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*Sunset Advisory Commission*

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**Analysis of Sunset Legislation**

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*72nd Legislature*

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July 1991



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# ***S U M M A R Y***



## SUMMARY

The Sunset Commission reviewed 30 agencies during the 1990-91 biennium. All but two of the agencies were scheduled to be abolished unless a bill passed continuing them. The two agencies that were reviewed under the Sunset Act but not automatically abolished were the Capital Metropolitan Transportation Authority and the Dallas Area Rapid Transit Authority. Twenty-one agencies were continued and eight agencies were abolished. In addition, legislation for the State Purchasing and General Services Commission did not pass during the regular session, and a subsequent bill is likely to be considered during the special session.

Three of the agencies abolished outright by the legislature under the Sunset Act were the Civil Defense and Disaster Compact Administrator, the Texas Conservation Foundation, and the Good Neighbor Commission. The functions of the other five agencies that were abolished were transferred to existing agencies. These agencies are the Long-Term Care Coordinating Council for the Elderly, whose functions were transferred to the Texas Commission on Aging; the Council on Disabilities, whose functions were transferred to the Governor's Committee on People with Disabilities; the Health and Human Services Coordinating Council, whose functions were transferred to a number of agencies; and the Commission on Fire Protection Personnel Standards and Education, which was combined with three other fire protection-related activities into a new agency, the Texas Commission on Fire Protection; and the Texas Housing Agency, which was combined with the Texas Department of Community Affairs.

Sunset legislation has traditionally been sponsored by a member of the Sunset Commission. However, during the 72nd Legislature, four of the 25 sunset bills that passed were carried by legislators who were not commission members. The sunset bills and bill sponsors are shown in Exhibit 1.

Many of the sunset bills dealt with controversial issues that took a great deal of time to resolve. Other sunset bills were delayed until late in the session to incorporate new legislative proposals into the final bill. The shortest time from introduction to passage of a sunset bill was 87 days, while the longest time was 124 days. The average length of time for final passage of sunset legislation was 105 days.

A number of significant changes to current state policy were made in the statutes of the agencies that were continued. Examples of these changes are described below.

- ▶ Senate Bill 383 by Carriker initially dealt only with the Sunset Commission's recommendations for the Commission on Fire Protection Personnel Standards and Education. During the session, the focus of the bill changed to incorporate a combination proposal developed by Sunset Commission staff. Working groups composed of volunteer and paid fire fighters spent more than three months shaping the new agency. The final bill combined all state activities relating to fire protection

into one agency, the Texas Commission on Fire Protection; developed an overall fire protection policy; and set up a procedure for volunteer and paid fire fighters to use for achieving common goals.

- ▶ House Bill 1186 by Hury, the sunset bill for the State Bar, included many changes to the state's regulation of lawyers. The most important change completely revamped the procedure for disciplining lawyers. The significance of this change is underscored by the fact that it was the highest priority of consumer groups, whose basic recommendations were included in the bill. These recommendations included separating the enforcement function from the association function of the State Bar, providing more evenhanded resolutions of complaints, and opening up the disciplinary process to public scrutiny.
- ▶ Senate Bill 352 by Barrientos, the sunset bill for the State Department of Highways and Public Transportation, strengthened the requirements for environmental reviews of state roadway projects. For example, the department will have to consider the environmental effects of all transportation projects, not just projects that are required to be reviewed under federal law. Interagency coordination of the environmental review process was improved between the department and the state's historical, archaeological, and natural resource agencies. The department must increase its efforts to recruit and hire qualified women and minority applicants. The department must also establish a program for contracting with disadvantaged businesses.
- ▶ House Bill 853 by Gibson, the sunset bill for the Structural Pest Control Board, contained numerous provisions designed to protect consumers. A major policy change removed exemptions from the current law for schools, day-care centers, hospitals, and nursing homes. These entities were not required to have trained or licensed personnel apply pesticides if they chose to do the work with their own personnel. The legislature's decision to require these facilities to use licensed pesticide applicators will increase the public's protection from misapplication of pesticides.
- ▶ Senate Bill 359 by Green, the sunset bill for the Board of Law Examiners, changed the board's policy of preventing anyone with alcohol or drug problems from taking the examination to be licensed as an attorney. The legislature established the new policy after determining that the condition of a person taking an examination did not constitute a threat to the public. The bill allows substance abusers to take the examination, but they cannot be licensed to practice until they show satisfactory evidence of recovery.
- ▶ Senate Bill 284 by Barrientos, the sunset bill for the Funeral Services Commission, set an important precedent for determining the balance between professional and public members on licensing boards. The Sunset Commission found that the makeup of a board should be determined by the types of complaints the board

handles. If the board deals mainly with consumer complaints, rather than the technical practice aspects of a profession, then a majority of the board should be public members representing the interests of consumers. As a result of this finding, the composition of the Funeral Services Commission was changed to five public and four licensee members.

These examples show major shifts in state policy and do not include the full extent of new and revised government policies that were developed through sunset legislation. Exhibit 2 shows the total number of statutory changes, excluding across-the-board provisions, recommended by the commission and the legislature. The statutory changes developed through the sunset process will result in a net overall gain to state revenues of \$10.2 million for the 1992-1993 biennium. The net costs and revenues for each agency are shown in Exhibit 3.



**Exhibit 1**  
**SUNSET LEGISLATION AND SPONSORS**

Agency	Bill	Author
<i>Agencies That Were Continued</i>		
1. Accountancy, Texas State Board of Public	S.B. 75	Senator Barrientos
2. Aircraft Pooling Board, State	S.B. 382	Senator Carriker
3. Architectural Examiners, Texas Board of	S.B. 429	Senator Green
4. Bar of Texas, State	H.B. 1186	Representative Hury
5. Barber Examiners, State Board of	S.B. 430	Senator Green
6. Capital Metropolitan Transportation Authority (Austin)	H.B. 734	Representative Naishtat
7. Cosmetology Commission, Texas	S.B. 378	Senator Carriker
8. Fire Fighters' Pension Commissioner, Office of	S.B. 401	Senator Carriker
9. Funeral Service Commission, Texas	S.B. 284	Senator Barrientos
10. Highways and Public Transportation, State Department of	S.B. 352	Senator Barrientos
11. Irrigators, Texas Board of	S.B. 544	Senator Henderson
12. Jail Standards, Commission on	S.B. 380	Senator Carriker
13. Law Examiners, Board of	S.B. 359	Senator Green
14. Motor Vehicle Commission, Texas	H.B. 524	Representative Cain
15. Pension Review Board, State	S.B. 323	Senator Green
16. Real Estate Commission, Texas	S.B. 432	Senator Green
17. Research Laboratory Commission, Texas National	S.B. 543	Senator Henderson
18. Structural Pest Control Board, Texas	S.B. 853	Representative Gibson
19. Surveying, Texas Board of Professional Land	S.B. 545	Senator Henderson
20. Turnpike Authority, Texas	H.B. 749	Representative Cain

**Exhibit 1**  
(cont.)

<b>Agency</b>	<b>Bill</b>	<b>Author</b>
<i>Agencies That Were Merged</i>		
21. Disabilities, Council on	S.B. 381	Senator Carriker
22. Fire Protection Personnel Standards and Education, Commission on	S.B. 383	Senator Carriker
23. Health and Human Services Coordinating Council, Texas	S.B. 379	Senator Carriker
24. Housing Agency, Texas	S.B. 546	Senator Barrientos
25. Long-Term Care Coordinating Council for the Elderly	S.B. 377	Senator Carriker
<i>Agencies That Had No Legislation</i>		
26. Purchasing and General Services Commission, State	S.B. 831	Senator Barrientos
27. Dallas Area Rapid Transit Authority	S.B. 722	Senator Johnson
28. Civil Defense and Disaster Compact Administrator for Texas, Office of	No Legislation Introduced	
29. Conservation Foundation, Texas	No Legislation Introduced	
30. Good Neighbor Commission	No Legislation Introduced	

**Exhibit 2**  
**RECOMMENDATIONS IN SUNSET LEGISLATION**

	<b>Sunset Commission Recommendations</b>	<b>Additional Legislative Recommendations</b>
<i>Agencies That Were Continued</i>		
1. Accountancy, Texas State Board of Public	14	32
2. Aircraft Pooling Board, State	5	1
3. Architectural Examiners, Texas Board of	8	0
4. Bar of Texas, State	9	8
5. Barber Examiners, State Board of	8	3
6. Capital Metropolitan Transportation Authority (Austin)	10	2
7. Cosmetology Commission, Texas	6	9
8. Fire Fighters' Pension Commissioner, Office of	3	0
9. Funeral Service Commission, Texas	18	18
10. Highways and Public Transportation, State Department of	13	10
11. Irrigators, Texas Board of	4	8
12. Jail Standards, Commission on	4	0
13. Law Examiners, Board of	3	3
14. Motor Vehicle Commission, Texas	7	7
15. Pension Review Board, State	3	0
16. Real Estate Commission, Texas	8	6
17. Research Laboratory Commission, Texas National	5	7
18. Structural Pest Control Board, Texas	16	2
19. Surveying, Texas Board of Professional Land	9	7
20. Tumpike Authority, Texas	13	4

**Exhibit 2**  
(cont.)

	<b>Sunset Commission Recommendations</b>	<b>Additional Legislative Recommendations</b>
<i>Agencies That Were Merged</i>		
21. Disabilities, Council on	2	3
22. Fire Protection Personnel Standards and Education, Commission on (Texas Commission on Fire Protection)	6	17
23. Health and Human Services Coordinating Council, Texas	3	2
24. Housing Agency, Texas (Texas Department of Housing and Community Affairs)	17	13
25. Long-Term Care Coordinating Council for the Elderly	2	0
<i>Agencies That Had No Legislation</i>		
26. Purchasing and General Services Commission, State	Legislation did not pass	
27. Dallas Area Rapid Transit Authority	Legislation did not pass	
28. Civil Defense and Disaster Compact Administrator for Texas, Office of	Abolished	
29. Conservation Foundation, Texas	Abolished	
30. Good Neighbor Commission	Abolished	
TOTAL	196	162
GRAND TOTAL	358	

**Exhibit 3**

**FISCAL IMPACT OF SUNSET LEGISLATION - 72nd LEGISLATURE**

Agency	Fiscal Year 1992			Fiscal Year 1993			FY 1992-1993 Total Net Fiscal Impact
	Net Gain	Net Loss	Net Fiscal Impact	Net Gain	Net Loss	Net Fiscal Impact	
<i>Agencies That Were Continued</i>							
1. Accountancy, Texas State Board of Public	491,990	24,520	467,470	477,320	0	477,320	944,790
2. Aircraft Pooling Board, State	69,000	28,800	40,200	69,000	28,800	40,200	80,400
3. Architectural Examiners, Texas Board of	566,032	307,355	258,677	435,805	241,553	194,252	452,929
4. Bar of Texas, State	0	291,600	(291,600)	0	291,600	(291,600)	(583,200)
5. Barber Examiners, State Board of	0	60,615	(60,615)	0	60,495	(60,495)	(121,110)
6. Capital Metropolitan Transportation Authority (Austin)	0	50,000	(50,000)	0	0	0	(50,000)
7. Cosmetology Commission, Texas	275,163	0	275,163	268,972	0	268,972	544,135
8. Fire Fighters' Pension Commissioner, Office of	0	1,905	(1,905)	0	1,905	(1,905)	(3,810)
9. Funeral Service Commission, Texas	58,309	0	58,309	59,920	0	59,920	118,229
10. Highways and Public Transportation, State Department of	0	390,015	(390,015)	0	382,895	(382,895)	(772,910)
11. Irrigators, Texas Board of	9,561	12,690	(3,129)	9,561	12,690	(3,129)	(6,258)
12. Jail Standards, Commission on	36,519	700	35,819	36,519	700	35,819	71,638
13. Law Examiners, Board of	0	7,020	(7,020)	0	7,020	(7,020)	(14,040)
14. Motor Vehicle Commission, Texas	124,000	115,000	9,000	124,000	115,000	9,000	18,000
15. Pension Review Board, State	0	0	0	0	0	0	0
16. Real Estate Commission, Texas	523,147	624,439	(101,292)	267,417	404,229	(136,812)	(238,104)
17. Research Laboratory Commission, Texas National	0	0	0	0	0	0	0

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Sunset Advisory Commission

Analysis of Legislation  
72nd Legislature - 1991

Summary

**Exhibit 3**  
(cont.)

Agency	Fiscal Year 1992			Fiscal Year 1993			FY 1992-1993 Total Net Fiscal Impact
	Net Gain	Net Loss	Net Fiscal Impact	Net Gain	Net Loss	Net Fiscal Impact	
18. Structural Pest Control Board, Texas	168,000	247,673	79,673	135,750	240,473	104,723	(184,396)
19. Surveying, Texas Board of Professional Land	4,000	11,700	(7,700)	4,000	11,700	(7,700)	(15,400)
20. Turnpike Authority, Texas	0	0	0	0	0	0	0
<i>Agencies That Were Merged</i>							
21. Disabilities, Council on	16,136	0	16,136	17,756	0	17,756	33,892
22. Fire Protection Personnel Standards and Education, Commission on	127,050	180,572	(53,522)	127,934	178,632	(50,698)	(104,220)
23. Health and Human Services Coordinating Council, Texas	1,510,627	408,766	1,101,861	1,453,776	494,827	958,949	2,060,810
24. Housing Agency, Texas	197,800	0	197,800	265,975	0	265,975	463,775
25. Long-Term Care Coordinating Council for the Elderly	0	0	0	0	0	0	0
<i>Agencies That Had No Legislation</i>							
26. Purchasing and General Services Commission, State*	4,010,359	441,847	3,568,512	4,449,991	441,847	4,008,144	7,576,656
27. Dallas Area Rapid Transit	0	0	0	0	0	0	0
28. Civil Defense and Disaster Compact Administrator for Texas, Office of	0	0	0	0	0	0	0
29. Conservation Foundation, Texas	0	0	0	0	0	0	0
30. Good Neighbor Commission	0	0	0	0	0	0	0
<b>Total</b>	<b>8,187,693</b>	<b>3,205,217</b>	<b>4,982,476</b>	<b>8,203,696</b>	<b>2,914,366</b>	<b>5,289,330</b>	<b>10,271,806</b>

\*Figures represent the impact of the agency's bill if it had been passed by the legislature.

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Sunset Advisory Commission

Analysis of Legislation  
72nd Legislature - 1991

Summary

***ANALYSIS OF LEGISLATION***



**TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY**  
S. B. 75 by Barrientos

***Final Action: The Texas State Board of Public Accountancy was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 75, as introduced, contained the Sunset Commission's recommendations for the Texas State Board of Public Accountancy. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Require the governor to designate the board's chairman.** The chairman of the board will be appointed by the governor rather than the board, as recommended by the Sunset Commission. Granting the governor this power will provide accountability of the board to the governor and ensure continuity of the governor's policies.

**Authorize the board to assess administrative penalties.** The board was authorized to assess administrative penalties against licensees of up to \$1,000 per violation. The ability to use administrative penalties will enhance the board's enforcement powers and provide a new option for disciplining licensees.

**Establish a special accountancy enforcement fund.** A special accountancy enforcement fund was created to finance the board's enforcement activities. Administrative penalties and special enforcement fees assessed by the board will be the sources of revenue for the fund. Money from the fund must be appropriated to the board by the legislature.

**Change the educational and experience requirements for becoming a CPA.** In 1989, the legislature passed a bill to increase the education requirement for becoming a licensed CPA, beginning in 1997. In 1997, all applicants must have at least 150 hours of college coursework to become a licensed CPA in Texas. The final sunset bill left the 150-hour requirement in place but reduced the amount of experience and number of accounting hours needed to become a licensed CPA, as recommended by the Sunset Commission. The number of accounting hours will drop from 42 to 30 and the accounting experience requirement will be one year instead of two years. The legislature also adopted the commission's recommendation to require the Texas Higher Education Coordinating Board to report to the legislature in 1993 on the progress of schools toward installing 150-hour accounting programs.

**Establish a scholarship fund for disadvantaged accounting students.** A scholarship fund for disadvantaged fifth-year accounting students was adopted to defray the costs of attending college one more year in order to meet the 150-hour educational requirement that goes into effect in 1997. Licensed CPAs will pay an additional \$20 licensing fee to finance the scholarship fund. The Texas Higher Education Coordinating Board must report to the legislature before each session on the status of the CPA scholarship program, and the costs of the report will be paid from the scholarship fund.

**Remove a requirement for experience to be in public practice.** To be licensed, applicants must have accounting experience under a licensed CPA, but they will no longer have to have experience in the public practice of accounting. The final bill also requires the board to define acceptable work experience by rule. These steps will clarify what kinds of accounting experience will count towards meeting the licensing requirement and will eliminate unnecessary restrictions on becoming licensed as a CPA.

**Strengthen the CPA licensing exam requirements.** Licensing exam requirements were tightened by requiring candidates to take all parts of the exam at one time. Candidates must also get a minimum grade of 50 percent on all the exam sections to receive credit for the exam sections that were passed. This will prevent exam candidates from studying for and taking only one section of the CPA exam on each test date.

**Exempt inactive accountants from continuing education requirements.** The board was granted the authority to exempt licensed CPAs who are not practicing accounting from the continuing education requirements. This will provide the board with the option of allowing inactive accountants to keep their license and certification without having to take continuing education courses. If a person wishes to reactivate a license, the continuing education requirements must be met.

**Expand the board's peer review program.** The accountancy peer review requirement was expanded into a quality review program for CPAs. The maximum fee for participating in the quality review program was raised from \$100 to \$200 and quality review records were made privileged and exempt from judicial and administrative proceedings other than board hearings, unless the material is involved in a dispute between the reviewer and reviewee.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 75 with the introduced sunset bill shows that most of the standard sunset across-the-board recommendations proposed by the commission were included in the final bill. However, the recommendation to require the board to notify applicants of the licensing exam results within a reasonable time was changed so that the board may withhold exam results from an applicant if the board has a relevant action pending until the matter is resolved.

All of the Sunset Commission's specific program recommendations remained in the final bill.

### **Fiscal Impact**

The bill's provisions resulted in an estimated net gain to total state revenue of \$467,470 in fiscal year 1992, \$477,320 in each fiscal year from 1993 through 1995, and \$433,320 in fiscal year 1996. The bill does not affect the general revenue fund.



Bill Summary  
Enrolled Version  
**TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY**  
S. B. 75 by Barrientos

Bill Reference	Provision
Page 1, Line 11 Page 62, Line 23	Updates the name of the Act.
Page 1, Line 19 thru Page 4, Line 5	Defines language used in the Act.
Page 4, Line 11	Technical corrections.
Page 5, Line 24 thru Page 6, Line 3	Requires one-third of the board to be public members.
Page 6, Line 8	Provides a definition of public member. (ATB)
Page 6, Line 23 thru Page 7, Line 21	Requires specific provisions relating to conflicts of interest. (ATB)
Page 7, Line 22	Prohibits reappointment of a board member for two years after the member's most recent full or partial term.
Page 8, Line 8	Requires that appointments to the board be made without regard to race, color, handicap sex, religion, age, or national origin of the appointee. (ATB)
Page 8, Line 10 thru Page 9, Line 11	Specifies grounds for removal of a board member. (ATB)
Page 9, Line 12	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 9, Line 20	Requires the governor to designate the chairman of the board.
Page 10, Line 3	Requires the board to elect an executive committee each year.
Page 10, Line 10	Authorizes the board to employ an executive director and allows the executive director to employ agency personnel.
Page 10, Line 16	Technical changes.
Page 10, Line 20 thru Page 11, Line 13	Provides for notification and information to the public concerning board activities and procedures for filing and resolving complaints. (ATB - modified)

S. B. 75 by Barrientos  
(cont.)

Bill Reference	Provision
Page 11, Line 14	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 11, Line 19	Provides for public testimony at agency meetings. (ATB)
Page 11, Line 23	Requires that the policy body of an agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 12, Line 1	Requires development of accessibility plan. (ATB)
Page 12, Line 9	Requires the board to establish skill-oriented career ladders. (ATB)
Page 12, Line 14	Requires a system of merit pay based on documented employee performance. (ATB)
Page 12, Line 14 thru Page 13, Line 16	Requires development of an E.E.O. policy. (ATB)
Page 15, Line 11	Limits the board to recognizing areas of specialization generally recognized by other public accounting groups, but does not prohibit the board from adopting rules for continuing education and quality review.
Page 16, Line 2	Exempts money that is deposited to the special accountancy enforcement fund from a requirement that all revenues be deposited to the public accountancy fund.
Page 16, Line 4	Requires the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 16, Line 14	Authorizes the board to solicit, contract for and accept money and assistance from any source to carry out the Act.
Page 16, Line 21 thru Page 18, Line 20	Technical changes.
Page 18, Line 23 thru Page 19, Line 4	Authorizes the board to seek injunctions or file complaints against licensees in Travis County and against nonlicensees in a court in the county where the person lives.

S. B. 75 by Barrientos  
(cont.)

Bill Reference	Provision
Page 19, Line 17 thru Page 20, Line 7 Page 21, Line 9 Page 39, Line 16 Page 46, Line 25 thru Page 47, Line 2 Page 50, Line 24 Page 51, Line 8	Changes individual license renewal from annual to biennial renewal and increases maximum license renewal fees.
Page 20, Line 8	Requires standard time frames for licensees who are delinquent in renewal of licenses. (ATB - modified)
Page 21, Line 24 thru Page 22, Line 2	Authorizes the board to increase license fees as necessary to fund enforcement of the Act and requires the fees to be deposited to the special accountancy enforcement fund.
Page 22, Line 12	Technical corrections.
Page 23, Line 10	Authorizes foreign CPAs and CPA firms to temporarily practice in Texas if they comply with state laws and rules and if they apply for a permit and pay the required fees.
Page 24, Line 3 thru Page 25, Line 10	Establishes requirements for sole proprietorships and the conditions under which they may practice public accountancy in Texas.
Page 26, Line 3 thru Page 28, Line 11	Redrafts requirements for certification and establishes a maximum fee of \$100 for receiving CPA exam credits and a maximum fee of \$50 for transferring CPA exam credits.
Page 28, Line 12 thru Page 29, Line 21	Redrafts existing language for examination application requirements and reduces the required number of accounting course hours from 42 hours to 30 hours.
Page 29, Line 22 thru Page 30, Line 7	Allows qualifying part-time accounting students to be eligible for certification under the pre-1997 requirements if the student completes the accounting program by 2002.
Page 30, Line 8	Allows students with a baccalaureate degree to sit for the CPA exam without meeting new certification requirements from September 1997 through 1999.

S. B. 75 by Barrientos  
(cont.)

Bill Reference	Provision
Page 30, Line 15	Reduces experience requirements from two years to one year for applicants with 150 hours or a graduate degree, removes the requirement that experience be in public practice, and requires the board to define acceptable work experience.
Page 31, Line 1	Removes age and citizenship requirements for certification.
Page 38, Line 18	Authorizes the board to issue certificates by reciprocity as required by United State treaties and raises the maximum reciprocity registration fee from \$150 to \$250.
Page 39, Line 11	Technical corrections.
Page 40, Line 4	Limits the use of the NASBA exam to instances where it would increase Texas' potential for reciprocity with other states.
Page 40, Line 7	Requires the exam to test specific subjects and those determined by the board and prohibits the board from releasing copies of the exam questions or answers.
Page 40, Line 14	Authorizes the board to require an "application of intent," good for up to two years, from anyone who wants to become a CPA.
Page 40, Line 14 thru Page 43, Line 20	Redrafts existing language for the certification examination process.
Page 41, Line 4 Page 46, Line 7	Provides for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date. (ATB - modified)
Page 41, Line 13	Requires an exam candidate to take all parts of the exam and to get a minimum grade of 50 percent on all exam sections to receive credit for exam sections that were passed.
Page 42, Line 12	Establishes new maximum fees of \$50 for transferring exam credits to another state and \$100 for receiving exam credits from another state.
Page 43, Line 4	Limits acceptance of exam credits from another state to those states whose standards are equal to or higher than Texas standards.
Page 43, Line 8	Establishes a new maximum filing fee of \$100 for applying to take the CPA exam.

S. B. 75 by Barrientos  
(cont.)

Bill Reference	Provision
Page 45, Line 19 thru Page 46, Line 1	Allows exam applicants who failed the exam to inspect the questions and answers at the board's Austin office within 91 days after receiving the exam results and prohibits copies of the exam.
Page 46, Line 11	Provides an analysis, on request, to individuals failing the examination. (ATB - modified)
Page 47, Line 4	Authorizes an exemption from continuing education requirements for licensees who are not associated with accounting.
Page 47, Line 11 thru Page 48, Line 9	Requires the board to set up a quality review program, increases the quality review fee from \$100 to \$200, and makes quality review records privileged and exempt from judicial and administrative proceedings other than board hearings, unless the material is involved in a dispute between the reviewer and reviewee.
Page 48, Line 13	Requires all offices of a partnership to hold a license under the Act and applies rules and requirements for partnership to individual partners.
Page 49, Line 2	Exempts donation of accounting services to a charitable organization from prohibition against providing services below cost.
Page 49, Line 24 thru Page 52, Line 22	Authorizes the board to use a full range of penalties (ATB), authorizes the board to sanction a licensee who knowingly participates in preparing a false or misleading tax return or financial statement, and allows the board to excuse licensees who fail to renew a license under certain circumstances.
Page 53, Line 1 thru Page 56, Line 21	Authorizes the board to assess administrative penalties of up to \$1,000 per violation against anyone who should be regulated under the Act and requires the penalties to be deposited to a special accountancy enforcement fund.
Page 57, Line 2	Specifies board hearing requirements. (ATB)
Page 58, Line 18 thru Page 59, Line 1	Requires public member representation on enforcement committees.
Page 59, Line 2	Establishes a special accountancy enforcement fund, funded by administrative penalties and special enforcement fees and appropriated by the legislature.

S. B. 75 by Barrientos  
(cont.)

Bill Reference	Provision
Page 59, Line 16 thru Page 60, Line 7	Requires improved complaint tracking system.
Page 60, Line 8	Requires files to be maintained on complaints. (ATB - modified)
Page 60, Line 10	Requires that all parties to formal complaints be informed of each change in the status of the complaint, including final disposition. (ATB - modified)
Page 60, Line 24 thru Page 61, Line 3	Changes the location for filing complaints against a licensee from the county where the offense occurred to a Travis County district court and for filing complaints against a nonlicensee from the county where the offense occurred to the county where the nonlicensee lives.
Page 62, Line 2	Requires disciplinary actions of the board to be open to the public.
Page 62, Line 14	Changes the sunset review date for the board to 2003.
Page 63, Line 1	Technical correction.
Page 63, Line 17 thru Page 65, Line 2 Page 67, Line 6 thru Page 70, Line 25	Establishes a scholarship fund to assist accounting students in completing the additional hours necessary to meet the requirement for at least 150 hours of education after August 31, 1997; increases CPA license fees to fund the scholarship program; and requires the Texas Higher Education Coordinating Board to administer the fund.
Page 65, Line 5 thru Page 66, Line 12	Requires the Texas Higher Education Coordinating Board to report to the legislature in January 1993 on the progress of colleges and universities toward installing 150-hour accounting programs to meet the 1997 increased education requirements.
Page 66, Line 15 thru Page 67, Line 3	Requires the Texas Higher Education Coordinating Board to report on the scholarship program before each legislative session and requires the report to be paid for by the scholarship fund.
Page 71, Line 1	Requires the Texas Higher Education Coordinating Board to adopt rules that encourage accounting internships for minority and disadvantaged students and CPA exam candidates.
Page 71, Line 15	Requires state internal audit programs to meet generally accepted government auditing standards.

S. B. 75 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 71, Line 20	Technical correction. Repeals Section 30 of the Act, which had repealed the Public Accountancy Act of 1945, and Section 31 of the Act, which authorized a temporary fee increase through August 31, 1989.
Page 71, Line 22 thru Page 72, Line 15	Specifies that a CPA under the 1979 Act does not have to obtain a new certificate until the current certificate expires and exempts individuals from new exam, educational and experience requirements if they have met existing requirements before the bill takes effect.
Page 72, Line 16 thru Page 73, Line 3	Clarifies that changes to the composition of the board and qualifications of board members required by this bill do not affect current members.
Page 73, Line 4	Requires first E.E.O. policy statement required by the bill to be filed by November 1, 1991.
Page 73, Line 8	Establishes effective date of Act at September 1, 1991.
Page 73, Line 9	Emergency clause.



**STATE AIRCRAFT POOLING BOARD**  
S. B. 382 by Carriker

***Final Action: The State Aircraft Pooling Board was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 382, as introduced, contained the recommendations of the Sunset Commission for the State Aircraft Pooling Board. All of these recommendations remained in the final version of the bill. The major provisions in final bill are described below.

**Removal of the exemption of aircraft owned and operated by Texas A&M University from the jurisdiction of the board.** Based on a recommendation of the Sunset Commission, the legislature repealed a provision in statute exempting aircraft owned by the Texas A&M University System from the jurisdiction of the board. Repealing the provision effectively placed all aircraft owned or operated by the Texas A&M University System under the jurisdiction of the board. Other related provisions require aircraft owned by Texas A&M to be based in Brazos County and that the aircraft's pilots be employees of the Texas A&M University System. Another provision gives the Texas A&M University System primary control of flight scheduling with aircraft available to other agencies on a fee basis when available.

**Authorize the board to contract with the federal government and other governmental entities.** The board was given the authority to contract with the federal government and other governmental entities for the sale of aircraft fuel and maintenance services. This authority would allow the board to generate additional revenue from these services to offset its overall operating costs.

**Authorize the board to purchase insurance for state aircraft.** The board was given the authority to purchase, on a form approved by the State Board of Insurance, insurance to protect the board from loss due to damage, loss, theft, or destruction of aircraft owned or leased by the state.

**Fiscal Impact**

The provisions of S.B. 382 would result in savings to Texas A&M University of \$19,740 in each fiscal year from 1992 thru 1996 . The impact to the general revenue fund is a net gain of \$20,460 in each fiscal year from 1992 to 1996.



Bill Summary  
Enrolled Version  
**STATE AIRCRAFT POOLING BOARD**  
S. B. 382 by Carriker

Bill Reference	Provision
Page 1, Line 9 Page 7, Line 8 Page 7, Line 23	Removes the provision in statute that exempts planes owned by Texas A&M University from the jurisdiction of the board. Specifies that the planes owned by Texas A&M shall be based in Brazos County, that the plane's pilots must be employees of Texas A&M University, and Texas A&M is in primary control of flight scheduling with aircraft available to other agencies on a fee basis when available.
Page 1, Line 20 thru Page 2, Line 11	Technical correction.
Page 2, Line 13	Requires public membership on boards and commissions. (ATB)
Page 3, Line 2	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 3, Line 8 thru Page 4, Line 4	Specifies grounds for removal of a board member. (ATB)
Page 4, Line 8	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 4, Line 14 thru Page 5, Line 7	Requires specific provisions relating to conflicts of interest. (ATB)
Page 5, Line 11 thru Page 6, Line 10	Requires development of an E.E.O. policy. (ATB)
Page 6, Line 16	Technical correction.
Page 6, Line 19	Requires that the policy body of an agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 6, Line 22	Requires a system of merit pay based on documented employee performance. (ATB)
Page 7, Line 1	Requires the board to establish skill-oriented career ladders. (ATB)

S. B. 382 by Carriker  
(cont.)

Bill Reference	Provision
Page 8, Line 2	Requires the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 8, Line 18	Technical correction to allow the pooling board to provide air transportation to "persons in the care or custody of state officers or employees" and "persons whose transportation furthers official state business".
Page 8, Line 22	Authorizes the board to contract with the federal government and other governmental entities for the purchase of aircraft fuel and maintenance services.
Page 8, Line 25 thru Page 9, Line 4	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 9, Line 5	Authorizes the board to purchase, on a form approved by the State Board of Insurance, insurance to protect the board from loss due to damage, loss, theft, or destruction of aircraft owned or leased by the state.
Page 9, Line 13	Changes the sunset review date for the agency to December 31, 1991. Provides that the abolition date prescribed by this section does not require the Sunset Advisory Commission to conduct any review or prepare any report other than the review undertaken before the convening of the 72nd Legislature, Regular Session, 1991, or the report submitted to that legislature.
Page 9, Line 24 thru Page 10, Line 3	Requires development of accessibility plan. (ATB)
Page 10, Line 4	Provides for public testimony at agency meetings. (ATB)
Page 10, Line 8	Specifies that changes made in the qualifications of board members apply only to members appointed on or after September 1, 1991. Also, requires submission of the first EEO policy statement required by this Act by November 1, 1991.
Page 10, Line 16	Effective date.
Page 10, Line 17	Emergency clause.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS**  
S. B. 429 by Green

***Final Action: The Texas Board of Architectural Examiners was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 429, as introduced, contained the Sunset Commission's recommendations for the Texas Board of Architectural Examiners. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Establish regulation of interior designers.** Based on a recommendation of the Sunset Commission, the legislature created a title act for regulation of interior designers. Only those persons registered by the board can use the title "interior design" or "interior designer". Applicants for registration must complete at least six years of combined education and experience in the field, and pass a registration examination. The board is authorized to establish fees for registrations, registration renewals, and examinations. Fees will be deposited into the special fund already established for architects in the state treasury. The board will also have the authority to revoke, suspend, or deny a license, place a licensee on probation after a license is suspended, or reprimand a licensee for a violation of the statute or rules.

**Change the composition of the board.** The legislature adopted the recommendation of the Sunset Commission to change the composition of the board to accommodate an interior design member. The board will continue to have nine members, with one of the two landscape architect members being replaced with an interior designer. The requirement that there be four architects and three public members on the board was not changed. In addition, the legislature adopted the Sunset Commission's recommendation that one of the public members must be a person with a physical disability.

**Require an architect for alterations to public buildings.** The legislature adopted a Sunset Commission recommendation that a registered architect be required to prepare architectural plans and specifications for alterations or additions to a public building if the construction costs exceed \$50,000 and the alteration will require the removal, relocation, or addition of a wall or the alteration or addition of an exit. Existing law has specified that architects are required on alterations to public building when those alterations involve structural or exitway changes that are "substantial and major." Establishing a threshold level of \$50,000 will ensure that public entities will know when to use architects for alterations to their buildings.

**Clarify that either an architect or an engineer may be the prime design professional.**

The legislature slightly modified the Sunset Commission recommendation that the owner of a building may choose either a registered architect or a licensed engineer as the prime professional for any construction, alteration or addition project. The legislature specified that either an architect or engineer may be the prime design professional. Because the existing statute did not prohibit this, but also did not expressly allow it, it caused some concern that owners of public buildings might be confused.

**Require the governor to appoint the chair.** The legislature adopted the Sunset Commission's recommendation to require the governor to appoint the chairman of the board. Under existing law, the members elect the board's chair. Having the governor appoint the chair will provide a more direct method of ensuring continuity of policy and will promote accountability to the state's chief executive officer.

**Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 429 with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

All of the Sunset Commission's specific program recommendations remained in the final bill.

**Fiscal Impact**

The bill's provisions result in a net gain to total state revenue of \$258,677 in fiscal year 1992 and \$194,252 in fiscal year 1993. Diminishing revenue gains would continue through fiscal year 1996. The net gain will be entirely to the Architects Registration Fund. The landscape architects fund will be abolished and its balances transferred to the architects registration fund. The bill will not affect the general revenue fund.

Bill Summary  
Enrolled Version  
**TEXAS BOARD OF ARCHITECTURAL EXAMINERS**  
S. B. 429 by Green

<b>Bill Reference</b>	<b>Provision</b>
Page 1, Line 8 thru Page 13, Line 15	Establishes regulation of the profession of interior design.
Page 5, Line 20 Page 21, Line 13 Page 43, Line 8	Authorizes the board to set a fee for any action of the board involving an administrative expense in the regulation of interior design, architecture, or landscape architecture.
Page 8, Line 18 thru Page 9, Line 3 Page 28, Line 3 Page 44, Line 16 thru Page 45, Line 7	Provides for notice to a person taking an examination for interior design, architecture, or landscape architecture examination within a reasonable time of the testing date. (ATB)
Page 9, Line 4 Page 28, Line 14 thru Page 29, Line 3 Page 45, Line 9	Provides an analysis, on request, to individuals failing the interior design, architecture, or landscape architecture examination. (ATB)
Page 10, Line 3 Page 29, Line 8 Page 45, Line 13	Provides for registration as an interior designer, architect, or landscape architect by endorsement rather than reciprocity. (ATB)
Page 10, Line 21 thru Page 11, Line 4 Page 38, Line 22 thru Page 39, Line 7 Page 47, Line 23 thru Page 48, Line 7	Authorizes the staggered renewal of interior design, architecture, or landscape architecture registrations. (ATB)
Page 11, Line 5 Page 36, Line 13 thru Page 38, Line 10 Page 45, Line 25 thru Page 47, Line 22	Requires standard time frames for interior design, architect, or landscape architect registrants who are delinquent in renewal of registrations. (ATB)

S. B. 429 by Green  
(cont.)

Bill Reference	Provision
Page 11, Line 25 Page 12, Line 19 thru Page 13, Line 2 Page 30, Line 14 Page 31, Line 5 Page 48, Line 8 Page 49, Line 10	Authorizes the board to use a full range of penalties in the regulation of interior design, architecture, or landscape architecture. (ATB)
Page 13, Line 10 Page 31, Line 14 Page 50, Line 8	Specifies board hearing requirements in the regulation of interior design, architecture, or landscape architecture. (ATB)
Page 14, Line 16	Changes the composition of the board to make it four architects, one landscape architect, one interior designer, and three members of the general public.
Page 14, Line 23	Specifies that one of the public members of the board must be a person with a physical disability.
Page 14, Line 24 Page 16, Line 2	Requires public membership on boards and commissions. (ATB)
Page 15, Line 5	Technical correction.
Page 15, Line 25	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 16, Line 18 thru Page 17, Line 13	Requires specific provisions relating to conflicts of interest. (ATB)
Page 17, Line 14 thru Page 18, Line 19	Specifies grounds for removal of a board member. (ATB)
Page 18, Line 24	Changes sunset review date for the agency to 2003.
Page 19, Line 4	Requires the governor to designate the board chair.
Page 20, Line 1	Deletes outdated language.
Page 21, Line 2	Authorizes the board to adopt a system of voluntary continuing education. (ATB)
Page 21, Line 6	Requires development of accessibility plan. (ATB)

S. B. 429 by Green  
(cont.)

Bill Reference	Provision
Page 21, Line 10	Provides for public testimony at agency meetings. (ATB)
Page 22, Line 2 Page 19, Line 21 Page 4, Line 24 Page 52, Line 21 Page 53, Line 13 Page 53, Line 18	Consolidates all fees from architects, landscape architects and interior designers into one fund called the architectural examiners fund.
Page 22, Line 3	Technical correction.
Page 22, Line 16	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 22, Line 20 thru Page 23, Line 16	Updates per diem provision.
Page 24, Line 21 thru Page 25, Line 8	Revises restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading. (ATB)
Page 25, Line 10	Requires files to be maintained on complaints. (ATB)
Page 25, Line 12	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 25, Line 18 thru Page 26, Line 16	Requires development of an E.E.O. policy. (ATB)
Page 26, Line 17	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 26, Line 22	Requires that the policy body of an agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 26, Line 25 thru Page 27, Line 3	Requires the board to establish skill-oriented career ladders. (ATB)
Page 27, Line 4	Requires a system of merit pay based on documented employee performance. (ATB)

S. B. 429 by Green  
(cont.)

Bill Reference	Provision
Page 27, Line 12 and throughout bill	Changes references to the word "license" to the word "registration" for statutory provisions regarding interior designers, architects, and landscape architects.
Page 30, Line 18 thru Page 31, Line 4	Technical correction.
Page 31, Line 19 thru Page 35, Line 17	Provides guidelines for assessing administrative penalties in the regulation of architecture.
Page 35, Line 17 thru Page 36, Line 9	Technical correction.
Page 39, Line 8 thru Page 40, Line 10	Provides for notification and information to the public concerning board activities. (ATB)
Page 40, Line 14	Requires the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 41, Line 4	Clarifies provision requiring an architect for new construction of public buildings.
Page 41, Line 9	Specifies when an architect would be required for alterations to public buildings.
Page 41, Line 18	Clarifies that a registered architect or a licensed engineer may be the prime design professional for public building projects.
Page 41, Line 22 thru Page 42, Line 1	Specifies that the regulation of architecture does not limit a professional engineer from working in engineering.
Page 42, Line 15	Specifies that a registered professional engineer who has an architectural engineer degree may use the title "architectural engineer."
Page 42, Line 23	Deletes language specifying that a landscape architect is a person registered to teach landscape architecture.
Page 43, Line 12	Deletes outdated language.
Page 44, Line 2	Deletes age requirement for registration as landscape architect.
Page 44, Line 9	Corrects sentence fragment.

S. B. 429 by Green  
(cont.)

Bill Reference	Provision
Page 49, Line 19 thru Page 50, Line 7	Technical correction.
Page 51, Line 1	Technical correction.
Page 53, Line 1	Repeals provision relating to temporary fee increase for architects.
Page 53, Line 4	Clarifies that changes to board member qualifications apply only to a member appointed after September 1, 1991.
Page 53, Line 8	Requires first EEO policy statement required by the bill to be filed before November 1, 1991.
Page 53, Line 24 thru Page 54, Line 18	Establishes method for achieving the board membership specified in the bill.
Page 54, Line 19	Specifies that restrictions against using the title "interior designer" do not apply until September 1, 1992.
Page 54, Line 22	Specifies that changes in law do not affect licenses or registrations issued before the effective date.
Page 55, Line 1	Establishes effective date of Act at September 1, 1991.
Page 55, Line 2	Emergency clause.



## STATE BAR OF TEXAS

H. B. 1186 by Hury

***Final Action: The State Bar of Texas was continued with changes.***

### **Analysis of Major Provisions in the Final Bill**

House Bill 1186, as introduced, contained the Sunset Commission's recommendations for the State Bar of Texas. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Place the State Bar's revised grievance process in statute with certain modifications.** A general outline of the state bar's recently revised grievance process was placed in statute along with certain modifications to address concerns raised about the current complaint process. These concerns included the need for separation of the grievance process from the "professional association" functions of the state bar and the need for public input in the oversight of the process to ensure fairness to all parties. Modifications to the grievance process by the legislature included requiring that the Commission for Lawyer Discipline, created to oversee the state bar's grievance procedure, be composed of six attorneys and six public members. The commission, with the advice and consent of the state bar board of directors, will select a chief disciplinary counsel to serve as administrator of the grievance process. Also, both parties to complaints will be allowed to be present during all testimony taken in investigatory hearings.

**Increase efforts to improve the public's awareness of the complaint process.** Based on a recommendation of the Sunset Commission, several requirements, including notice to clients by attorneys of the existence of the state bar's grievance process, were added to the state bar's statute. The public is not well enough informed about the existence of the attorney grievance process and has received limited information on filing a grievance against an attorney. These changes will provide multiple opportunities to increase public awareness and ensure that clients are aware of the process if they need it.

**Limit the use of private reprimands.** The Sunset Commission recommended, and the legislature adopted, restrictions on the use of private reprimands. The Commission for Lawyer Discipline was required to develop rules governing the use of private reprimands. Also, the number of private reprimands an attorney may receive for the same type of offense was limited to one within a five-year period. Finally, private reprimands are no longer allowed in cases involving theft or intentional misuse of funds. Previous use of private reprimands by the state bar has tended to unnecessarily restrict the public's access to information on certain disciplinary actions against attorneys. The state bar has indicated

that the private reprimand is useful to address primarily one-time minor infractions. Requiring the commission to adopt rules governing the use of private reprimands will ensure consistent use of the sanction. The restrictions on when a private reprimand can be used will ensure that the public has access to information on the more serious types of violations as final disciplinary action in those cases will be open to the public.

**Establish a voluntary mediation and dispute resolution procedure.** The state bar was required to establish a voluntary procedure to provide a forum for clients and their attorneys to solve problems that currently fall outside the scope of the state bar's formal grievance process.

**Prohibit the use of bar dues for the purchase of alcohol.** The state bar was prohibited from using any funds from mandatory bar dues for the purchase of alcoholic beverages. This brings the state bar more in line with other state agencies that are also prohibited from using funds to purchase alcohol. The state bar is not prohibited from purchasing alcohol with other funds.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of H.B. 1186 with the original sunset bill, as introduced, shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

Most of the Sunset Commission's specific program recommendations remained in the final bill. However, several significant recommendations were deleted during the legislative process.

**Standardize processing and investigation of complaints.** The Sunset Commission recommended processing and investigation of all complaints by state bar staff using standardized procedures. Methods used to process complaints across the state have depended on the preference of the independent local committee responsible for the complaint. Important steps in the process, such as investigations, are left to local discretion resulting in inconsistent handling of complaints. Where paid staff are currently used by committees, standard procedures are followed with timely investigations and uniform treatment of complaints. The provision was dropped because of the expense involved in hiring additional staff and establishing additional offices.

**Establish the client security fund in statute.** The Sunset Commission had recommended establishing the state bar's client security fund in statute under oversight of the supreme court. The commission also recommended increasing the limit for claims from \$20,000 to \$30,000 and requiring fund balances of \$1.25 million. The client security fund is not statutorily required but is created through a policy of the state bar board of directors.

Current procedures restrict payment of funds and do not provide a stable, adequate level of funding. These provisions were not included in the final bill because the state bar implemented the increased claim limit and the fund balance requirement during the session.

### **Fiscal Impact**

The bill's provisions have a net cost to state bar revenues of \$291,600 in fiscal year 1992 and 1993 and \$276,000 in fiscal years 1994 through 1996. The bill has no impact on the general revenue fund or other funds in the state treasury.



Bill Summary  
Enrolled Version  
**STATE BAR OF TEXAS**  
H. B. 1186 by Hury

Bill Reference	Provision
Page 1, Line 14	Adds definitions used throughout the bill.
Page 2 , Line 8	Changes the sunset review date for the agency to December 31, 1991.
Page 2, Line 22	Expands the purpose clause of the state bar.
Page 3, Line 12	Requires the state bar to adopt purchasing guidelines consistent with those of the purchasing commission but ultimate review of purchases would be by the supreme court.
Page 3, Line 23	Specifies that, in the event the state bar ceases to exist, its property shall be held in trust for the state's attorneys by the supreme court.
Page 4, Line 4	Specifies that, in elections for president-elect of the state bar board of directors, five instead of one percent of the state bar's membership is required on the petition to include a person on the election ballot.
Page 4, Line 24 thru Page 5, Line 22	Creates four minority voting positions on the state bar board of directors appointed by the state bar president.
Page 5, Line 23	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 6, Line 1	Requires that the policy body of an agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 6, Line 4	Requires development of accessibility plan. (ATB)
Page 6, Line 15	Provides for public testimony at agency meetings. (ATB)
Page 6, Line 22 thru Page 7, Line 4	Requires the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB modified)
Page 7, Line 7	Prohibits the use of mandatory bar dues for the purchase of alcoholic beverages.
Page 7, Line 21 thru Page 8, Line 4	Specifies grounds for removal of a board member. (ATB modified)

H. B. 1186 by Hury  
(cont.)

Bill Reference	Provision
Page 8, Line 7	Requires the board to establish skill-oriented career ladders. (ATB)
Page 8, Line 11	Requires a system of merit pay based on documented employee performance. (ATB)
Page 8, Line 15 thru Page 9, Line 11 Page 24, Line 3	Requires development of an E.E.O. policy. (ATB modified)
Page 9, Line 21 thru Page 15, Line 6 Page 15, Line 25 thru Page 16, Line 9 Page 16, Line 26 thru Page 17, Line 1 Page 17, Line 24 thru Page 19, Line 6 Page 24, Line 6	Establishes a statutory outline of the state bar's grievance process. Creates a Commission for Lawyer Discipline to oversee the state bar's grievance procedure. Specifies that the commission shall be composed of six attorneys and six public members. Requires the commission, with the advise and consent of the state bar board of directors, to select a chief disciplinary counsel to serve as administrator of the grievance process. Allows both parties to complaints to be present during all testimony taken in investigatory hearings.
Page 10, Line 19 thru Page 12, Line 27 Page 24, Line 9	Requires a member of the board of directors to disclose any business connections with the state bar and disclose any matters pending before the board in which the member has a personal or private interest and refrain from voting on the matter.
Page 13, Line 1	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 13, Line 9	Clarifies that the records not subject to the Open Records Act are those defined in the new rules of disciplinary procedure. Also specifies that the use of confidential information for purposes of the client security fund does not waive confidentiality.
Page 13, Line 20 thru Page 14, Line 1	Restricts the use of state bar funds for lobbying to only those matters relating to the regulation of the practice of law, improving the quality of legal services, and the administration of justice.
Page 14, Line 6	Clarifies that the inactive status provision applies only to the practice of law in this state.
Page 14, Line 11	Authorizes the staggered renewal of licenses. (ATB)

H. B. 1186 by Hury  
(cont.)

Bill Reference	Provision
Page 15, Line 2	Requires that complainants be provided explanations on each dismissed action. Also requires periodic abstracts of inquiries and complaints filed that, even if true, would not constitute misconduct.
Page 15, Line 16	Requires files to be maintained on complaints. (ATB)
Page 15, Line 17	Improves the complaint tracking process by requiring tracking of complaints by category, method of resolution and length of time required for resolution.
Page 15, Line 20	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 16, Line 10	Requires the Commission for Lawyer Discipline to develop rules governing the use of private reprimands. Limits to one the number of private reprimands an attorney may, within a five-year period, receive for the same type of offense and does not allow private reprimands in cases involving theft of intentional use of funds.
Page 16, Line 19 Page 17, Line 7	Requires distribution of a survey to all complainants urging views on grievance system experiences.
Page 17, Line 2	Requires the state bar to establish a voluntary mediation and dispute resolution procedure to resolve allegations of misconduct that do not constitute complaints under the grievance system.
Page 17, Line 17	Grants immunity from legal action for complainants and witnesses involved in grievance matters.
Page 19, Line 7	Requires the Commission for Lawyer Discipline to report annually concerning the state of disciplinary system and make recommendations for improvement.
Page 19, Line 15	Specifies that the supreme court may not adopt a rule abrogating an attorney's right to request a jury trial in a disbarment action. Deletes the prohibition concerning the other party to the action.
Page 19, Line 20 thru Page 20, Line 15	Increases efforts to improve the public's awareness of the complaint process including notice to clients by attorneys of the existence of the state bar's grievance process.
Page 20, Line 24 thru Page 21, Line 2	Technical correction to update references to state bar rules.

H. B. 1186 by Hury  
(cont.)

Bill Reference	Provision
Page 21, Line 6	Clarifies that the unauthorized practice of law (UPL) committee is a committee of the supreme court and not the state bar. Also provides immunity from liability for members of the UPL committee and those that assist the committee.
Page 21, Line 22 thru Page 20, Line 19	Technical correction which deletes language from the State Bar Act on judicial training related to family violence, sexual assault, and child abuse and reinstates the language verbatim elsewhere in the Government Code.
Page 22, Line 23 Page 24, Line 14	Requires the state bar to develop a standard fee dispute resolution procedure that can be used by a bar committee or another organization.
Page 23, Line 2	Credits attorneys hired full-time as an attorney by the senate, the house of representatives, and other legislative agencies as having met the continuing legal educational requirements of the state bar.
Page 23, Line 21	Deletes Sections 81.073, 81.074, and 81.075 from the State Bar Act that contained language outlining the grievance process that is now covered in the state bar's disciplinary rules.
Page 23, Line 23 thru Page 24, Line 2	Requires the state bar, within two years, to report to the legislature and the supreme court on a mandatory pro bono program.
Page 24, Line 20	Effective date.
Page 24, Line 21	Emergency clause.

STATE BOARD OF BARBER EXAMINERS  
S. B. 430 by Green

***Final Action: The State Board of Barber Examiners was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 430, as introduced, contained the Sunset Commission's recommendations for the State Board of Barber Examiners. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Require regulation of barber schools to be equal to regulation of other Texas proprietary schools.** Changes include additional student protection provisions to ensure that students receive adequate tuition refunds and information about the school and instructional programs. The agency will also be required to maintain information on student completion rates, job placement, and employment rates as well as verifying the school's financial soundness and capability to complete student training.

**Require the board to use a written examination that is validated by independent testing professionals or is purchased from a national testing service.** The written examination currently used by the board has not been validated to ensure use of objective, unbiased questions. Failure to validate the examination grants the opportunity for a legal challenge from examinees. Use of a national written examination or a validated written examination will ensure use of objective exam procedures and remove potential bias from the examination.

**Require one board member, who is a licensed barber, to be a resident of a county with a population of less than 25,001.** The current requirements for appointment to the board do not require that a member live in a county with a certain size population. The purpose of the added provision is to ensure that barbers from rural areas in the state receive sufficient representation on the board.

**Require the board to review course length and curriculum of barber schools to prevent course stretching.** The Joint Interim Committee on Proprietary Schools recommended that state regulatory agencies set course length standards because some schools inflate the number of hours a student must complete to graduate so that the program qualifies for federally guaranteed student loans. The legislature added this provision to the sunset bill

to ensure that the State Board of Barber Examiners regulates course requirements in barber schools.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 430 with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

Most of the Sunset Commission's specific program recommendations remained in the final bill, with the exception of one major recommendation which was removed from the bill and is described below.

**Reduce the regulation of manicurists, barber technicians, and wig specialists and wig instructors to a one-time certification upon graduation from an approved school. In addition, discontinue the licensure and inspection of specialty shops.** The Sunset Commission recommended reducing the regulation of manicurists, barber technicians, and wig specialists and wig instructors. The subcategories of barbering practices are not sufficiently threatening to the public to warrant state involvement through licensure, examination, and inspection of barber shops. The public could continue to be assured that persons manicuring or performing wig and other specialty services have achieved a basic level of competence through the certification process that requires completion of an approved training program. The provision was dropped because of the loss of license renewal revenue.

### **Fiscal Impact**

The provisions in S.B. 430 are estimated to cost the state \$60,615 in fiscal year 1992 and \$60,495 in fiscal year 1993. Costs will continue to increase slightly through fiscal year 1996. The cost will be entirely to the barber examiners fund. The general revenue fund will not be affected by the costs.

Bill Summary  
Enrolled Version  
**STATE BOARD OF BARBER EXAMINERS**  
S. B. 430 by Green

Bill Reference	Provision
Page 1, Line 11	Technical correction.
Page 2, Line 2 Page 2, Line 20 thru Page 9, Line 1	Requires regulation of barber schools to parallel key elements of Texas Proprietary School regulation.
Page 2, Line 5	Requires barber schools to obtain a bond for refunds of student tuition.
Page 9, Line 5	Technical correction.
Page 9, Line 19 thru Page 10, Line 4 Page 10, Line 8	Provides for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date. (ATB)
Page 10, Line 4	Provides an analysis, on request, to individuals failing the examination. (ATB)
Page 10, Line 15	Provides for licensing by endorsement rather than reciprocity.
Page 10, Line 22	Prohibits the board from requiring a personal interview as part of the application process.
Page 11, Line 3	Technical correction.
Page 11, Line 8	Requires use of written examination that is validated by independent testing professionals is purchased from a national testing service.
Page 11, Line 17	Authorizes the board to provide for early written examination for students who have completed 1000 hours of instruction.
Page 12, Line 5	Requires the board to approve barber technician training program.
Page 13, Line 11	Requires the board to approve manicurist training program.
Page 13, Line 22	Requires the board to approve wig specialist training program.
Page 14, Line 10	Requires the board to approve the wig instructor training program.
Page 14, Line 20	Technical correction.

S. B. 430 by Green  
(cont.)

Bill Reference	Provision
Page 15, Line 5 thru Page 16, Line 6	Removes unused and difficult to enforce statutory language relating to grounds for license denial or revocation.
Page 17, Line 9	Specifies board hearing requirements. (ATB)
Page 17, Line 18 thru Page 18, Line 14	Technical correction.
Page 19, Line 2	Requires one board member, who is a licensed barber, to be a resident of county with a population of less than 25,001.
Page 19, Line 9 thru Page 20, Line 2	Provides a definition of public member. (ATB)
Page 20, Line 16 thru Page 21, Line 11 Page 22, Line 8	Specifies grounds for removal of a board member. (ATB)
Page 21, Line 12 thru Page 22, Line 1	Technical correction.
Page 22, Line 3	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 22, Line 5 Page 24, Line 20	Requires the governor to designate the chair of the board.
Page 22, Line 17	Changes the sunset review date for the agency to 2003.
Page 22, Line 24 thru Page 23, Line 3	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 23, Line 4	Requires the board to develop and implement policies which clearly separate board and staff functions. (ATB)
Page 23, Line 10	Requires the board to establish skill-oriented career ladders. (ATB)
Page 23, Line 14	Requires a system of merit pay based on documented employee performance. (ATB)
Page 23, Line 18 thru Page 24, Line 16	Requires development of an E.E.O. policy. (ATB)

S. B. 430 by Green  
(cont.)

Bill Reference	Provision
Page 25, Line 13	Requires the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 26, Line 10	Authorizes the board to inspect premises of licensees upon receipt of a formal written complaint.
Page 27, Line 13	Revises restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading. (ATB)
Page 28, Line 12 thru Page 29, Line 3	Provides for notification and information to the public concerning board activities. (ATB)
Page 29, Line 4	Provides for public testimony at board meetings. (ATB)
Page 29, Line 8	Requires development of accessibility plan. (ATB)
Page 29, Line 15	Requires files to be maintained on complaints. (ATB)
Page 29, Line 17 thru Page 30, Line 4	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 30, Line 8 thru Page 31, Line 21	Requires specific provisions relating to conflicts of interest. (ATB)
Page 31, Line 25 thru Page 32, Line 6	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 34, Line 3	Restores use of neck duster in providing barber services.
Page 34, Line 7	Clarifies that changes made by the bill to board member qualifications apply only to a member appointed after September 1, 1991.
Page 34, Line 11	Requires first EEO policy statement required by the bill to be filed before November 1, 1991.
Page 34, Line 16	Establishes effective date of Act at September 1, 1991.
Page 34, Line 17	Emergency clause.



## CAPITAL METROPOLITAN TRANSIT AUTHORITY

H.B. 734 by Naishtat

***Final Action: Capital Metro's accountability to various oversight bodies was strengthened and changes were made to improve the operation of its board and of its programs.***

### Analysis of Major Provisions in the Final Bill

Unlike most agencies acted on through sunset, the Authority is not automatically abolished if legislation is not passed to continue its operations. House Bill 734, as introduced, contained the Sunset Commission's recommendations for the Capital Metropolitan Transit Authority. All of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Require Capital Metro to report the results of its annual financial audit to the state auditor.** As recommended by the Sunset Commission, provisions were adopted that require Capital Metro to report the results of its annual financial audits to the state auditor and authorize the state auditor to perform an independent audit of the authority if necessary. These provisions will provide state oversight of the expenditure of sales tax funds authorized to be collected for transit purposes under state law.

**Require Capital Metro contract for an independent performance audit of its operations.** Provisions were added as recommended by the Sunset Commission that require Capital Metro to contract for an independent performance audit once every four years with reports to the board and various local and state officials. The performance audit will provide a periodic outside evaluation of the authority's operations to assist Capital Metro in improving its efficiency and effectiveness. It will also provide information for oversight of the authority by state and local officials. This provision is similar to those included in the statutes of other transit authorities reviewed under sunset.

**Grant the Texas Air Control Board the authority to waive or modify the alternative fuel requirements placed on Capital Metro.** Based on a recommendation of the Sunset Commission, the Texas Air Control Board was authorized to waive or modify the alternative fuel requirements placed on Capital Metro in certain cases. These requirements include a series of deadlines that Capital Metro must meet in converting its vehicle fleet to use alternative, rather than conventional fuels. The Texas Air Control Board could waive the requirements if Capital Metro can certify that it cannot obtain the necessary equipment without incurring greater net costs than would result from continued use of traditional fuels, or if no central refueling station for alternative fuels exists in the area. These changes will maintain the current alternative fuel conversion requirements, but will

provide Capital Metro with the same means for exemption that are currently in place for school districts and state agencies.

**Authorize Capital Metro to undertake road and traffic signalization improvements within the bounds of its service area.** A provision was added authorizing Capital Metro to construct or maintain any highway or road or to undertake traffic signalization improvements within the boundaries of its service area if the governing body of the municipality approves and if there is a contract with the municipality for the work. This provision will allow Capital Metro to help the municipalities by providing funding for needed maintenance and improvements.

**Require Capital Metro to provide transportation services for disabled persons who live in areas that have withdrawn from participation in the transit authority.** A provision was added requiring Capital Metro to provide services for disabled persons who live in areas that at one time participated in the transit authority but have since voted to withdraw. The suburban cities of West Lake Hills and Rollingwood currently fall into this category. The comptroller is required to withhold from each municipality's sales and use tax revenues an amount equal to one-half the shortfall between the cost to Capital Metro of providing the service and the revenues gained from the fares charged for the service. This amount would go to Capital Metro. This provision will allow Capital Metro to provide service to disabled persons who were left without access to transportation services when their communities withdrew from the authority.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of H.B. 734 with the original sunset bill as introduced shows that all the Sunset Commission's recommendations remained in the final bill.

### **Fiscal Impact**

The provisions in H.B. 734 are estimated to cost Capital Metro \$50,000 once every four years beginning in fiscal year 1992. Capital Metro will also be required to pay one half of the cost of providing services for disabled persons in areas that have withdrawn from participation in the transit authority, but this cost cannot be estimated at this time. Neither the general revenue fund nor any other funds in the state treasury fund will be affected by the costs.

Bill Summary  
Enrolled Version

**CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY**

H. B. 734 by Naishtat

<b>Bill Reference</b>	<b>Provision</b>
Page 1, Line 8 thru Page 2, Line 4	Provides specific grounds for the removal of Capital Metro board members.
Page 2, Line 8	Authorizes Capital Metro to construct or maintain any highway or road in the authority and to undertake traffic signalization improvements in the authority with the approval of the governing body of the municipality.
Page 2, Line 27 thru Page 3, Line 8	Requires clearly defined goals and an annual evaluation of the costs and benefits of a free fare program run by Capital Metro.
Page 3, Line 13	Changes the terms of Capital Metro board members from four to two years; limits members to a total of eight years on the board.
Page 4, Line 3	Changes the bracketing for Capital Metro's withdrawal provisions to conform with bracketing provisions used for Capital Metro throughout this bill.
Page 4, Line 12 thru Page 5, Line 1	Requires Capital Metro to provide transportation services for disabled persons who live in units of election that have withdrawn from the authority. Requires the comptroller to withhold from that unit of election's sales and use tax revenues one-half of the difference between the cost to Capital Metro of providing that service and the fares charged for that service and provide that amount to Capital Metro.
Page 5, Line 5	Establishes a general structure for the appointment, composition and utilization of advisory committees by the Capital Metro board.
Page 5, Line 15 thru Page 6, Line 5	Clarifies the duties of the general manager and requires a policy separating Capital Metro board and staff functions.
Page 6, Line 9	Removes the requirement that Capital Metro obtain approval by the state auditor of its selection of an accountant to perform its annual financial audit.
Page 6, Line 21 thru Page 7, Line 8	Requires review of Capital Metro's financial audits by the state auditor.
Page 7, Line 12	Requires outside performance audits of Capital Metro's operations.

H. B. 734 by Naishtat  
(cont.)

Bill Reference	Provision
Page 7, Line 22 thru Page 8, Line 7	Authorizes Capital Metro to establish retirement plans.
Page 8, Line 8	Requires state oversight of Capital Metro's retirement plans.
Page 8, Line 16 thru Page 10, Line 23	Modifies Capital Metro's alternative fuel requirements to allow certain exemptions if approved by the Texas Air Control Board.
Page 11, Line 1	Provides for the staggering of terms for Capital Metro board members.
Page 11, Line 19 thru Page 12, Line 1	Requires Capital Metro to request an advisory opinion from the U.S. Department of Labor to determine if its retirement plan is subject to federal oversight.
Page 12, Line 2	Requires Capital Metro's first performance audit as required by this bill to be completed and reported on by February 1, 1993.
Page 12, Line 6	Clarifies that action taken by the board may not be held invalid simply because it was taken when members were authorized to serve four-year terms.
Page 12, Line 11	Emergency clause; establishes Act as effective upon passage.

TEXAS COSMETOLOGY COMMISSION  
S. B. 378 by Carriker

***Final Action: The Texas Cosmetology Commission was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 378, as introduced, contained the Sunset Commission's recommendations for the Texas Cosmetology Commission. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Require regulation of cosmetology schools to be equal to regulation of other Texas proprietary schools.** Changes include additional student protection provisions to ensure that students receive adequate tuition refunds and information about the school and instructional programs. The agency will also be required to maintain information on student completion rates, job placement, and employment rates as well as verifying the school's financial soundness and capability to complete student training.

**Establish a tuition protection fund for students affected by closings of private beauty culture schools.** The agency will collect fees from all licensed beauty culture schools and manage the fund, which is set to reach a maximum of \$200,000 in a three-year period. The fund will safeguard the investment a student makes by allowing direct refunds for student tuition and fees and assure that students have the opportunity to complete their programs. A limit of \$35,000 in claims has been set for each school closure.

**Establish a booth rental license for individuals who lease space in a cosmetology salon.** The legislature adopted this recommendation of the Sunset Commission which was designed to ensure that competitors were treated equally. The licensing of booth rental space will provide information that can be used by taxing authorities to improve the collection of any applicable state, federal, or social security taxes. Specific license requirements including the license fee are to be determined by the Texas Cosmetology Commission.

**Require the commission to use a written examination that is validated by independent testing professionals or is purchased from a national testing service.** The written examination currently used by the commission has not been validated to ensure use of objective, unbiased questions. Failure to validate the examination grants the opportunity for a legal challenge from examinees. Use of a national written examination or an independently validated written examination will ensure use of objective exam procedures

and remove potential bias from the examination.

**Require the commission to review course length and curriculum of private beauty schools to prevent course stretching.** The Joint Interim Committee on Proprietary Schools recommended that state regulatory agencies should set course length standards because some schools inflate the number of hours a student must complete to graduate so that the program qualifies for federally guaranteed student loans. This provision was added to the sunset bill to ensure that the Texas Cosmetology Commission regulates course requirements in private beauty schools.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 378 with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

Most of the Sunset Commission's specific program recommendations remained in the final bill, with the exception of one major recommendation which was removed from the bill and is described below.

**Reduce the regulation of manicurists and other specialty licensees to a one-time certification upon graduation from an approved school. In addition, discontinue the licensure and inspection of specialty shops.** The Sunset Commission recommended reducing the regulation of cosmetology specialties. The practices of manicurists, shampoo-conditioner specialists, facialists, hair weavers, and wig specialists were not thought to be sufficiently threatening to the public to warrant state involvement through licensure, examination and inspection of beauty shops. The public could be assured that persons manicuring or performing other specialty services have achieved a basic level of competence through a certification process that requires completion of an approved training program. The provision was dropped because of the loss of license renewal revenue.

### **Fiscal Impact**

The provisions in S.B. 378 result in a net gain to the general revenue fund of \$257,163 in fiscal year 1992 and \$268,972 in each fiscal year from 1993 through 1996.

Bill Summary  
Enrolled Version  
**TEXAS COSMETOLOGY COMMISSION**  
S. B. 378 by Carriker

Bill Reference	Provision
Page 1, Line 8	Technical correction.
Page 1, Line 18 thru Page 2, Line 14	Provides definition of public member. (ATB)
Page 2, Line 18	Requires that appointment to the commission be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 3, Line 15 thru Page 4, Line 17	Specifies grounds for removal of a commission member. (ATB)
Page 4, Line 25	Changes the sunset review date for the agency to 2003.
Page 5, Line 1	Technical correction.
Page 5, Line 10	Requires the governor to appoint the commission chair.
Page 5, Line 21 thru Page 6, Line 3	Technical correction.
Page 6, Line 4	Revises restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading. (ATB)
Page 6, Line 19	Technical correction.
Page 6, Line 22 thru Page 7, Line 1	Technical correction repealing current language related to practical exam procedures.
Page 7, Line 5	Authorizes the commission to adopt a system of voluntary continuing education. (ATB)
Page 7, Line 9	Requires the agency to provide information on standards of conduct to commission members and employees. (ATB)
Page 7, Line 14	Requires that the commission develop and implement policies which clearly separate commission and staff functions. (ATB)
Page 7, Line 17	Provides for public testimony at commission meetings. (ATB)
Page 7, Line 21	Requires development of accessibility plan. (ATB)

S. B. 378 by Carriker  
(cont.)

Bill Reference	Provision
Page 7, Line 25 thru Page 8, Line 7	Requires the commission to set and monitor hiring goals for women and minorities.
Page 8, Line 11	Technical correction.
Page 8, Line 22	Requires the commission to establish skill-oriented career ladders. (ATB)
Page 9, Line 1	Requires a system of merit pay based on documented employee performance. (ATB)
Page 9, Line 5 thru Page 10, Line 3	Requires development of an E.E.O. policy. (ATB)
Page 10, Line 7 Page 11, Line 1 thru Page 12, Line 1	Requires specific provisions relating to conflicts of interest. (ATB)
Page 10, Line 21 Page 8, Line 16	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the commission or serve as a member of the commission. (ATB)
Page 12, Line 6	Requires the commission to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 12, Line 16	Technical correction. Also refers to license requirement for cosmetologists operating as independent contractors.
Page 13, Line 1 Page 25, Line 15	Increases number of hours required for a manicurist license from 150 hours to 250 hours and requires the commission to approve the manicurist training program.
Page 13, Line 8	Technical correction.
Page 13, Line 12	Requires two years experience and 250 hours instruction to obtain an instructor license.
Page 13, Line 25 thru Page 14, Line 1	Requires the commission to approve specialty certificate training program.
Page 14, Line 3	Technical correction.
Page 14, Line 13 thru Page 15, Line 6	Requires facialist specialty license.

S. B. 378 by Carriker  
(cont.)

Bill Reference	Provision
Page 15, Line 12	Technical correction.
Page 15, Line 16 thru Page 16, Line 12 Page 33, Line 14 Page 34, Line 2	Added language establishes a booth rental license for leasing of salon space to beauty operators.
Page 16, Line 16	Technical correction.
Page 17, Line 9 Page 18, Line 7 thru Page 21, Line 17 Page 26, Line 3 thru Page 28, Line 5 Page 34, Line 10	Requires regulation of cosmetology schools to parallel key elements of Texas proprietary school regulation.
Page 21, Line 22 thru Page 23, Line 22	Establishes student tuition protection fund.
Page 23, Line 23 thru Page 24, Line 11	Requires the commission to review course length and curriculum of private beauty schools to prevent course stretching.
Page 24, Line 12	Authorizes the commission to issue temporary work permits.
Page 25, Line 2	Technical correction.
Page 28, Line 16	Requires the executive director to determine if students' tuition has been paid before transferring their clock hours to another beauty school program.
Page 29, Line 4	Technical correction.
Page 29, Line 25 thru Page 30, Line 24	Provides for notification and information to the public concerning commission activities. (ATB)
Page 31, Line 3	Requires use of written examination that is validated by independent testing professionals or be purchased from a national testing service.
Page 31, Line 11	Authorizes the commission to provide for early written examination for students who have completed 1000 hours of instruction.
Page 31, Line 24 thru Page 32, Line 10	Provides for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date. (ATB)

S. B. 378 by Carriker  
(cont.)

Bill Reference	Provision
Page 32, Line 12	Prohibits the commission from submitting examinations for grading to a national testing service if the student attended a vocational cosmetology program in a public school.
Page 32, Line 23	Technical correction.
Page 33, Line 8	Technical correction.
Page 34, Line 15	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 34, Line 24	Clarifies that changes made to the qualifications of commission members apply only to a member appointed after September 1, 1991.
Page 35, Line 3	Requires first EEO policy statement to be filed before November 1, 1991.
Page 35, Line 8	Repeals outdated grandfather clause relating to specialty licensees.
Page 35, Line 11	Establishes effective date of Act at September 1, 1991.
Page 35, Line 12	Emergency clause.

**OFFICE OF THE FIRE FIGHTERS' PENSION COMMISSIONER**  
S. B. 401 by Carriker

***Final Action: The Office of the Fire Fighters' Pension Commissioner was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 401, as introduced, contained the Sunset Commission's recommendations for the Office of the Fire Fighters' Pension Commissioner. The recommendations remained in the final version of the bill. The major provisions in the final bill are described below.

***Broaden the nominations process for the Fire Fighters' Pension Commissioner to include the Texas Association of Fire Fighters as one of the groups allowed to submit nominations to the governor.*** Currently, the statute authorizes the State Firemen's and Fire Marshal's Association to submit the names of three to ten nominees for commissioner. This process for submitting nominations was not sufficiently open to groups affected by the agency. The nominations process was changed to ensure that the two main fire fighter associations affected by the agency are represented in the process of selecting the commissioner. The Texas State Association of Fire Fighters will submit nominations according to the same statutory requirements set for the State Firemen's and Fire Marshals' Association.

***Change the composition of the six-member state board of trustees for the statewide volunteer fund to include three additional members that have experience in the fields of investment, finance, or pension administration.*** Technical expertise on the state board of trustees is needed to handle the growing statewide fund. Current board composition does not provide for such professional expertise. S.B. 401 requires three additional members with related expertise. The nine-member board of trustees will be better equipped to invest surplus revenues and evaluate the financial status of the fund.

**Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 401 with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

All of the Sunset Commission's specific program recommendations remained in the final bill.

### **Fiscal Impact**

The provisions in S.B. 401 resulted in additional costs to the general revenue fund of \$1,905 in fiscal years 1992 through 1996. These costs were associated with the additional advisory commission members.

Bill Summary  
Enrolled Version  
**OFFICE OF THE FIRE FIGHTERS' PENSION COMMISSIONER**  
S. B. 401 by Carriker

Bill Reference	Provision
Page 1, Line 12	Broadens the nominations process for the office of commissioner.
Page 1, Line 17 thru Page 2, Line 1	Requires public membership on boards and commissions. (ATB)
Page 2, Line 2	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 2, Line 19	Changes sunset review date for the agency to 2003.
Page 3, Line 1	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 3, Line 11	Requires a system of merit pay based on documented employee performance. (ATB)
Page 3, Line 16 thru Page 4, Line 14	Requires development of an E.E.O. policy. (ATB)
Page 4, Line 15	Requires the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 4, Line 25	Requires development of accessibility plan. (ATB)
Page 5, Line 9	Eliminates an inaccurate term.
Page 5, Line 15	Changes the composition of the state board of trustees to include members with technical expertise.
Page 5, Line 23 thru Page 6, Line 1	Requires public membership on boards and commissions. (ATB)
Page 6, Line 2	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)

S. B. 401 by Carriker  
(cont.)

Bill Reference	Provision
Page 6, Line 8	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 6, Line 12	Technical correction.
Page 6, Line 25 thru Page 7, Line 21	Specifies grounds for removal of a board member. (ATB)
Page 7, Line 22	Deletes a provision that is duplicated elsewhere in the statute.
Page 8, Line 1	Provides for appointing the three additional members of the board of trustees of the Texas Statewide Volunteer Fire Fighters' Retirement Fund.
Page 8, Line 11	Clarifies that changes to the board member qualifications apply only to members appointed after September 1, 1991.
Page 8, Line 18	Requires first EEO policy statement required by the bill to be filed before November 1, 1991.
Page 8, Line 22	Establishes effective date of Act at September 1, 1991.
Page 8, Line 23 thru Page 9, Line 2	Emergency clause.

**TEXAS FUNERAL SERVICE COMMISSION**  
S. B. 284 by Barrientos

***Final Action: The Texas Funeral Service Commission was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 284, as introduced, contained the Sunset Commission's recommendations for the Texas Funeral Service Commission. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Change the composition of the board to provide for a majority of consumer members.**

The board had been composed of five licensees and four public members. The Sunset Commission recommended and the legislature adopted a provision which would change the balance of membership from a majority of licensees to a majority of public members. This was done based on the fact that the majority of complaints and enforcement related actions taken by the board were to settle consumer related disputes .

**Improve licensing and examination requirements.** Based on recommendations of the Sunset Commission the legislature adopted several provisions to strengthen the licensing function. Included in these recommendations are requirements that the board use a professionally prepared licensing examination and that the practical exam for embalmers be discontinued.

**Require higher administrative penalties for licensees who repeatedly violate the Act.** In the past the board has encountered licensees who repeatedly commit the same violation of the funeral service law or who are found guilty of multiple violations of the law. The provisions authorizing administrative penalties did not allow the board to increase penalties to deter this type of violator. The change will authorize the board to impose larger penalties on these licensees.

**Provide that hearings be conducted by a hearings officer.** The board has generally acted as its own hearings officer, taking testimony, directing questions to the witnesses and making final decisions. The legislature determined that the standard approach used by most boards, having a independent hearings officer develop the case for final decision by the board, should be used for this agency to reduce any appearance of bias in the decisions.

**Provide additional protection for families of deceased persons.** Certain funeral homes often have agreements with mortuary schools that allow students to embalm bodies. There is no requirement that families be informed of and consent to this practice. In some cases, the discovery of the practice has caused family members unnecessary suffering. The provision placed in the bill requiring consent of the family will eliminate actions being taken without the knowledge of the family members.

**Transfer the authority to accredit and monitor mortuary schools to TEA and the Texas Coordinating Board.** Currently the board is responsible for accrediting and monitoring the four mortuary schools in the state. The general policy of the state is to have either the TEA or the Coordinating Board regulate and monitor schools. Based on a recommendation to the Sunset Commission the legislature adopted a provision transferring this regulation so these schools would be subject to the same standards as all others.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 284 with the original sunset bill, as introduced, shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

All but one of the Sunset Commission's specific program recommendations remained in the final bill, with the exception of one major recommendation which was removed from the bill and is described below.

**Authorize the Department of Banking to use administrative penalties against sellers of prepaid funeral services.** The Sunset Commission recommended giving the Department of Banking administrative penalties to apply against sellers of prepaid funeral services, mirroring the same power that the Funeral Services Commission had for sellers of funeral services provided at the time of death. Both types of services are often provided by the same business and it appeared inconsistent to provide protection to consumers in one instance and deny the same protection in similar circumstances. The provision was dropped because of concern that the penalty could be applied to cemeteries.

### **Fiscal Impact**

The provisions in S.B. 284 have a net gain to the general revenue fund of \$58,309 in fiscal year 1992 and \$59,920 in each fiscal year from 1993 through 1996.

Bill Summary  
Enrolled Version  
**TEXAS FUNERAL SERVICE COMMISSION**  
S. B. 284 by Barrientos

Bill Reference	Provision
Page 1, Line 10 Page 57, Line 20 thru Page 58, Line 3	Requires a majority of public members on the commission.
Page 1, Line 17 thru Page 2, Line 9	Provides a definition of public member. Clarifies that a public member on the commission is someone who represents the public interest and has "consistently shown an interest in supporting consumer protection". Also clarifies that a public member may not hold any financial interest in a funeral establishment.
Page 2, Line 20 thru Page 4, Line 12	Updates specific provisions relating to conflicts of interest. (ATB)
Page 4, Line 13	Prohibits commissioner participation in informal hearings.
Page 4, Line 21 thru Page 5, Line 2	Updates the provision that prohibits a person registered as a lobbyist under Article 6252-9c, V.A.C.S., from acting as general counsel to the board or serving as a member of the board. (ATB)
Page 5, Line 4	Updates the provision requiring that appointment to the board be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 5, Line 6 thru Page 6, Line 9	Updates the language that specifies the grounds for removal of a commission member. (ATB)
Page 6, Line 13	Requires the governor to designate the chairman of the commission.
Page 6, Line 20 Page 8, Line 20 thru Page 9, Line 7	Deletes provision for the secretary of the commission to receive a salary for and assume the duties of the executive director in his absence. Adds language authorizing the commission to appoint an acting executive director in the absence of the executive director. (Technical correction)
Page 7, Line 12 thru Page 8, Line 8	Updates the requirement that the commission make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 8, Line 19	Places agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process. (ATB)

S. B. 284 by Barrientos  
(cont.)

Bill Reference	Provision
Page 9, Line 14	Provides for public testimony at agency meetings. (ATB)
Page 9, Line 22 thru Page 10, Line 5	Changes the sunset review date for the commission to December 31, 1991 and specifies that the Sunset Commission need not conduct any further review before the abolition date. Updates the reference to the sunset act.
Page 10, Line 10	Requires that the policy body of an agency develop and implement policies which clearly separate commission and staff functions. (ATB)
Page 10, Line 12	Requires the agency to provide information on standards of conduct to commission members and employees. (ATB)
Page 10, Line 17	Requires development of accessibility plan. (ATB)
Page 10, Line 21 thru Page 11, Line 8	Revises restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading. (ATB)
Page 11, Line 8	Deletes authorization for committees of the legislature to overrule adoption of a commission rule. (Technical correction)
Page 11, Line 19	Requires the board to establish skill-oriented career ladders. (ATB)
Page 11, Line 24 thru Page 12, Line 2	Requires a system of merit pay based on documented employee performance. (ATB)
Page 12, Line 3 thru Page 13, Line 1 Page 58, Line 8	Requires development of an E.E.O. policy. (ATB)
Page 13, Line 11 Page 15, Line 12	Requires license applicants to have graduated from an accredited mortuary school.
Page 13, Line 18 thru Page 14, Line 8 Page 15, Line 20 thru Page 16, Line 15	Requires use of a professionally-prepared licensing examination for funeral director and embalmer applicants.
Page 14, Line 16 thru Page 15, Line 2 Page 16, Line 22 thru Page 17, Line 8	Updates provision requiring notification to a person taking an examination of the results of the exam within a reasonable time of the testing date. (ATB)

S. B. 284 by Barrientos  
(cont.)

Bill Reference	Provision
Page 15, Line 2 Page 17, Line 8	Updates provision requiring the commission to provide an analysis, on request, to individuals failing the examination. (ATB)
Page 17, Line 16 Page 18, Line 17	Eliminates the requirement for a licensee to be a resident of the state of Texas.
Page 17, Line 20 Page 18, Line 21 Page 19, Line 19 thru Page 20, Line 1 Page 57, Line 11	Deletes the authority for the commission to approve mortuary schools.
Page 18, Line 24 Page 30, Line 17	Eliminates the practical examination requirement for embalmer applicants.
Page 21, Line 10 Page 24, Line 9	Reduces the apprenticeship requirement from 60 to 40 cases and requires the commission to clearly define a case in rules.
Page 23, Line 19	Deletes language specifying the re-registration procedure for apprentice applicants who fail the exam.
Page 28, Line 9 thru Page 30, Line 4	Updates standard language requiring time frames for licensees who are delinquent in renewal of licenses. (ATB)
Page 29, Line 7	Authorizes the board to require continuing education courses for licensees.
Page 30, Line 12	Deletes the requirement for the commission to adopt rules for issuing biennial licenses.
Page 30, Line 14	Technical corrections.
Page 30, Line 21	Authorizes the staggered renewal of licenses. (ATB)
Page 31, Line 17	Technical correction.
Page 31, Line 19	Includes in a special license category a licensee with a disability of 75 percent or greater and allows the board to charge a reduced license fee.
Page 32, Line 12	Provides for the licensing of out-of-state applicants by endorsement rather than reciprocity. (ATB)

S. B. 284 by Barrientos  
(cont.)

Bill Reference	Provision
Page 34, Line 5	Clarifies that injunctive relief and/or administrative penalties may be imposed for violations relating to both prepaid funeral services and those delivered at the time of need.
Page 37, Line 22	Clarifies that a licensee or funeral establishment, including employees and agents, violate the Act for an intentional misappropriation of funds or for withholding monies or refunds from consumers for an unreasonable length of time.
Page 40, Line 2	Requires a funeral home to get the permission of the family making burial arrangements if a body is going to be embalmed by a person or institution that is not licensed.
Page 40, Line 11	Removes outdated instruction relating to a provision requiring funeral establishments to be licensed. (Technical correction)
Page 41, Line 19	Removes vague ground for license revocation.
Page 42, Line 19	Specifies that the commission may take enforcement action against a licensee or any person directly or indirectly connected with a funeral establishment for violation of the pre-need trust laws administered by the Department of Banking.
Page 42, Line 23 Page 44, Line 12 Page 45, Line 5 Page 45, Line 15 Page 46, Line 20 thru Page 47, Line 13	Coordinates enforcement of relevant vital statistics and solid waste laws between the commission and the Texas Department of Health and requires adoption of joint rules.
Page 43, Line 20	Authorizes the agency to investigate complaints related to prepaid funeral services only if the investigation does not duplicate activities of the Texas Department of Banking.
Page 44, Line 17	Changes the requirement for annual inspections to biennial inspections.
Page 44, Line 22 thru Page 45, Line 4	Requires the agency to document and track violations in the law found during routine inspections.
Page 45, Line 8	Requires the agency to adopt an inspection policy and procedures in rules.

S. B. 284 by Barrientos  
(cont.)

Bill Reference	Provision
Page 45, Line 21 thru Page 46, Line 19	Requires the commission, the Banking Department and the State Board of Insurance to adopt a memorandum of understanding to coordinate their inspection and enforcement of prepaid funeral sales.
Page 47, Line 17	Technical correction.
Page 47, Line 20	Specifies that all commission rules be adopted according to the Administrative Procedure and Texas Register Act.
Page 48, Lines 6 and 18	Updates the enforcement authority of the commission.
Page 48, Line 8 thru Page 49, Line 3	Requires the commission to issue probationary orders to licensees whose licenses have been sanctioned with probation and requires the agency to monitor the actions of the licensee in complying with the orders.
Page 49, Line 4	Requires the agency to provide licensees with a warning notice upon discovery of a potential violation and requires the licensee to document their corrective actions.
Page 49, Line 19	Specifies board hearing requirements. (ATB)
Page 49, Line 24	Authorizes the executive director, instead of the chairman, to set hearing dates.
Page 51, Line 10 thru Page 52, Line 15	Requires a hearings officer to hear and rule on all disciplinary cases. The hearings officer would hear the case and be required to submit to the board findings of facts, conclusions of law, and a recommended sanction. Also requires that if the board decides to levy a different sanction from that recommended by the hearings officer, it must record its reasons in writing.
Page 52, Line 16	Requires a person to purchase at cost transcripts of disciplinary proceedings.
Page 52, Line 24 thru Page 53, Line 4	Updates the provision requiring files to be maintained on complaints. (ATB)
Page 53, Line 5	Updates the provision requiring all parties to written complaints be periodically informed as to the status of the complaint. (ATB)
Page 53, Line 13	Provides for a complainant to be present at any informal or formal disciplinary proceeding involving their case.

S. B. 284 by Barrientos  
(cont.)

Bill Reference	Provision
Page 53, Line 18 thru Page 54, Line 9	Requires that the consumer brochure developed by the agency be provided to consumers at the time services are initially discussed.
Page 54, Line 10	Provides for notification and information to the public concerning board activities. (ATB)
Page 55, Line 5 thru Page 56, Line 3	Authorizes the board to accept a supersedeas bond for an administrative penalty assessed a licensee in a disciplinary hearing.
Page 55, Line 19	Technical change which allows uniform application of sanctions.
Page 56, Line 7	Requires a hearings officer and the commission to levy increasingly severe penalties on licensees who repeatedly commit the same or similar violations of the Act.
Page 56, Line 15	Requires a hearings officer and the commission to levy an administrative penalty for multiple violations of the Act in an amount not less than the sum of the amounts specified for each individual violation, as set out in rules.
Page 57, Line 5	Removes obsolete criminal penalty provision relating to violations of the Act. (Technical correction)
Page 57, Line 11	Eliminates probationary period for reciprocal licensees.
Page 57, Line 15	Establishes the effective date of the Act.
Page 57, Line 16	Instructional provision authorizing the commission to grant a full license to holders of temporary permits, on or after the effective date of the Act, if agency requirements are met.
Page 57, Line 20 thru Page 58, Line 3	Instructional provision authorizing the governor to appoint a public member to the commission upon the first vacancy on the commission on or after the effective date of the Act.
Page 58, Line 4	Instructional provision making changes in board member qualifications apply only to persons appointed on or after September 1, 1991.
Page 58, Line 8	Requires first BEO policy statement required by the bill to be filed before November 1, 1991.
Page 58, Line 13	Emergency clause.

STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION  
S. B. 352 by Barrientos

***Final Action: The State Department of Highways and Public Transportation was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 352, as introduced, contained the Sunset Commission's recommendations for the State Department of Highways and Public Transportation. Most of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are described below.

**Change the way appointments are made to the highway commission.** The legislature adopted provisions specifying that no two members of the highway commission shall live in the same geographic area of the state and that one member must reside in a rural area. Commission members in office on the effective date of the Act would serve the remainder of their terms. If the commission does not have a member from a rural area on the effective date, the governor must appoint one at the first opportunity.

**Require the department to increase its efforts to recruit and hire qualified women and minority applicants.** The legislature adopted the recommendation of the Sunset Commission which will enable the department to take specific actions to intensify its efforts to recruit, hire, and retain qualified women and minority candidates in professional and upper management positions. The department must open upper level management positions to applicants outside the department and it must seek applicants from out of state when sufficient applicants are not available in state. The department must also develop or intensify college recruitment and cooperative programs to cultivate suitable minority and women job candidates. The department must promote continuing educational opportunities for employees to tap the resources already within the department. The department's central office will be required to set minority hiring goals for the districts and to monitor their progress toward these goals. Finally, the department's director must report to the commission, the legislature, and the Sunset Commission on progress in recruiting and hiring women and minorities.

**Require the department to establish a program for contracting with disadvantaged business enterprises (DBEs).** Based on the recommendation of the Sunset Commission, the legislature required the department to establish a disadvantaged business program for state or federally funded contracts, including construction, maintenance, supply, and service contracts. While the department has followed federal DBE guidelines for federally-assisted construction, the department has not had a program for state-funded projects. This

provision will require the agency to estimate the number of disadvantaged businesses willing and able to supply the goods and services needed by the agency under state or federally funded contracts. Based on that research, the agency must then set and strive to meet annual goals for the amount of work the agency should award to disadvantaged businesses. These contract goals must approximate federal requirements on federal funds used in highway construction and maintenance, consistent with applicable state and federal laws. The federal government requires the department to meet a ten percent goal for contracting with disadvantaged businesses on federally-funded projects.

**Require the highway commission to hold annual hearings on its highway project selection process.** The legislature added language requiring the highway commission to hold annual hearings on its process for selecting highway projects and the criteria used by the commission in making its project selection decisions. This provision will provide information to the public regarding the department's roadway selection process, and it gives the public a specific way to have input into that process.

**Require the department to adopt rules for evaluating environmental impacts on transportation projects.** Based on a recommendation of the Sunset Commission, the legislature required the department to adopt rules for environmental reviews of transportation projects that are not subject to the National Environmental Policy Act (NEPA). In addition, the highway commission must consider the results of its environmental reviews in making decisions on roadway projects. These rules will assure that the department will consider the environmental effects of all transportation projects and not just those projects subject to review under NEPA. The rules must contain provisions for evaluating direct and indirect impacts of projects, analyzing project alternatives, and reporting on the department's decision regarding a project and the measures taken to mitigate environmental harm. The rules must also provide a procedure for the public to request a hearing on an environmental review for which a public hearing is not required. The environmental reviews must be conducted before the location of the project has been adopted, and the highway commission must review and update the environmental review rules at least once every five years.

**Establish an environmental rules advisory committee.** The legislature modified a recommendation of the Sunset Commission requiring an advisory committee to assist the highway commission in developing rules that affect the environment. The advisory committee will consist of six members, with the governor, lieutenant governor, and speaker each appointing two members. The advisory committee would continue to advise the highway commission on environmental rules even after the adoption of rules for environmental impact reviews.

**Require the department to adopt memoranda of understanding (MOUs) to provide interagency coordination in the environmental review process.** The Sunset Commission recommended improving interagency coordination in the environmental review process by requiring the department to adopt memoranda of understanding with the state's historical,

archaeological, and natural resource agencies. The legislature adopted this recommendation with an additional provision requiring the attorney general to resolve differences between agencies if they are unable to agree to an MOU. If agencies cannot agree to an MOU, they must submit a proposed MOU to the attorney general, who must then issue an MOU that is binding between the department and the affected agency.

**Direct the department to maximize the use of reclaimed asphalt in roadway projects.**

The legislature directed the department to use reclaimed asphalt, when feasible, by removing and recycling the hot mix asphalt for roads being repaved under the authority of the department. The department would have title to all reclaimed asphalt from roads on the state system, but it may transfer title to another governmental entity for use on roads. State agencies must offer to store reclaimed asphalt on their land when environmentally and economically feasible and the department must keep a record of all state-owned reclaimed asphalt products. The department must report to the Legislative Audit Committee by January 1 of each year regarding the department's use of recycled asphalt.

**Require the department to increase revenue from existing real estate and assets and to promote alternate sources of revenues.**

As recommended by the Sunset Commission, the legislature required the department to increase the role of the private sector and public-private projects in the leasing of real estate and other assets and in the development of highway projects. In addition, the highway commission must provide for an independent audit of the department's management and business operations in 2001 and every 12 years thereafter. These changes will provide the department the mechanism for more aggressively pursuing revenue enhancement projects.

**Remove the statutory limitation on salaries for members of the commission.**

The Sunset Commission recommended, and the legislature adopted a provision to remove the salary limitation for highway commission members, thereby allowing the members to receive a salary set in the appropriations act. The existing salary limit in statute is \$2,500. This provision does not actually require the legislature to establish salaries for highway commission members. It does, however, provide the basis for the legislature to make an appropriation for commission salaries.

**Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 352 with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

Most of the Sunset Commission's specific program recommendations remained in the final bill. However, several significant recommendations were deleted during the legislative process.

**Remove the statutory requirement for the director of the department to be an engineer.**

The Sunset Commission recommended removing the requirement for the head of the department to be an engineer because it restricted the commission from using other qualifications that it determines would be more useful in selecting the top administrator. Removing this limitation on the selection of the director would provide the commission with the additional flexibility to choose the individual with the background and experience best suited to manage a diverse organizational structure such as the department's. This provision would not limit the flexibility of the commission to select an engineer to fill the position if this were its preference. The legislature dropped this provision because of the desire to have the department continue to be headed by a professional engineer.

**Establish an administrative penalty structure for violators of the state's overweight vehicle laws.**

The Sunset Commission had recommended establishing a schedule of civil fines for illegally overweight vehicles to replace a largely ineffective system of misdemeanor penalties. Misdemeanor penalties would still be applied for violations on highways that are not on the state system. The Department of Public (DPS) would be responsible for issuing citations to overweight violators and the attorney general's office would determine the amount of the penalty and collect the fine. Fine amounts would be based on how much the load is over the authorized weight and how far the load has traveled in Texas. The DPS and the attorney general's office would each receive ten percent of the fine revenue, and the remaining 80 percent would go to the state highway fund. This provision would help the state recover the costs associated with the accelerated deterioration of the highway system caused by vehicles that violate the state's vehicle weight laws and it would encourage greater compliance with those laws. The provision was dropped because of concerns about the authority to administratively fine overweight vehicles without a legal finding of guilt and concern that administrative fines be assessed only against habitual and flagrant violators. A separate administrative fine provision that addressed these concerns was enacted by the legislature in H.B. 1007 by Rep. Sam Russell.

**Authorize the department to take early possession of condemned land.**

The Sunset Commission recommended allowing the department to take possession of condemned land for right of way after depositing the amount of the appraised property value with the court. Currently, the department obtains right of way for roadway projects by offering to pay the landowner the appraised value of the condemned land plus an amount for damages to the remaining land that is not taken. If the landowner does not accept the department's offer, the landowner may appeal to a special commissioners court appointed by a judge to decide on the matter. The department cannot take possession of the condemned land until the commissioners court has made an award, and the long delays result in increases in costs. The provision would have allowed the department to deposit the appraised value with the court, serve notice, and take possession of the land before the commissioners court ruling. The legislature did not adopt this provision because of concern that early possession would diminish the due process rights of property owners although the legislature adopted the same provision for land acquired by the Texas Turnpike Authority.

### **Fiscal Impact**

The bill's provisions have a net loss to total state revenue of \$390,015 in fiscal year 1992 and \$382,895 in each fiscal year from 1993 through 1996. The impact to the state highway fund is a net loss of \$380,115 in fiscal year 1992 and \$372,995 in each fiscal year from 1993 to 1996. The public transportation fund will have a net loss of \$9,900 in each fiscal year from 1992 to 1996. The bill will not affect the general revenue fund. Most of the costs resulted from the establishment of salaries for highway commission members and from a conditional grant program established to provide financial assistance for minority students to become engineers and to work for the department.



Bill Summary  
Enrolled Version

**STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION**

S. B. 352 by Barrientos

Bill Reference	Provision
Page 1, Line 11	Changes the sunset review date for the department to December 31, 1991 and specifies that no further review by the Sunset Commission would be required.
Page 1, Line 16 Page 36, Line 10 Page 40, Line 10	Requires the agency's participation in the competitive cost review program operated through the State Purchasing and General Services Commission and limits participation to one activity for the first two years.
Page 1, Line 23 thru Page 3, Line 10	Creates a public transportation advisory committee.
Page 3, Line 13 thru Page 4, Line 6	Requires transfer of highway safety funds for EMS to the Health Department by interagency contract and voids the contract if disallowed by the federal government.
Page 4, Line 9	Establishes a program to increase revenues through enhanced leasing activities and requires a management audit every 12 years.
Page 5, Line 3	Specifies that no two members of the highway commission shall live in the same geographic area of the state.
Page 5, Line 7 Page 41, Line 1	Specifies that one member of the highway commission must reside in a rural area.
Page 5, Line 14 thru Page 6, Line 8	Provides definitions of a public member. (ATB)
Page 6, Line 9 Page 7, Line 12 Page 11, Line 6	Provides specific provisions relating to conflicts of interest. (ATB)
Page 6, Line 17 Page 11, Line 21	Provides that a person registered as a lobbyist may not act as general counsel to the commission or serve as a member of the board. (ATB)
Page 6, Line 22	Requires that appointments to the commission shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)

S. B. 352 by Barrientos  
(cont.)

Bill Reference	Provision
Page 6, Line 25 thru Page 7, Line 4 Page 12, Line 10	Requires the agency to provide information on standards of conduct to commission members and employees. (ATB)
Page 7, Line 5	Provides definitions of terms for this chapter.
Page 7, Line 20 thru Page 8, Line 16	Specifies grounds for removal of a commission member. (ATB)
Page 9, Line 7	Requires the commission to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 9, Line 14	Requires the commission to develop and implement policies which clearly separate commission and staff functions. (ATB)
Page 9, Line 19 thru Page 10, Line 12	Provides for notification and information to the public concerning commission activities. (ATB)
Page 10, Line 13	Requires files to be maintained on written complaints. (ATB)
Page 10, Line 16	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 10, Line 21	Provides for public testimony at commission meetings. (ATB)
Page 10, Line 25 thru Page 11, Line 3	Requires development of accessibility plan. (ATB)
Page 12, Line 1	Requires the commission to establish skill-oriented career ladders. (ATB)
Page 12, Line 6	Requires a system of merit pay based on documented employee performance. (ATB)
Page 12, Line 17 thru Page 13, Line 16 Page 39, Line 8	Requires development of an E.E.O. policy. (ATB)
Page 14, Line 18 thru Page 16, Line 3 Page 13, Line 17	Requires the department to increase efforts to recruit and hire minority employees and to report progress in this area to the legislature and the Sunset Commission.

S. B. 352 by Barrientos  
(cont.)

Bill Reference	Provision
Page 16, Line 6 thru Page 17, Line 10	Requires the department to set DBE contracting goals and establishes a disadvantaged business program for state or federally funded contracts, including construction, maintenance, supply, and service contracts.
Page 17, Line 14 thru Page 19, Line 9	Authorizes the department to lease highway assets and specifies terms of the department's leases.
Page 19, Line 14 thru Page 21, Line 4	Authorizes the department and cities and counties to purchase the rights to lease property if the owner is unable to lease the property because it is to be acquired for highway purposes.
Page 21, Line 8 thru Page 22, Line 7	Requires the commission to adopt rules relating to the process for performing environmental impact reviews on transportation projects that are not subject to review under the National Environmental Policy Act.
Page 22, Line 8	Establishes a six-member advisory committee to assist in developing rules for environmental impact reviews.
Page 22, Line 22 thru Page 24, Line 10	Requires the department to adopt memoranda of understanding with the state's historical, archaeological, and natural resource agencies to provide interagency coordination in the environmental review process.
Page 24, Line 11	Authorizes the department to participate in a regional habitat conservation plan if it acquires habitat for an endangered species for transportation project within the boundaries of the plan.
Page 24, Line 23 thru Page 26, Line 10	Requires the department to designate statewide and district bicycle coordinators, requires the commission to adopt rules on enhancing the use of highways by bicyclists, and establishes a temporary advisory committee to assist in developing the rules.
Page 26, Line 13 thru Page 27, Line 19 Page 40, Line 20 Page 41, Line 9	Directs the department to maximize the use of reclaimed asphalt, when feasible, by removing and recycling the hot mix asphalt for roads being repaved.
Page 27, Line 22 thru Page 28, Line 2	Requires the department to inform members of the legislature of the location and completion date of major road projects within their county.

S. B. 352 by Barrientos  
(cont.)

Bill Reference	Provision
Page 28, Line 5	Requires the department to review proposed roadway projects each year to determine if they can handle projected traffic resulting from international trade.
Page 28, Line 18	Requires the highway commission to hold annual hearings on its highway project selection process.
Page 30, Line 5	Requires the department to adopt rules providing for public comment on highway projects adding lanes to an existing road, on the construction of a highway on a new location, or on projects when land-use and traffic conditions have changed significantly from the first public comment.
Page 33, Line 15	Removes statutory limitations on salaries for members of the highway commission to allow any salaries to be set through the appropriations process.
Page 34, Line 7	Increases the load limits for vehicles transporting ready-mixed concrete.
Page 36, Line 14	Authorizes local governments that have the authority to build roads to finance the construction of an approved project for the state highway system and to be reimbursed by the department if funds become available.
Page 36, Line 22 thru Page 40, Line 9	Establishes a conditional grant program for the highway department, under which the department provides financial assistance to eligible minority students to attend school to become civil engineers and to work for the department for two years after receiving their degree.
Page 41, Line 11	Sets September 1, 1991 as the effective date of the Act.
Page 41, Line 12	Emergency clause.

**TEXAS BOARD OF IRRIGATORS**  
S. B. 544 by Henderson

***Final Action: The Texas Board of Irrigators was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 544, as introduced, contained the Sunset Commission's recommendations for the Texas Board of Irrigators. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Require the governor to designate the board's chairman.** The chairman of the board will be appointed by the governor rather than the board. Granting the governor this power will provide accountability of the board to the governor and ensure continuity of the governor's policies.

**Consolidate licensing and enforcement authority and expand the board's disciplinary sanctions.** The enforcement of landscape irrigations laws and regulations was transferred from the Texas Water Commission to the Texas Board of Irrigators. The transfer consolidates licensing and enforcement authority within one agency, which gives the board the same powers that are found in other licensing agencies. The board's disciplinary sanctions were also broadened, which allows the board to base sanctions on the seriousness of the violation.

**Authorize the board to assess administrative penalties.** The board was authorized to assess administrative penalties against licensees of up to \$1,000 per violation. Administrative penalties will enhance the board's enforcement powers and provide a new option for more severe violations.

**Authorize the board to adopt landscape irrigation standards.** The board was allowed to set standards for landscape irrigation, including standards for water conservation, system design and installation, and conforming with municipal codes. These standards will improve the quality of landscape irrigation systems by providing a uniform practice code. However, the bill prohibits the board from adopting standards or rules that would require the use of specific brands or equipment manufacturers.

**Certify licensing exam instructors.** The board was granted the power to certify preparatory exam course instructors on a voluntary basis. However, the board must provide a list of both certified and uncertified instructors to exam applicants. Current and

former board members and employees are also prohibited from teaching preparatory exam courses for up to a year after leaving the board.

### **Comparison of Sunset Commission Legislation with Final Legislation**

Most of the standard sunset across-the-board recommendations proposed by the commission were included in the final bill. However, the commission's recommendation to create a standard timeframe for renewing delinquent licenses was changed. Licensees may renew their license within 90 days. After 90 days, the licensee must go through the initial license application process.

All of the Sunset Commission's specific program recommendations remained in the final bill.

### **Fiscal Impact**

The bill's provisions have a net loss to total state revenue of \$3,129 in fiscal year 1992 and in each fiscal year from 1993 through 1996. The bill does not affect to the general revenue fund.

Bill Summary  
Enrolled Version  
**TEXAS BOARD OF IRRIGATORS**  
S. B. 544 by Henderson

Bill Reference	Provision
Page 1, Line 14	Requires appointments to the board to be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 1, Line 20 thru Page 2, Line 12	Provides a definition of a public member. (ATB)
Page 2, Line 15	Technical correction.
Page 2, Line 22	Requires the governor to designate the chairman.
Page 3, Line 3 thru 12	Technical corrections.
Page 3, Line 13 thru Page 4, Line 9	Specifies grounds for removal of a board member. (ATB)
Page 4, Line 10 thru Page 5, Line 6	Establishes specific provisions relating to conflicts of interest. (ATB)
Page 5, Line 10 Page 12, Line 21 Page 13, Line 18 Page 14, Line 8 thru Page 15, Line 11	Transfers enforcement authority over licensees from the Texas Water Commission to the Texas Board of Irrigators.
Page 5, Line 22	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 6, Line 1	Requires the board to develop and implement policies that clearly separate board and staff functions. (ATB)
Page 6, Line 4	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 6, Line 9	Requires a system of merit pay based on documented employee performance. (ATB)
Page 6, Line 13 thru Page 7, Line 9	Requires development of an E.E.O. policy. (ATB)

S. B. 544 by Henderson  
(cont.)

Bill Reference	Provision
Page 7, Line 13	Requires the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 7, Line 25 thru Page 8, Line 10	Requires the board to revise restrictive rules or statutes relating to advertising and competitive bidding practices that are not deceptive or misleading. (ATB)
Page 8, Line 11	Provides for public testimony at agency meetings. (ATB)
Page 8, Line 15	Requires development of accessibility plan. (ATB)
Page 8, Line 19 thru Page 9, Line 6	Provides for notification and information to the public concerning board activities. (ATB)
Page 9, Line 8	Authorizes the board to adopt a system of voluntary continuing education. (ATB)
Page 9, Line 12	Technical correction.
Page 9, Line 24	Removes a licensing disqualification that is not easily determined. (ATB)
Page 10, Line 5	Provides for licensing by endorsement rather than reciprocity. (ATB)
Page 10, Line 21 thru Page 12, Line 20	Requires standard time frames for licensees who are delinquent in renewal of licenses. (ATB)
Page 12, Line 21 thru Page 13, Line 17	Authorizes the board to use a full range of penalties. (ATB)
Page 13, Line 4	Specifies board hearing requirements. (ATB)
Page 13, Line 21	Technical correction.
Page 13, Line 27	Requires files to be maintained on complaints. (ATB)
Page 14, Line 3	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 15, Line 12	Changes the sunset review date for the Texas Board of Irrigators to 2003.

S. B. 544 by Henderson  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 15, Line 17	Provides that changes in qualifications for appointment to the board made by this bill apply only to members appointed after September 1, 1991.
Page 15, Line 21	Establishes the effective date of the Act as September 1, 1991.
Page 15, Line 22	Emergency clause.



**TEXAS COMMISSION ON JAIL STANDARDS**  
S. B. 380 by Carriker

***Final Action: The Texas Commission on Jail Standards was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 380, as introduced, contained the Sunset Commission's recommendations for the Texas Commission on Jail Standards. All of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Change the composition of the commission to require one commission member be a county commissioner and provide for representation of smaller counties on the commission.** The agency has a nine-member commission composed of a county judge, one sheriff from a county of more than 200,000 population, one sheriff from a county of 200,000 or less, a licensed practitioner of medicine, and five public members who hold no other public office. The Sunset Commission recommended, and the legislature adopted, that one of the five public member positions be changed to be a county commissioner. The county commissioner member will strengthen the representation of county courts which are the policy-making and budgetary authorities for county governments. Two other changes ensure that smaller counties are represented on the commission. The population break for the two sheriffs was changed from 200,000 to 35,000 and at least one of the four public members must be from a county with a population of 35,000 or less.

**Require the commission to collect fees for construction documents review and inspections of jails with capacities of 100 or more and that have 30 percent or more prisoners from out-of-state jurisdictions.** Based on a recommendation of the Sunset Commission, the Commission on Jail Standards is required to set and charge fees for review and inspection of jails that are being built or operated to hold out-of-state prisoners. Fees amounts will be those necessary to recover the costs of these activities. The fees would be charged only to county and contractor operated municipal jails with capacities of 100 or more that have 30 percent or more of their rated bed space used by prisoners under contract with out-of-state governmental units. These facilities do not just serve as traditional jails but are operated substantially as income enterprises for the local governments.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 380 with the original sunset bill as introduced shows that all standard sunset across-the-board and specific program recommendations proposed by the commission are included in the final bill.

### **Fiscal Impact**

The provisions in S.B. 380 have a net gain to the general revenue fund of \$35,819 in each fiscal year from 1992 through 1996. These additional revenues will result because of additional fees collected.

Bill Summary  
Enrolled Version  
**TEXAS COMMISSION ON JAIL STANDARDS**  
S. B. 380 by Carriker

Bill Reference	Provision
Page 1, Line 10	Changes the sunset review date for the agency to 2003.
Page 1, Line 16	Changes the county population requirements for sheriffs appointed to the commission.
Page 1, Line 18	Requires one member of the commission be a county commissioner; replaces a public member.
Page 1, Line 22	Requires that at least one of the public members be from a county with a population of 35,000 or less.
Page 2, Line 14	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 2, Line 19 thru Page 3, Line 16	Specifies grounds for removal of a board member. (ATB)
Page 3, Line 19 thru Page 4, Line 13	Provides specific provisions relating to conflicts of interest. (ATB)
Page 4, Line 14	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 4, Line 22	Requires that the governor designate the presiding officer of the commission.
Page 4, Line 25 thru Page 5, Line 3	Technical correction.
Page 5, Line 7	Provides for public testimony at agency meetings. (ATB)
Page 5, Line 13 Page 5, Line 23 thru Page 6, Line 13	Provides for notification and information to the public concerning board activities. (ATB)
Page 5, Line 19	Requires development of accessibility plan. (ATB)
Page 6, Line 14	Requires files to be maintained on complaints; clarifies that the provision does not apply to complaints from prisoners in county and municipal jails. (ATB - Modified)

S. B. 380 by Carriker  
(cont.)

Bill Reference	Provision
Page 6, Line 23 thru Page 7, Line 2	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 7, Line 5	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 7, Line 10	Requires that the policy body of an agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 7, Line 13	Requires the board to establish skill-oriented career ladders. (ATB)
Page 7, Line 17	Requires a system of merit pay based on documented employee performance. (ATB)
Page 7, Line 21 thru Page 8, Line 19	Requires development of an E.E.O. policy. (ATB)
Page 8, Line 22 thru Page 10, Line 3	Requires the commission to charge fees for construction documents review and inspections of jails with capacities of 100 or more that have 30 percent or more prisoners from out-of-state jurisdictions. Creates an inspection account in the general revenue fund.
Page 10, Line 7	Technical correction.
Page 9, Line 12	Requires the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 10, Line 18	Requires that the appointment to the commission of a county commissioner shall be made to fill the first vacancy of a position held by a public member.
Page 11, Line 1	Requires that changes made in the qualifications of commission members apply only to appointments made on or after the effective date of the Act.
Page 11, Line 5	Requires that the first E.E.O. policy statement shall be filed before November 1, 1991.
Page 11, Line 8	Creates the effective date of the Act.
Page 11, Line 9	Emergency provision.

**BOARD OF LAW EXAMINERS**  
S. B. 359 by Green

***Final Action: The Board of Law Examiners was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 359, as introduced, contained the Sunset Commission's recommendations for the Board of Law Examiners. All but one of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Provide persons with disabilities equal access to the bar examination.** The Sunset Commission, and the legislature adopted, a provision requiring the board to provide persons with disabilities equal access to the bar examination. Requiring the board to provide facilities for persons with disabilities in each city where a bar exam is administered ends a practice whereby persons with disabilities have had come to Austin to take the exam while other applicants have been able to choose their exam site.

**Eliminate citizenship as a prerequisite to take the bar exam.** Based on a recommendation of the Sunset Commission, the bill included a prohibition against denial of an applicant to the bar exam based on the applicant's lack of U.S. citizenship or permanent residency status. Removal would allow persons attending law school on a student visa to take the bar exam.

**Establish an exam and licensing procedure for applicants with substance abuse problems.** The final bill contained procedures for the board to follow when dealing with an applicant suffering from a substance abuse problem. The procedure was seen as necessary because of the lack of a standard procedure for the board to follow for applicants in this category. The procedure placed in the bill requires an applicant with a suspected problem to submit to an evaluation and provides for assistance through a program of the state bar. The board cannot deny such an applicant the opportunity to take the bar exam solely because of the substance abuse problem. If the applicant passes the bar exam, the board can issue a temporary license contingent on terms and conditions specified by the board. A person with this temporary license must complete a treatment program and remain chemically free for two years to qualify for a permanent law license.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 359 with the original sunset bill, as introduced, shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

With the following exception, the Sunset Commission's specific program recommendations remained in the final bill.

***Eliminate the use of district committees in the character and fitness.*** The Sunset Commission recommended eliminating the use of district committees in determining the character and fitness of bar exam applicants. The use of committees added little benefit to the character and fitness process as few problems are ever actually found by the committees during their investigative process. The district committees were continued in the final bill because of recent activity by the committees that was seen as valuable to the character and fitness process. In addition, the legislature added a provision requiring the supreme court, in its appointments to district committees, to attempt to ensure full and fair representation of the general public, including women, minorities, and retired persons.

### **Fiscal Impact**

The bill's provisions have a net cost to the board of \$7,020 in each fiscal year from through 1996. The cost of implementing the new procedures for applicants with substance abuse problems could not be determined at the time of this report. Any costs would be covered by fees generated by the board. The bill has no impact to the general revenue fund or other funds in the state treasury.

Bill Summary  
Enrolled Version  
**BOARD OF LAW EXAMINERS**  
S.B. 359 by Green

Bill Reference	Provision
Page 1, Line 8	Changes the expiration of board member terms of office to August 31 instead of September 30. (Minor modification)
Page 1, Line 14 thru Page 2, Line 15	Specifies grounds for removal of a board member. (ATB modified)
Page 2, Line 18	Requires the board to provide facilities for persons with disabilities in each city where a bar examination is administered.
Page 2, Line 25 thru Page 3, Line 7	Changes the sunset review date for the board to December 31, 1991.
Page 3, Line 11	Requires the board to establish skill-oriented career ladders. (ATB)
Page 3, Line 16	Requires the executive director or a designee to develop a system of merit pay based on documented employee performance. (ATB)
Page 3, Line 20	Requires the board to provide information on standards of conduct to board members and employees. (ATB)
Page 3, Line 25 thru Page 4, Line 2	Requires that the board develop and implement policies which clearly separate board and staff functions. (ATB)
Page 4, Line 3 thru Page 5, Line 1	Requires the executive director or a designee to develop an E.E.O. policy. (ATB modified)
Page 5, Line 2	Provides for notification and information to the public concerning board activities. (ATB modified)
Page 5, Line 6	Provides for public testimony at agency meetings. (ATB modified)
Page 5, Line 13	Requires development of accessibility plan. (ATB modified)

S.B. 359 by Green  
(cont.)

Bill Reference	Provision
<p>Page 5, Line 24 thru Page 6, Line 23 Page 7, Line 18 thru Page 8, Line 14 Page 10, Line 11 thru Page 13, Line 10</p>	<p>Establishes procedures for the board to follow when dealing with an applicant suffering from a substance abuse problem. Requires an applicant with a suspected problem to submit to an evaluation and provides for assistance through a program of the state bar. The board cannot deny such an applicant the opportunity to take the bar exam solely because of the substance abuse problem. If the applicant passes the bar exam, the board can issue a temporary license contingent on terms and conditions specified by the board. A person with this temporary license must complete a treatment program and remain chemically free for two years to qualify for a permanent law license.</p>
<p>Page 7, Line 4</p>	<p>Prohibits denial of an applicant to the bar examination based on the applicant's lack of U.S. citizenship or permanent residency status.</p>
<p>Page 8, Line 20</p>	<p>Requires the supreme court, in its appointments, to attempt to ensure full and fair representation of the general public, including women, minorities, and retired persons.</p>
<p>Page 9, Line 3</p>	<p>Requires the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB modified)</p>
<p>Page 9, Line 15 thru Page 10, Line 8</p>	<p>Deletes outdated admission standards for foreign attorneys and requires the supreme court to make rules and regulations governing admission of attorneys from other jurisdictions to practice law in this state.</p>
<p>Page 13, Line 11</p>	<p>Instructional provision that stipulates that the expiration date for board members' terms of office applies only to terms expiring in 1993 and subsequent odd-numbered years.</p>
<p>Page 13, Line 16</p>	<p>Instructional provision that requires that the first EEO policy statement required by Section 82.007 is to be filed before November 1, 1991.</p>
<p>Page 13, Line 19</p>	<p>Repeals Section 82.026 which removes obsolete language pertaining to requirements for out-of-jurisdiction attorneys.</p>
<p>Page 13, Line 20</p>	<p>Provides for the effective date of the Act to be September, 1991.</p>
<p>Page 13, Line 21</p>	<p>Emergency clause.</p>

TEXAS MOTOR VEHICLE COMMISSION  
H. B. 524 by Cain

***Final Action: The Texas Motor Vehicle Commission was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

House Bill 524, as introduced, contained the Sunset Commission's recommendations for the Texas Motor Vehicle Commission. All of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Increase the size of the commission from six to nine members.** The legislature expanded the size of the commission from six to nine members. The increased number will allow more areas of the state to be represented on the commission.

**Require the governor to appoint the chair.** The legislature adopted the recommendation of the Sunset Commission that the governor appoint the chair of the commission. Currently, the commission's chair is selected by its members. This approach does not provide the most direct method of ensuring continuity of policy or accountability to the state's chief executive officer. Designation of the chair by the governor would promote accountability between the commission and the governor.

**Ease the burden of proof for consumers seeking recovery under the lemon law.** Currently consumers who want to return a defective car under the state's lemon law must prove that there is substantial impairment of both use and market value. In cases where the defect only decreases the vehicle's value but not its use, the consumer may be stuck with a car that can be sold for a fraction of the original cost. To change this situation, the legislature adopted the Sunset Commission recommendation that consumers be required to prove only one of the conditions to recover.

**Provide for the recovery of expenses related to a defective motor vehicle.** The Sunset Commission recommended that consumers be allowed to recover up to \$200 of incidental expenses they incur related to a defective motor vehicle. Often a consumer will incur expenses such as alternate transportation, telephone calls, towing, and lodging as a result of a defective vehicle. Current law does not provide for any reimbursement for such expenses. The legislature adopted the recommendation but removed the specific dollar limit. Instead, the Motor Vehicle Commission is authorized to define the types of eligible

costs and amounts that are eligible for recovery. The change will ensure that consumers are duly compensated for incidental costs associated with owning a defective vehicle.

**Shorten the time for resolving lemon law complaints.** The legislature adopted the Sunset Commission recommendation that the agency must Act on lemon law complaints within 150 days from the date the complaint is filed with the agency. Failure of the agency to act allows the consumer to file a private lawsuit under the provisions of the lemon law. Current law prohibits a consumer from seeking any recovery for a defective vehicle through a private lawsuit under the provisions of the lemon law until all administrative remedies are exhausted. In the past, many complaints have gone unresolved for more than a year causing the consumer to contend with a defective vehicle with no alternative course of action. The change will encourage the agency to reduce the time it takes to resolve a lemon law case.

**Require disclosure of defects on vehicles that are repurchased under the lemon law.** The legislature modified and adopted the Sunset Commission recommendation that subsequent purchasers of vehicles returned under the lemon law be told of the defects that caused the return. Prior to this change, a buyer had no warning that the car had been determined to be defective under the lemon law.

**Increase the time consumers can be protected under the lemon law.** Current law allows recovery under the lemon law for either the terms of the manufacturer's express warranty, 12,000 miles, or 12 months, whichever comes first. The legislature thought the time was too short and adopted a provision which increases the time to 24,000 miles or 24 months, thus substantially increasing protection for consumers.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of H.B. 524 with the original sunset bill as introduced shows that all standard sunset across-the-board and specific program recommendations proposed by the commission are included in the final bill.

### **Fiscal Impact**

The provisions in H.B. 524 result in a net gain to the general revenue fund of \$9,000 in each fiscal year from 1992 through 1996.

Bill Summary  
Enrolled Version  
**TEXAS MOTOR VEHICLE COMMISSION**  
H. B. 524 by Cain

Bill Reference	Provision
Page 1, Line 8	Removes the phrase "unless the context requires a different definition" from the introductory language for the definitions used in the Act.
Page 1, Line 24 thru Page 2, Line 2	Changes the definition of new motor vehicle by adding that it shall be without regard to its mileage and removes reference to retail sale as defined in the Tax Code. Retail sale is defined separately later in the Act.
Page 2, Line 3	Technical change to clarify the definition of person.
Page 3, Line 5	Adds language to the definition of franchise to have it include any written communication from a franchisor that imposes a duty on the franchisee.
Page 5, Line 21	Adds a new definition of retail sale.
Page 5, Line 27 thru Page 6, Line 2	Adds a new definition of warranty work to mean parts, labor, and any other expenses incurred by a dealer in complying with the terms of a manufacturer's or distributor's warranty.
Page 6, Line 10	Changes the sunset review date for the commission to December 31, 1991.
Page 6, Line 20	Increases the size of the commission from six members to nine.
Page 6, Line 26 thru Page 7, Line 1	Requires the governor to designate the chair.
Page 7, Line 14	Provides for public testimony at agency meetings. (ATB)
Page 7, Line 21 thru Page 8, Line 15	Specifies grounds for removal of a commission member. (ATB)
Page 8, Line 23	Requires the commission to develop and implement policies which clearly separate board and staff functions. (ATB)
Page 8, Line 26 thru Page 9, Line 3	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 9, Line 7 thru Page 10, Line 6	Requires specific provisions relating to conflicts of interest. (ATB)

H. B. 524 by Cain  
(cont.)

Bill Reference	Provision
Page 10, Line 10	Places agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process. (ATB)
Page 10, Line 15	Updates language that requires the commission to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 11, Line 1	Updates language that requires all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 11, Line 15	Updates language that requires the agency to establish skill-oriented career ladders. (ATB)
Page 11, Line 24 thru Page 13, Line 16	Updates language that requires development of an E.E.O. policy. (ATB)
Page 14, Line 2	Requires development of accessibility plan. (ATB)
Page 14, Line 12	Excepts certain lemon law orders and decisions from commission action. Places the authority with the executive director in following sections of the Act.
Page 14, Line 14	Adds language that allows either the chairman or vice-chairman of the commission to sign orders and decisions and removes the authority from the executive director, but requires the executive director to attest such actions.
Page 14, Line 19 thru Page 15, Line 10	Places requests for rehearing of a commission order under the Administrative Procedure and Texas Register Act and deletes language made unnecessary by the change.
Page 15, Line 17	Requires a dealer to obtain a new license from the commission for a new location of a dealership before a dealer can change the location of a dealership.
Page 15, Line 25 thru Page 16, Line 18	Increases the amounts for all fees charged by the commission and creates a new fee for amendments to a dealer's license.
Page 17, Line 2 thru Page 18, Line 6	Authorizes the commission to use a full range of penalties. (ATB)
Page 18, Line 12	Requires dealers to provide notice of lemon law complaint procedures to each new vehicle buyer.

H. B. 524 by Cain  
(cont.)

Bill Reference	Provision
Page 26, Line 23 thru Page 27, Line 8	Changes the basis on which manufacturers and distributors repurchase motor vehicles in inventory from dealers upon the termination of the franchise. Establishes a formula wherein vehicles with 6,000 miles or less are reduced in proportion to the dealer's cost of the vehicle and vehicles with over 6,000 are not required to be repurchased. Provides that vehicles that cannot be reduced under the formula shall be repurchased at the dealer's net cost.
Page 27, Line 24	Adds data processing equipment to the list of items manufacturers and distributors must repurchase from dealers upon termination of a franchise.
Page 28, Line 4	Adds storage costs of any property to be repurchased upon termination to the costs that manufacturers and distributors must pay to dealers. Adds language that specifies that after 90 days manufacturers and distributors must reimburse dealers for storage costs for any property repurchased upon termination.
Page 29, Line 26 thru Page 30, Line 1	Prohibits manufacturers and distributors from requiring dealers to adhere to unreasonable sales and service standards.
Page 30, Line 2	Adds a provision that would make it unlawful for a manufacturer or distributor to unreasonably discriminate between or among franchisees in the sale of a motor vehicle owned by the manufacturer or distributor.
Page 30, Line 5	Adds a provision that prohibits manufacturers and distributors, or an entity owned or controlled by the manufacturer or distributor, from requiring a purchaser to purchase any products other than a motor vehicle from the manufacturer or distributor or their entities.
Page 30, Line 11	Adds language that prohibits manufacturers and distributors to require any insurance policy or service contract be purchased from a specific source by the consumer as a condition of manufacturer's or distributor's financing agreement with the dealer.
Page 30, Line 16	Adds language that prohibits manufacturers and distributors to compel a dealer to agree to unreasonable operating requirements or directly or indirectly terminate a dealer through the actions of a financing subsidiary of a manufacturer or distributor.

H. B. 524 by Cain  
(cont.)

Bill Reference	Provision
Page 31, Line 2	Technical change to clarify that a valid dealer's license is required to engage in the business of buying, selling or exchanging new motor vehicles; deletes definition of "engage in the business of buying, selling or exchanging new motor vehicles".
Page 31, Line 19 thru Page 32, Line 12	Sets standard criteria for administrative penalties and renumbers subsections accordingly.
Page 32, Line 16	Adds language that each party to a franchise agreement owes a duty of good faith and fair dealing to the other party and the duty is actionable in tort.
Page 32, Line 26	Expands the definition of "owner" under the lemon law section of the act to include a retail purchaser, lessor, and lessee of a motor vehicle.
Page 33, Line 12 thru Page 34, Line 1	Adds language that clarifies the responsibilities of manufacturers and distributors to make necessary repairs even after the warranty period expires if certain rebuttable presumptions are created, and deletes the limitation of the earlier of one year or the manufacturer's or distributor's express warranty for a consumer's eligibility for recovery under the lemon law.
Page 34, Line 5 Page 35, Line 14 Page 36, Line 5	Adds serious safety hazards to grounds for lemon law recovery and adds a definition of serious safety hazard. Reduces the number of repair attempts for eligibility under the lemon law from four to two.
Page 34, Line 6	Eases the burden of proof for lemon law recovery eligibility and defines impairment of market value.
Page 34, Line 15	Authorizes payment for incidental damages in lemon law cases. Requires the commission to define eligible incidental costs and authorizes the commission to set maximum amounts either by type of eligible cost or a total for all costs.

H. B. 524 by Cain  
(cont.)

Bill Reference	Provision
Page 35, Line 23 thru Page 36, Line 22	Changes the rebuttable presumptions for the consumer's period of eligibility for recovery under the lemon law to up to two years or 24,000 miles if certain conditions are met. Requires the consumer to make at least four such attempts, two of which must occur within the first 12 months or 12,000 miles, whichever comes first, following the date of original delivery to the consumer if the course of recovery a consumer uses is the number of repair attempts. Also requires that after the first two attempts have been made, the remaining two must occur within the 12 months or 12,000 miles immediately following the second repair attempt. Requires that, in cases of serious safety hazards, at least two attempts are required, and one of those must occur within the 12 months or 12,000 miles; the second attempt must occur within 12 months or 12,000 miles immediately following the first repair attempt. Requires that, if a consumer's recovery is based on the amount of time the vehicle is out of service, the vehicle must be out of service at least 30 days in 24 months or 24,000 miles, whichever comes first, and at least two repair attempts must be made within the first 12 months or 12,000 miles. Allows the initial 12 months or 12,000 mile period to be extended in some circumstances.
Page 37, Line 3 Page 35, Line 2 Page 38, Line 21 thru Page 39, Line 2	Removes the requirement that the commission conduct lemon law hearings and places authority for conducting hearings and issuing orders with the executive director. Makes orders of the executive director to be considered final orders of the commission. Requires the commission to adopt rules for the enforcement and implementation of lemon law provisions.
Page 37, Line 24 thru Page 38, Line 20	Establishes a 150 day time line for resolving lemon law complaints. Defines procedures and places judicial review under the Administrative Procedure and Texas Register Act under the substantial evidence rule.
Page 39, Line 5	Adds language that an order of the executive director to require a dealer to reimburse an owner, lienholder, manufacturer, distributor, or convertor of a repurchased vehicle for dealer-added options is limited only to items and options that contributed to the order to repurchase.
Page 39, Line 8	Adds language that authorizes the executive director to terminate a lease and apportion the allowance for use and other allowances or refunds between the lessee and the lessor of the motor vehicle.

H. B. 524 by Cain  
(cont.)

Bill Reference	Provision
Page 39, Line 13	Changes the period for commencing proceedings under the lemon law from six months following the expiration of the express warranty or one year following original delivery of the vehicle to the owner to six months following the expiration of the express warranty or 24 months or 24,000 miles following original delivery of the vehicle to the owner.
Page 39, Line 16 thru Page 40, Line 9	Requires manufacturers, distributors, and convertors, through their representative dealer, to issue disclosure statements on repurchased or replaced vehicles stating the nature of defect and requires the statement to accompany the vehicle through the first retail sale. Requires a manufacturer, distributor, or convertors to restore the vehicle to factory specifications and issue a new 12,000 mile/24 month warranty. Requires the commission to provide a toll-free telephone number to consumers so the commission can provide information about the cause of the repurchase.
Page 40, Line 10	Requires the commission to annually publish a report on the motor vehicles ordered repurchased or replaced under the lemon law and specifies the requirements of the report and authorizes the commission to charge a reasonable fee to recover the cost of the report.
Page 40, Line 17	Adds language that prohibits certain alterations to motor vehicles that would lower their ground clearances below manufacturer's standards. Prohibits any such altered vehicle from passing required state inspection.
Page 40, Line 22	Requires that changes made in qualifications of commission members only apply to appointments made on or after September 1, 1991.
Page 40, Line 26 thru Page 41, Line 2	Requires first EEO policy statement required by the bill to be filed before November 1, 1991.
Page 41, Line 3	Defines the staggered terms for the appointment of the three new commission members.
Page 41, Line 8	Repeals out-dated sunset conflict-of-interest ATB language relating to commission members and the commission's general counsel.
Page 41, Line 11	Emergency clause and establishes effective date of Act to be upon passage and enactment of the Act.

**STATE PENSION REVIEW BOARD**  
S. B. 323 by Green

***Final Action: The State Pension Review Board was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 323, as introduced, contained the Sunset Commission's recommendations for the State Pension Review Board. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Make the board primarily responsible for providing actuarial information to the legislature on bills affecting public retirement systems.** The legislature modified the recommendation of the Sunset Commission to make the board's actuarial review process more like the Legislative Budget Board's fiscal note process. Under this provision, the board will request the public retirement systems to conduct the initial actuarial analyses of pension legislation and submit this information to the board for its review. Based on this information, the board will prepare an impact statement for the legislature, summarizing the actuarial effects of the legislation. If a retirement system fails to provide actuarial information, the board may conduct its own analysis and the system may reimburse the board for its costs. The board's impact statement will be the only information provided to the legislature regarding the actuarial effect of pension legislation. The systems' actuarial analyses will no longer be attached to the bill. This process will provide for greater independence of the board's work. In addition, the board would comment on the reasonableness of actuarial assumptions used by the systems as part of its impact statement.

**Require the board to provide an analysis of the overall impact of pension bills to the legislature.** The legislature modified the Sunset Commission's recommendation that the board provide information to the legislature on the overall impact of bills that affect the Teacher Retirement System, the Employees Retirement System, and the Law Enforcement and Custodial Officer Supplemental Retirement Fund. Under this provision, the board will request the systems to determine the overall impact of legislation and provide this information to the board for its review. The board will then develop an impact statement based on this information, summarizing the cumulative impact of these bills. If a system fails to provide information on overall impacts of legislation, the board may conduct its own analysis and the system may reimburse the board for its costs. (The Sunset Commission had recommended requiring that the costs be reimbursed by the system.) This provision will assure that the legislature receives information showing how the interaction of provisions in different bills will affect the public retirement systems. The legislature

will be better able to anticipate the overall effects of its decisions on the TRS, the ERS, and LECOSRF.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 323 with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

All of the Sunset Commission's specific program recommendations remained in the final bill.

### **Fiscal Impact**

The bill's provisions do not have fiscal implications to the state.

Bill Summary  
Enrolled Version  
**STATE PENSION REVIEW BOARD**  
S. B. 323 by Green

Bill Reference	Provision
Page 1, Line 9	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 1, Line 13 thru Page 2, Line 2	Requires public membership on boards and commissions. (ATB)
Page 2, Line 3	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 2, Line 10 thru Page 3, Line 7	Specifies grounds for removal of a board member. (ATB)
Page 3, Line 14	Changes sunset review date for the agency to December 31, 1991 and specifies that no further review by the Sunset Commission would be required.
Page 3, Line 21	Requires that the policy body of an agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 3, Line 24 thru Page 4, Line 2	Requires a system of merit pay based on documented employee performance. (ATB)
Page 3, Line 24 thru Page 5, Line 24	Requires development of an E.E.O. policy. (ATB)
Page 5, Line 12	Removes a time frame that is unnecessary.
Page 5, Line 15	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 6, Line 5	Requires the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 6, Line 13	Requires development of accessibility plan. (ATB)
Page 6, Line 18	Provides for public testimony at agency meetings. (ATB)
Page 6, Line 25	Technical correction.

S. B. 323 by Green  
(cont.)

Bill Reference	Provision
Page 7, Line 13	Makes timeframes consistent for reports to the board.
Page 8, Line 20 thru Page 12, Line 17	Makes the board primarily responsible for providing actuarial information on legislation.
Page 12, Line 20 thru Page 15, Line 10	Makes the board responsible for providing information on overall impact of pension legislation.
Page 15, Line 11	Deletes provision that qualifications for board members are required only at the time of appointment to the board. This provision is superseded by the sunset ATB regarding board member qualifications.
Page 15, Line 12	Clarifies that changes to board member qualifications apply only to members appointed after September 1, 1991.
Page 15, Line 16	Clarifies that the requirement that board members maintain qualifications applies only to board members appointed after September 1, 1991.
Page 15, Line 20	Requires the first EEO policy statement required by the bill to be filed before November 1, 1991.
Page 15, Line 23	Establishes the effective date of the Act at September 1, 1991.
Page 15, Line 24 thru Page 16, Line 3	Emergency clause.

**TEXAS REAL ESTATE COMMISSION**  
S. B. 432 by Green

***Final Action: The Texas Real Estate Commission was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 432, as introduced, contained the Sunset Commission's recommendations for the Texas Real Estate Commission. Most of these recommendations are in the final version of the bill and several new provisions were added during the legislative process. The major provisions in the final bill are described below.

**Require the governor to designate the chair of the commission.** As with all other agencies, the Sunset Commission recommended that the governor designate the chair of the commission to serve in that capacity at the pleasure of the governor. During the legislative process, the recommendation was limited so the governor can only designate one of the licensed board members as chair. This prevents the governor from choosing one of the three public members to serve as chair.

**Authorize the Commission to assess administrative penalties against licensees.** Based on a recommendation by the Sunset Commission, S.B. 432 authorizes the TREC to assess administrative penalties against its licensees for violations of the Texas Real Estate Act or commission rule. The commission only had the options of revocation, suspension, probation, or reprimand. The ability to assess fines has proven to be a useful and efficient tool to ensure compliance in less-serious violations without suspending the licensee's practice. All revenue generated from the fines, which are limited to up to \$1,000 per violation, is to be deposited to the two recovery funds that reimburse consumer losses.

**Increase maximum claim limits and require notice to consumers of the real estate recovery fund.** The Sunset Commission recommended several changes to the operations of the two recovery funds managed by TREC. The real estate recovery fund reimburses consumers of negligent or dishonest acts of brokers and salesmen while the real estate inspector recovery fund serves the same function for actions of real estate inspectors. The existing claim limits prevented the agency from reimbursing a significant portion of claims and many consumers were not aware of the availability of the fund. Consistent with the commission recommendations, the final bill increases the maximum claim limits for the real estate recovery fund from \$20,000 to \$50,000 for each incident and from \$50,000 to \$100,000 for each licensee. The bill also requires licensees to provide information to their clients about the availability of both recovery funds.

**Eliminate unnecessary restrictions on filing of consumer complaints.** An unusual restriction was eliminated concerning staff investigation of complaints against licensees. Unlike most regulatory programs, the TREC was required by state law to have all complaints notarized before the staff could begin an investigation. This often resulted in delays in investigations and in some cases resulted in complaints being dropped. Based on a recommendation by the Sunset Commission, the final bill removes the requirement that complaints from consumers or service recipients be notarized but continues the requirement that complaints be written and signed.

**Authorize transfer of excessive balances in recovery funds to operating funds.** The Sunset Commission recommended a process to identify excessively high balances in recovery funds and make them available for other purposes. A review of the history of the two recovery funds recognized that, due to the limited use of the funds, the balances in both funds would continue to grow unnecessarily unless such a process were established. The final bill sets a maximum balance for both funds. For the real estate recovery fund, the maximum is set at \$3.5 million or the total of claims paid in the previous four years, whichever is more, and the surplus is transferred to the general revenue fund. For the real estate inspector recovery fund, the maximum balance is set at \$600,000 and the surplus is transferred into a special account in the general revenue fund to be appropriated for activities relating to inspector regulation.

**Authorize an inactive license status for brokers.** The Sunset Commission recommended that a new licensing option be established for brokers who are not currently practicing brokerage but want to retain their license and the ability to re-enter the profession. Inactive license status is particularly useful to licensees who temporarily suspend their practice and do not want to continue with their education requirements while inactive. The final bill allows brokers to be on inactive status for 36 consecutive months without having to repeat initial license requirements to reactivate their license, but they must complete continuing education. To reactivate after 36 months, a licensee would have to comply with continuing education, initial education and examination requirements but not the experience requirements.

**Strengthen the licensing requirements for real estate inspectors.** State regulation of real estate inspectors was strengthened in the final bill. This profession serves an important consumer protection function in the real estate industry. The current educational requirements are limited and no experience is required for licensing. The final bill establishes an inspector advisory committee to advise the TREC in the regulation of inspectors; increases the educational requirements; establishes experience requirements involving an apprenticeship and "inspector-in-training" period prior to full licensure; requires mandatory continuing education; and requires current licensees to meet higher experience and education requirements by license renewal.

## **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 432 with the original sunset bill, as introduced, shows that all standard sunset commission across-the-board recommendations proposed by the commission were included in the final bill. Most of the Sunset Commission's specific recommendations remained in the final bill with the exception of three major recommendations that are described below.

**Transfer of real estate inspector regulation.** The Sunset Commission recommended transferring the regulation of real estate inspectors to the Texas Department of Licensing and Regulation. In contrast to brokers and salesmen who usually represent the seller, inspectors report on the condition of a home to a prospective buyer. The commission found that since the vast majority of TREC licensees are brokers and salesmen and the majority of the board are brokers, the agency did not provide a proper forum to regulate this important buyer protection function. The transfer was not adopted because of a concern that having real estate professionals licensed by different agencies would be confusing to the public and difficult to coordinate.

**Transfer of real estate appraiser regulation and modifications to the licensing requirements.** The Sunset Commission recommended transferring the regulation of real estate appraisers to the Texas Department of Licensing and Regulation. The commission also recommended several major changes to the regulatory program. The commission recommended this approach to bring the program into compliance with recent federal requirements that require that the regulation of brokers and appraisers be independent from each other. The provision was eliminated from the final bill because all the provisions except the transfer were contained in another bill that passed. That bill provides for an independent board for appraiser regulation instead of the transfer because of a concern that the transfer could impede the program's ability to meet pending federal deadlines.

**Require the appointment of a salesman to the commission.** The Sunset Commission recommended that one of the six broker positions on the commission be replaced with a position for a licensed salesman. The board is composed of six brokers and three public members. Although salesmen are the largest group regulated by the TREC, they are not represented on the policy body and have no direct method to shape policy decisions that affect their practice. The provision was eliminated from the final bill due to a concern that members of the policy body need extensive experience to responsibly carry out their duties.

## **Fiscal Impact**

The bill's provisions have a net loss to the state of \$101,292 in fiscal year 1992 and \$136,812 in each fiscal year from 1993 through 1996. The impact to the general revenue fund is a net gain of \$323,708 in fiscal year 1992 and \$38,188 in each fiscal year from 1993 to 1996. Much of the additional revenue flowing to the general revenue fund will come from transfers from other funds rather than from the generation of new revenues.



Bill Summary  
Enrolled Version

**TEXAS REAL ESTATE COMMISSION**

S. B. 432 by Green

Bill Reference	Provision
Page 1, Line 16	Changes the undefined term "agent" to "broker or salesman" to clarify the meaning of the provision.
Page 2, Line 9	Modifies the exemption from the license requirements for auctioneers to limit the exemption to just the actual calling of a sale.
Page 3, Line 20	Provides that the governor designates one of the broker members of the commission to serve as the chairman of the commission.
Page 4, Line 1 thru Page 5, Line 2	Technical correction to update standard language and include a state-elected "vice president" in the list of trade association officers covered by the standard conflict of interest provision. (ATB)
Page 5, Line 3 and Page 8, Line 17	Technical correction to update the requirement that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the commission or serve as a member of the commission. (ATB)
Page 5, Line 10	Technical correction to update the requirement that appointment to the commission shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 5, Line 15	Changes the archaic term "next preceding" to "immediately preceding" to clarify the provision.
Page 5, Line 17	Technical correction to update the requirement for public membership on the commission and the qualifications for a public member. (ATB)
Page 6, Line 13 thru Page 7, Line 2	Technical correction to update the language establishing the grounds for removal of a commission member. (ATB)
Page 7, Line 13	Removes old sunset ATB language that allows legislative committees to veto commission rules.
Page 8, Line 8	Removes outdated reference to the agency administrator as the "executive secretary."

S. B. 432 by Green  
(cont.)

Bill Reference	Provision
Page 8, Line 16	Technical correction to update the requirement for a system of merit pay based on documented employee performance. (ATB)
Page 8, Line 23 thru Page 9, Line 2	Requires the commission to establish skill-oriented career ladders. (ATB)
Page 10, Line 6	Technical correction to update the language requiring the commission to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 10, Line 9	Expands the types of fees that must be transmitted to the A&M Real Estate Research Center to include a portion of each license renewal for brokers and salesmen, not just on-time renewals.
Page 10, Line 24 thru Page 11, Line 6	Changes the sunset review date for the commission to December 31, 1991 and specifies that no review by the Sunset Commission is required other than that completed for the 72nd Legislature.
Page 11, Line 7	Technical correction to update the requirement to provide for public testimony at commission meetings. (ATB)
Page 11, Line 12 thru Page 12, Line 1	Technical correction to update the requirement for notification and information to the public concerning commission activities. Also, specifies that the notice required by this section may be combined with other notices required. (ATB)
Page 12, Line 5	Technical correction to update the requirement that the commission develop and implement policies that clearly separate commission and staff functions. (ATB)
Page 12, Line 8 thru Page 13, Line 6	Requires development of an E.E.O. policy. (ATB)
Page 13, Line 7	Requires the agency to provide information on standards of conduct to commission members and employees. (ATB)
Page 13, Line 12	Requires development of accessibility plan. (ATB)
Page 13, Line 12 thru Page 14, Line 3	Requires the commission to review and revise rules to allow advertising and competitive bidding practices that are not deceptive or misleading. (ATB)

S. B. 432 by Green  
(cont.)

Bill Reference	Provision
Page 14, Line 23	Technical correction to clarify that all core real estate courses are not required for initial licensure as a salesman or broker.
Page 17, Line 4	Technical correction to update the language providing for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date. (ATB)
Page 17, Line 15	Provides for an analysis, on request, to individuals failing the examination. (ATB)
Page 18, Line 11 thru Page 20, Line 21	Establishes a 30-day period for brokers to obtain an exemption from the continuing education requirements. Brokers must have 10 years experience, work in less populated counties, and pay a fee. Also, allows educational experience, video instruction, certain courses approved by the state bar, and core real estate courses to count towards fulfillment of continuing education requirement.
Page 21, Line 2	Increases claim limits for the real estate recovery fund and increases the minimum fund balances that trigger additional fee assessment. Also, requires excess balances in the fund to be transferred to the general revenue fund.
Page 22, Line 2	Requires notice to consumers of the availability of the real estate recovery fund.
Page 22, Line 20 thru Page 23, Line 2	Requires the commission to ask licensees about felony convictions on initial and renewal applications.
Page 23, Line 6 thru Page 24, Line 3	Authorizes an inactive license status for brokers.
Page 24, Line 9 and Page 30, Line 23	Eliminates the requirement that consumer complaints be verified before the staff can begin an investigation.
Page 29, Line 22, Page 32, Line 20, and Page 33, Line 3	Standardizes references to the Texas Real Estate Commission to instead be "commission".
Page 30, Line 6	Establishes a four-year statute of limitation on agency investigation of complaints.
Page 31, Line 4	Technical correction to update the language authorizing the commission to use a full range of penalties. (ATB)

S. B. 432 by Green  
(cont.)

Bill Reference	Provision
Page 31, Line 24 thru Page 32, Line 10	Repeals language concerning disclosure to buyers that was found to be in conflict with federal fair housing law and renumbers sections to remove duplicate numbering.
Page 34, Line 10	Specifies commission hearing requirements. (ATB)
Page 34, Line 21 thru Page 37, Line 10	Replaces language that defines the hearing and appeal process with language clarifying that the process is governed by the Administrative Procedures and Texas Register Act with the exception that the licensees' existing right to change venue will remain in statute.
Page 37, Line 15	Technical correction to update requirement that files be maintained on complaints. (ATB)
Page 37, Line 17 thru Page 38, Line 1	Technical correction to update requirement that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 38, Line 5 thru Page 43, Line 1	Authorizes administrative penalties against licensees of up to \$1,000 for each violation and requires fines to be deposited to the recovery funds.
Page 43, Line 3 thru Page 64, Line 13	Moves the statute for inspector regulation to a new section in the Act and reprints the statute as is currently in existing law with the following exceptions: establishes an inspector advisory committee; increases the educational requirements and establishes experience requirements; establishes two new license categories; requires continuing education; requires consumer notice of the real estate inspector recovery fund; increases the minimum balance for the recovery fund, establishes a maximum balance, and allows excess balances to be used for program operations; and provides for waiver of licensing requirements for those with a current license from another state with similar license requirements (ATB).
Page 64, Line 18 thru Page 65, Line 3	Authorizes workers compensation subscribers to elect not to cover a broker or salesman compensated solely on commission; but, if the employer elects, requires that such coverage be maintained while the policy is in force.

S. B. 432 by Green  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 65, Line 5	Repeals expired Section 21 from statute and repeals existing Section 18C (inspector regulation), which is reenacted in this bill under a new citation.
Page 65, Line 7	Instructional provision clarifying that changes made to commission member qualifications apply only to those members appointed after the effective date of the bill.
Page 65, Line 11	Instructional provision requiring that the first E.E.O. policy statement required by this bill be filed before Nov. 1, 1991.
Page 65, Line 15 thru Page 66, Line 23	Instructional provision for the changes made to inspector regulation. Provides for staggered terms for the new advisory committee members; requires current licensees to upgrade to new education and experience requirements; establishes a transitional license; and establishes requirements for sponsoring an apprentice.
Page 66, Line 24	Establishes the effective date of the Act as September 1, 1991.
Page 66, Line 25	Emergency provision.



## TEXAS NATIONAL RESEARCH LABORATORY COMMISSION

S. B. by 543 by Henderson

***Final Action: The Texas National Research Laboratory Commission was continued with changes.***

### Analysis of Major Provisions in the Final Bill

Senate Bill 543, as introduced, contained the Sunset Commission's recommendations for the Texas National Research Laboratory Commission (TNRLC). Most of the recommendations remained in the final version of the bill, along with new provisions added by the legislature. The major provisions in the final bill are described below.

**Require that appointments to the commission reflect diversity.** Several provisions were added by the legislature to the standard sunset language requiring appointments to the commission be made without regard to race, color, handicap, sex, religion, age or national origin of the appointee. One provision seems to be in direct contradiction to the sunset recommendation and requires the governor to attempt to appoint members of different minority groups including females. The other provision require that efforts be made to ensure that appointments reflect the population diversity and geographical areas of the state.

**Revise the authorization to issue revenue bonds so that state funds can be indirectly used to pay these bonds.** The commission is authorized to issue \$500 million in revenue bonds to fund the development of the super collider. Initially, the commission had anticipated that the source of revenue for repayment of the bonds would be state appropriations. However, direct general revenue appropriations to pay for revenue bonds is prohibited by the Texas constitution. To overcome this prohibition, the legislature developed a procedure where the commission could create a non-profit organization to issue the bonds and acquire facilities with the proceeds. The state would then lease the facilities from the non-profit corporation who would, in turn, use the lease payments to retire the bonds.

**Allow the commission to participate in federal self-insurance plans.** Under current law, the commission is required to ensure that all contractors and sub-contractors carry workers compensation insurance. There was no provision in current law to pool premiums and each contractor and sub-contractor would have had to secure coverage from a licensed Texas carrier. Many contractors and their subcontractors could not be insured and for others the costs would be enormous. The legislature felt this situation seriously jeopardized work on the super collider and also restricted the number and types of firms that could be hired. A provision was developed for the final bill which would allow everyone working on the project to come under one comprehensive policy. The policy is

basically a self-insurance arrangement with the federal government paying the claims as they occur.

**Require the commission to develop rules for its purchases that are similar in nature to purchasing rules for other state agencies.** Currently, the commission is not required to follow the same procedures as other agencies when making purchases. While this is appropriate for the purchase of many highly specialized pieces of scientific equipment, there is no reason that routine purchases should not meet some standard. The Sunset Commission proposed that the commission go through the State Purchasing and General Services Commission for routine purchases. The legislature modified this approach in the final bill to require the commission to adopt purchasing rules that conform with general state standards.

### **Comparison of Sunset Legislation with Final Legislation.**

A comparison of S. B. 543 with the original sunset bill, as introduced, shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

All of the Sunset Commission's specific program recommendations remained in the final bill, although several were modified.

### **Fiscal Impact**

The bill's provisions result in no fiscal impact to the state.

Bill Summary  
Enrolled Version

**TEXAS NATIONAL RESEARCH LABORATORY COMMISSION**

S. B. 543 by Henderson

Bill Reference	Provision
Page 1, Line 10 Page 1, Line 14	Technical correction.
Page 1, Line 17	Changes sunset review date for the Texas National Research Laboratory Commission to 2003.
Page 1, Line 20	Updates the section heading.
Page 2, Line 7	Specifies that every effort shall be made to ensure that the commission members represent the population diversity and all geographic areas of the state.
Page 2, Line 10	Provides for conflict-of-interest provisions for commission members. (ATB - modified)
Page 2, Line 24 thru Page 3, Line 1	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 3, Line 1	Specifies that the governor shall attempt to appoint commission members of different minority groups including females, African-Americans, Hispanic-Americans, Native Americans and Asian-Americans.
Page 3, Line 9 thru Page 5, Line 7 Page 11, Line 25 thru Page 21, Line 17 Page 23, Line 12 thru Page 25, Line 8	Clarifies the structure necessary to allow the commission to issue revenue bonds and clarifies that when an agency is abolished under the Sunset Act that the state's responsibility for an abolished agency's obligations is not limited to bonded indebtedness.
Page 5, Line 11	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 5, Line 17 thru Page 6, Line 13	Specifies grounds for removal of a board member. (ATB)
Page 6, Line 14 thru Page 7, Line 7	Requires the commission to establish a disadvantaged business program consistent with current state policy.

S. B. 543 by Henderson  
(cont.)

Bill Reference	Provision
Page 7, Line 8 Page 21, Line 22 thru Page 22, Line 12	Modifies the commission's exemption from state purchasing requirement.
Page 7, Line 14 thru Page 8, Line 15	Allows the federal government to establish self-insurance or rating plans in which persons who contract for work on the superconducting super collider may participate and specifies the duties of the commission and the State Board of Insurance related to self-insurance and rating plans.
Page 8, Line 16	Requires the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 8, Line 23 thru Page 9, Line 7	Requires the commission to establish policy and adopt rules according to APTRA.
Page 9, Line 8	Requires that the policy body of the agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 9, Line 11	Requires the board to establish skill-oriented career ladders. (ATB)
Page 9, Line 15 thru Page 10, Line 13	Requires development of an E.E.O. policy. (ATB)
Page 10, Line 14	Requires a system of merit pay based on documented employee performance. (ATB)
Page 10, Line 18	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 10, Line 23 thru Page 11, Line 1	Prohibits a commission member or the executive director from hiring a person if that person is related to a commission member by affinity within the second degree or by consanguinity within the third degree.
Page 11, Line 2	Provides for notification and information to the public concerning board activities. (ATB- modified)
Page 11, Line 7	Provides for public testimony at agency meetings. (ATB)
Page 11, Line 11	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)

S. B. 543 by Henderson  
(cont.)

Bill Reference	Provision
Page 11, Line 17	Requires files to be maintained on complaints. (ATB)
Page 11, Line 20	Requires development of accessibility plan. (ATB)
Page 22, Line 13 thru Page 23, Line 9	Exempts the commission from the full range of property inventory reporting requirements as required by the Real Property and Management Act.
Page 25, Line 11	Clarifies that mission-related purchases of the commission are also exempt from the Texas Department of Information Resources requirements.
Page 25, Line 21 thru Page 27, Line 25	Modifies the Engineering and Science Recruitment Fund by expanding the definition of institution of higher education to include a private college or university in the state; expands the uses of the fund to include establishing or operating programs to assist women and minority groups in preparing for careers in superconductivity research; and modifying the composition of the advisory committee to include the presiding officer of the House Science and Technology Committee and one person appointed by the presiding officer of the House Science and Technology Committee. In addition, the provision specifies that the presiding officer of the House Science and Technology Committee serves as an ex officio member of the advisory committee.
Page 28, Line 1	Requires the commission to adopt rules defining mission-related purchases by January 1, 1992.
Page 28, Line 6	Provides that changes affecting qualifications of commission members apply only to those members appointed after September 1, 1991.
Page 28, Line 10	Requires that the first EEO policy required to be filed by Sec. 465.112 be filed by November 1, 1991.
Page 28, Line 13	Establishes the effective date of the Act as September 1, 1991.
Page 28, Line 15	Establishes the effective date for the section which transfers non-mission related purchases to the State Purchasing and General Services Commission as January 1, 1992.
Page 28, Line 18	Emergency clause.



## STRUCTURAL PEST CONTROL BOARD

H. B. 853 by Gibson

***Final Action: The Structural Pest Control Board was continued with changes.***

### Analysis of Major Provisions in the Final Bill

House Bill 853, as introduced, contained the Sunset Commission's recommendations for the Structural Pest Control Board. Most of these recommendations remained in the final version of the bill with some modifications, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Expand licensing to currently exempted applicators.** The Sunset Commission made a recommendation that licensure requirements be expanded to include some previously exempted applicators, and the legislature adopted that recommendation and extended it to include additional categories of applicators. Applicators who apply pesticides in state, city and county-owned facilities, day care centers, hospitals, nursing homes, hotels, motels, lodges, warehouses, apartment buildings, schools and food-processing establishments, other than restaurants, retail food or food service establishments, will be required to be licensed. This will ensure that all persons, for-hire or not for-hire, who apply pesticides in these facilities are licensed and trained. Owners of these facilities may either contract with a commercial applicator or license one or more employees as noncommercial applicators to perform pest control work.

**Require the board to develop information on pesticides and pest control for mandatory distribution to consumers.** The Sunset Commission recommended that the board be required to develop information sheets and that licensees be required to issue that information to consumers of pest control services to give consumers access to balanced and factual information on the pest control industry and on pesticides. The applicator will be required to leave an information sheet with the consumer at the time of application. The Sunset Commission also recommended a requirement that signs be posted in the area of an indoor pesticide treatment to give persons in those areas the opportunity to take any precautions they feel are necessary. For multi-family dwellings and places of work, the applicator will be required to supply the building owner with the information sheet and sign. The building owner will then be required to post the notification sign or distribute the information sheet at least 48 hours prior to treatment. Schools will be required to notify parents of the school's pest control practices at the start of the school year.

**Require biennial inspections of pest control businesses and require the board to adopt an inspection policy in rules.** The Sunset Commission recommended and the legislature adopt a requirement that the board conduct biennial inspections of pest control businesses, although the executive director may waive that requirement on an emergency basis. Provisions were also adopted that require the board to develop an inspection policy and adopt it in rule to ensure that inspections are conducted consistently. The policy must include provisions for more frequent inspections for applicators and businesses previously found in noncompliance and must specify investigation procedures.

**Require development of a technician training program.** The Sunset Commission recommended, and the legislature adopted, provisions that require the board to develop a technician training program, with required study topics, in conjunction with the Texas Agricultural Extension Service. This will standardize training for applicators and provide greater assurance of the safety of consumers by requiring technician applicants to complete a board-approved study course and pass a test before they are licensed and may practice.

**Increase the board's authority over an applicator whose license has been revoked.** The Sunset Commission recommended and the legislature adopted a provision that will increase the board's authority over an applicator with a revoked license by requiring a one-year waiting period before reapplication and allowing the board to put a licensee's other license categories on probation for the duration of the revocation.

**Require the board to establish integrated pest management standards for schools.** The legislature adopted a provision to require the board, with the help of an advisory committee, to establish integrated pest management (IPM) standards for schools. Those standards must specify a list of products school districts may use, require schools to use the least toxic methods, and require that pesticides must be applied at least 12 hours prior to the time students are expected to be in the buildings or on the grounds. Each school district will be required to adopt an IPM program consistent with the board's standards by September 1, 1995.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of H.B. 853 with the original sunset bill, as introduced, shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

All but one of the Sunset Commission's program recommendations remained in the final bill, but were modified as noted above.

### **Fiscal Impact**

The bill's provisions resulted in a net loss to total state revenue of \$79,673 in fiscal year 1992, \$104,723 in fiscal year 1993, and between approximately \$30,000 and \$80,000 each fiscal year from 1994 through 1996. There is no impact to the general revenue fund.



Bill Summary  
Enrolled Version  
**STRUCTURAL PEST CONTROL BOARD**  
H. B. 853 by Gibson

Bill Reference	Provision
Page 1, Line 9	Technical correction.
Page 1, Line 11 Page 2, Line 11	Adds language to distinguish non-commercial applicators from commercial applicators.
Page 3, Line 1	Adds definitions of terms used throughout the Act: certified noncommercial applicator, certified applicator, day-care center, hospital, nursing home, school or educational institution, parent company, and institution of higher education.
Page 4, Line 10	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 4, Line 11 Page 8, Line 23 thru Page 9, Line 17	Updates language that specifies grounds for removal of a board member. (ATB)
Page 4, Line 20 Page 7, Line 3	Deletes language requiring the board to elect a chairman and adds language that requires the governor to appoint the board chair.
Page 5, Line 3 Page 8, Line 12	Updates language that provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 5, Line 7	Changes the sunset review date for the agency to December 31, 1991 and specifies that the Sunset Commission need not prepare any further reports for the legislature. Updates the reference to the Sunset Act.
Page 5, Line 15 thru Page 6, Line 2	Requires public membership on the board and defines a public member. (ATB)
Page 6, Line 2 Page 7, Line 25 thru Page 8, Line 11 Page 8, Line 17	Updates language that requires specific provisions relating to conflicts of interest. (ATB)

H. B. 853 by Gibson  
(cont.)

Bill Reference	Provision
Page 7, Line 6	Requires that the policy body of an agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 7, Line 9	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 7, Line 14	Provides for public testimony at agency meetings. (ATB)
Page 7, Line 18	Requires development of accessibility plan. (ATB)
Page 9, Line 18	Requires the board to establish skill-oriented career ladders. (ATB)
Page 9, Line 22	Requires a system of merit pay based on documented employee performance. (ATB)
Page 9, Line 26 thru Page 10, Line 22	Requires development of an E.E.O. policy. (ATB)
Page 11, Line 4	Provides for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date. (ATB)
Page 11, Line 16	Provides an analysis, on request, to individuals failing the examination. (ATB)
Page 12, Line 2	Adds language to distinguish commercial from non-commercial applicators. (Technical correction)
Page 12, Line 5 Page 15, Line 1 Page 15, Line 14 thru Page 16, Line 15	Requires development of a technician training program, with required study topics, in conjunction with the Texas Agricultural Extension Service. Requires technician applicants to complete a board-approved study course and pass a test before licensure. Requires currently licensed technicians to complete the study course only.
Page 12, Line 23 thru Page 13, Line 1	Updates language that provides for licensing by endorsement rather than reciprocity. (ATB)
Page 13, Line 3	Revises restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading. (ATB)

H. B. 853 by Gibson  
(cont.)

Bill Reference	Provision
Page 13, Line 17 Page 13, Line 23	Updates language that requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 13, Line 21	Requires files to be maintained on complaints. (ATB)
Page 14, Line 2	Deletes unconstitutional authorization for committees of the legislature to overrule the adoption of a board rule. (Technical correction)
Page 14, Line 15 Page 20, Line 19 thru Page 21, Line 8 Page 21, Line 19	Updates language providing for notification and information to the public concerning board activities. (ATB)
Page 15, Line 7	Authorizes any advisory committee members appointed by the board to receive reimbursement for expenses incurred in advisory committee work.
Page 16, Line 16	Defines apartment building.
Page 16, Line 20 thru Page 18, Line 3	Requires licensing of certain exempted applicators who apply pesticides in state, city and county-owned facilities, day care centers, hospitals, nursing homes, hotels, motels, lodges, warehouses, apartment buildings, schools and food-processing establishments, other than restaurants, retail food or food service establishments. Specifies that a building owner may either contract with a commercial applicator or license one or more employees as noncommercial applicators to perform pest control work. Authorizes the board to adopt insurance requirements for noncommercial applicators.
Page 18, Line 4	Requires biennial inspections of pest control businesses. Requires the board to develop an inspection policy that provides for more frequent inspections for applicators and businesses previously found in noncompliance. Authorizes the executive director to waive the biennial inspection requirement on an emergency basis.
Page 18, Line 15 thru Page 19, Line 4	Require the board to adopt by rule a policy and procedures for conducting an investigation, including actions the inspector and the consumer should take if a misapplication is discovered.

H. B. 853 by Gibson  
(cont.)

Bill Reference	Provision
Page 19, Line 5	Requires the board to notify consumers and applicators of a misapplication discovered during a board investigation.
Page 19, Line 9 thru Page 20, Line 2	Requires the board to keep records of health injuries and property damage resulting from a misapplication of pesticides. Authorizes the board to make the information available to the Department of Health for inclusion in the occupational disease reporting program database and to certain universities.
Page 20, Line 3	Authorizes the board to do pre-treatment inspections for consumers to verify that a pesticide treatment is warranted. Requires the consumer to get two estimates from pest control businesses before calling the board. Limits the board's role to whether or not the service is warranted. Also, requires the board to recover through fees any costs involved in the program.
Page 21, Line 9 Page 21, Line 25 thru Page 22, Line 21 Page 23, Line 5 Page 26, Line 4	Requires the board to develop information on pesticides and pest control. Also, requires the board to develop an information sheet, with certain information, for mandatory distribution to consumers. For single-family residences, requires the certified applicator or technician to leave the information sheet with the consumer at the time of application.
Page 22, Line 22 thru Page 23, Line 4 Page 23, Line 16 thru Page 25, Line 20	Requires the board to develop a sign, with certain information, to be posted in the area of an indoor pesticide treatment. For multi-family dwellings and places of work, requires the certified applicator or technician to supply the building owner with the information sheet and sign. Requires the building owner to post the notification sign or distribute the information sheet at least 48 hours prior to treatment. Requires schools to notify parents of the school's pest control practices at the start of the school year.
Page 25, Line 21	Specifies that perimeter treatments are considered indoor treatments. Requires the board to adopt the federal definition of perimeter treatments in rules.
Page 25, Line 27 thru Page 26, Line 3	Specifies that vacant and unused buildings are exempt from the posting requirement.

H. B. 853 by Gibson  
(cont.)

Bill Reference	Provision
Page 26, Line 16	Authorizes the board to require distribution of the information sheet for other outdoor locations.
Page 26, Line 22	Authorizes the agency to contract with the Department of Agriculture or a university for the services of an integrated pest management specialist.
Page 27, Line 1	Requires the board, with the advise of an advisory committee, to establish integrated pest management (IPM) standards for schools. Requires each school district to adopt an IPM program, consistent with the board's standards, by September 1, 1995. Requires the board's standards to specify a list of products school districts may use; require least toxic methods be used by schools; and to require pesticides to be applied at least 12 hours prior to the time students are expected in the buildings or on the grounds.
Page 28, Line 5	Adds language to clarify that pesticides in certain locations must be applied by licensed applicators.
Page 28, Line 13	Technical change to allow the board to extend distribution of the information sheet to other locations.
Page 28, Line 20 thru Page 29, Line 7	Updates language authorizing the staggered renewal of licenses. (ATB)
Page 29, Line 15 thru Page 30, Line 21	Raises the maximum statutory fee for a business license to \$180, a technician license to \$84, and an exam to \$50. Also authorizes the board to charge a fee for continuing education class approval, not to exceed \$75.
Page 30, Line 22	Authorizes the board to set a fee for technician training materials and requires that the fees changes recover the program's costs.
Page 30, Line 26 thru Page 31, Line 3	Specifies that governmental employees are not exempt from board fees.
Page 31, Line 11 Page 32, Line 1	Raises the minimum per occurrence liability insurance requirement from \$100,000 to \$200,000.
Page 32, Line 15	Requires noncommercial applicators to keep records of pesticide use.

H. B. 853 by Gibson  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 32, Line 23 thru Page 33, Line 4	Updates language requiring the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 33, Line 9	Updates language authorizing the board to apply a full range of penalties. (ATB)
Page 33, Line 27 thru Page 34, Line 4	Specifies board hearing requirements. (ATB)
Page 34, Line 10	Increases the board's authority over an applicator with a revoked license by requiring a one-year waiting period before reapplication and allowing the board to put a licensee's other license categories on probation for the duration of the revocation.
Page 34, Line 20	Requires mandatory sanctions for misapplication of pesticides.
Page 34, Line 27 thru Page 35, Line 7	Requires the board to adopt rules governing the settlement of contested cases, either formal or informal, and requires board approval of all settlements.
Page 35, Line 8	Authorizes agency employees to negotiate informal disciplinary agreements between licensees and consumers, according to procedures set out in board rules.
Page 35, Line 25 thru Page 36, Line 22	Clarifies the duties of the board and the executive director in issuing penalty violations. (Technical correction)
Page 37, Line 1	Technical change to allow the board to extend distribution of the information sheet to other locations.
Page 37, Line 5	Clarifies that applicators employed by governmental and educational agencies are no longer exempt from the Act and, therefore, must be licensed to apply pesticides for their employers.
Page 37, Line 10	Removes the exemption for nurserymen certified by the Department of Agriculture (TDA) and requires that nurserymen who apply pesticides for-hire hold a pesticide applicator's license from the board or TDA.

H. B. 853 by Gibson  
(cont.)

Bill Reference	Provision
Page 37, Line 26 thru Page 38, Line 7	Exempts from the Act persons who apply general-use pesticides in unused buildings or in the space occupied by a building owner, as defined by the board in rules.
Page 38, Line 8	Deletes outdated transitional provisions. (Technical correction)
Page 38, Line 11	Requires the technician training program to be developed by September 1, 1993.
Page 38, Line 15	Establishes the effective date of the Act as September 1, 1991.
Page 38, Line 16	Establishes that changes made in the qualifications of board members apply only to members appointed on or after September 1, 1991.
Page 38, Line 20	Requires submission of the first E.E.O. policy statement required by the Act by November 1, 1991.
Page 38, Line 24	Establishes that changes made relating to an application for a license applies only to an application made on or after the effective date of the Act.
Page 39, Line 1	Establishes that changes in disciplinary actions provided by the act apply only to violations on or after the effective date of the Act.
Page 39, Line 7	Emergency clause.



## TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

S.B. 545 by Henderson

***Final Action: The Texas Board of Professional Land Surveying was continued with changes.***

### Analysis of Major Provisions in the Final Bill

Senate Bill 545, as introduced, contained the Sunset Commission's recommendations for the Texas Board of Professional Land Surveying. All of these recommendations remained in the final version of the bill, along with new provisions added by the legislature. The major provisions in the final bill are described below.

**Repeal of increased educational requirements.** Based on a recommendation of the Sunset Commission, increased educational requirements scheduled for implementation after January 1, 1996, were repealed to maintain the current educational requirements. Current requirements provide an applicant with more options to be registered as a professional land surveyor. The increased education requirements would have eliminated four other combinations of education and experience that an applicant could follow to become registered and would have replaced them with the requirement that applicants seeking registration must have a B.A. degree with at least 32 hours in surveying or surveying related courses.

**Authorize the board to impose administrative penalties and seek civil penalties for violations of the Surveying Act.** The board was given administrative and civil penalty authority to provide it with enforcement powers similar to those used by other regulatory agencies in Texas and surveying boards in other states. The final bill provides the board with the authority to levy administrative penalties and to seek civil penalties of up to \$1,000 per violation for violations of the Surveying Act and related rules.

**Require the board to develop minimum standards for boundary surveys.** The Sunset Commission recommended, and the legislature adopted, a provision requiring the board to develop in rules minimum standards defining the procedure and content of boundary surveys. In the past, the board lacked clear standards regarding what constitutes a proper survey. This minimum standards will assist the board in determining, in a more objective manner, when a surveyor has performed incompetently or negligently and to provide surveyors with a guide on how to conduct a proper survey.

**Define surveys that don't need a registered professional land surveyor.** One change was made to clarify what type of survey can be prepared without the involvement of a registered professional land surveyor. This change provides that a registered land surveyor

is not required to establish an easement in situations that do not involve the actual delineation or preparation of a metes and bounds description. This clarification allows a landowner to decide if the services of a surveyor are necessary.

**Place limits on continuing education requirement.** Several changes were made to limit the continuing education requirement for registered surveyors. One provision requires the board to limit, in rule, the continuing education requirement to no more than eight hours of professional development courses in any annual period. One other provision exempts registrants who are also registered professional engineers from the continuing education requirement until December 31, 1995.

**Reduce the experience requirements for registration for three classes of applicants.** The legislature reduced experience requirements for surveyors to make registration less stringent. The experience requirement for applicants with an associate degree or with 32 hours of surveying or surveying related courses are reduced from four to two years. The experience requirements for an applicant with a high school diploma are reduced from six to four years.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of Sunset Commission recommendations with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill. All of the Sunset Commission's specific program recommendations remained in the final bill.

### **Fiscal Impact**

The provisions of S.B. 545 result in a net loss to total state revenue of \$7,700 fiscal in each year from 1992 through 1996. The impact to the general revenue fund is a net gain of \$4,000 in each fiscal year from 1992 through 1996.

Bill Summary  
Enrolled Version

**TEXAS BOARD OF PROFESSIONAL LAND SURVEYING**

S.B. 545 by Henderson

Bill Reference	Provision
Page 1, Line 9	Changes the sunset review date for the commission to 2003.
Page 1, Line 18 thru Page 2, Line 10	Requires public membership on boards and commissions. (ATB)
Page 2, Line 13	Technical correction.
Page 3, Line	Technical correction.
Page 3, Line 7 thru Page 4, Line 12  Page 4, Line 23 thru Page 5, Line 1	Requires specific provisions relating to conflicts of interest. (ATB)
Page 4, Line 15 Page 4, Line 13	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 5, Line 5 Page 2, Line 15	Requires that the governor designate the chairman of the board.
Page 5, Line 27 thru Page 6, Line 27	Specifies grounds for removal of a board member. (ATB)
Page 7, Line 11	Requires standards of practice for surveying.
Page 7, Line 13 thru Page 8, Line 6	Revises restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading. (ATB)
Page 8, Line 12	Technical correction.
Page 8, Line 17	Deletes authorization for committees of the legislature to overrule adoption of a commission rule.
Page 8, Line 25	Technical correction.
Page 9, Line 1	Technical correction.
Page 9, Line 9	Technical correction.

S.B. 545 by Henderson  
(cont.)

Bill Reference	Provision
Page 9, Line 13 Page 26, Line 16 thru Page 27, Line 1	Provides for notification and information to the public concerning board activities. (ATB)
Page 9, Line 26 thru Page 10, Line 3	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 10, Line 9	Requires that the policy body of an agency develop and implement policies which clearly separate board and staff functions. (ATB)
Page 10, Line 15	Technical correction.
Page 10, Line 19	Provides for public testimony at agency meetings. (ATB)
Page 10, Line 23	Requires the director or the director's designee to establish skill-oriented career ladders. (ATB)
Page 10, Line 27 thru Page 11, Line 3	Requires a system of merit pay based on documented employee performance. (ATB)
Page 11, Line 4	Requires development of an E.E.O. policy. (ATB)
Page 12, Line 12 Page 12, Line 17	Removes the implementation date for increased educational requirements.
Page 13, Line 26 thru Page 14, Line 1 Page 14, Line 6	Provides for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date. (ATB)
Page 14, Line 1 Page 14, Line 8	Provides an analysis, on request, to individuals failing the examination. (ATB)
Page 14, Line 19 thru Page 16, Line 15	Requires standard time frames for licensees who are delinquent in renewal of licenses. (ATB)
Page 16, Line 27	Tecnical correction.
Page 17, Line 4	(a) Provides for licensing by endorsement rather than reciprocity. (ATB)
Page 18, Line 4 Page 18, Line 20 thru Page 19, Line 1	Authorizes agencies to use a full range of penalties. (ATB)

S.B. 545 by Henderson  
(cont.)

Bill Reference	Provision
Page 19, Line 5 thru Page 23, Line 3	Authorizes administrative and civil penalty authority for violations of the Surveying Act.
Page 23, Line 17 thru Page 25, 19	Specifies board hearing requirements. (ATB)
Page 25, Line 20	Reduces the vote required to take disciplinary action.
Page 26, Line 3	Technical correction.
Page 27, Line 2	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 27, Line 7	Requires files to be maintained on complaints. (ATB)
Page 27, Line 23	Removes Section 15(d) of the statute that requires good character and reputation as a criteria for licensure and removes Section 15(g) and (h) that require good character and reputation and the completion of increase educational requirements for licensure.
Page 27, Line 26	Effective date.
Page 27, Line 27	Emergency clause.



**TEXAS TURNPIKE AUTHORITY**  
H. B. 749 by Cain

***Final Action: The Texas Turnpike Authority was continued with changes.***

**Analysis of Major Provisions in the Final Bill**

House Bill 749, as introduced, contained the Sunset Commission's recommendations for the Texas Turnpike Authority. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Require the State Department of Highways and Public Transportation to review toll road projects.** Based on a Sunset Commission recommendation, the bill requires the State Department of Highways and Public Transportation (SDHPT) to consider toll roads in its statewide planning and to approve all toll roads that will become part of the state highway system, except for county toll roads in counties with a population of more than 2.4 million. Several new public and quasi-public toll road authorities have been created in the past two legislative sessions with little coordination provided at the state level. Coordination with SDHPT must be adequate to ensure that the roadways built by the other entities will fit effectively into the overall state highway system. Also, coordinated planning is important because SDHPT's timing for constructing access and connecting roads with the toll roads can have a significant impact on the financial success of a toll road.

**Early possession of condemned land.** The agency is authorized to take possession of condemned land for right of way after depositing the amount of the appraised property value with the court. Currently, the agency obtains right of way for roadway projects by offering to pay the landowner the appraised value of the condemned land plus an amount for damages to the remaining land that is not taken. If the landowner does not accept the agency's offer, the landowner may appeal to a special commissioners court appointed by a judge to decide on the matter. The agency cannot take possession of the condemned land until the commissioners court has made an award, and the long delays in obtaining the land result in increases in cost. This change would allow the agency to deposit the appraised value with the court, serve notice, and take possession of the land before the commissioners court ruling.

**Establish a relocation assistance policy.** The bill would require the agency to adopt a relocation assistance policy in rules to provide assistance to property owners who are displaced when the agency acquires their property. Residents and businesses sometimes incur costs that are not included in the price of the land purchased by the agency, such as moving expenses and closing costs. The commission concluded that the agency should

have a policy for helping property owners defray those costs and the legislature adopted this policy.

**Develop procedures for environmental review.** As recommended by the Sunset Commission, the bill would require the agency to develop procedures in rules for conducting an environmental study before constructing a toll road. Although the agency conducts environmental reviews on its projects, it has not ensured that the reviews will be conducted in a consistent manner by developing rules governing those reviews. The commission concluded that the agency should develop rules and submit the findings from environmental studies to the State Department of Highways and Public Transportation for review and approval.

**Authorize private investment in toll road projects.** The Sunset Commission recommended, and the legislature adopted, provisions which authorize the agency to accept funds from private investors to help finance a toll road project and require the agency to adopt rules governing how profits will be distributed and toll rates established. Because the agency is required by the constitution to be self-supporting, an otherwise infeasible project can be made viable with the addition of private capital. The commission concluded that private equity may be raised by the agency provided the board adopts rules governing such public protection issues as toll rates, profit sharing and safety standards.

**Authorize the transfer of surplus of funds between projects.** As recommended by the Sunset Commission, the agency is authorized to transfer surplus funds between projects. Toll rates are set at a level sufficient to retire the debt and employ necessary personnel and supplies to maintain the roadway and collect and process the tolls. If revenues generated in tolls exceed these costs, the excess revenues are deposited in a surplus fund account. The commission concluded that the board should be authorized in statute to transfer excess revenues from one project to another project that may not be generating the revenues sufficient to meet expenses.

**Establish a policy for awarding professional service contracts.** The bill requires the board to establish a policy for awarding professional service contracts that should include procedures for encouraging the submission and review of proposals from multiple firms. The agency currently does not attempt to invite proposals from more than one firm for the majority of its professional service contracts. Without an opportunity to review a variety of proposals, the agency consistently awards contracts to a small number of firms.

**Strengthen the process for hiring outside legal counsel.** Based on a recommendation of the Sunset Commission, the bill would require the agency to request the permission of the attorney general to use outside legal services and to evaluate the minority hiring practices of prospective law firms before a request is submitted. The commission concluded that since TTA is a state agency with statewide jurisdiction, it should follow the policies and procedures of other state agencies in gaining the approval of the attorney general before hiring outside legal counsel.

**Establish a Disadvantaged Business Enterprise (DBE) Program.** The agency is required to establish a program for contracting with disadvantaged business enterprises (DBEs). The current appropriations bill set out a policy for state agencies to follow in contracting with DBEs, but adherence to the policy is not required. This recommendation requires the agency to adopt a DBE policy consistent with the appropriations act or any state law that might be enacted in the future. The program would require the agency to estimate the number of disadvantaged businesses willing and able to supply the goods and services needed by the agency. Based on that research, the agency would then set percentage goals for the relative amount of work the agency should strive to award to disadvantaged businesses. All percentage goals would be targets only and would not be mandatory quotas.

**Move headquarters to Austin.** The bill requires the Texas Turnpike Authority to move the agency's headquarters from Dallas to Austin before September 1, 1997. The Sunset Commission considered but did not adopt this provision.

**Cooperation with Mexico.** The board of the Texas Turnpike Authority is authorized to enter into agreements with States in Mexico for the building of toll roads.

**Repeal the private toll road statute.** The bill repeals the private toll road statute, and specifies that transportation corporations are still authorized to build toll roads, under Article 15281. The bill also specifies that, with the repeal of the private toll road statute, private toll road corporations incorporated prior to June 1, 1991 continue to exist with the rights and powers provided under the repealed statute.

**Authorize the lease or sale of right of way or other property.** The agency was granted the authority to lease or sell right-of-way or other property, including tracks for railroads and right-of-way for utilities.

### **Comparison of Sunset Commission Legislation with Final legislation**

A comparison of H.B. 749 with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

Most of the Sunset Commission's specific program recommendations remained in the final bill, with the exception of one recommendation which was removed from the bill and described below.

**Maintain the current size and structure of the board.** The Sunset Commission recommended that the size of the board be reduced from 12 to nine members. The commission concluded that the size of the board was larger than the majority of other state agency governing boards and that no particular circumstances were identified requiring the

larger board size. The provision to reduce the board from 12 to nine members was deleted during the legislative process.

### **Fiscal Impact**

The provisions of H.B. 749 are estimated to have no effect on state revenue in each fiscal year from 1992 to 1996. There is no impact to the general revenue fund in each fiscal year from 1992 to 1996.

Bill Summary  
Enrolled Version  
**TEXAS TURNPIKE AUTHORITY**  
H. B. 749 by Cain

Bill Reference	Provision
Page 1, Line 10 Page 24, Line 9	Authorizes political subdivisions of the state to pledge financial resources to a turnpike project and to issue bonds to help finance a project.
Page 1, Lines 18 and 19 Page 13, Line 16 Page 21, Line 2 Page 24, Line 18 Page 25, Line 25 Page 28, Line 19	Adds language to clarify that a turnpike project may be supported with funds, other than the money raised by the sale of bonds for the particular project, if the source is otherwise authorized in law. This includes revenues from local governments and from the surplus funds accounts of other turnpike projects.
Page 1, Lines 22 and 24	Technical corrections.
Page 2, Line 2	Technical correction.
Page 2, Line 11	Specifies that the agency headquarters will be located in Austin on or before September 1, 1997.
Page 2, Line 17 Page 3, Line 24 thru Page 4, Line 5 Page 4, Line 20	Clarifies that the board is composed of 12 members, nine of whom represent the public, and clarifies the requirement for a quorum. Deletes outdated language specifying place numbers for board members and instructions for appointment.
Page 3, Line 2	Requires public membership on the board and defines a public members. Specifies that money received from the sale of condemned land is not a conflict of interest. (ATB modified)
Page 3, Line 21	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 4, Line 5 Page 5, Line 26 Page 13, Line 10 Page 42, Line 21 Page 43, Line 17	Adds language to reflect the current name of the State Highway and Public Transportation Commission. (Technical correction)
Page 4, Line 16	Requires the governor to designate the chairman of the board.

H. B. 749 by Cain  
(cont.)

Bill Reference	Provision
Page 5, Line 9 Page 10, Line 1	Updates language specifying the grounds for removal of a board member. (ATB)
Page 5, Line 16	Modifies language to clarify the title of board members. (Technical correction)
Page 6, Line 5	Changes the sunset date for the agency to December 31, 1991 and specifies that no further reports are required of the Sunset Commission. Updates the reference to the Sunset Act.
Page 6, Line 19 Page 7, Line 24 thru Page 8, Line 18 Page 20, Line 22 Page 26, Line 7 Page 31, Line 2	Adds language clarifying that a project, as defined by the Act, may include any improvement, extension, or expansion to an existing project.
Page 8, Line 25 thru Page 9, Line 13 Page 9, Line 19	Requires specific provisions relating to conflicts of interest. (ATB)
Page 9, Line 14 Page 36, Line 19	Updates language providing that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 10, Line 27 thru Page 11, Line 5	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 11, Line 6	Requires the board to develop and implement policies which clearly separate board and staff functions. (ATB)
Page 11, Line 12	Requires the board to establish skill-oriented career ladders. (ATB)
Page 11, Line 17	Requires a system of merit pay based on documented employee performance. (ATB)
Page 11, Line 21 thru Page 12, Line 17	Requires development of an E.E.O. policy. (ATB)
Page 13, Line 18	Technical correction.

H. B. 749 by Cain  
(cont.)

Bill Reference	Provision
Page 14, Line 24 Page 15, Line 17 Page 16, Line 5 Page 16, Line 15	Adds language to reflect the current name of the State Department of Highways and Public Transportation. (Technical correction)
Page 14, Line 27	Technical correction.
Page 15, Line 7	Authorizes the board to enter into agreements with states in Mexico for the building of toll roads.
Page 16, Line 8	Deletes outdated statutory reference. (Technical correction)
Page 16, Line 17	Technical correction.
Page 16, Line 20 thru Page 17, Line 18 Page 43, Line 20	Repeals an outdated statute authorizing private corporations to build toll roads in the state.
Page 17, Line 21	Provides for public testimony at agency meetings. (ATB)
Page 17, Line 24	Requires development of accessibility plan. (ATB)
Page 18, Line 4 thru Page 19, Line 26	Authorizes the agency to take possession of condemned property, upon deposit of the appraised value of the property, at the time the case is filed in special commissioners court.
Page 20, Line 3	Requires the agency to adopt a relocation assistance policy in rules to provide assistance to property owners who are displaced when the agency acquires their property.
Page 21, Line 5 thru Page 22, Line 23 Page 23, Line 15	Deletes outdated language limiting the interest rate on bonds sold by the agency to five percent. Also, deletes outdated language describing the bond sale. (Technical corrections)
Page 22, Line 25 thru Page 23, Line 11	Technical corrections.
Page 24, Line 1	Clarifies that the general laws of the state regarding the sale of bonds shall apply to the agency.
Page 25, Line 22	Technical correction.
Page 27, Line 8	Authorizes the agency to lease or sell right-of-way or other property, including tracks for railroads and right-of-way for utilities.

H. B. 749 by Cain  
(cont.)

Bill Reference	Provision
Page 29, Line 3 thru Page 31, Line 10	Allows the agency to replenish the feasibility study fund with surplus revenues from current toll road projects and deletes outdated language specifying how the fund was originally established.
Page 31, Line 15 thru Page 32, Line 10	Requires the agency to develop procedures in rules for conducting an environmental study before constructing a toll road and requires the study to be approved by the highway commission.
Page 32, Line 14 thru Page 35, Line 1	Authorizes the agency to enter into agreements with private entities to build toll roads. Adds the authority for the agency to negotiate exclusive development agreements with private entities for building of new toll roads or for service contracts on existing agency toll roads. Specifies that any privately-funded toll road project is public property belonging to the agency. Specifies that neither the state, the agency nor any political subdivision shall incur a financial obligation for a private entity. Requires the agency to adopt rules governing negotiations of contracts for private investment and requires any contract to specify methods for distributing costs and profits, determining toll rates, and determining safety and other standards. Adds language requiring the attorney general to participate in any contract negotiation for a new toll project between the agency and private investors.
Page 35, Line 5 Page 44, Line 12	Authorizes the transfer of surplus funds between projects, for any projects for which bonds are sold on or after the effective date of the Act.
Page 37, Line 16	Requires the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 37, Line 25	Technical correction.
Page 38, Line 2	Requires the board to establish a policy and procedures for awarding professional service contracts which includes encouraging the submission and review of proposals from various firms.

H. B. 749 by Cain  
(cont.)

Bill Reference	Provision
Page 38, Line 10 Page 44, Line 15	Requires the agency to request the permission of the attorney general to use outside legal services, beginning on September 1, 1993. Requires the agency to evaluate the minority hiring practices of prospective law firms before a request is submitted. Also requires the attorney general to act on the request within 30 days. Specifies that the agency may hire in-house council without the attorney general's approval.
Page 39, Line 4	Requires the agency to adopt a disadvantaged business program in rules.
Page 39, Line 23	Provides for notification and information to the public concerning board activities. (ATB)
Page 40, Line 1	Requires files to be maintained on complaints. (ATB)
Page 40, Line 4	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 40, Line 11 thru Page 42, Line 15 Page 44, Line 12	Requires the State Department of Highways and Public Transportation to consider toll roads in its statewide planning and to approve all toll roads that will become part of the state highway system, except for county toll roads in counties with a population of more than 2.4 million, by adding language to SDHPT's statute, the County Toll Road Act and another toll road-related statute. Specifies that highway commission approval is needed only for those projects for which bonds are sold on or after the effective date of the Act.
Page 43, Line 21	Deletes outdated language requiring construction of the Dallas-Fort Worth Turnpike. (Technical correction)
Page 43, Line 21	Deletes outdated language requiring the agency to conduct a feasibility study on high-speed rail facilities and to report its findings to the 71st Legislature. (Technical correction)
Page 43, Line 24 thru Page 44, Line 4	Clarifies that, with the repeal of the private toll road statute, transportation corporations are still authorized to build toll roads, under Article 15281, V.T.C.S.

H. B. 749 by Cain  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 44, Line 5	Clarifies that, with the repeal of the private toll road statute, private toll road corporations incorporated prior to June 1, 1991 continue to exist with the rights and powers provided under the repealed statute.
Page 44, Line 17	Requires submission of the first E.E.O. policy statement required by the Act by November 1, 1991.
Page 44, Line 22	Establishes the effective date of the Act as September 1, 1991.
Page 44, Line 23	Emergency clause.

## COUNCIL ON DISABILITIES

S. B. 381 Carriker

***Final Action: The Council on Disabilities was abolished and its functions were transferred to the Governor's Committee on People with Disabilities.***

### **Analysis of Major Provisions in the Final Bill**

Senate Bill 381, as introduced, contained the Sunset Commission's recommendations for the Council on Disabilities. All of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Abolish the Council on Disabilities and transfer its functions to the Governor's Committee on People with Disabilities.** Based on a recommendation of the Sunset Commission, the council was abolished, and its functions were transferred to the Governor's Committee for Disabled Persons, which was renamed the Governor's Committee on People with Disabilities. The Sunset Commission recommended this transfer to eliminate overlap between the council and the committee, while ensuring that the responsibilities of the Council on Disabilities were continued.

**Require the governor's office, rather than the Texas Rehabilitation Commission, to provide administrative support to the Governor's Committee on Persons with Disabilities.** A provision was added requiring the governor's office, rather than the Texas Rehabilitation Commission, to employ an executive director for the committee and to provide other administrative support. The provision also stipulated that funding for the committee would be provided through the governor's office. The legislature added this provision to further strengthen the governor's role in the operation of the committee.

**Expand the functions of the Governor's Committee on Persons with Disabilities to include overseeing the state's implementation of the Federal Americans with Disabilities Act.** The legislature added to the committee's duties the responsibility for coordinating, monitoring, and facilitating implementation of the Federal Americans with Disabilities Act. The legislature designated this single entity to be responsible for oversight so that accountability and public access would be enhanced.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B.381 with the original sunset bill as introduced shows that all Sunset Commission recommendations remained in the final bill.

### **Fiscal Impact**

The bill's provisions result in a net savings to the general revenue fund of \$16,136 in fiscal year 1992 and \$17,756 in each fiscal year from 1993 to 1996.

Bill Summary  
Enrolled Version  
**COUNCIL ON DISABILITIES**  
S. B. 381 by Carriker

Bill Reference	Provision
Page 1, Line 10 Page 6, Line 9	Establishes in statute the Governor's Committee on People with Disabilities, previously established by executive order as the Governor's Committee for Disabled Persons.
Page 1, Line 12 thru Page 2, Line 6	Provides for the composition of the committee to include 12 members appointed by the governor, at least seven of whom must be persons with disabilities, and at least four non-voting ex officio representatives of state agencies serving persons with disabilities.
Page 2, Line 7	Authorizes reimbursement of committee members for actual and necessary expenses, with payment limited to available funds.
Page 2, Line 14	Requires the governor to appoint the committee chair.
Page 2, Line 19	Requires quarterly meetings of the committee.
Page 2, Line 22	Clarifies that the committee is subject to the open meetings law.
Page 3, Line 1	Clarifies that a majority of the appointed members constitutes a quorum.
Page 3, Line 3	Establishes sunset review date for the committee of September 1, 1997.
Page 3, Line 5	Requires the governor's office to employ an executive director for the committee, subject to approval of the committee, and to provide other administrative support; stipulates that funding for the committee shall be provided through the governor's office.
Page 3, Line 18 thru Page 4, Line 1	Authorizes the committee to adopt rules and designate subcommittees.
Page 4, Line 2	Authorizes the committee to solicit and accept gifts, grants and donations to support its functions.
Page 4, Line 5 thru Page 6, Line 6	Specifies the functions of the committee.
Page 6, Line 7	Requires state and local government agencies to cooperate with the committee in performing its functions.

S. B. 381 by Carriker  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 6, Line 10	Abolishes the Council on Disabilities and transfers its functions, records, obligations, rights, and assets to the Governor's Committee for People with Disabilities.
Page 6, Line 14	Clarifies that the committee established by this Act is a continuation of the Governor's Committee for Disabled Persons.
Page 6, Line 18	Clarifies that references in law to the Council on Disabilities or the Governor's Committee for Disabled Persons will now mean the Governor's Committee for Persons with Disabilities.
Page 6, Line 21	Clarifies that members of the Governor's Committee for Disabled Persons holding office immediately before September 1, 1991 are entitled to continue in office, but requires the governor to designate half of those members for terms expiring in 1992 and half with terms expiring in 1993.
Page 7, Line 6	Repeals the enabling statute for the Council on Disabilities.
Page 7, Line 7	Establishes the effective date of the Act as September 1, 1991.
Page 7, Line 8	Emergency clause.

COMMISSION ON FIRE PROTECTION PERSONNEL  
STANDARDS AND EDUCATION

S. B. 383 by Carriker

***Final Action:*** *The Commission on Fire Protection Personnel Standards and Education was abolished and its functions consolidated with the Fire Department Emergency Board, and the State Fire Marshal's Office and the key rate function of the State Board of Insurance to create a new agency, the Texas Commission on Fire Protection.*

**Analysis of Major Provisions in the Final Bill**

Senate Bill 383, as introduced, contained the Sunset Commission's recommendations for the Commission on Fire Protection Personnel Standards and Education. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Combine the Commission on Fire Protection Personnel Standards and Education with the Fire Department Emergency Board, the State Fire Marshal's Office and the key rate section of the State Board of Insurance.** The Texas Commission on Fire Protection was created by combining the Commission on Fire Protection Personnel Standards and Education with the Fire Department Emergency Board and transferring the responsibilities of the State Board of Insurance related to the State Fire Marshal's Office and the key rate section to the new commission. In the past, numerous agencies had responsibility for the oversight and implementation of the state's fire protection policy. Two agencies with fire protection responsibilities, the Texas A&M University Firemen's Training School and the Texas Forest Service, were not included in the consolidation. However, the bill requires the Firemen's Training School and the Texas Forest Service to enter into memorandums of understanding with the new commission to coordinate their activities. The new commission's policies will be set by a 12-member commission whose members include paid fire chiefs, paid fire protection personnel, volunteer fire chiefs and fire fighters, a certified fire protection engineer, a certified arson investigator and a fire science instructor from an institution of higher education.

**Authorize voluntary regulation of volunteer fire fighters.** The commission was required to create a voluntary certification and regulation program for volunteer fire fighters and fire departments. The commission would establish a procedure for volunteer fire fighters and fire departments to apply to participate in the program. In addition, the program will be designed to make the same level of training available to volunteer fire fighters that is currently available to paid fire protection personnel. The bill specifies the range of

powers the commission may exercise related to the program including the requirement that the commission contract with a statewide organization whose members include both paid and volunteer fire fighters to implement the program, and the authorization to set and collect a fee of not more than \$10 to recover the cost of the program. The bill also establishes a procedure for volunteer fire fighters to be eligible to be certified as paid fire protection personnel.

**Require the commission to review the key rate schedule and to conduct key rate inspections.** The commission will review the State Board of Insurance's key rate schedule at least once every four years and recommend changes to the board. The commission will also use the key rate schedule to conduct inspections of municipalities and recommend a key rate to the State Board of Insurance. The commission and the board would enter into a memorandum of understanding to coordinate their responsibilities related to the key rate.

**Require biennial inspections of fire departments and training facilities using dedicated funding.** The Sunset Commission recommended, and the legislature adopted, provisions for the commission to conduct biennial inspections of fire departments and facilities where paid fire protection personnel receive training. The commission inspects fire departments to ensure that only certified personnel are employed and that the personnel are provided with protective clothing that complies with state standards. The Sunset Commission further recommended that the commission's dedicated fund be modified to provide a consistent source of funds for inspections. The dedicated fund was modified to require 25 percent of the fees collected by the commission to be placed in the fund and to specify that those funds can only be used to conduct inspections.

**Authorize the commission to regulate certain paid fire protection personnel not employed by a local government.** The Sunset Commission recommended that certain paid fire protection personnel not employed by local governments be allowed to request and receive regulation by the commission. Under the Sunset Commission recommendation, personnel employed in unincorporated communities with a population of more than 25,000 and with an assigned a key rate by the State Board of Insurance could request to be regulated by the commission. The legislature expanded the recommendation to include state and federal paid fire protection personnel after an attorney general's opinion ruled that the commission's practice of certifying state and federal fire protection personnel was outside of their statutory authority.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 383 with the original sunset bill as introduced shows that all standard sunset across-the-board recommendations proposed by the commission were included in the final bill.

All of the Sunset Commission's specific program recommendations remained in the final bill.

**Fiscal Impact**

The bill's provisions result in a net loss to overall state revenue of \$ 53,522 in fiscal year 1992 and \$50,562 in each fiscal year from 1993 through 1996. The impact to the general revenue fund is a net loss of \$102,000 in fiscal year 1992 and increases to a net loss of \$106,141 in fiscal year 1996. The modification of the commission's dedicated fund creates the loss to the general revenue fund by removing 25 percent of the fees collected from the general revenue fund and placing them in the dedicated fund. The losses to the general revenue fund are offset to a degree by savings to the insurance operating fund and the dedicated funds.



Bill Summary  
Enrolled Version

**COMMISSION ON FIRE PROTECTION PERSONNEL  
STANDARDS AND EDUCATION**

S. B. 383 by Carriker

Bill Reference	Provision
Page 1, Line 13	Technical correction.
Page 1, Line 15	Defines the terms commission, volunteer fire fighter and volunteer fire chief.
Page 1, Line 21	Specifies that the commission is a state agency.
Page 1, Line 23 thru Page 2, Line 8	Specifies that the commission is subject to the Sunset Act, with a sunset date of December 31, 1991.
Page 2, Line 9 thru Page 3, Line 10	Specifies that the composition of the commission's policy-making body would include paid fire chiefs, paid fire protection personnel, volunteer fire chiefs and fire fighters, a certified fire protection engineer, a certified arson investigator, and a fire science instructor from an institution of higher education.
Page 3, Line 11	Specifies that the commission members are appointed by the governor with the advice and consent of the senate for staggered six year terms.
Page 3, Line 15	Specifies that the duties of a public officer or employee are additional duties of the member's office or employment.
Page 3, Line 18	Requires that appointment to the commission shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 3, Line 21 thru Page 4, Line 18	Specifies grounds for removal of a commission member. (ATB)
Page 4, Line 19 thru Page 5, Line 13	Requires specific provisions related to conflict of interest. (ATB)
Page 5, Line 14	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the commission or serve as a member of the commission. (ATB)
Page 5, Line 19	Specifies that the fire science instructor commission member would serve as the commission chair unless the governor designates another commission member as chair.

S. B. 383 by Carriker  
(cont.)

Bill Reference	Provision
Page 5, Line 25	Specifies that the commission would meet at least quarterly.
Page 6, Line 1	Specifies that the compensation of commission members is limited to actual and necessary expenses.
Page 6, Line 7	Provides for public testimony at agency meetings. (ATB)
Page 6, Line 11 thru Page 7, Line 21	Specifies the powers and duties of the commission and that those duties include performing duties currently performed by the Commission on Fire Protection Personnel Standards and Education and the Fire Department Emergency Board; appointing and supervising the state fire marshal; and appointing advisory committees as needed who are eligible to receive compensation for their actual and necessary expenses.
Page 7, Line 22	Specifies that the commission would employ an executive director who would employ other personnel as necessary to perform commission functions.
Page 7, Line 25 thru Page 8, Line 4	Requires the agency to provide information on standards of conduct to commission members and employees. (ATB)
Page 8, Line 5	Requires that the policy body of an agency develop and implement policies which clearly separate commission and staff functions. (ATB)
Page 8, Line 8	Requires the commission to establish skill-oriented career ladders. (ATB)
Page 8, Line 12	Requires a system of merit pay based on documented employee performance. (ATB)
Page 8, Line 16 thru Page 9, Line 14	Requires development of an E.E.O. policy. (ATB)
Page 9, Line 15	Requires the commission to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 9, Line 22 thru Page 10, Line 2	Provides for notification and information to the public concerning commission activities. (ATB)
Page 10, Line 3	Requires files to be maintained on complaints. (ATB)

S. B. 383 by Carriker  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 10, Line 5	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 10, Line 11	Requires development of accessibility plan. (ATB)
Page 10, Line 19	Technical correction.
Page 10, Line 24 thru Page 12, Line 18	Modifies the definitions related to paid fire protection personnel to be consistent throughout the bill.
Page 12, Line 19 thru Page 14, Line 2	Deletes language related to the composition and duties of the Commission on Fire Protection Personnel Standards and Education that is no longer necessary after the transfer of the commission's duties to the new Texas Commission on Fire Protection.
Page 14, Line 3 thru Page 15, Line 8	Specifies that the powers and duties of the commission relating to paid fire protection personnel include requiring submission of reports by local governmental agencies; assisting fire departments and personnel with problems related to fire fighting techniques, clothing and equipment; assisting with the development and updating of local fire codes; recommending staffing patterns to fire departments; and establishing minimum standards for fire protection personnel.
Page 15, Line 9	Specifies that the commission may not modify minimum standards for paid fire protection personnel to make the standards less stringent than the standards in effect August 31, 1991.
Page 15, Line 14 thru Page 16, Line 13	Establishes the Fire Protection Personnel Advisory Committee composed of six fire protection personnel who represent the various areas in the field of fire protection and three instructors of fire protection personnel. Specifies that the committee would elect a chair and meet at least twice each year. Also, specifies the procedures to be used by the commission and the committee in developing the rules.

S. B. 383 by Carriker  
(cont.)

Bill Reference	Provision
<p>Page 16, Line 14 Page 18, Line 8 thru Page 20, Line 2 Page 20, Line 10 Page 22, Line 7 Page 26, Line 5 thru Page 27, Line 4 Page 28, Line 17 thru Page 29, Line 10</p>	<p>Technical changes necessary to transfer the duties of the Commission on Fire Protection Personnel Standards and Education to the new Texas Commission on Fire Protection.</p>
<p>Page 16, Line 24 thru Page 17, Line 25 Page 20, Line 3</p>	<p>Authorizes the commission to set the certification fees with an upper limit of \$35. Also, requires 50% of the fees collected to be placed in a dedicated fund and specifies that the fund is to be split equally to provide training assistance and to conduct biennial inspections.</p>
<p>Page 18, Line 1</p>	<p>Requires the commission to inspect each fire department and training facility at least once each biennium to ensure compliance with state law and commission rules.</p>
<p>Page 21, Line 10</p>	<p>Removes good moral character as a criteria for certification.</p>
<p>Page 22, Line 15</p>	<p>Provides for licensing by endorsement. (ATB)</p>
<p>Page 22, Line 25 thru Page 23, Line 9</p>	<p>Authorizes the staggered renewal of licenses. (ATB)</p>
<p>Page 23, Line 10</p>	<p>Modifies the certification requirements to require the agency to develop and implement a procedure to issue a one-time certificate to individuals who leave or retire from the fire service that states the level of certification held while in the fire service.</p>
<p>Page 23, Line 19 thru Page 24, Line 20</p>	<p>Requires standard time frames for licensees who are delinquent in renewal of licenses. (ATB)</p>
<p>Page 24, Line 21 thru Page 25, Line 7</p>	<p>Provides for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date. (ATB)</p>
<p>Page 25, Line 8</p>	<p>Provides an analysis, on request, to individuals failing the examination. (ATB)</p>

S. B. 383 by Carriker  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 25, Line 12	Authorizes the commission to use a full range of penalties in enforcing certification requirements. (ATB)
Page 25, Line 25 thru Page 26, Line 4	Specifies commission hearing requirements. (ATB)
Page 29, Line 11 thru Page 30, Line 16	Deletes references to specific national standards and requires that self-contained breathing apparatus meet a nationally recognized standard approved by the commission.
Page 30, Line 17	Requires the commission to enforce the statute related to self-contained breathing apparatus and protective clothing and authorizes the commission to adopt minimum standards for protective clothing and self-contained breathing apparatus.
Page 31, Line 1	Technical correction.
Page 31, Line 3	Modifies the definitions related to the fire department emergency program to be consistent throughout the bill and defines equipment to include protective clothing and self-contained breathing apparatus.
Page 31, Line 14 thru Page 34, Line 10	Deletes language related to the composition and duties of the Fire Department Emergency Board that is no longer necessary after the transfer of the board's duties to the new Texas Commission on Fire Protection and makes technical changes necessary to transfer the duties of the Fire Department Emergency Board to the new Texas Commission on Fire Protection.
Page 34, Line 11 thru Page 35, Line 17	Establishes the Funds Allocation Advisory Committee composed of six members, three who are appointed by the State Firemen's and Fire Marshals' Association and three who are appointed by the Texas State Association of Fire Fighters. Specifies that the committee would meet at least twice each year and would elect the committee chair. Specifies that the committee would review rules and rule changes related to the program and the procedures the commission and the committee would use in developing the rules. Specifies that the committee would review the applications for financial assistance and the procedures the commission would use to approve applications.

S. B. 383 by Carriker  
(cont.)

Bill Reference	Provision
Page 35, Line 18 thru Page 36, Line 5	Deletes language related to the composition and duties of the Fire Department Emergency Board that is no longer necessary after the transfer of the board's duties to the new Texas Commission on Fire Protection.
Page 36, Line 6 thru Page 37, Line 6 Page 37, Line 23 thru Page 41, Line 17	Technical changes necessary to transfer the duties of the Fire Department Emergency Board to the new Texas Commission on Fire Protection.
Page 37, Line 7	Specifies that the commission would develop by rule the types of equipment and facilities that may be purchased by fire departments with the commission's financial assistance. Also, specifies that the commission may consider national standards when developing rules related to facilities and equipment.
Page 37, Line 13	Allows the commission to pay the certification fees of volunteer fire fighters certified by the commission.
Page 37, Line 17	Specifies that after administrative costs of the program, the commission would direct half of the funds available to municipal fire departments and the remaining half to fire fighting entities in rural and unincorporated areas.
Page 41, Line 21 thru Page 42, Line 5	Requires the commission to develop a voluntary certification and regulation program for volunteer fire fighters and fire departments that includes regulation of volunteer fire fighters, training facilities, and protective clothing and self-contained breathing apparatus.
Page 42, Line 6	Requires the commission to contract with a statewide organization whose members include both paid and volunteer fire fighters to administer and implement the program and specifies certain components of the contract.
Page 42, Line 14	Specifies that a volunteer fire fighter, volunteer fire department or facility that provides training to volunteers is not required to participate in any of the commission's programs for volunteers. Also, specifies that the volunteer fire fighters, volunteer fire departments and training facilities would have to request to participate in the commission's programs.

S. B. 383 by Carriker  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 42, Line 21	Requires that the program make available to volunteer fire fighters the same level of training that is currently available to paid fire protection personnel.
Page 43, Line 1	Authorizes the commission by rule to establish qualifications for certification such as minimum age and education and physical and mental health; establish standards for training programs and continuing education; establish training components for certification; establish testing procedures for certification and for completion of training components; and recognize training for credit toward certification.
Page 43, Line 14	Specifies that the qualifications that the commission is authorized to establish are the qualifications the person must comply with to be certified, not qualifications for entering the certification program.
Page 43, Line 17 thru Page 44, Line 21	Establishes the Volunteer Fire Fighter Advisory Committee composed of six volunteer fire fighters and three instructors of volunteer fire fighters. Specifies that the committee would elect its chair and would meet at least twice each year. Also, specifies the procedure the committee and commission would use to develop rules.
Page 44, Line 22 thru Page 45, Line 1	Authorizes the commission to set and collect a certification fee of not more than \$10 to recover the commission's cost of operating the volunteer certification and regulation program.
Page 45, Line 2	Requires the commission to certify a volunteer fire fighter under the volunteer certification program, upon application, if the volunteer has received an advanced certification from the State Firemen's and Fire Marshals' Association.
Page 45, Line 7	Specifies the procedure by which volunteer fire fighters would be eligible to be certified as a paid fire protection personnel.
Page 46, Line 1	Requires that certain state agencies that employ fire fighters must provide those employees with self-contained breathing apparatus and that the commission would inspect each state agency at least once each biennium to ensure compliance with state law and commission rules.

S. B. 383 by Carriker  
(cont.)

Bill Reference	Provision
Page 46, Line 12	Authorizes the commission to allow state agency personnel to attend training programs for fire protection personnel and may authorize reimbursement for the employing state agency's costs.
Page 46, Line 20 thru Page 48, Line 9	Allows certain state agencies and state agency employees to apply to the commission to be regulated under one or more components of the commission's statute. Also, requires the commission to develop application procedures and approve applications when a state agency or an employee meets the criteria.
Page 48, Line 10 thru Page 49, Line 22	Allows certain federal agencies and federal agency employees to apply to the commission to be regulated under one or more components of the commission's statute and requires the commission to develop application procedures and approve applications when a federal agency or an employee meets the criteria.
Page 49, Line 23 thru Page 51, Line 7	Allows certain non-governmental fire departments to apply to the commission to be regulated under the commission's statute and requires the commission to develop application procedures and approve applications when a department meets the criteria.
Page 51, Line 8	Specifies that if an entity or its employees are regulated under this subchapter and pays certification fees, then the entity and its employees are eligible to receive training assistance from the commission.
Page 51, Line 20	Specifies that the commission would review the key rate schedule at least once every four years and recommend changes to the State Board of Insurance.
Page 52, Line 1	Requires the commission to inspect municipalities using the key rate schedule and recommend to the State Board of Insurance for its approval a key rate for that municipality. Also, specifies the procedures to be used by the commission and the board for the determination of a municipalities key rate.
Page 52, Line 8	Requires the commission and the board to enter into a MOU to coordinate their activities related to the key rate and requires the MOU to be updated annually.

S. B. 383 by Carriker  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 52, Line 11	Requires the commission and the Texas Engineering Extension Service to enter into a MOU to coordinate the commission's activities with the extension service's training provided by the firemen's training school and requires the MOU to be updated annually.
Page 52, Line 20 thru Page 53, Line 1	Requires the commission and the Texas Forest Service to enter into a MOU to coordinate the provision of assistance to fire departments throughout the state and requires the MOU to be updated annually.
Page 52, Line 2	Authorizes the commission to provide technical assistance to rural fire prevention districts related to the most efficient and effective provision of fire protection within the district.
Page 53, Line 7	Specifies the procedures to be used to appeal a commission decision.
Page 53, Line 14 thru Page 54, Line 6 Page 27, Line 5 thru Page 28, Line 16	Authorizes the commission to assess administrative penalties for violations of the statute or commission rules related to paid fire protection personnel, volunteer fire fighters, and the fire department emergency program. Specifies the maximum amount of the penalty of \$1,000 per violation, the associated costs to be paid and the procedure used to assess administrative penalties. Authorizes the attorney general or the commission to institute a suit for injunction to enforce the statute. Also, specifies venue for the suit, the maximum amount of civil penalty that the court may assess and the associated costs that may be awarded to the attorney general or the commission.
Page 54, Line 9	Transfers the responsibility for the oversight of the State Fire Marshal from the State Board of Insurance to the new Texas Commission on Fire Protection and modifies the definitions to be consistent with other changes throughout the bill.
Page 54, Line 13	Specifies that the State Fire Marshal is appointed by the executive director of the Texas Commission on Fire Protection subject to the approval of the commission and that the state fire marshal shall report to the commission through the executive director.

S. B. 383 by Carriker  
(cont.)

Bill Reference	Provision
<p>Page 54, Line 20 Page 56, Line 3 thru Page 60, Line 15 Page 62, Line 6 thru Page 63, Line 4</p>	<p>Technical changes necessary to transfer the duties related to the state fire marshal from the State Board of Insurance to the new Texas Commission on Fire Protection.</p>
<p>Page 54, Line 23 thru Page 55, Line 11</p>	<p>Specifies that the state fire marshal, under the supervision of the commission, shall administer and enforce applicable provisions in the Insurance Code and other laws relating to the state fire marshal. Also, requires that the commission perform supervisory and rulemaking functions previously performed by the State Board of Insurance and that the commission may not adopt rules related to fire works that are more restrictive than rules in effect under that article on January 1, 1991, without specific statutory authority.</p>
<p>Page 55, Line 12 thru Page 56, Line 2 Page 64, Line 16 thru Page 65, Line 4 Page 65, Line 16 thru Page 66, Line 21 Page 67, Line 8 Page 67, Line 19 Page 68, Line 18</p>	<p>Specifies the rulemaking and rule review procedures that will be used by the advisory committees related to fire works, fire alarms, fire sprinklers and fire extinguishers, defined in the Insurance Code, and the commission.</p>
<p>Page 60, Line 18</p>	<p>Updates the references to the university, the board of regents and the extension service to reflect current terminology.</p>
<p>Page 60, Line 23 thru Page 61, Line 16</p>	<p>Modifies the composition of the firemen's training school advisory committee to include three members of the university system teaching staff, one of whom is the director of the engineering extension service; four representatives appointed by the State Firemen's and Fire Marshals' Association; one paid fire protection personnel who is the head of a training division of a fire department, appointed by the Texas Commission on Fire Protection; and one fire chief appointed by the Texas Fire Chiefs Association.</p>
<p>Page 61, Line 17 thru Page 62, Line 3</p>	<p>Updates the references to the university, the board of regents and the extension service to reflect current terminology.</p>

S. B. 383 by Carriker  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 63, Line 7 thru Page 64, Line 4	Technical changes necessary to transfer the duties related to the key rate function from the State Board of Insurance to the new Texas Commission on Fire Protection.
Page 64, Line 7	Technical changes necessary to transfer the duties related to the state fire marshal from the State Board of Insurance to the new Texas Commission on Fire Protection and authorizes the commission to enter into a MOU if it more appropriate for certain duties to be performed by the State Board of Insurance.
Page 65, Line 7	Technical changes necessary to transfer the duties related to the state fire marshal from the State Board of Insurance to the new Texas Commission on Fire Protection and authorizes the commission to enter into a MOU if it more appropriate for certain duties to be performed by the State Board of Insurance.
Page 66, Line 24 thru Page 67, Line 5	Technical changes necessary to transfer the duties related to the state fire marshal from the State Board of Insurance to the new Texas Commission on Fire Protection and authorizes the commission to enter into a MOU if it more appropriate for certain duties to be performed by the State Board of Insurance.
Page 67, Line 25 thru Page 68, Line 2	Specifies that the commission cannot adopt rules under this article that are more restrictive than the rules in effect on January 1, 1991, without specific statutory authority.
Page 68, Line 5	Technical changes necessary to transfer the duties related to the state fire marshal from the State Board of Insurance to the new Texas Commission on Fire Protection and authorizes the commission to enter into a MOU if it more appropriate for certain duties to be performed by the State Board of Insurance.
Page 68, Line 12	Creates a fire works advisory council to assist the commission. Specifies that the council is composed of five members, three of whom must be appointed from a list submitted by the Texas Pyrotechnic Association.

S. B. 383 by Carriker  
(cont.)

Bill Reference	Provision
Page 68, Line 21 thru Page 69, Line 3	Specifies that as soon as possible after the effective date of the Act that the governor shall appoint the initial members of the commission; that one third of the member's terms expire on February 1, 1993, on February 1, 1995 and on February 1, 1997; and that the commission may not take action until all 12 members are appointed.
Page 69, Line 4	Provides for the abolishment of the Fire Department Emergency Board and the transfer of its powers, duties, personnel, records, rules and unspent appropriations to the Texas Commission on Fire Protection. Specifies that the revolving fund is renamed and transferred from the board to the commission; that the rules of the board remain in effect until superseded by a rule of the commission. Specifies that until the date of transfer the board would continue to carry out its responsibilities.
Page 69, Line 23 thru Page 70, Line 23	Provides for the abolishment of the Commission on Fire Protection Personnel Standards and Education and the transfer of its powers, duties, personnel, records, rules and unspent appropriations to the Texas Commission on Fire Protection. Specifies that the rules of the commission remain in effect until superseded by a rule of the new commission; that all complaints, proceedings and investigations are transferred to the new commission without a change in status; and that certificates issued by the commission are not affected by the abolition of the commission. Specifies that until the date of transfer the commission would continue to carry out its responsibilities.
Page 70, Line 24 thru Page 71, Line 11	Provides for the transfer of the duties and powers related to the State Board of Insurance's key rate schedules to the Texas Commission on Fire Protection; and that the unspent appropriations to the board and all board employees that are required for the performance of the key rate duties are transferred to the commission. Also, specifies that the board will provide the commission access to or copies of records that the commission needs to carry out transferred duties. Specifies that until the date of transfer the board would continue to perform functions related to the key rate.

S. B. 383 by Carriker  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 71, Line 12 thru Page 72, Line 3	Provides for the transfer of the state fire marshal, the state fire marshal's office and the oversight of the duties of the state fire marshal from the State Board of Insurance to the Texas Commission on Fire Protection including the transfer of the powers, duties, personnel, records, rules and unspent appropriations associated with the state fire marshal. Also, specifies that the state fire marshal in office on the date of the transfer remains in office unless replaced by the commission and that the status of complaints, investigations, and proceedings in which the state fire marshal is involved is transferred without a change in status.
Page 72, Line 4	Specifies that the commission shall maintain the state fire marshal's field offices as offices of the commission.
Page 72, Line 8	Specifies that the rules related to the key rate function and the state fire marshal continue in effect until superseded by the commission.
Page 72, Line 13	Specifies that the commission's program for the voluntary regulation of volunteer fire fighters and fire departments shall be in place by September 1, 1993.
Page 72, Line 18	Specifies that the initial review of the key rate schedule by the commission will be conducted not later than August 31, 1995.
Page 72, Line 22 thru Page 73, Line 1	Specifies that initial MOU between the commission and the director of the Texas Engineering Extension Service shall be entered into not later than August 31, 1992.
Page 73, Line 2	Specifies that initial MOU between the commission and the director of the Texas Forest Service shall be entered into not later than August 31, 1992.
Page 73, Line 6	Specifies that the first EEO policy statement required by the bill must be filed by November 1, 1991.
Page 73, Line 9	Establishes the effective date of this Act as September 1, 1991.
Page 73, Line 10	Emergency clause.



**TEXAS HEALTH AND HUMAN SERVICES COORDINATING COUNCIL**  
S. B. 379 by Carriker

***Final Action:*** *The Texas Health and Human Services Coordinating Council was abolished and its functions were transferred to other agencies. The Governor's Council on Health and Human Services was created to fulfill certain health and human services planning and coordination functions.*

**Analysis of Major Provisions in the Final Bill**

Senate Bill 379, as introduced, contained the Sunset Commission's recommendations for the Texas Health and Human Services Coordinating Council. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Abolish the Texas Health and Human Services Coordinating Council and create a new council within the governor's office to do planning and coordination of health and human services.** As recommended by the Sunset Commission, the Texas Health and Human Services Coordinating Council was abolished and a new council was created within the governor's office. Although the final legislation involved a modification of the Sunset Commission's recommendation concerning the structure and functions of the new council in the governor's office, the basic outline of the proposal remained intact. The Governor's Council on Health and Human Services will consist of six public members appointed by the governor and the administrative heads of 15 health and human service agencies will serve as non-voting members. The council will be responsible for several planning and coordination functions, including developing a long-range strategic plan and assisting in the development of a coordinated budget proposal for health and human services.

**Transfer the remainder of the activities of the Texas Health and Human Services Coordinating Council to other appropriate state agencies.** Based on a recommendation of the Sunset Commission, responsibility for completing various projects assigned to the Texas Health and Human Services Coordinating Council was transferred to other agencies. Responsibility for publishing a reference guide for health and human services was transferred from the Texas Health and Human Services Coordinating Council as recommended by the Sunset Commission, but was transferred to the governor's office rather than the Texas Department of Health. Responsibility for applying for and distributing federal State Legalization Impact Assistance Grants (SLIAG) funds for newly legalized aliens was transferred to the governor's office as recommended by the Sunset Commission, but was made a responsibility of the Office of Immigration and Refugee Affairs. Also as recommended by the Sunset Commission, the Department of Information

Resources was given authority to develop the Client Omnibus Registry and Exchange (CORE) project, and authority to develop the Statewide Needs Appraisal Project was transferred to the Texas Department of Human Services.

**Abolish the Commission on Children, Youth, and Family Services.** The Commission on Children, Youth, and Family Services was abolished and a provision was added requiring the Governor's Council on Health and Human Services to place an initial emphasis on services to children, youth, and families in its long-range strategic planning efforts.

**Create an Office of Immigration and Refugee Affairs in the governor's office.** The Office of Immigration and Refugee Affairs was created and charged with the responsibility to apply for and distribute available federal funds for providing services to newly legalized aliens and to refugees. These funds will include the State Legalization Impact Assistance Grants (SLIAG) funds. The new office will be assisted by the Advisory Committee on Immigration which was transferred from the Texas Health and Human Services Coordinating Council and given an expanded focus to include advising on refugee affairs.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 379 with the original sunset bill as introduced shows that the general outline of all of the Sunset Commission's recommendations remained in the bill but many of the specific provisions were modified as discussed above.

### **Fiscal Impact**

The bill's provisions resulted in a net revenue gain of approximately \$1 million in fiscal years 1992 and 1993, and \$228,000 in each fiscal year from 1994 through 1996. The revenue gain resulted in savings to interagency contracts and there was no net impact to the general revenue fund.

Bill Summary  
Enrolled Version

**TEXAS HEALTH AND HUMAN SERVICES COORDINATING COUNCIL**

S. B. 379 by Carriker

Bill Reference	Provision
Page 1, Line 13 thru Page 3, Line 25	Establishes the Governor's Council on Health and Human Services (GCHHS), composed of six public members appointed by the governor; includes the administrative heads of 15 health and human service state agencies as non-voting members; provides for staggered six-year terms of office; specifies that the governor shall appoint the chair; defines a quorum; authorizes reimbursement for expenses; provides for the GCHHS to be staffed by the governor's office; and authorizes ad hoc committees.
Page 4, Line 1 thru Page 5, Line 16	Specifies the duties and responsibilities of the GCHHS; authorizes the council to solicit and accept gifts and grants; sets a sunset review date of September 1, 2003; and specifies that funding of the GCHHS shall be made through interagency contracts with the agencies represented on the council.
Page 5, Line 18	Transfers responsibility for publishing a reference guide for health and human services from the THHSCC to the governor's office.
Page 6, Line 1 thru Page 8, Line 15	Creates the Office of Immigration and Refugee Affairs (OIRA) in the governor's office; transfers the responsibility to apply for federal State Legalization Impact Assistance Grants (SLIAG) funds from the THHSCC to the OIRA; outlines other responsibilities of the office, including the responsibility to apply for and distribute federal funds available under the Refugee Act of 1980; authorizes the OIRA to solicit and accept gifts and grants; and stipulates that the OIRA may use only federal funds to perform its duties.
Page 8, Line 19 thru Page 12, Line 5	Establishes the Governor's Advisory Committee on Immigration and Refugees in the governor's office, composed of 12 members appointed by the governor, including representatives of the immigrant and refugee populations and voluntary organizations that serve them; outlines the functions of the advisory committee, including assisting the OIRA in applying for and distributing federal funds for immigrant and refugee-related programs; sets a sunset date of September 1, 1995; and stipulates that the advisory committee may use only federal funds to perform its duties.

S. B. 379 by Carriker  
(cont.)

Bill Reference	Provision
Page 12, Line 9	Directs the Texas Department of Health's Statewide Health Coordinating Council to consult with the GCHHS, rather than the THHSCC, in issuing directives for the development of the state health plan.
Page 12, Line 15 thru Page 13, Line 6	Moves the statutory language concerning reports by the Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation (TDMHMR), the Texas Youth Commission, and the Texas Juvenile Probation Commission on children involved in substance abuse from the Commission on Children, Youth, and Family Services' (CCYFS) statute to the Texas Commission on Alcohol and Drug Abuse statute.
Page 13, Line 10 thru Page 14, Line 15	Moves the statutory language regarding a memorandum of understanding on services for dysfunctional families between the Texas Department of Human Services, the Texas Youth Commission, and the Texas Juvenile Probation Commission from the CCYFS statute to the Texas Department of Human Services' statute.
Page 14, Line 19 thru Page 16, Line 19	Moves the statutory language regarding a memorandum of understanding on interagency training between the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the Central Education Agency from the CCYFS statute to the Texas Department of Mental Health and Mental Retardation's statute.
Page 16, Line 22 thru Page 18, Line 22	Moves the statutory language regarding a memorandum of understanding on service delivery for runaways between the Texas Department of Human Services and the Texas Juvenile Probation Commission from the CCYFS statute to the Texas Juvenile Probation Commission's statute.
Page 19, Line 1 thru Page 20, Line 8	Moves the statutory language regarding guidelines for access to funds for at-risk youth and dropouts established by the Texas Department of Commerce, the Texas Department of Mental Health and Mental Retardation, the Texas Juvenile Probation Commission, the Central Education Agency, and the Texas Youth Commission from the CCYFS statute to the Texas Department of Commerce's statute.

S. B. 379 by Carriker  
(cont.)

Bill Reference	Provision
Page 20, Line 12 thru Page 21, Line 5	Transfers authority to develop the Client Omnibus Registry and Exchange (CORE) project from the THHSCC to the Department of Information Resources.
Page 21, Line 9 thru Page 23, Line 16	Moves the statutory language authorizing the Interagency Council for Services for the Homeless from the THHSCC statute to the statute of the Texas Department of Community Affairs.
Page 23, Line 19 thru Page 27, Line 5	Moves the statutory language authorizing the Maternal and Child Health Advisory Committee from the THHSCC statute to the statute of the Texas Department of Health.
Page 27, Line 8	Transfers authority to implement the Statewide Needs Appraisal Project from the THHSCC to the Texas Department of Human Services.
Page 28, Line 8	Directs the Texas Cancer Council to report on its activities to the GCHHS, rather than the THHSCC.
Page 28, Line 15	Directs the Texas Department of Health's Statewide Health Coordinating Council to submit the state health plan to the GCHHS, rather than the THHSCC, prior to sending it to the governor.
Page 28, Line 25 thru Page 29, Line 2	Deletes the THHSCC as an example of an agency that may be represented on the Texas Department of Health's hospital data advisory committee.
Page 29, Line 10	Changes the Texas Department of Human Services statute to refer to the use of levels of residential care and a standard placement application adopted and maintained by the GCHHS, rather than the THHSCC.
Page 30, Line 5	Deletes the reference to a representative of the THHSCC on the Texas Department of Human Services' School Age Pregnancy Interagency Coordination Council.
Page 30, Line 11	Makes technical changes to the Health and Safety Code by deleting language in Subchapter H, Chapter 85 that was a duplication of language already included.
Page 30, Line 14	Repeals the authorizing statute of the Commission on Children, Youth, and Family Services.

S. B. 379 by Carriker  
(cont.)

Bill Reference	Provision
Page 30, Line 15	Repeals the authorizing statute of the Texas Health and Human Services Coordinating Council.
Page 30, Line 16	Repeals the provision in the authorizing statute of the Texas Council on Disabilities that makes it advisory to the Texas Health and Human Services Coordinating Council.
Page 30, Line 18	Repeals the provision in the authorizing statute of the Texas Long-Term Care Coordinating Council that makes it advisory to the Texas Health and Human Services Coordinating Council.
Page 30, Line 20 thru Page 31, Line 8	Abolishes the Texas Health and Human Services Coordinating Council; provides for transfer of all appropriate records, personnel and property to the governor's office; abolishes the Commission on Children, Youth, and Family Services and provides for transfer of records and property to the governor's offices; and provides for transfer of all records and property on the CORE project to the Texas Department of Information Resources.
Page 31, Line 9	Abolishes the Advisory Committee on Immigration and provides for transfer of all property, records, employees, contracts, and unspent appropriations to the Office of Immigration and Refugee Affairs.
Page 31, Line 17 thru Page 32, Line 10	Requires the Department of Information Resources to conduct a study of the feasibility, cost-effectiveness, and usefulness of the CORE project before implementing the project and before December 31, 1992; and stipulates that all funding for the study shall be made through interagency contracts with the agencies represented on the GCHHS.
Page 32, Line 11	Clarifies that the levels of care and the standard application for the placement of children in contract residential care that were adopted by the THHSCC shall continue in effect under the GCHHS.
Page 32, Line 16	Establishes Act as effective September 1, 1991.
Page 32, Line 17	Emergency clause.

**TEXAS HOUSING AGENCY**  
S. B. 546 by Barrientos

***Final Action: The Texas Housing Agency was abolished and its functions combined with the Texas Department of Community Affairs to create a new agency.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 546 contained the recommendations of the Sunset Commission for the Texas Housing Agency. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The major provisions in the final bill are described below.

**Combine the Texas Housing Agency and the Texas Department of Community Affairs.**

The Texas Housing Agency and the Texas Department of Community Affairs were combined into a new agency, the Texas Department of Housing and Community Affairs, as recommended by the Sunset Commission. The agencies were merged to increase control over the state's housing programs and to focus these programs on serving low income people and families. The agency's policies will be set by a nine-member board whose members include representatives of lending institutions, nonprofit housing organizations, the real estate industry, local governments, low income families and the general public. The new agency will have two divisions that continue the programs offered by the Texas Housing Agency and the Texas Department of Community Affairs.

**Create a Housing Trust Fund.** Based on recommendations of the Sunset Commission, a housing trust fund was created to increase the types of programs offered by the agency and provide more assistance to low income people and families who are not adequately served or who are not currently served by existing programs. The trust fund will allow the agency to issue more loans, grants, and financial assistance to local governments, public housing authorities, nonprofit organizations and eligible people and families. Money from the fund must be used to finance, purchase, renovate or develop decent, safe and sanitary housing. The fund is limited to assisting low income people and families and nonprofit groups that develop low income housing. The agency must set priorities and develop a process for using the housing trust fund, including the distribution of fund resources.

**Authorize the agency to acquire and own property.** The agency was given authority to acquire and own property to assist low income people and families and to take advantage of property deals offered by the federal government, particularly the Resolution Trust Corporation. Tight restrictions were placed on the program to lower risks associated with

property ownership. Under the restrictions, property must qualify for home mortgage insurance after renovation and must be used for low income persons and families; acquisition funds must come from the housing trust fund or unencumbered fund balances; no more than 10 percent of the yearly balance of the trust fund may be used to acquire property; and an annual audit must be conducted to analyze the success of the program if the agency acquires property.

**Strengthen the process for hiring outside legal counsel.** The Sunset Commission recommended, and the legislature adopted, provisions which require the agency to follow the state's current procedures for obtaining outside legal counsel. In the past, the agency has incurred high outside legal expenses and has considered hiring outside legal counsel without the approval or consent of the state attorney general. Current law requires agencies that receive appropriated funds to seek approval from the attorney general before hiring outside legal counsel. The agency must also evaluate the proposed legal counsel's affirmative action policies and hiring practices and provide that information to the attorney general when requesting approval.

**Increase the agency's service to low income persons and families.** The agency will be required to set eligibility requirements and create policies and programs that will help increase the number of low income people and families being served. The bill sets out specific programs, which include encouraging participation by homeless and low income people and families in agency programs; adopting a strategy to make bond proceeds available to low income persons and families; providing technical assistance to local governments and housing organizations; helping nonprofit groups and state organizations to identify and apply for federal matching funds; and providing matching funds from the housing trust fund to qualifying local governments, public agencies, housing sponsors, and nonprofit developers. The agency must also develop a mortgage lender selection process that examines a lender's Community Reinvestment Act rating and previous patterns of loan distributions by income and geographic region for earlier agency programs.

**Increased oversight of agency operations.** Several changes to the agency's operations were made to strengthen the agency's budget process and safeguard the agency's funds. These changes include tightening the agency's internal audit process; requiring a budget statement of expected operating expenses and proposed use of projected year-end unencumbered fund balances for the housing finance division; depositing the housing finance division's unappropriated funds and revenues in the Texas Treasury Safekeeping Trust Company; and developing agency procedures to monitor the performance of agency contractors. The agency is made subject to the state's open records law. The agency must also submit an operating budget for the housing finance division to the Legislative Budget Board, the Senate Finance Committee, and the House Appropriations Committee.

**Transfer of the Rental Rehabilitation Grant Program.** The Texas Department of Commerce's rental rehabilitation grant program was transferred to the Texas Department of Housing and Community Affairs. This program was moved to the new agency because the goals of the program and the new agency are similar.

**Improve the agency's service to low income persons and families.** Several changes were made to the agency to improve services to low income persons and families and other needy groups. These improvements require the agency to set goals to apply 25 percent of the housing funds to serving very low income persons and families, provide services to persons who are defined as having special needs, and adopt a strategy to equally serve low income persons and families in rural areas and small cities and in urban counties and large cities.

### **Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 546 with the original sunset bill as introduced shows that all standard across-the-board recommendations proposed by commission were included in the final bill.

Most of the Sunset Commission's program recommendations remained in the final bill, with the exception of specific provisions related to the oversight of housing finance division operations which were removed from the bill and are described below.

**Oversight of housing finance division operations.** The Sunset Commission recommended that the housing finance division be exempt from the Appropriations Act and riders, except for riders related to the classified employment and employee travel. This was to ensure that the division complied with guidelines followed by other state agencies. The provision was dropped because it was thought that the Appropriations Act and its riders would apply to the housing finance division.

The Sunset Commission also recommended that the housing finance division conduct public hearings and consider public input when developing its operating budget. This was to ensure that there was oversight of and public input in the development of the division's budget. This provision was dropped because additional oversight of the division's budget was included in the final legislation and to reduce expenses.

### **Fiscal Impact**

The bill's provisions have a net gain to total state revenue of \$197,800 in fiscal year 1992 and \$265,975 in each fiscal year from 1993 through 1996. The bill will have no impact on the general revenue fund in fiscal years 1992 through 1996. The savings generated by the bill will be placed in the Texas Housing Agency Fund and the Texas Department of Community Affairs Earned Federal Revenue Fund.



Bill Summary  
Enrolled Version  
**TEXAS HOUSING AGENCY**  
S. B. 546 by Barrientos

Bill Reference	Provision
Page 1, Line 7 and throughout the bill	Abolishes the Texas Housing Agency and the Texas Department of Community Affairs and merges the agencies into the Texas Department of Housing and Community Affairs.
Page 2, Line 16 thru Page 3, Line 12	Modifies the mission statement by including additional purposes of the agency and specifying the goals of the state in the area of housing for low income individuals and families.
Page 3, Line 13 thru Page 6, Line 8	Technical corrections.
Page 6, Line 9	Specifies that the highest priority of the Texas Department of Housing and Community Affairs is to provide assistance to persons not served by other private or governmental programs.
Page 6, Line 15 thru Page 12, Line 15	Technical corrections.
Page 12, Line 16	Defines "persons and families of low income" as persons and families earning not more than 80 percent of the area median income.
Page 13, Line 8	Defines "persons and families of very low income" as persons and families earning not more than 60 percent of the median family income.
Page 13, Line 11	Defines "person with special needs" as a person who is considered disabled or handicapped, elderly, is designated by the board as possessing a unique need, or a person that is legally responsible for caring for a person with special needs as defined above.
Page 13, Line 22 thru Page 14, Line 11	Defines a "family of moderate income" based on a variety of factors specified in the bill.
Page 14, Line 12	Technical corrections.

S. B. 546 by Barrientos  
(cont.)

Bill Reference	Provision
Page 14, Line 25 thru Page 15, Line 3	Defines "real estate owned contractor" as a person contracting with the housing finance division to be responsible for managing and marketing foreclosed properties under the programs of the division.
Page 15, Line 4	Technical corrections.
Page 15, Line 25 thru Page 16, Line 8	Defines "servicer" as a person required to perform responsibilities relating to a loan.
Page 16, Line 9 thru Page 17, Line 17	Technical corrections.
Page 17, Line 18	Creates the Texas Department of Housing and Community Affairs.
Page 18, Line 1	Changes the sunset review date of the agency to 2003.
Page 18, Line 3 thru Page 20, Line 12	Specifies the size, term, and composition of the board. Requires that members of the board be persons who reflect the economic, cultural, and social diversity of the state, including ethnic minorities and women.
Page 21, Line 2	Requires that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB)
Page 21, Line 8	Technical corrections.
Page 21, Line 22	Specifies that the governor shall appoint a chairman of the board.
Page 22, Line 1	Technical corrections.
Page 22, Line 5 thru Page 23, Line 5	Specifies grounds for removal of a board member. (ATB)
Page 23, Line 6 thru Page 27, Line 16	Technical corrections.
Page 27, Line 17	Requires the department to improve the access of homeless persons to the agency's educational programs.
Page 27, Line 21 thru Page 28, Line 9	Specifies the restrictions for public members on the board.

S. B. 546 by Barrientos  
(cont.)

Bill Reference	Provision
Page 28, Line 10	Technical corrections.
Page 28, Line 21	Specifies that the director's authority to appoint and remove officers and other personnel of the department is subject to the annual budget and the provisions of any resolution authorizing the issuance of bonds under this article.
Page 28, Line 24 thru Page 29, Line 10	Technical corrections.
Page 29, Line 11	Requires the board to establish skill-oriented career ladders. (ATB)
Page 29, Line 16	Requires a system of merit pay based on documented employee performance. (ATB)
Page 29, Line 20 thru Page 30, Line 24	Requires development of an E.E.O. policy. (ATB)
Page 31, Line 6	Requires that the board develop and implement policies which clearly separate board and staff functions. (ATB)
Page 31, Line 11	Requires the agency to provide information on standards of conduct to board members and employees. (ATB)
Page 31, Line 18 thru Page 32, Line 5	Requires specific provisions relating to conflicts of interest. (ATB)
Page 32, Line 6	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
Page 32, Line 20	Subjects the agency to the open records law.
Page 32, Line 25 thru Page 33, Line 5	Technical corrections.
Page 33, Line 6	Establishes a community affairs and a housing finance division within the agency and requires duties and funds to be kept separate.
Page 33, Line 24 thru Page 35, Line 6	Technical corrections.

S. B. 546 by Barrientos  
(cont.)

Bill Reference	Provision
Page 35, Line 12	Requires other agencies and institutions of the state to cooperate with the department in providing affordable housing to persons and families of low and very low income and families of low and moderate income.
Page 35, Line 22 thru Page 36, Line 3	Provides for notification and information to the public concerning board activities. (ATB)
Page 36, Line 4	Requires files to be maintained on complaints. (ATB)
Page 36, Line 7	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 36, Line 13	Provides for public testimony at agency meetings. (ATB)
Page 36, Line 17	Requires development of accessibility plan. (ATB)
Page 36, Line 22 thru Page 37, Line 14	Technical corrections.
Page 37, Line 15	Requires the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
Page 37, Line 22 thru Page 38, Line 1	Requires the department to prepare an operating budget for the housing finance division and submit the budget to the Legislative Budget Board, the Senate Finance Committee, and the House Appropriations Committee.
Page 38, Line 2	Establishes statutory guidelines for agency internal audit functions.
Page 38, Line 21 thru Page 39, Line 4	Requires the department to follow specific guidelines when hiring outside legal counsel.
Page 39, Line 5	Specifies that the property of the department, its income and operations are exempt from all taxes and assessments imposed by the state .
Page 39, Line 10 thru Page 41, Line 4	Creates the community affairs division and describes the powers and responsibilities of the division.

S. B. 546 by Barrientos  
(cont.)

Bill Reference	Provision
Page 41, Line 5	Requires the community affairs division to have a goal to apply 25 percent of its housing related funds to provide housing assistance for persons and families of very low income.
Page 41, Line 16	Specifies that special advisory councils are automatically dissolved on completion of the council's stated purpose unless continued by the governor.
Page 41, Line 20 thru Page 44, Line 1	Technical corrections.
Page 44, Line 3	Creates the housing finance division.
Page 44, Line 14	Requires the housing finance division to have a goal to apply 25 percent of its housing related funds to provide housing assistance for persons and families of very low income.
Page 44, Line 21 thru Page 46, Line 14	Specifies the powers and responsibilities of the division.
Page 46, Line 15	Requires the department to adopt a strategy for the percentage of mortgage revenue bond proceeds to be made available to low income persons and families.
Page 46, Line 19 thru Page 47, Line 21	Technical corrections.
Page 47, Line 22	Restricts the housing finance division's authority to own property.
Page 48, Line 3 thru Page 52, Line 12	Technical corrections.
Page 52, Line 13	Requires the department to adopt a strategy to serve the needs of persons with special needs.
Page 52, Line 15	Requires the department to adopt a strategy to ensure that the credit and housing needs of persons and families in rural areas and small cities are met.
Page 52, Line 22	Requires the department to develop policies and programs to increase the number of low income persons and families which participate in the bond programs.

S. B. 546 by Barrientos  
(cont.)

Bill Reference	Provision
Page 52, Line 25 thru Page 53, Line 3	Requires the department to provide information and technical assistance to municipalities and non-profit corporations.
Page 53, Line 4	Requires the department to encourage private and non-profit corporations and state organizations to match funds of the housing finance division.
Page 53, Line 8	Requires the department to provide matching funds to political subdivisions and non-profit developers who qualify under programs of the division.
Page 53, Line 18	Requires the director to file a budget for the housing finance division which includes a statement of expected operating expenses and the proposed use of projected year end unencumbered fund balances.
Page 53, Line 21 thru Page 54, Line 18	Technical corrections.
Page 54, Line 19	Requires the department to deposit all revenue and funds of the housing finance division with the Texas Treasury Safekeeping Trust Company except for those funds used for the operation of the housing finance division or appropriated funds.
Page 55, Line 1	Technical corrections.
Page 55, Line 16	Requires the department to choose the depository submitting the bid with the most favorable financial terms to the department, taking into account the security and efficiency with which the depository is capable of managing the funds of the department.
Page 55, Line 25 thru Page 56, Line 6	Specifies that funds are not required to be deposited in the Texas Treasury Safekeeping Trust Company if the bond covenant directs otherwise and that covenants of bonds issued after September 1, 1991 may not prohibit the deposit of funds in the Texas Treasury Safekeeping Trust Company.
Page 56, Line 7	Technical corrections.
Page 56, Line 15 thru Page 57, Line 1	Requires the housing finance division to examine the ethnicity and income of applicants and recipients under division programs and publish its findings in an annual report made to the executive committee and available to the general public.

S. B. 546 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 57, Line 2	Technical corrections.
Page 57, Line 15	Authorizes the department to determine the median family income of a person or family for an area by using any source acceptable under federal law or rule.
Page 57, Line 18 thru Page 63, Line 24	Technical corrections.
Page 63, Line 25 thru Page 65, Line 12	Requires the department to provide housing assistance to persons with special needs.
Page 65, Line 13 thru Page 68, Line 11	Technical corrections.
Page 68, Line 12 thru Page 71 Line 24	Establishes a housing trust fund to provide funding for downpayment assistance, closing costs, and the acquisition of property.
Page 71, Line 25 thru Page 72, Line 17	Authorizes the housing finance division to acquire and own real property for sale or rental to persons and families of low income.
Page 72, Line 18 thru Page 73, Line 4	Establishes a low and very low income housing resource center.
Page 73, Line 5	Requires the department to consider the lender's past performance in agency programs and Community Reinvestment Act rating when selecting lenders to participate in bond programs.
Page 73, Line 13 thru Page 75, Line 5	Requires the department to develop a written plan to monitor the performance of departmental contractors.
Page 75, Line 6 thru Page 78, Line 11	Technical corrections.
Page 78, Line 12	Requires the department to encourage a tenant of a housing project to participate in other programs of the department when that tenant is no longer eligible to participate in the housing development program.
Page 78, Line 17 thru Page 81, Line 11	Technical corrections.

S. B. 546 by Barrientos  
(cont.)

Bill Reference	Provision
Page 81, Line 12	Authorizes the department to refund bonds of the department or the bonds of its predecessor or of any local housing finance corporation or corporations.
Page 81, Line 15 thru Page 96, Line 22	Technical corrections.
Page 96, Line 23 thru Page 97, Line 1	Prohibits a member of the board or an employee of the department from purchasing bonds of the department in the open secondary market for municipal securities.
Page 97, Line 2	Transfers the administration of the rental rehabilitation grant program from the Texas Department of Commerce to the Texas Department of Housing and Community Affairs.
Page 97, Line 8 thru Page 102, Line 4	Technical corrections.
Page 102, Line 5	Adjusts the Private Allocation Act to secure the department's bond allocation reservation.
Page 102, Line 14 thru Page 108, Line 18	Technical corrections.
Page 108, Line 21 thru page 109, Line 15	Exempts property owned by the United States government or nonprofit organizations and used to provide transitional housing from ad valorem taxes.
Page 109, Line 16 thru Page 115, Line 1	Technical corrections.
Page 115, Line 2	Instructional provision requiring that any balance remaining in the THA reserve fund be transferred to the housing finance division reserve fund.
Page 115, Line 6	Instructional provision which abolishes the Texas Housing Agency and the Texas Department of Community Affairs and transfers all powers, duties, rights, obligations, personnel, records, assets and other property, and unspent obligations to the Texas Department of Housing and Community Affairs.

S. B. 546 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 115, Line 24 thru Page 116, Line 18	Instructional provision which authorizes the executive director of the Department of Community Affairs to act as the executive director of the Texas Department of Housing and Community Affairs until an executive director is appointed and assumes office under this Act. Authorizes the board of the Texas Housing Agency to act as the board of the Texas Department of Housing and Community Affairs until a majority of the board is appointed and assumes office under this Act.
Page 116, Line 19	Instructional provision relating to the appointment of board members.
Page 117, Line 1	Instructional provision relating to the deposit of funds of the housing finance division.
Page 117, Line 11 thru Page 118, Line 13	Instructional provision related to the transfer of the rental rehabilitation grant program.
Page 118, Line 14	This Act takes effect on September 1, 1991.
Page 118, Line 15	Emergency clause.



**LONG-TERM CARE COORDINATING COUNCIL FOR THE ELDERLY**  
S. B. 377 by Carriker

***Final Action: The Long-Term Care Coordinating Council for the Elderly was abolished and its functions were transferred to the Texas Department on Aging.***

**Analysis of Major Provisions in the Final Bill**

Senate Bill 377, as introduced, contained the Sunset Commission's recommendations for the Long-Term Care Coordinating Council for the Elderly. All of these recommendations remained in the final version of the bill. No new provisions were added by the legislature. The provisions in the final bill are described below.

***Abolish the Long-Term Care Coordinating Council for the Elderly and transfer its functions to the Texas Department on Aging.*** As recommended by the Sunset Commission, the council was abolished and its functions were transferred to the Texas Department on Aging. The Texas Department on Aging, the Texas Department of Human Services, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation will adopt a memorandum of understanding regarding the responsibilities of each agency in revising and updating Texas' Long-Term Care State Plan for the Elderly.

**Comparison of Sunset Commission Legislation with Final Legislation**

A comparison of S.B. 377 with the original sunset bill as introduced shows that all the Sunset Commission's recommendations remained in the final bill.

**Fiscal Impact**

The bill's provisions have no net gain or loss to the general revenue fund.



Bill Summary  
Enrolled Version

**LONG-TERM CARE COORDINATING COUNCIL FOR THE ELDERLY**

S. B. 377 by Carriker

<b>Bill Reference</b>	<b>Provision</b>
Page 1, Line 8	Transfers the functions of the Long-Term Care Coordinating Council for the Elderly to the Texas Department on Aging.
Page 1, Line 19 thru Page 2, Line 5	Requires the adoption of an MOU between the Texas Department on Aging, the Texas Department of Human Services, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation regarding the responsibilities of each agency in revising and updating Texas' Long-Term Care State Plan for the Elderly.
Page 2, Line 6	Abolishes the council; repeals the council's enabling Act.
Page 2, Line 9	Requires adoption of the MOU no later than January 1, 1992.
Page 2, Line 15	Establishes the effective date of the Act as September 1, 1991.
Page 2, Line 16	Emergency clause.



**STATE PURCHASING AND GENERAL SERVICES COMMISSION**  
**S. B. 831 by Barrientos**

***Final Action: The legislature failed to enact legislation to renew the State Purchasing and General Services Commission and to implement other changes recommended by the Sunset Commission and the legislature.***

**Analysis of Major Provisions of S.B. 381**

Senate Bill 831, as introduced, contained the Sunset Commission's recommendations for the State Purchasing and General Services Commission. S.B. 831 had passed both the house and senate, and a conference committee had been named to resolve the differences between the two versions. The house concurred with the conference committee report. The regular session of the 72nd Legislature ended before the conference committee report could be brought up for approval in the senate, and the bill died. The agency will be abolished unless legislation to renew it is enacted in a special session of the legislature.

Most of the recommendations of the Sunset Commission remained in the conference version of the bill that died, along with new provisions that were added to the bill by the legislature. The major provisions in the conference version of the bill are described below:

**Change the name of the agency to the General Services Commission.** The Sunset Commission recommended, and the conference version included a provision which changes the name of the agency from the State Purchasing and General Services Commission to the General Services Commission (GSC). Although the purchasing function is a major responsibility for the agency, the new name is shorter and better reflects the agency's overall role in Texas state government.

**Entitle the executive director to benefits under the commissioned peace officer provisions of the Employees Retirement System.** Language was added to the conference version which would allow the executive director's direct supervisory responsibility for commissioned peace officers to entitle the executive director to commissioned peace officer retirement benefits. The change will allow increased benefits and more favorable participation regarding age and early retirement.

**Require the chief of capitol security to report directly to the executive director and require policies and plans be approved by the executive director.** The conference version modified a recommendation of the Sunset Commission changing the organizational position of the chief of capitol security. The chief of capitol security will report directly to executive director. The chief will be required to develop, and submit for the executive

director's approval, all personnel policies and overall policy direction and operating plans for the capitol security function. Currently the capitol security function is one of ten major organizational divisions within the agency and the chief of capitol security reports to one of two associate deputy directors.

**Require the GSC to establish a program for contracting with disadvantaged business enterprises.**

The Sunset Commission recommended that, in order to increase disadvantaged business enterprises' participation in state purchases, the GSC must adopt a disadvantaged business enterprises (DBE) policy that is consistent with the Appropriations Act or any state law that might be enacted in the future. The current appropriations bill sets out a policy for state agencies to follow in contracting with disadvantaged business enterprises (DBEs), but adherence to the policy is not required. The new provision requires the GSC to estimate the number of disadvantaged businesses willing and able to supply the goods and services to be purchased by the GSC. Based on that research, the GSC would then set percentage goals for the relative amount of work the GSC should strive to award to disadvantaged businesses. All percentage goals would be targets only and would not establish mandatory quotas nor remove competitive bidding requirements. The GSC would also be required to appoint an advisory committee composed of owners of disadvantaged businesses. The committee would be responsible for reviewing commission procedures relating to state agency purchases and contracting, and for making recommendations to the GSC and the legislature concerning changes needed to facilitate the participation of DBEs in state contracting. The conference version included the sunset recommendations and added the requirements that the GSC coordinate with the Department of Commerce in the development of its DBE policy and that the advisory committee coordinate with the office in performing its responsibilities.

**Transfer the program for the elimination of architectural barriers to the Department of Licensing and Regulation and modify the program.**

Based on a recommendation of the Sunset Commission, the legislature transferred the program for the elimination of architectural barriers from the SPGSC to the Texas Department of Licensing and Regulation. The SPGSC is a service agency compared with the TDLR which is primarily a regulatory agency. This program, a regulatory effort, will benefit from the TDLR's regional office structure, expertise in managing plan review, inspection and enforcement processes, and its structure for the assessment of disciplinary penalties. Changes were made to the administration of the program. The TDLR is authorized to contract with other state agencies, political subdivisions, nonprofit organizations, and private entities to perform inspections of privately funded buildings subject to the architectural barriers statute. In addition, effective January 1, 1992, the exemption for privately financed public accommodations in counties under 45,000 population from the requirements of the architectural barriers statute is removed. Also, the department is authorized to assess fees to recover the costs of administering the program for the elimination of architectural barriers. In addition to the Sunset Commission's recommendations, the legislature changed the definitions for coverage of the architectural barriers program to conform to the federal Americans with Disabilities Act.

**Require all state agencies in the executive branch to use contract travel rates developed between the state and vendors and exempt institutions of higher education, from using contracted travel agency services.** The conference version modified a recommendation of the Sunset Commission making state agencies' participation in the state travel management program mandatory. All state agencies in the executive branch will be required to use contract rates developed between the state and vendors for travel services such as airfares, vehicle rentals, and hotel accommodations. All state agencies in the executive branch, except institutions of higher education, will be required to use the contracted travel agency services. The State Travel Management Program was created as a voluntary program to help state agencies better manage their travel and stretch state travel dollars. By requiring state agencies to participate in the program, the GSC should be able to negotiate better contracts for travel services because an attractive minimum volume can be guaranteed to the vendor.

**Prohibit the State Travel Management Program from entering into a single, statewide contract for travel agency services.** The Sunset Commission recommended, and the conference version included, the requirement that the State Travel Management Program enter into more than one contract for travel agency services. Currently, the program contracts with one travel agency to provide all travel agency services in the state. However, the industry has many smaller and often disadvantaged businesses that could benefit if they could participate. Contracting with more than one travel agency for the provision of travel agency services would reduce the cost savings to the state but further the state policy of supporting small and disadvantaged businesses.

**Authorize the GSC to return to the federal government rebates collected on federally funded state travel.** The conference version included the Sunset Commission recommendation that the GSC be authorized to return to the federal government rebates collected on federally funded state travel in compliance with federal requirements. Current law requires that all rebates collected by the agency be returned to the general revenue fund. This change would allow the agency to comply with federal law and would make it easier for federally-funded agencies to participate.

**Require state agencies to solicit bids from all eligible vendors that have applied to be on bid lists when a purchase exceeds \$5,000.** The conference version included the Sunset Commission recommendation that state agencies solicit bids from all eligible vendors that have applied to be on bid lists when the purchase exceeds \$5,000. State agencies would also be required to develop procedures for maintaining bid lists. The current state policy requires state agencies to obtain at least three bids on large purchases. While this requirement ensures some level of competitive bidding, the policy may also serve as a barrier for expanding the number of bids. This change will establish a state policy that every business asking for an opportunity to bid on purchases of more than \$5,000 gets an opportunity to bid. The GSC will also be allowed to exempt certain agencies or purchases from the notification requirement when the requirement is impractical. Also, in order to reduce the burden on agencies to maintain the bid lists and provide invitations for bid,

state agencies would be authorized to charge cost recovery fees to businesses that want to be on the bid lists.

**Delegate more small purchases to agencies and reduce complicated bid requirements.**

The conference version included the Sunset Commission recommendation to change the minimum dollar value of small purchases delegated to state agencies from \$500 to \$5,000 and raise the minimum dollar value for competitive bidding requirements from \$100 to \$1,000. The current focus of the SPGSC's purchasing effort allocates a substantial amount of workload to small, low risk purchases. This change will refocus the centralized purchasing function to allocate less attention to small, low-risk, low cost purchases so that the GSC will focus more attention on the acquisition and quality control of larger purchases.

**Modify the Private Consultants Contracting Services Act, change the definition of private consulting services, and authorize the governor to waive procedures in unforeseen emergencies.**

The conference version of the bill included several changes to the Private Consulting Services Contracting Act. The definition of private consulting services is changed to be the human service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee. Services of professions listed in the Professional Services Procurement Act are exempt from the Private Consulting Services Act as are consultants determined by the board of a retirement system to be necessary for the system to perform its fiduciary duties. Provisions were added that clarify posting requirements for extensions and renewal of existing contracts. Renewal of and amendments to existing contracts require additional posting in the Texas Register, review by the governor, and disclosure by the agency if the agency intends to award the contract to the consultant that previously performed the services. Also, competitive bidding is neither required nor prohibited in the purchase of private consulting services. The comptroller is required to adopt rules for the implementation and administration of the Act. In addition the governor is authorized to waive posting and approval requirements in cases of unforeseen emergencies, and such conditions are defined. The governor would adopt rules for the administration of the waiver process.

**Create a new act for the procurement of information technologies consulting services.**

New provisions were included in the conference version that create an Information Technologies Consulting Services Act relating to procurement of these services. The provisions place primary responsibility for administration and rule making with the Department of Information Resources and removes any application of the private consulting services or professional services statutes to information resources technologies consulting services. The governor is required to issue findings of need for proposed contracts and the governor is authorized to waive procedural requirements in emergencies.

**Modifications to the Information Resources Management Act.**

The conference version included several modifications and additions to the Information Resources Management Act and the Department of Information Resources. The size of the Department of

Information Resources board was reduced from nine to six members. Conflicts-of-interest provisions and grounds for removal of board members or employee are changed to prohibit any direct financial interest in a contract or bid for furnishing a state agency information resources technologies. The department is authorized to develop a disaster recovery plan for the state emergency management plan, may direct state agencies to participate in a program of shared use of information resources, and adopt rules governing the information security procedures required of all state agencies. All state agencies are required to conduct a comparative cost review on information technology projects they develop. The review requires agencies to request bids for their application and contract the project out if the department finds the future cost of interagency contracting or privatization is less than 90 percent of the total cost of internal operation. State agencies are prohibited from: spending appropriated funds for information technologies projects unless they are consistent with an appropriate approved plan; interagency contracting without publicly requesting proposals for the project; and, awarding a contract to the lowest and best private bidder if it is less than 90 percent of the interagency contract cost. Also, the department is authorized to establish a program to certify state agency information resource managers, and an information resources technology evaluation center is established in the Department of Information Resources.

**Transfer the property accounting system to the comptroller when the fixed asset component of the Uniform Statewide Accounting System is operational.** The existing statute for the statewide accounting of personal property belonging to the state was repealed in the conference version and new provisions were added that place this responsibility with the comptroller. Currently, this function is placed with the SPGSC and is more appropriately placed with the comptroller when the comptroller certifies that the fixed asset component of the Uniform Statewide Accounting System is operational.

**Create a procedure for naming and re-naming state buildings.** The conference version included a provision that requires buildings owned by the state, including those financed under the Public Finance Authority Act, to be named by the legislature by concurrent resolution. The General Services Commission would submit proposed names to the presiding officers of the house and senate and approval of names would only be authorized by concurrent resolution passed in a regular or special session of the legislature and signed by the governor.

**Require purchase of Texas Employment Commission buildings and parking facilities.** The conference version included a provision that requires the GSC to purchase the Texas Employment Commission buildings and parking facilities at a sales price not to exceed the maximum amount of funds authorized by the 68th Legislature for the acquisition and renovation of the facilities. The GSC would consider the cost to the TEC of alternative space outside of the Capitol Complex.

## **Comparison of Sunset Commission Legislation with Final Version of S.B. 831**

A comparison of the original sunset bill as introduced with the latest version of S.B. 831 shows that all standard sunset across-the-board recommendation proposed by the commission were included in the conference version of the bill. Additional conditions were added to the standard provision that appointments to the GSC be made without regard to race, color, sex, religion, age, or national origin of the appointees. The added language, in a sense, revises the standard sunset approach by requiring that, in making appointments to the commission, the governor shall attempt to appoint members of different minority groups, including females, African-Americans, Hispanic-Americans, Native Americans, and Asian-Americans.

Most of the Sunset Commission's specific program recommendations remained in the latest version of the bill, with the exception of one major recommendation that was removed from the bill and is described below.

***Increase the size of commission from three to six members.*** The Sunset Commission recommended that the size of agency's commission be increased from three to six members. A three-member commission makes it more difficult to attain representation of the diverse geographical and ethnic make-up of the state; can result in problems ensuring that there are no violations of the Open Meetings Act; and does not allow the commission to divide its workload by using committees. Increasing the size of the commission to six would help lessen these difficulties. This was dropped from the conference version because of the belief that the current three-member commission functioned adequately.

### **Fiscal Impact**

If it had been enacted, the bill's provisions would have resulted in a net gain to total state revenue of \$3,568,512 in fiscal year 1992 and \$4,008,144 in each fiscal year from 1993 through 1996. The impact on the general revenue fund would have been a net gain of \$139,684 in fiscal 1992 and \$139,682 in each fiscal year from 1993 through 1996.

Bill Summary  
Conference Report  
**STATE PURCHASING AND GENERAL SERVICES COMMISSION**  
S. B. 831 by Barrientos

Bill Reference	Provision
Page 1, Line 15 Page 20, Line 27 thru Page 21, Line 3 Page 39, Line 3 thru Page 41, Line 9 Page 50, Line 4 thru Page 52, Line 26	Changes the name of the agency from the State Purchasing and General Services Commission to the General Services Commission; changes all references to State Purchasing and General Services to instead refer to the General Services Commission or the commission; and specifies that all references in statutes to the State Purchasing and General Services Commission or the Board of Control now mean General Services Commission.
Page 2, Line 3	Requires that appointment to the commission be made without regard to race, color, handicap, sex, religion, age, or national origin. Also requires that, in making appointments to the commission, the governor shall attempt to appoint members of different minority groups, including females, African-Americans, Hispanic-Americans, Native Americans, and Asian-Americans. (ATB Modified)
Page 2, Line 7	Specifies the eligibility requirements for public commission members by prohibiting appointment if the person or the person's spouse conducts business with the commission or otherwise has financial ties to the industry that contracts with the commission. (ATB)
Page 2, Line 21	Defines commission member's terms as staggered six-year terms.
Page 3, Line 3	Requires the commission to allow the public reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 3, Line 10	Defines grounds for removal of a commission member, and requires the executive director to notify the chairman if a potential ground for removal exists. Also, specifies that an action of the commission is valid even though it is taken when a ground for removal exists. (ATB)
Page 4, Line 13	Requires the agency to provide information on standards of conduct to commission members and employees. (ATB)

S. B. 831 by Barrientos  
(cont.)

Bill Reference	Provision
Page 4, Line 18	Requires the commission to develop and implement policies which clearly define the respective responsibilities of the commission and staff. (ATB)
Page 4, Line 21	Requires the executive director or his designee to establish skill-oriented career ladders. (ATB)
Page 4, Line 25	Requires the executive director or his designee to develop a system of merit pay based on documented employee performance. (ATB)
Page 5, Line 2	Requires the executive director or his designee to develop and maintain an E.E.O. policy and to file its report with the governor's office. (ATB)
Page 6, Line 2	Prohibits a member of the commission and any employee compensated at or above Group 17 in the General Appropriations Act from being an officer of a related trade association. (ATB)
Page 6, Line 22	Prohibits a registered lobbyist from serving as a member of the commission or from being employed as the agency's general counsel. (ATB)
Page 7, Line 1	Changes the sunset date for the commission to December 31, 1991 and makes technical corrections to the provision.
Page 7, Line 12	Requires an annual report to be filed with the governor and the legislature detailing the financial transactions of the agency. (ATB)
Page 8, Line 1	Provides the agency to prepare and distribute information to the public concerning the functions of the agency and its complaint procedures. (ATB)
Page 8, Line 12	Requires files to be maintained on complaints. (ATB)
Page 8, Line 14	Requires that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 8, Line 20	Requires the agency to develop a plan which describes how non-English speaking or disabled persons can be provided reasonable access to the agency's programs. (ATB)

S. B. 831 by Barrientos  
(cont.)

Bill Reference	Provision
Page 9, Line 1 thru Page 10, Line 14	Requires the commission, in cooperation with the Department of Commerce Office of Minority Business Development, to establish a disadvantaged business program consistent with the General Appropriations Act. Requires the commission to: set and strive to meet annual goals for the awarding of contracts to disadvantaged businesses; assist and encourage disadvantaged businesses to bid for state contracts; and appoint an advisory committee to study, in coordination with the Department of Commerce Office of Minority Business Development, the commission's bidding and procurement procedures and advise the commission. Clarifies that the section does not exempt the commission from competitive procurement requirements as provided by law. Requires the committee to recommend changes in law to the legislature and changes in rules to the commission. Requires the commission to issue to the governor and the presiding officer of each house a report of recommendations and the commission's results in meeting its DBE goals. The report is to be submitted by January 1, 1993.
Page 11, Line 8	Requires the commission to consider such factors as installation costs, costs of equipment and software maintenance, and other factors in awarding purchases and leases.
Page 11, Line 23 thru Page 12, Line 9	Raises the minimum dollar value of small purchases delegated to state agencies from \$500 to \$5,000; raises the minimum dollar value for competitive bidding requirements from \$100 to \$1,000; and prohibits the commission from requiring that unrelated purchases be combined to exceed the specified dollar limits, thereby requiring purchasing through the commission.
Page 12, Line 13 thru Page 14, Line 2	Requires state agencies making purchases over \$5,000 to solicit bids from all eligible vendors that have applied to be on the bid list; requires state agencies to develop procedures for maintaining bid lists; authorizes cost recovery fees for participation in the agency bid list and authorizes the commission to establish a process to waive the notification requirement.
Page 14, Line 6	Prohibits a state agency to accept a bid or award that includes proposed financial participation of a person who received compensation for preparing specifications or a request for proposal. Free assistance in such activities is allowed.

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 14, Line 23	Technical correction to delete unnecessary wording.
Page 15, Line 12	Requires the commission to inspect and test costly purchases that it determines should be inspected and requires the adoption of rules.
Page 16, Line 6	Requires the commission to annually review state agency purchases of routine purchases. Specifies that consolidation of services into a statewide or regional contract is not required if the commission could obtain bids from more than five bidders.
Page 16, Line 22	Requires the commission to give preference to products made from recycled products if they meet or exceed specifications and the cost is equal or better than non-recycled products.
Page 16, Line 27 Page 23, Line 17 Page 46, Line 23	Corrects references to the Texas Department of Criminal Justice.
Page 17, Line 8	Changes the maximum horsepower of vehicles to be used primarily for transportation of passengers from 145 to 160 net horsepower.
Page 17, Line 13	Defines vehicles considered as capable of using compressed natural gas or other alternative fuels as being one that is originally equipped or has been converted after September 1, 1991 and allows 90 day extensions if the commission finds such vehicles are not available for purchase for state agencies. Prohibits extensions beyond September 1, 1992.
Page 18, before Line 1	Prohibits state purchases of electrical items that do not meet OSHA safety standards.
Page 18, Line 2 thru Page 19, Line 11	Requires that the chief of capitol security be selected by and report to the executive director. Requires the chief of capitol security to develop, and submit for the executive director's approval, personnel policies and an overall policy direction plan for the capitol security function. Clarifies the role of the chief.
Page 19, Line 15 Page 19, Line 27 thru Page 20, Line 1	Deletes obsolete provisions concerning commission control of the capitol grounds which is now under the authority of the State Preservation Board.

S. B. 831 by Barrientos  
(cont.)

Bill Reference	Provision
Page 20, Line 10	Corrects out-dated citation due to recodification of the Government Code.
Page 21, Line 5	Renumbers subsection to remove duplicate subsection designations.
Page 23, Line 22 thru Page 25, Line 10	Consolidates two duplicate subsections enacted by the 68th Legislature.
Page 25, Line 16	Corrects reference to the Commission on the Arts.
Page 26, Line 13	Requires the commission to allow at least 30 days for firms to prepare bids for construction projects; authorizes the commission to shorten this period for emergency projects; and requires the commission to allow at least 30 days for firms to prepare for interviews.
Page 27, Line 4	Requires the commission, in consultation with the boards of architectural examiners and professional engineers, to develop criteria to evaluate firms to be retained for state building projects.
Page 27, Line 19	Changes reference to standards that the commission shall consider in selecting architects and engineers from those generally accepted to those defined by agency rule and ethical standards of the professional societies.
Page 28, Line 11	Technical correction to remove an unnecessary word.
Page 28, Line 25	Removes unnecessary restating of the citation of the Act and instead refers to "the Act".
Page 29, Line 7	Exempts procurement of residential space for a TDMHMR program from commission requirements.
Page 29, Line 12 thru Page 30, Line 2	Consolidates two duplicate subsections enacted by the 71st Legislature.
Page 30, Line 8	Technical corrections to update citations changed with codification of the Government Code.

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 31, Line 19 thru Page 36, Line 9 Page 77, Line 11	Transfers the responsibility for the state property accounting system from the commission to the comptroller upon implementation of the uniform statewide accounting system fixed assets component. Shifts authority to investigate missing property from the state auditor to the attorney general, eliminates the authority for the comptroller to hold warrants for certain violations, eliminates the requirement that agencies provide new employees with a copy of the property accounting law, and makes other changes to the property accounting system requirements. Also transfers existing language concerning property accounting for Texas Department of Health contractors to the Health and Safety Code.
Page 36, Line 10 thru Page 37, Line 26	Consolidates two duplicate subsections enacted by the 71st Legislature and makes necessary conforming modifications in related subsections.
Page 38, Line 5	Authorizes elected officials, appointed officers, and executive heads of agencies upon vacation of their position to purchase the chair used in the position at the fair market value.
Page 38, Line 24 thru Page 39, before Line 1	Authorizes public institutions of higher education to provide TEX-AN services to public college and university students in university housing; and requires the commission to develop rules on conditions of access and recovery of costs from student users.
Page 39, Line 25	Renumbers subsection to remove duplicate subsection numbers.
Page 42, Line 4 thru Page 43, Line 17	Modifies elements of competitive cost review program to require agencies that have internal auditors to have that person coordinate competitive cost review activities; requires workload and budget information in the inventory of commercial activities; provides for review and comment on the inventory and schedule prior to adoption by an agency's board; requires the commission to publish instructions for performing the management study and requires agencies to provide the study to the commission for approval; and, requires that an agency's in-house costs estimates be reviewed by the agency's internal auditor.

S. B. 831 by Barrientos  
(cont.)

Bill Reference	Provision
Page 43, Line 21 thru Page 44, Line 16	Creates a process that allows a private sector person to file a written complaint to the commission and the head of an agency if the person believes the state agency is engaged in unfair competition with the person. Prescribes the process. Exempts activities of the Texas Department of Criminal Justice and institutions of higher education.
Page 44, Line 21 thru Page 47, Line 2	Requires the commission to implement the competitive cost review program to review the commercially available services it operates; requires the commission to develop internal controls to separate the commission's review and oversight roles with the program; and renumbers subsections to remove duplicate numbering.
Page 47, Line 6	Establishes a 1995 sunset date for the competitive cost review program.
Page 47, Line 22 thru Page 49, Line 8	Prohibits the State Travel Management Program from entering into a single, statewide contract for travel agency services; requires the commission to adopt rules related to the structure of travel agency services contracts, the procedures to be used to determine contract requirements, and the use of negotiated contract rates; requires state agencies in the executive branch to participate in contracts for all travel services, but excepts institutions of higher education from mandatory participation in contracted travel agency services; allows exempted agencies to participate in contracts for travel services; and authorizes the commission to return to the federal government rebates collected on federally funded state travel in compliance with federal requirements.
Page 49, Line 13	Requires the commission to give preference to energy efficient products if the products meet specifications and the cost is equal or less than similar products that are not energy efficient.
Page 49, Line 24	Establishes a process for naming state buildings that requires the commission to submit new names for new or existing state buildings to the presiding officers of the house and senate and requires that name changes be authorized by concurrent resolution signed by the governor.

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 50, Line 9	Requires that the commission purchase school buses by competitive bidding whenever possible.
Page 50, Line 10	Technical correction to update language.
Page 50 after Line 27 and Page 51, Line 14 thru Page 52, Line 1	Removes the requirement that school districts process payments to school bus vendors through the state treasury.
Page 51, before Line 1	Defines a vehicle considered as capable of using compressed natural gas or other alternative fuels as being one that is originally equipped or one that has been converted after September 1, 1991 and allows 90 day extensions if the commission finds such vehicles are not available for purchase for school districts. Prohibits extensions beyond September 1, 1993.
Page 52, Line 13 thru Page 53, Line 19 Page 54, Line 18	Requires that school buses obtained under lease or lease-purchase contracts are subject to the minimum safety specifications used by the commission to purchase buses; defines lease and requires leases over \$10,000 to be obtained through competitive bid whenever possible; and prescribes minimum lease terms and reporting requirements for school districts that lease buses.
Page 54, Line 6 Page 55, Line 14 thru Page 58, Line 7	Requires school boards to submit for competitive bidding for six-month periods all personal property purchases valued at \$15,000 or more. Exempts produce and vehicle fuel. For purchases between \$10,000 and \$15,000 the district must publish notice of intent to make such purchases in a newspaper in the district's county unless the purchases are competitively bid. Requires the district to solicit the names, addresses, and phone numbers of vendors that are interested in supplying the products and requires the district to contact at least three vendors for price information. Beginning for the 1993-1994 school year, provides for annual periodic adjustment by the comptroller of the \$15,000 cutoff based on the Consumer Price Index for all Urban Consumers.

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 54, Line 24 thru Page 55, Line 11	Authorizes school districts to delegate to professional food service management companies the authority to purchase food and supplies required in the performance of a food service management contract with the district. Requires the selection of the company to be competitively based and purchases to be made in accordance with the contract. Exempts the district from other purchasing requirements under such arrangements.
Page 59, Line 6 Page 59, Line 9 Page 61, Line 13 Page 61, Line 23 thru Page 62, Line 21 Page 63, Line 9 Page 65, Line 17 thru Page 66, Line 7 Page 31, Line 2	Moves the statutory authority for the elimination of architectural barriers program out of the State Purchasing and General Services Act to a new article in Title 123A; changes references to the agency that has administrative authority for the program from the commission to the TDLR; removes the exemption for property in counties under 45,000 population from the requirements of the architectural barriers statute and instead makes property constructed after January 1, 1992 in all counties subject to the statute; changes definitions of buildings covered by the Act to conform with the American Disabilities Act; requires all facilities under the act to provide rest rooms in conformance with Appendix C of the Uniform Plumbing Code; authorizes the department to contract with other state agencies, political subdivisions, nonprofit organizations, and private entities to perform inspections of privately funded buildings subject to the architectural barriers statute; and updates references to persons with disabilities.
Page 64, Line 19 thru Page 65, Line 3	Adds definitions necessary for the new article authorizing the elimination of architectural barriers program.
Page 65, Line 27 thru Page 66, Line 7	Authorizes the department to enter into cooperative agreements to integrate information into publications of other entities.
Page 66, Line 8	Authorizes administrative penalties to be assessed for violations of the architectural barriers statute.

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 67, Line 10 thru Page 68, Line 15 Page 70, Line 26 thru Page 71, Line 25	Requires licensed architects and engineers to submit plans and specifications to the TDLR in compliance with architectural barriers statute and defines submission requirements; requires the TDLR to report violations of the architectural barriers statute by licensed engineers and architects to the State Board of Registration of Professional Engineers and the Texas Board of Architectural Examiners; specifies inspection requirements for new construction and renovations for compliance with the elimination of architectural barriers requirements; and defines failure to comply with the requirements of the elimination of architectural barriers statute by a licensed engineer or architect as a ground for disciplinary action by the appropriate licensing board.
Page 68, Line 16	Removes exemption of the University of Texas System from oversight by the architectural barriers program.
Page 68, Line 24 thru Page 69, Line 7	Authorizes the department to assess fees to recover the costs of administering the elimination of architectural barriers program.
Page 69, Line 8 thru Page 70, Line 2	Establishes an advisory committee of building professionals and a majority of disabled persons to review and recommend changes to rules and procedures of the architectural barriers program.
Page 72, Line 8	Allows state agencies to make spot purchases of \$5,000 and less directly with the Texas Department of Criminal Justice Institutional Division for items not under a state contract.
Page 72, Line 27 thru Page 73, Line 10	Requires the Public Finance Authority to issue, in a timely manner, bond proceeds for projects approved by the legislature.

S. B. 831 by Barrientos  
(cont.)

Bill Reference	Provision
Page 73, Line 26 thru Page 77, before Line 1	Modifies the Texas Public Finance Authority Act. Modifies the requirement that the Texas Employment Commission (TEC) sell its buildings to the commission by: requiring the commission to purchase the buildings at a price which does not exceed the 1983 appropriation authorized; deleting commission authority to take possession of the TEC buildings after finding the TEC alternative space; deleting a requirement that the commission must offer the space to the legislature for its use, before it is renovated for other state agencies; and deleting a provision requiring the commission to make the buildings available to the legislature on request of the lieutenant governor and the speaker of the house, and procedures required to effect such use.
Page 77, before Line 1	Exempts institutions of higher education under the same governing board from the Interagency Cooperation Act if the governing board has adopted rules for governing board review and approval of such contracts.
Page 78, before Line 1	Modifies the existing law relating to the Texas Department of Commerce and the purchasing procedures for its foreign offices. Exempts the offices from interagency contracting procedures and instead requires the executive director to approve contracts exceeding \$5,000 and office purchases from the requirements of the purchasing act except the property accounting and surplus property requirements. Authorizes the commission to assist the offices with procurement on a cost recovery basis.
Page 79, Line 7	Authorizes the Texas Department of Criminal Justice to make a determination that prison goods do not meet the needs of or cannot be provided to state agencies and political subdivisions so they can purchase the goods elsewhere. Clarifies that no competitive bidding is required for the purchase of prison-made goods, and exempts political subdivisions from the requirements if non-prison made goods are less costly.

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 80, Line 6 thru Page 103, Line 27	<p>Modifies the Department of Information Resources statute. Reduces the size of the Department of Information Resources board from nine to six members. Modifies conflicts of interest provisions and grounds for removal of board members. Authorizes the department to develop a disaster recovery plan for the state emergency management plan. Authorizes the department to direct state agencies to participate in a program of shared use of information resources and adopt rules governing the information security procedures required of all state agencies. Modifies requirements concerning the plans required of state agencies relating to their use of information technology to require the plans to include an analysis of the benefits of interagency contracting or privatization. Establishes requirements for all state agencies to conduct a comparative cost review on information technology projects they develop; the review requires agencies to request bids for their application and contract the project out if the department finds the future cost of interagency contracting or privatization is less than 90 percent of the total cost of internal operation. Prohibits certain activities of state agencies relating to the purchase of information technologies, including: spending appropriated funds for information technologies projects unless they are consistent with an appropriate approved plan; interagency contract without publicly requesting proposals for the project; and requires agencies to award a contract to the lowest and best private bidder if it is less than 90 percent of the interagency contract cost. Authorizes the department to establish a program to certify state agency information resource managers. Establishes an information resources technology evaluation center at the Department of Information Resources.</p>

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 104, Line 1 thru Page 107, Line 16	Creates a new information technologies consulting services act relating to purchasing requirements for these services. Places primary responsibility for administration and rule making with the Department of Information Resources. Removes any application of the consulting services or professional services statutes to information resources technologies consulting services. Requires the governor to issue finding of need for proposed contracts and authorizes the governor to waive procedural requirements in emergencies. Authorizes the commission to procure services if an agency requests and the commission may require reimbursement for its related costs.

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 108, Line 5 thru Page 118, Line 23	<p>Modifies the private consultant services statute. Defines private consultant services as the human service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee and removes routine work provided to an agency from the definition of consulting services. Modifies the definition of state agency to be one that does not have a jurisdiction limited to a geographical portion of the state. Exempts services by all professions listed under the Professional Services Procurement Act, private legal counsel, investment counselors, actuaries, other medical or dental services providers, and certain consultant services by the governing board of a retirement system trust fund that are necessary for the performance of its fiduciary duties. If the contract is reasonably foreseeable to exceed \$10,000, requires notice to the governor's office of budget and planning and the Legislative Budget Board and a finding of need from the governor's office. Requires posting for invitations to bid in the Texas Register for contracts over \$10,000 and disclosure in the posting if the service relates to services previously performed by a private consultant and any intent to award the contract to that person if no better offers are received. Requires posting within 10 days after the contract is awarded with information about the contractor, costs, and products and services to be provided. Requires notice in the Texas Register if renewal is expected to be \$10,000 or less and reposting if the amount is greater. Requires disclosure by officers and employees of state agencies if a potential conflict of interest exists. Allows the governor to waive procedural requirements in cases of unforeseen emergencies and defines those conditions. Makes contracts voidable if entered into without full compliance with required time lines and procedures. Authorizes the comptroller to adopt necessary rules.</p>
Page 119, before Line 1	Repeals out-dated provision related to the purchase of surplus war materials.
Page 119, before Line 1	Repeals duplicate section enacted in 1989.
Page 119, Line 1	Repeals out-dated transition section enacted in 1979.

S. B. 831 by Barrientos  
(cont.)

Bill Reference	Provision
Page 119, Line 3	Repeals the current property accounting system upon certification by the comptroller that the fixed assets component of the uniform statewide accounting system is operational.
Page 119, Line 17	Instructional provision exempting current commission members from new provisions related to grounds for removal and conflict of interest.
Page 119, Line 23	Instructional provision concerning the change of agency name and requiring the commission to exhaust its supplies of forms, publications, and other documents bearing its former name before using new consumable supplies bearing the name "General Services Commission".
Page 120, Line 1	Instructional provision which requires that the first E.E.O. policy statement required by the bill must be filed with the governor's office before November 1, 1991.
Page 120, Line 5	Instructional provision that persons bidding on construction projects be given 30 days to prepare bids, and that firms have 30 days to prepare for an interview, applies only to contracts for which bid documents were issued on or after September 1, 1991.
Page 120, Line 14	Instructional provision which specifies that the commission is required to identify only one commercial activity for competitive cost review during the biennium ending August 31, 1993.
Page 120, Line 19 thru Page 121, Line 2	Instructional provision which abolishes the school bus revolving fund; provides for the satisfaction of outstanding obligations; transfers any remaining unobligated balances to the general revenue fund; and requires the commission to transfer to the general revenue fund any money it receives after the fund is abolished and which was owed to the fund.
Page 121, Line 3	Instructional provision which specifies that the new provisions relating to a contract for the lease of school buses apply only to a contract made on or after September, 1, 1991; and specifies that the reporting requirements established by the Act apply to any contract in effect for the reporting period.

S. B. 831 by Barrientos  
(cont.)

Bill Reference	Provision
Page 121, Line 15	Instructional provision which establishes September 1, 1991 as the effective date for both the transfer of the architectural barriers program and the requirement for dissemination of information; and establishes the effective date of all other changes related to that program to be January 1, 1992.
Page 121, Line 25 thru Page 122, Line 12	Instructional provision which transfers all powers, duties, obligations, records, appropriations, employees, and property related to the operation of the architectural barriers program from the commission to the Department of Licensing and Regulation; provides for the transfer of investigations and complaints to the department without change in status; specifies that all rules, standards, and specifications of the commission remain in effect with the department until such time as changed by the commissioner.
Page 122, Line 13	Instructional provision which specifies that a contract made before September 1, 1991 under the Private Consultant Services Act is neither void or voidable if it was made in compliance with the Consultant Services Act as enacted in 1977 or as it was amended in 1979.
Page 122, Line 21 thru Page 123, Line 2	Instructional provision that specifies that changes made to the Private Consulting Services Act apply only to new contracts and renewals, extensions, and amendments to existing contracts. Existing law remains in effect for those contracts created prior the effective date of the changes.
Page 123, Line 3	Instructional provision that specifies the new property accounting system created by the Act is effective upon certification by the comptroller that the fixed assets component of the uniform statewide accounting system is implemented.

S. B. 831 by Barrientos  
(cont.)

<b>Bill Reference</b>	<b>Provision</b>
Page 123, after Line 6	Instructional provision that specifies members of the board of the Department of Information Resources serving terms on the effective date of the Act or on the first day after the end of the regular session of the 72nd Legislature remains on the board, unless the person is a member of the legislature. New appointments are made under the new Act. Allows the chairman to remain as chairman if in the position upon the effective date and until replaced by the governor. Provides a process for continuation and elimination of members because of the reduction in the board size.
Page 123, after Line 23	Establishes September 1, 1991 as the effective date of the Act.
Page 123, after Line 23	Emergency provision.



**DALLAS AREA RAPID TRANSIT AUTHORITY**  
S. B. 282 Johnson

***Final Action:*** *The legislature did not pass the sunset bill for the Dallas Area Rapid Transit Authority (DART). DART is not affected by the failure to pass legislation since DART is reviewed but not abolished under the Sunset Act.*

**Analysis of Major Provisions in the Final Bill**

Senate Bill 282, as introduced, contained the Sunset Commission's recommendations for the Dallas Area Rapid Transit Authority. The bill passed the senate and was recommended to the full house by the House Transportation Committee. However, a technicality prevented the bill from being considered by the full house and the bill died. DART will not be abolished by the absence of legislation since DART is reviewed but is not subject to abolishment under the Sunset Act.

Most of the Sunset Commission's recommendations remained in the final version of the bill. The major provisions in the final bill are described below.

**Require a full-time internal audit program.** The commission recommended that DART's part-time auditor be replaced with a full-time internal audit program. DART's agency functions are too numerous and complex to be adequately audited by a part-time auditor. A full-time audit program would have sufficiently checked the controls, functions and procedures in place for DART's programs and policies.

**Require an annual report and more detailed financial statements.** A recommendation to require DART to publish an annual report and include more detailed financial statements would have increased DART's fiscal accountability. DART would have had to publish the report on a timely basis and include an overview of DART's progress and future plans, as well as a summary of DART's financial and management status. DART would have also had to include more detailed financial information in both the annual financial statements and the annual report, which would have given a more in-depth look at DART's financial transactions and status.

**Authorize DART to provide employee retirement plans and require state oversight.** DART provides several employee retirement plans, but has never been legally authorized to do so. This recommendation would have authorized DART to continue offering the retirement plans and would have clarified the state's authority to oversee DART's management of the plans.

**Require DART to develop a plan to meet the alternative fuel requirements of the Texas Clean Air Act.** The Texas Clean Air Act requires DART to convert 90 percent of its bus fleet to alternatively fueled vehicles by 1998 and prohibits DART from buying conventionally fueled vehicles after 1991. This would have required DART to develop a plan for meeting the conversion schedule.

### **Comparison of Sunset Commission Legislation with Final Legislation**

The Sunset Commission's across-the-board recommendations were not applied to DART. All but one of the Sunset Commission's specific program recommendations remained in the final bill. The recommendation that was removed from the bill is described below.

**Annual comparison of DART's administrative salaries.** The Sunset Commission recommended that DART be required to conduct an annual salary comparison of its top administrative salaries, report its findings, and evaluate its salary levels based on the findings. DART's administrative salaries are, on average, much higher than similar-size transit authorities, and the commission's recommendation would have given DART a realistic baseline for salary levels. The senate dropped the recommendation after hearing discussion on whether other Texas transit authorities would raise their salaries to match DART's.

### **Fiscal Impact**

If the bill had passed, it would not have had a fiscal impact to the state or to DART.

Bill Summary  
Enrolled Version  
**DALLAS AREA RAPID TRANSIT AUTHORITY**  
S. B. 282 by Johnson

Bill Reference	Provision
Page 1, Line 17	Replaces outdated statutory reference with new citation.
Page 1, Line 24 thru Page 4, Line 3	Provides specific grounds and procedures for the removal of DART board members.
Page 4, Line 1	Removes language requiring annual reaffirmation of DART board members to coincide with a previous statutory change to two-year terms.
Page 4, Line 13	Replaces outdated statutory reference with new citation.
Page 5, Line 14	Clarifies that DART withdrawal elections can be held in any of the calendar years specified rather than in just one of them.
Page 5, Line 19	Requires a policy separating DART board and staff functions.
Page 6, Line 2	Requires DART to publish more detailed financial statements.
Page 6, Line 8	Requires DART to publish an annual report.
Page 6, Line 25 thru Page 8, Line 25	Requires DART to establish a full-time internal audit program.
Page 9, Line 1	Authorizes DART to establish retirement plans.
Page 9, Line 13	Requires state oversight of DART's retirement plans.
Page 9, Line 21 thru Page 10, Line 2	Requires DART to include an evaluation of the costs and benefits of converting to a government fund accounting system in the first financial audit performed after passage of this act.
Page 10, Line 3	Requires DART to develop a plan by January 1, 1992 for compliance with statutory alternative fuel requirements.
Page 10, Line 13	Clarifies the validity of retirement plans previously offered by DART if authorized by this bill.
Page 10, Line 22	Establishes effective date of Act as September 1, 1991.
Page 10, Line 23	Emergency clause.



**CIVIL DEFENSE AND DISASTER COMPACT ADMINISTRATOR  
TEXAS CONSERVATION FOUNDATION  
GOOD NEIGHBOR COMMISSION  
(No Legislation Introduced)**

*Final Action: No legislation was introduced to continue the three agencies and they were automatically abolished.*

**Analysis:** These agencies were inactive when they were reviewed by the Sunset Commission. They received no appropriations and had no staff. The commission recommended that they be abolished and the legislature agreed with that conclusion.