

# Sunset Commission Meeting September 19, 2024

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## ***Decision Material***

Sabine River Authority of Texas

Department of Information Resources

Texas Lottery Commission

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# SABINE RIVER AUTHORITY OF TEXAS

## Issue 1

SRA's Grant Program Requires Additional Best Practices to Better Ensure Effectiveness, Transparency, and Fairness. (Page 11)

### Management Action

#### **Rec. 1.1** (Page 17)

Direct SRA to implement consistent practices for tracking and managing award and financial data for the authority's grant program.

#### **Rec. 1.2** (Page 18)

Direct SRA to establish and publish policies that clearly explain the authority's grant administration process and procedures.

#### **Rec. 1.3** (Page 18)

Direct SRA to make scoring criteria transparent and publicly available to applicants for competitive grants.

#### **Rec. 1.4** (Page 18)

Direct SRA to establish formal agreements with written terms and conditions for individual grant awards and policies for grantee underperformance.

#### **Rec. 1.5** (Page 18)

Direct SRA to establish and track outcome measures for its grant program.

#### **Rec. 1.6** (Page 18)

Direct SRA to establish performance monitoring standards for grant recipients.

#### **Rec. 1.7** (Page 19)

Direct SRA to update policies to include consideration of past performance of grantees.

#### **Rec. 1.8** (Page 19)

Direct SRA to develop a conflict-of-interest policy specific to its competitive grants.

## **Issue 2**

SRA's Contracting Process Would Benefit from Additional Documentation and Alignment with Best Practices. (Page 21)

### Management Action

#### **Rec. 2.1** (Page 25)

Direct SRA to institute a formal needs assessment or cost-benefit analysis to justify outsourcing current and future services.

#### **Rec. 2.2** (Page 25)

Direct SRA to adopt a contract threshold above which board approval is required.

#### **Rec. 2.3** (Page 26)

Direct SRA to formally document and evaluate vendor performance.

#### **Rec. 2.4** (Page 26)

Direct SRA to improve its contracting processes to ensure sufficient transparency and fairness.

## **Issue 3**

More Formal, Strategic Decision Making Would Better Position SRA for Continued Success. (Page 29)

### Management Action

#### **Rec. 3.1** (Page 34)

Direct SRA to develop a formal, strategic decision-making process to identify and address potential risk and better inform its decisions.

#### **Rec. 3.2** (Page 34)

Direct SRA to work with SRA-LA to develop a memorandum of understanding to facilitate better coordination between the authorities.

## **Issue 4**

SRA's Governing Law and Complaint Process Do Not Reflect Some Standard Elements of Sunset Reviews. (Page 37)

### Change in Statute

**Rec. 4.1** (Page 40)

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

**Rec. 4.2** (Page 40)

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

**Rec. 4.3** (Page 40)

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

**Rec. 4.4** (Page 41)

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

**Rec. 4.5** (Page 41)

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

**Rec. 4.6** (Page 41)

Apply the standard across-the-board requirement related to developing and maintaining an authority complaints system and making information on complaint procedures available to the public.

**Rec. 4.7** (Page 41)

Amend SRA's Sunset review date to 2037.

### Management Action

**Rec. 4.8** (Page 41)

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

**Rec. 4.9** (Page 41)

Direct SRA to develop and publicize a clear complaint policy for its permitting programs.

Future Consideration

**Rec. 4.10** (Page 42)

Postpone the decision on modifying board terms until completion of the upcoming river authority uniformity study.

**Proposed New Recommendations**

None received.

# DEPARTMENT OF INFORMATION RESOURCES

## Issue 1

DIR's Customer Input Mechanisms and Board Structure Could Be Improved to Better Represent Its Customers and Help Ensure Their Needs Are Met. (Page 11)

### Change in Statute

#### **Rec. 1.1** (Page 18)

Restructure DIR's governing board to make all customer representatives nonvoting, ex officio members and expand the board to 11 members.

#### **Rec. 1.2** (Page 19)

Abolish two of DIR's expired statutory advisory committees and require DIR to establish certain advisory committees in rule.

#### **Rec. 1.3** (Page 20)

Continue the Data Management Advisory Committee.

#### **Rec. 1.4** (Page 20)

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

#### **Rec. 1.5** (Page 20)

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. 1.6** (Page 21)

Direct DIR to improve communication to customers regarding eligibility and cost of services.

#### ***Senator Middleton Proposed Modification***

Modify Recommendation 1.6 to direct DIR to specifically provide information to school districts across the state about how to access DIR's services and the potential savings associated with those services. To implement this recommendation, DIR could consider working with relevant organizations to direct school district staff to information on DIR's website and to distribute information in other formats, such as informational videos or printed pamphlets.

**Rec. 1.7** (Page 21)

Direct DIR to create and communicate a formal process for a potential customer to request customer eligibility from DIR's executive director.

**Rec. 1.8** (Page 21)

Direct DIR to formalize annual telecommunications customer service surveys for the CCTS and TEX-AN programs.

## **Issue 2**

DIR Could Improve Statewide IT Planning by Strengthening Its Reports to the Legislature and Expanding State Agency Procurement Support. (Page 25)

### Change in Statute

**Rec. 2.1** (Page 30)

Require DIR to review a sample of IRDR responses for accuracy.

**Rec. 2.2** (Page 30)

Require DIR to develop an IT procurement certification.

**Rec. 2.3** (Page 30)

Require DIR to develop an IT procurement training for state agency executive leadership.

**Rec. 2.4** (Page 31)

Require DIR to develop a procurement-as-a-service pilot program.

### Management Action

**Rec. 2.5** (Page 31)

Direct DIR to clearly describe the risk associated with each quadrant in the *PCLS Report*.



## Issue 3

Adjustments to Two of DIR's Main Contracting Programs Could Better Ensure the State Gets the Best Deal on IT. (Page 33)

### Change in Appropriation

#### **Rec. 3.1** (Page 35)

The House Appropriations and Senate Finance committees should consider authorizing the use of Data Center Services funds for IT staff augmentation services through ITSAC.

### Management Action

#### **Rec. 3.2** (Page 35)

Direct DIR to review COOP vendor compliance at least twice per fiscal year to ensure pricing information is correct and posted timely.

## Issue 4

DIR Needs More Tools to Protect the State's Cybersecurity. (Page 37)

### Change in Statute

#### **Rec. 4.1** (Page 44)

Require DIR to require state agencies under its jurisdiction to obtain a DIR-selected information security assessment periodically.

#### ***Chairman Bell, Vice Chairman Parker, and Senator Blanco Proposed Modification***

Modify Recommendation 4.1 to specify state agencies would undergo a third-party information security assessment and a penetration test at least once every two years.

#### **Rec. 4.2** (Page 44)

Modify the existing Information Security Assessment reporting requirements to reduce redundancy.

#### **Rec. 4.3** (Page 45)

Amend statute to change the deadline for submitting the Information Security Assessment.

## Management Action

### **Rec. 4.4** (Page 45)

Direct DIR to create a mechanism for state agencies and institutions of higher education to report use of third-party assessments other than the TCF Assessment.

### **Rec. 4.5** (Page 45)

Direct DIR to change certain processes related to entities reporting low cybersecurity maturity.

#### ***Senator Blanco Proposed Modification***

Modify Recommendation 4.5 to direct DIR to notify the state representatives and senators who represent an institution of higher education, under legislative privilege, when the agency sends a letter to the institution's leadership regarding a low maturity score.

## **Issue 5**

The State Has a Continuing Need for the Department of Information Resources.  
(Page 49)

## Change in Statute

### **Rec. 5.1** (Page 55)

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

### **Rec. 5.2** (Page 55)

Abolish one, modify two, and continue 13 of DIR's reporting requirements.

### **Rec. 5.3** (Page 55)

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

## Management Action

### **Rec. 5.4** (Page 55)

Direct DIR to document its ranking of risks identified in the audit plan and interview the board to inform the audit plan.

## **Proposed New Recommendations**

### ***Vice Chairman Parker Proposed New Recommendation 1***

The House Appropriations and Senate Finance committees should consider establishing a fund or budgetary set-aside that DIR could access, with notice to and approval by the Legislative Budget Board and Office of the Governor, to assist state agencies in response to addressing findings in their cybersecurity assessments or if an upgrade or modernization is essential to ensure the security of Texans' data. (Change in appropriation)

### ***Vice Chairman Parker Proposed New Recommendation 2***

Amend Section 2054.5191, Government Code, to eliminate the current exemptions for certain state and local employees and officials that do not "use a computer to complete at least 25 percent of the employee's recorded duties" from taking a state-certified cybersecurity training.

### ***Senator Sparks Proposed New Recommendation 3***

The House Appropriations and Senate Finance committees should consider authorizing DIR to fund third-party information security assessments for certain local governmental entities. Specifically, this recommendation would express the will of the Sunset Commission that the Legislature provide funding for local governmental entities that manage critical infrastructure to receive a third-party information security assessment of DIR's choosing. DIR would develop guidelines for which entities would be eligible for the funding based on the entity's risk of foreign cyber attack, a recommendation from a legislative committee, or other factors the agency determines appropriate. (Change in appropriation)

### ***Senator Blanco Proposed New Recommendation 4***

Direct DIR to reallocate funding from a vacant position in the Office of the Chief Information Security Officer to hire a Senior Cyber Incident Response Team (CIRT) Analyst/Threat Researcher. (Management action – nonstatutory)



# TEXAS LOTTERY COMMISSION

## Issue 1

The Agency's Governing Body Is Not Adequately Engaged and Lacks Mechanisms to Ensure the Long-Term Success of the State Lottery and Charitable Bingo. (Page 13)

### Change in Statute

#### **Rec. 1.1** (Page 19)

Require the commission to establish subcommittees to improve opportunities for engagement.

#### **Rec. 1.2** (Page 19)

Modify statute to remove the commission's authority to delegate approval authority for bingo advisory opinions.

#### **Rec. 1.3** (Page 19)

Modify statute to require the Bingo Advisory Committee and improve its effectiveness.

#### **Rec. 1.4** (Page 20)

Require the commission to establish a Lottery Advisory Committee.

#### **Rec. 1.5** (Page 20)

Consolidate four of TLC's reporting requirements.

#### **Rec. 1.6** (Page 20)

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

### Management Action

#### **Rec. 1.7** (Page 21)

Direct TLC to evaluate and address gaps in its rules.

**Rec. 1.8** (Page 21)

Direct TLC to update its policies describing the separation of duties between the commission and staff.

## **Issue 2**

The Charitable Bingo Operations Division Needs Significant Improvement to Ensure Effective, Fair, and Efficient Bingo Regulation. (Page 23)

### Change in Appropriations

**Rec. 2.1** (Page 30)

The House Appropriations and Senate Finance committees should consider modifying TLC's budget pattern to include an indirect administration goal.

### Change in Statute

**Rec. 2.2** (Page 30)

Modify statute to clarify TLC's organizational hierarchy.

***Vice Chairman Parker Proposed Modification***

Modify Recommendation 2.2 to retain the requirement that the CBOD director be employed by the commission. However, specify that the CBOD director administers the bingo division under the direction of the agency executive director and reports to the commission on the bingo division's activities at all commission meetings.

**Rec. 2.3** (Page 30)

Require CBOD to include compliance history in its audit risk assessment.

**Rec. 2.4** (Page 30)

Require CBOD to work with the Bingo Advisory Committee to establish appropriate inspection criteria.

## Management Action

### **Rec. 2.5** (Page 31)

Direct the agency to establish a plan prioritizing IT updates and eliminating paper-based processes in CBOD.

#### ***Senator Paxton Proposed Modification***

Modify Recommendation 2.5 to direct the agency to consult the Department of Information Resources when developing its plan.

### **Rec. 2.6** (Page 31)

Direct the agency to improve data practices, including data validation and other quality controls.

### **Rec. 2.7** (Page 32)

Direct CBOD to revise its schedule of sanctions to better align penalties with the severity of the violation.

### **Rec. 2.8** (Page 32)

Direct CBOD to develop a training program for new auditors.

### **Rec. 2.9** (Page 32)

Direct CBOD to post all disciplinary orders on the bingo website.

## **Issue 3**

Charitable Bingo Licensing Needs Changes to Eliminate Unnecessary Regulatory Burdens and Unfair Advantages to Certain Regulated Businesses. (Page 35)

### Change in Statute

#### **Option 1** (Page 38)

Treat all lessors as grandfathered lessors.

#### **Option 2** (Page 39)

Convert all grandfathered lessors to regular lessors.

### **Rec. 3.1** (Page 39)

Eliminate licenses for manufacturers.

**Rec. 3.2** (Page 39)

Eliminate licenses for distributors.

## **Issue 4**

The State Has a Continuing Need for the Texas Lottery Commission. (Page 41)

### Change in Statute

**Rec. 4.1** (Page 43)

Continue the Texas Lottery Commission for 12 years and remove the Sunset date of the agency's statutes.

## **Proposed New Recommendations**

### ***Vice Chairman Parker New Recommendation 1***

Authorize TLC to place a commercial lessor license subject to Section 2001.152(b), Occupations Code, on administrative hold but limit the hold to a period of no more than 10 consecutive years. Specify that following that period, the licensee would retain a commercial lessor license but no longer receive privileges associated with a grandfathered license.

### ***Senator Middleton Proposed New Recommendation 2***

Require the Lottery Commission to develop and adopt a formal process for resolving questions about the commission's authority and statutory ambiguity. Specifically, require TLC to have and use a formal process to resolve questions about the limits of its statutory and rulemaking authority and how to approach ambiguity in the law. This process must include, but is not limited to, requesting opinions from the Office of the Attorney General and presenting the question to the Legislature as part of the agency's strategic plan and new *Texas Lottery Commission Annual Report* contemplated in Recommendation 1.5.

### ***Senator Paxton and Representative Hull Proposed New Recommendation 3***

Change the statutory requirement of culpability for the sale of a lottery ticket to an individual younger than 18 years of age from "intentionally or knowingly" in Section 466.3051, Government Code, to "criminal negligence" to mirror the burden of proof for alcohol sales to a minor.



***Senator Paxton and Representative Hull Proposed New Recommendation 4***

Direct TLC and the Texas Alcoholic Beverage Commission (TABC) to enter into an MOU by March 15, 2025, to establish a process that promotes compliance with provisions related to prohibiting the purchase of a lottery ticket by an individual younger than 18 years of age. The MOU should include:

- A mechanism for TABC to submit information to TLC regarding a TLC-licensed retailer’s violation of law or rule related to the purchase of a alcohol by a minor.
- A mechanism for TLC to submit information to TABC regarding a TABC-licensed retailer’s violation of law or rule related to the purchase of a lottery ticket by a minor.

Additionally, direct TLC to initiate an investigation into a licensed retailer based on information from TABC and report information in the *Compliance Activity Monitoring Report* regarding the number of reports received from TABC and subsequent actions taken by TLC. (Management action – nonstatutory)

***Representative Shaheen and Senator Sparks Proposed New Recommendation 5***

Require the Sunset Commission to conduct a limited-scope review during the 2028-29 Sunset Review Cycle related to the Lottery Commission’s implementation of statutory changes approved by the 89th Legislature and management actions adopted by the Sunset Commission.