



Testimony

Sunset Advisory Commission

Staff Study on Self-Directed, Semi-Independent Status of State Agencies

Hearing November 12-13, 2014

presented by

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The Texas Nurses Association (TNA) agrees with the recommendations in the Sunset staff study except for Recommendation 1.4 which recommends a moratorium on expanding self-directed, semi-independent (SDSI) status during the 84th Legislative Session.

With or without a moratorium, the Legislature has the authority not to grant SDSI status to any additional agencies. TNA believes legislative scrutiny of any proposed legislation to grant a particular agency SDSI status will produce better information than a moratorium. TNA actively supported the legislation last session to grant SDSI status to the Texas Board of Nursing, Texas Medical Board and Texas Pharmacy Board. Even though it did not pass, valuable information was obtained about SDSI status as concerns were raised and addressed. In fact, the current Sunset study was the result of that legislation because it was realized clearer guidelines were needed as to what should be the threshold requirements for an agency to be considered for SDSI status. Frequently, much can be learned from the actual application of guidelines to a specific situation.

TNA supports the other recommendations of the Sunset study because it agrees that there must be adequate legislative oversight of agencies – regardless of their SDSI status.

However, TNA believes there are significant benefits to the State in an agency having SDSI status. It gives the agency greater control and flexibility over its finances and budget which permits it to function more like a business and respond to emerging needs and changing conditions more effectively and efficiently. In recent years the Board of Nursing has faced two situations in which TNA believes it would be able to more effectively address if it had SDSI status. The first was a significant increase in the number of schools applying to open a nursing education program which required a significant increase in staff and the second is an increase in what is referred to as “pill mill” cases and the amount of legal resources required to prosecute.

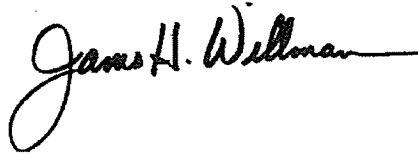
However, it is true that the increased control over budget and finances granted to a SDSI agency means a corresponding reduction in some control by the Legislature of the agency through the appropriations process. But SDSI status does not eliminate legislative oversight of the agency. The Legislature has many ways to exercise oversight in addition to the appropriations process including Sunset review, amending the agencies enabling legislation and revoking SDSI status. SDSI status and effective legislative oversight are not mutually exclusive. The SDSI process does have significant safeguards already built in and as the Sunset study suggests, can be strengthened to provide more oversight if needed or desired.

On the other hand, not granting SDSI status will almost certainly make the agency less effective and efficient in responding to emerging needs and changing conditions. There simply is no way the Legislature can accurately predict two years out which is what the appropriations process requires.

TNA believes that SDSI status can be structured and implemented so that the greater effectiveness and efficiency it provides offsets any resulting loss in legislative oversight through the appropriations process. TNA does believe there must be adequate legislative oversight of state agencies but does not believe that SDSI status and adequate oversight are mutually exclusive. Several agencies have had SDSI status for over a decade and been through Sunset

Review. That review has found these agencies were operated appropriately and recommended their SDSI status be continued.

Respectfully submitted,

A handwritten signature in black ink that reads "James H. Willmann". The signature is written in a cursive style with a long horizontal flourish at the end.

James H. Willmann, JD

General Counsel and Director Governmental Affairs