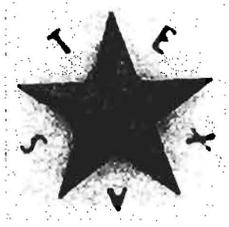


Mel Caraway



Building Community for a Stronger Texas
Texas Impact's Guide to the Issues 2011

Mission Critical

Why the Mission Statement of the Texas Commission on Environmental Quality Should Include the Word "Health"

December 2010

The Legislature should make in statute the mission of the Texas Commission on Environmental Quality (TCEQ) to protect the public health and the environment. Protecting the public health and the environment accomplishes the historical goals of Texas' environmental agencies, is the primary mission of 37 other states' agencies, and embodies the theme of currently existing law. Given the lack of a formal process surrounding the creation of mission statements in the strategic planning process and the legal history that created multiple sources of existing law, it only makes sense for the Legislature to clarify the primary mission of TCEQ by codifying it as protecting the public health and the environment.

TCEQ Mission Statements: Past and Present

The current mission statement is “[t]he [TCEQ] strives to protect our state’s human and natural resources consistent with sustainable economic development. Our goal is clean air, clean water, and the safe management of waste.” This current mission statement was inherited from TCEQ’s predecessor, the Texas Natural Resource Conservation Commission (TNRCC). The TCEQ was “created” in 2001 from HB 2912-77R¹ which was the Texas Natural Resource Conservation Commission’s (TNRCC) sunset bill. According to their strategic plans, TNRCC adopted this current version sometime before June 2000² which is a shortened version of a mission statement adopted before June 1996.³ The 1996 version is longer, but substantially the same to the current version and is reproduced in the table below.

The TNRCC’s original mission statement was quite different. The TNRCC was created from consolidating the Texas Water Commission and the Texas Air Control Board in SB 2 – 72(1) during the first called special session in 1991. SB 2 had the TNRCC become effective on September 1, 1993.⁴ During the interim in 1992, the Water Well Drillers Board and the Board of Irrigators were merged into the still in existence Texas Water Commission. The Texas Water Commission also acquired responsibility for the Water Hygiene Division, the

Solid Waste Bureau and the Radioactive Waste Disposal Bureau from the Texas Department of Health. When the Texas Water Commission and Texas Air Control Board finally merged in 1993, it made the new TNRCC Texas’ first comprehensive environmental agency.⁵ In 1994, the new TNRCC put together its first strategic plan and mission statement. A table of these statements can be found in a table below.

Current Law

The old TNRCC agency staff had 8 surviving purpose statements from defunct predecessor agency enabling statutes to reconcile. Seven of these 8 surviving purpose statements explicitly say “protect human health.” These statements, along with their original entity, are reproduced below.

Other States

The majority of the states (37)⁶ put the protection of public health in the mission statement. Twenty-five of these 37 state simply their mission is to protect public health and the environment. Five of these 37 states task their health departments with environmental regulation. Of the 13 other states that do not explicitly state they protect human health, 8 explicitly state that their mission is to protect the environment leaving Texas alone with Massachusetts, Missouri, Wisconsin, and Wyoming as the only 5 states to use language like “preservation of natural resources” alone without mention of environment or human health.⁷ Fourteen states make references in their mission statements that express concern for economic considerations. Twelve of these 14, with the exceptions of Texas and Washington, also make explicit their commitment to protecting public health.

Sunset Staff Report

The Sunset staff report on TCEQ notes that there is a perception among stakeholders that “the agency is biased in favor of industry” and “does not focus enough on the needs of the public.” This perception,

staff said, “largely depends on one’s orientation to the agency’s mission statement.”⁸ Objectively looking at the argument, several questions arise. What is a “human...resource”? Does this equate “human health”? What does “strives to protect” mean? Why not just “protects”? What do “natural resources” encompass? Does this equate “the environment”? What is “consistent with”? Does it mean “sustainable economic development” is more important than “human and natural resources” and that is why they only “strive to protect” them?

The Texas Budget, Strategic Planning & Mission Statements

According to the Sunset Commission, there is nothing very formal about the process and procedure for adopting a mission statement. Sometimes they are explicitly written in an agency’s enabling statute. In these instances, a state agency’s mission is what the law says it is. In instances where the Legislature has not explicitly said, the agency must decide.

The Texas Government Code requires an agency to write a strategic plan every even numbered year.⁹ Each plan must cover five fiscal years beginning with the next odd numbered year. Thus, a plan written in 2010 must cover FY 2011-2015. The Texas Government Code requires a mission statement as part of each agency’s strategic plan.¹⁰ Agency staff interpret any guidance given by state law such as a “purpose” clause. Agency staff also receive guidance from the governor who works with

the Legislative Budget Board to adopt achievement goals and provide to each state agency a statement of goals for each area in which the agency provides services.¹¹

During the Spring of each even numbered year, the Governor’s Office and the Legislative Budget Board (LBB) issue instructions to each state agency. The agency then develops a plan and submits it to the Governor’s Office and LBB for approval. During the following months, the LBB and the Governor’s Office hold public hearings on these strategic plans along with each agency’s Legislative Appropriation Request (LAR) which will form the basis for the next session’s appropriations bill. While the Legislature ultimately writes the appropriations bill, agency staff and the Governor’s Office determine much of the proposal during the interim.

Recommendations

The words “protection of public health” need to be reinstated as an explicit mission of the TCEQ. Protection of public health has been a historical goal of Texas’ environmental agencies, the intent of the Legislature as evidenced in 7 enabling statutes, and the explicit mission of 37 other states. It would be even better if the clauses “striving for” and “consistent with” were revisited. Ideally, we would recommend simplicity and clarity by stating “The mission of the Texas Commission on Environmental Quality is the protection of public health and the environment.”

¹ HB 2912-77R

² TNRCC Strategic Plan, FY 2001-2005, June 2000.

³ TNRCC Strategic Plan, FY 1997-2001, June 1996.

⁴ SB 2 – 72(1)

⁵ <http://www.tceq.state.tx.us/about/tceqhistory.html>

⁶ There are 4 states that are ambiguous as to public health because they say “well being” (VA) or “life forms” (CT) or “quality of life” (Iowa) or “human...resources” (TX). The range is actually 35-39 depending on interpretation. To be fair, two were counted and two were not. The rationale is that “human...resources” and “well being” are too ambiguous to include what we normally think of as “health.” “Quality of life” and “life forms” were included because “quality of life” often in common vernacular means “health” and protecting “life forms” means also protecting human beings which are life forms which means protecting the health of all. Obviously, since its ambiguous, counter arguments could be validly made.

⁷ Texas does say “our goal is clean air, clean water, and the safe management of waste.” However, “goals” are not “requirements” or “protection,” but imply aspirational endeavors not necessarily the strong qualities often thought of when thinking about a law enforcement agency.

⁸ Sunset Staff Report, p.25

⁹ TX Gov’t Code §2056.002

¹⁰ TX Gov’t Code §2056.002

¹¹ TX Gov’t Code §2056.006