contained in the *Report on Constraints and Needs* but would summarize key findings from the *Long Term System Assessment Report* and *Grid Reliability Assessment*. The *Electric Industry Report* would also clearly outline other basic information about the electric grid and market in Texas, such as generation capacity, customer demand, and transmission capacity currently installed on the grid and expected in the future. This recommendation would require ERCOT, in coordination with PUC, to submit the *Electric Industry Report* to the Legislature by January 15 of odd-numbered years. As part of this

recommendation, PUC and ERCOT should work together to ensure the report's content is provided in a nontechnical and easy-to-understand manner for legislators and the general public with little knowledge of the industry.

Management Action

Rec. 1.6 (Page 45)

Direct PUC to develop a state reliability definition.

Chairman Schwertner Proposed Modification

Modify Recommendation 1.6 to direct PUC to expedite rulemaking to set a reliability standard and establish this standard no later than May 1, 2023.

Rec. 1.7 (Page 45)

Direct ERCOT to re-evaluate its performance measures, with input from PUC.

Rec. 1.8 (Page 45)

Direct PUC, in coordination with ERCOT, to approve assumptions used in electric industry reports.

Rec. 1.9 (Page 45)

Direct the commission to develop policies regarding separating commissioner roles and responsibilities.

Issue 2

To Restore Trust, PUC Needs to Further Improve Its Public Communication Efforts.
(Page 49)

Change in Statute

Rec. 2.1 (Page 54)

Require PUC to develop and regularly update a strategic communications plan.

Rec. 2.2 (Page 55)

Require PUC to allow public testimony at commission meetings on agenda items.

Management Action

Rec. 2.3 (Page 55)

Direct PUC and ERCOT to create a guidance document to better coordinate public communications.

Rec. 2.4 (Page 55)

Direct PUC to provide up-to-date, easily accessible information as part of its current website redesign efforts.

Rec. 2.5 (Page 56)

Direct PUC to prepare minutes of commission meetings and provide them on its website.

Issue 3

PUC Needs Additional Resources and Attention Focused on Its Water and Wastewater Regulation to Avoid Overburdening Utilities and Their Customers. (Page 59)

Change in Appropriation

Rec. 3.1 (Page 67)

The House Appropriations and Senate Finance committees should consider increasing PUC's appropriation to ensure it can recover its costs to regulate water and wastewater utilities efficiently.

Senator Springer Proposed Modification

Modify Recommendation 3.1. to also direct PUC to work with the Legislative Budget Board and Sunset Commission staff to update the agency's General Appropriations Act performance measures to track the agency's achievement in using the funds appropriated by the exceptional item requests identified in the recommendation. PUC would also update the Sunset Commission on the status of the recommended performance measures by February 15, 2023.
(Management action - nonstatutory)

Rec. 3.2 (Page 67)

Amend statute to extend the length of an emergency temporary manager appointment.

Management Action

Rec. 3.3 (Page 67)

Direct PUC to comprehensively review its water and wastewater rules, processes, and guidance documents to identify and address areas for improvement.

Issue 4

PUC's Poor Data Practices and Lack of Policies and Procedures Limit Its Ability to Best Allocate Resources and Serve the Regulated Community. (Page 71)

Management Action

Rec. 4.1 (Page 76)

Direct PUC to develop a plan to prioritize improving its case data collection and analysis.

Rec. 4.2 (Page 77)

Direct PUC's Legal Division and Office of Policy and Docket Management to develop comprehensive policies and procedures.

Rec. 4.3 (Page 77)

Direct PUC to create and maintain a precedent manual, prioritizing rulings related to water and wastewater regulation.

Rec. 4.4 (Page 77)

Direct PUC to update its contract manager guide and handbook.

Issue 5

Texas Has a Continuing Need for PUC. (Page 79)

Change in Statute

Rec. 5.1 (Page 84)

Continue PUC for six years and remove the Sunset date of the agency's enabling statute.

Rec. 5.2 (Page 84)

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

Rec. 5.3 (Page 84)

Abolish two and modify four of PUC's reporting requirements.

Management Action

Rec. 5.4 (Page 84)

Direct PUC to update its policy guiding the agency's rule review process to ensure identified deficiencies in the rules are addressed.

Issue 6

The State Has a Continuing Need for OPUC, but the Agency Should Strengthen Its Processes for Contracting With Legal Expert Witnesses. (Page 87)

Change in Statute

Rec. 6.1 (Page 91)

Continue OPUC for six years and remove the Sunset date of the agency's enabling statute.

Management Action

Rec. 6.2 (Page 91)

Direct OPUC to formalize and document certain contracting processes for legal expert witnesses.

Proposed New Recommendations

Chairman Schwertner New Recommendation 1

Require the chair of the Public Utility Commission to rotate among the governor-appointed commissioners each calendar year. To initiate this change, the chair will rotate to the next commissioner in the order they were first appointed to the commission.

Chairman Schwertner New Recommendation 2

In addition to the chair of the Public Utility Commission, add an additional commissioner as a nonvoting member of the ERCOT Board of Directors. Each commissioner will serve as the PUC designee on a rotating basis. The designee will rotate each calendar year beginning in the order they were first appointed to the commission.

Chairman Schwertner New Recommendation 3

Amend Utilities Code Section 39.1511(a) to specify that ERCOT may enter into executive session closed to the public only to address contracts, competitively sensitive information, information related to the security of the regional electrical network, or any matter authorized under Government Code Section 551, Subchapter D (Open Meetings Act) that also applies to PUC.

Vice Chairman Holland Proposed New Recommendation 4

Direct ERCOT to include appropriate funding in its budget for qualified economic planning staff to conduct robust economic analyses for transmission planning and other market or planning studies requiring economic analysis. (Management action - nonstatutory)