

SUNSET ADVISORY COMMISSION

FINAL REPORT

*Coastal Coordination
Council*

July 2011



Sunset Advisory Commission



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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 12-member Commission is a legislative body that reviews the policies and programs of more than 130 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency’s operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

Coastal Coordination Council

SUNSET FINAL REPORT
JULY 2011

This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and the public.

- *Sunset Staff Report, March 2010* – Contains all Sunset staff recommendations on an agency, including both statutory and management changes, developed after extensive evaluation of the agency.
 - *Hearing Material, April 2010* – Summarizes all responses from agency staff and the public to Sunset staff recommendations, as well as new policy issues raised for consideration by the Sunset Commission at its public hearing.
 - *Decision Material, May 2010* – Includes additional responses, testimony, or new policy issues raised during and after the public hearing for consideration by the Sunset Commission at its decision meeting.
 - *Commission Decisions, June 2010* – Contains the decisions of the Sunset Commission on staff recommendations and new policy issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency's Sunset bill.
 - *Final Report, July 2011* – Summarizes action taken by the Legislature on Sunset Commission recommendations and new provisions added by the Legislature to the agency's bill.
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Summary

Summary

The Legislature created the Coastal Coordination Council (Council) in 1991 to coordinate the State's approach to managing its coastal resources by developing, implementing, and administering the Texas Coastal Management Program (CMP). The Council links the efforts of seven state natural resource agencies with authority over the Texas coast by having board members from each of these agencies on the Council. Through its federally approved CMP, Texas receives federal funding for coastal projects and has the ability to provide input on federal projects affecting the Texas coast.

Since its creation, the Council's role has transitioned from developing and implementing the CMP to administering it, which is done mainly through its individual member agencies. As such, many question the continued need for the Council, but Sunset staff concluded the State has more to gain by continuing the Council and improving its coordination function than by abolishing it and transferring its functions to one of the agencies. Even if the Council were abolished, the State would still have to carry out its functions to continue to receive federal funding for its CMP. However, placing these functions in one of the seven agencies could create conflicts and undermine the ability of the other agencies to provide expertise and participate in state coastal planning and decision making.

The Council has missed an opportunity to better meet the State's coastal needs.

The Council has missed a key opportunity for the State. The Council has not used its unique multi-agency structure to develop a more comprehensive approach to identifying and addressing the State's coastal issues. Although the need to conduct long-range coastal planning has been recognized by many, the Council has not stepped up to meet this need. As a result, the agencies continue to perform their individual coastal responsibilities, such as planning and grant making, in silos, without the ability to connect these efforts to achieve greater impact.

The recommendations in this report require the Council to take advantage of its unique structure to improve the State's approach to coastal issues. Integrating multiple agencies' efforts through a unified state coastal plan would provide for a regular assessment of the overall state of the coast that would be used to set state coastal goals and priorities, create strategies to advance them, and report performance towards meeting them.

The material on the following page summarizes the Sunset staff recommendations on the Coastal Coordination Council.

Issue and Recommendations

Issue 1

Texas Has a Continuing Need for the Coastal Coordination Council, Although Enhanced Coordination Efforts and Operational Improvements Are Necessary.

The Sunset review evaluated the continuing need for the Coastal Coordination Council to administer the State's federally approved Coastal Management Program. Sunset staff found that while another entity could perform the Council's functions, its unique composition provides representation for needed interagency coordination and accountability. Staff found no significant advantage to transferring the Council's functions, and identified potential disadvantages to transferring the functions to a single agency.

Also, because the Council has not used its ability to fully coordinate agencies' individual coastal responsibilities, the State's approach to planning for and solving coastal issues remains fragmented. Creating a comprehensive Texas Coastal Plan would ensure the State uses a more integrated approach to identify and address its coastal issues.

Key Recommendations

- Continue the Coastal Coordination Council for the standard 12-year period.
- Require the Coastal Coordination Council to create a comprehensive, five-year Texas Coastal Plan, and provide annual updates to the Legislature on progress toward meeting goals established in the Plan. The Council would use these goals to target its grant funding and evaluate the success of grant funds spent toward meeting the Plan's goals.

Fiscal Implication Summary

These recommendations would not have a fiscal impact to the State.

Summary of Legislative Action ***S.B. 656 Huffman (Bonnen)***

In Senate Bill 656, the Legislature adopted all of the Sunset Commission's recommendations regarding the Council, including abolishing the Council and transferring its functions to the General Land Office (GLO), and added other statutory provisions. The list below summarizes the major provisions of S.B. 656, and more detailed discussion is located in each issue.

Sunset Provision

1. Abolish the Coastal Coordination Council and transfer its functions to the General Land Office.

Provisions Added by Legislature

1. Ensure the current Council-member agencies and citizen members continue to have input into the state and federal consistency review processes.
2. Remove unnecessary statutory language detailing the federal consistency review process.
3. Require the Attorney General rather than the Land Commissioner to review consistency determinations made by GLO, the Land Commissioner, or the School Land Board.

Fiscal Implication Summary

Senate Bill 656 will not have a fiscal impact to the State.

Council at a Glance
(March 2010)

Council at a Glance

The Coastal Coordination Council (Council) is a 12-member interagency board that administers Texas' federally approved Coastal Management Program (CMP). The Council's mission is to coordinate Texas' approach to managing its coastal resources and responding to coastal issues. To achieve its mission, the Council, with administrative support from General Land Office (GLO) staff, carries out the following key activities.

- Awards competitive grants to local governments and other entities for coastal improvement projects, such as erosion control and habitat restoration.
- Reviews state and federal agency decisions that affect the Texas coast to certify they are consistent with the State's CMP goals and policies.
- Provides information and assistance to individuals and small businesses regarding permits in the coastal region.

Key Facts

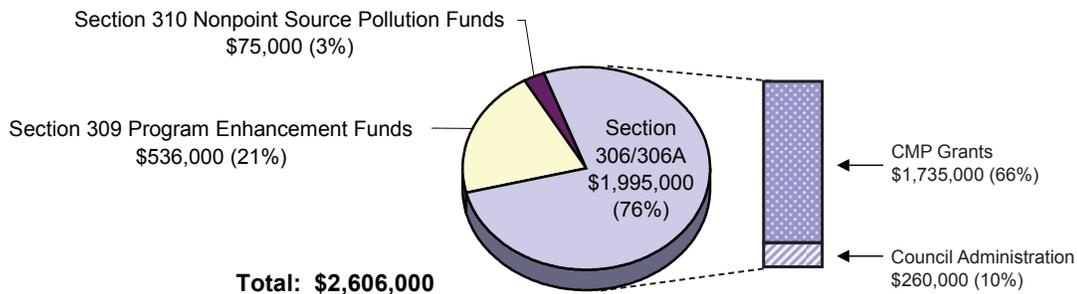
- **Coastal Coordination Council.** The 12-member Council is composed of seven ex officio state natural resource agency board members; four members who represent specific coastal interests; and one nonvoting member who represents the Texas Sea Grant College Program. The chart, *Coastal Coordination Council Members*, lists the members and their positions on the Council.

Coastal Coordination Council Members

Member	Qualification	Appointed By
The Honorable Jerry Patterson, Chair	Land Commissioner, Texas General Land Office	Ex officio
José Dodier	Chairman, Texas State Soil and Water Conservation Board	Ex officio
Buddy Garcia	Commissioner, Texas Commission on Environmental Quality	Ex officio
Karen Hixon	Member, Texas Parks and Wildlife Commission	Ex officio
Ned Holmes	Commissioner, Texas Transportation Commission	Ex officio
The Honorable Elizabeth Ames Jones	Commissioner, Railroad Commission of Texas	Ex officio
Edward Vaughan	Member, Texas Water Development Board	Ex officio
Robert Stickney, Ph.D.	Director, Texas Sea Grant College Program Texas A&M University	Ex officio
The Honorable George Deshotels	Coastal Elected Official	Governor
Robert "Bob" Jones	Coastal Resident	Governor
James "Bob" McCan	Agriculture Representative	Governor
Jerry Mohn	Coastal Business Representative	Governor

- Funding.** The Council does not receive a direct appropriation, but decides how to spend federal funds Texas receives through the Coastal Zone Management Act. In fiscal year 2009, the State received about \$2.61 million of these funds. The pie chart, *Federal Coastal Zone Management Act Funds in Texas*, shows the types and amounts of the funding. Appendix A, *Coastal Zone Management Act Funding Categories*, provides a more detailed description of the funding categories and how the Council used the funds in fiscal year 2009.

Federal Coastal Zone Management Act Funds in Texas*
FY 2009



* Sections 306/306A, 309, and 310 correspond to sections of the Coastal Zone Management Act authorizing their disbursement.

- Staff.** The Council does not have its own staff. Instead, GLO provides administrative support to the Council. In fiscal year 2009, GLO dedicated one part-time staff to Council functions, with other staff providing support on an as-needed basis. With Council authorization, GLO uses Coastal Zone Management funds to pay salaries for two employees who work in the Permit Service Centers (PSCs), and uses its own funds for other employees who support Council and CMP activities.
- Coastal Management Program.** The Council's primary role is to administer the CMP, which is the State's response to a federal effort to develop a coordinated approach to solving coastal problems. The CMP provides common goals and policies to guide state and federal management of Texas' coastal natural resource concerns, such as critical erosion areas and coastal wetlands. The program relies on both the Council and its member agencies to administer the program through the following activities.

CMP Grants Administration. As shown in the pie chart above, in fiscal year 2009 the Council used 66 percent of Coastal Zone Management Act funds Texas received to award grants for coastal improvement projects. These projects include acquisition of land for parks or preserves, creation or restoration of dunes or wetlands, public education, and data collection. In fiscal year 2009, the Council funded 18 projects totaling \$1.74 million.

Consistency Review. As a result of having a federally approved program, the Council has the authority to review federal agency decisions affecting Texas' coastal resources to ensure they are consistent with CMP goals and policies. The textbox on the following page, *Federal Consistency Review*, describes the three types of federal agency decisions subject to consistency review. The Council's role is to review only highly controversial cases with significant unresolved consistency disputes. The Council depends on GLO staff, in conjunction with staff at the other networked agencies,

to conduct routine consistency reviews. These staffs provided 241 consistency determinations to federal agencies in fiscal year 2009. The Council itself did not review any federal agency decisions in fiscal year 2009.

The CMP networked structure relies on individual state agencies to ensure their own coastal permitting and other actions, as well as their rulemaking, affecting coastal resources are consistent with the CMP. In fiscal year 2009, networked agencies reviewed 1,195 actions and 16 rulemakings for consistency, and submitted these to the Council. The Council has very limited authority to further review these state agency actions and rulemakings. Due to its limited authority and reluctance to question state agency decisions, the Council has never conducted such a review.

Federal Consistency Review

- **Agency Actions:** Permits or authorizations to third parties to perform certain activities, such as U.S. Army Corps of Engineers' permits for construction or filling in wetlands, or Minerals Management Service approvals of oil and gas exploration and production activities.
- **Agency Activities:** Direct federal agency activities, such as U.S. Army Corps of Engineers' dredging projects.
- **Financial Assistance:** Projects financed using federal funds, such as housing rehabilitation projects funded by the U.S. Department of Housing and Urban Development.

Permitting Assistance. The Council has established two PSCs, located in Galveston and Corpus Christi. PSCs provide permitting assistance to individuals and small businesses by identifying necessary permits, helping prepare permit application materials, reviewing applications for completion, submitting applications to the appropriate agencies, and tracking application status. In fiscal year 2009, PSCs assisted 182 applicants and answered 5,104 inquiries.

Coastal Nonpoint Source Pollution Control Program. As a condition of maintaining a federally approved coastal program, states must develop and implement programs to control polluted runoff in coastal areas. Texas received conditional approval of its Nonpoint Source Pollution Control Program in 2003, and the Council and its member agencies continue to work together to achieve full approval. Texas received \$75,000 in fiscal year 2009 to implement this program, which the Council used to fund two grant projects.

Issue

Issue 1

Texas Has a Continuing Need for the Coastal Coordination Council, Although Enhanced Coordination Efforts and Operational Improvements Are Necessary.

Background

The Legislature passed the Coastal Coordination Act in 1991, creating the Coastal Coordination Council (Council) to develop and implement a Coastal Management Program (CMP) for approval under the federal Coastal Zone Management Act.¹ The State chose to develop a “networked” program by linking the efforts of existing agencies with authority over the Texas coast rather than creating a new agency. The textbox, *Coastal Management Program Networked Agencies*, lists the state agencies that cooperate to implement the CMP. The National Oceanic and Atmospheric Administration (NOAA) approved Texas’ CMP in 1997, and provides ongoing oversight.

The 12-member Council administers the CMP, and consists of seven board members from the primary networked agencies, including the Land Commissioner who chairs the Council; four Governor-appointed public members representing various coastal interests; and one nonvoting representative from the Texas Sea Grant College Program at Texas A&M University.

Coastal Management Program Networked Agencies

Texas General Land Office
Texas Commission on Environmental Quality
Texas Parks and Wildlife Department
Railroad Commission of Texas
Texas Department of Transportation
Texas Water Development Board
Texas State Soil and Water Conservation Board
Public Utility Commission*
Texas Historical Commission*
School Land Board*

** Not Coastal Coordination Council member agencies*

The Council addresses problems affecting the Texas coast such as erosion, destruction of wetlands, shoreline access, and water quality by carrying out the following activities.

- Awards coastal grants on a competitive basis.
- Reviews proposed state and federal agency permitting actions and other decisions to ensure consistency with the CMP.
- Coordinates permitting assistance to individuals and small businesses through two Permit Service Centers.
- Provides a formal mechanism for interagency coordination.

Findings

The State has a continuing need to maintain its federally approved Coastal Management Program.

By having a federally approved CMP, Texas benefits in two primary ways. First, the State receives federal funds for coastal projects. Texas’ receives about \$2.5 million per year in coastal management funds under the Coastal Zone

Management Act, most of which the Council uses for grants. In fiscal year 2009, the Council awarded \$1.74 million in grants to coastal communities to implement coastal projects, including research, habitat restoration, and land acquisition.

Second, the State has authority to review federal agency actions, activities, and financial assistance decisions that affect the coastal zone, giving Texas a voice in federal decision-making processes. The Council must agree federal actions or activities are consistent with the CMP before federal agencies can proceed on projects, such as dredging of navigable waterways, or approve permits authorizing coastal construction projects.

While another entity could perform the Council's role and functions, the Council's unique composition provides needed representation for interagency coordination and accountability.

Sunset staff found no significant advantage in transferring the Council's functions to another agency or in creating an alternative structure and processes to administer the CMP. The federal government gives states considerable flexibility in structuring and implementing their coastal management programs. Although Texas is not required to keep the Council to maintain federal approval of its CMP, the Council's functions would continue to be needed and would have to be carried out by an independent third-party administrator.

The review assessed whether any of the Council's member agencies could perform these functions, but concluded that having just one of the agencies perform these functions could result in a conflict of interest since all of the Council member agencies are eligible to receive CMP grant funding. Similarly, member agency actions and rulemakings are subject to CMP consistency review. Currently, the Council performs these functions, but its structure ensures each agency has an equal voice in decision making and can provide expertise to better inform Council decisions. Also, transferring the Council's functions to another agency would require federal approval.

The Council has neglected its coordination function, limiting comprehensive coastal planning and resulting in a fragmented approach to addressing the State's coastal issues.

The Coastal Coordination Act requires the State to continually review coastal problems of state concern, and to coordinate both the performance of government programs affecting coastal natural resource areas and resolution of identified coastal problems.² The Council is a network of state agencies with coastal responsibilities, which should allow it to provide a coordinated approach to decisions affecting the Texas coast. The Council's composition, with representation from natural resource agency board members, provides it with a unique ability to help coordinate the agencies' individual coastal responsibilities. However, the Council has not proactively used this ability.

Sunset staff found no significant advantage in transferring the Council's functions to another agency.

The Council has not used its unique composition to fully coordinate the State's coastal responsibilities.

While Council member agencies coordinate well on individual projects and permits, the Council itself has limited its current activities to approving annual grant awards, and has only made one consistency determination in its history.³ As a result, the State's coastal planning and policymaking efforts remain fragmented. The agencies continue to perform their individual coastal responsibilities, such as planning and grant making, in silos, without consideration of how to connect these efforts to achieve greater impact.

Both the federal government and the Council itself have recognized the need for a comprehensive coastal plan for the State. NOAA has repeatedly recommended the Council find ways to more proactively use its interagency coordination function to pursue long-range coastal planning and engage in emerging coastal issues requiring the cooperation of multiple agencies.⁴ Each of the Council's CMP annual reports to the Legislature from 1999 to 2002 describe the Council's plans to create and implement a strategic coastal plan.⁵ The Council's initial efforts included an assessment of each agency's coastal programs and functions, and attempts to establish priorities the Council would address through its plan.⁶ However, the Council never finished this plan. In a 2007 Self-Assessment, Council members and their staffs cited the lack of clear goals, including lack of a strategic planning process and a proactive approach to coastal issues, as an obstacle to the agencies working together effectively.⁷ As a result, each agency continues to conduct its own planning efforts related to its individual coastal responsibilities, since no coordinated coastal plan exists.

The Council began creating a strategic coastal plan, but never completed it.

The Council has also allowed one of its only statutorily required mechanisms for interagency coordination, the Permitting Assistance Group (PAG), to become inactive. The PAG, described in the textbox, *Permitting Assistance Group*, has not met since November 2008, and the member agencies have differing opinions about the need for and appropriate purpose of the group. Since PAG stopped meeting, the Council has not reevaluated PAG's continuing need or made efforts to identify additional initiatives to guide its activities.⁸ GLO staff indicated that the U.S. Army Corps of Engineers' Joint Evaluation Meetings fulfill PAG's original purpose. However, Sunset staff determined these meetings only help individual permit applicants get feedback on their projects from different permitting agencies. They do not provide the agencies with an opportunity to coordinate on initiatives to improve overall permitting processes and policy, a role PAG has successfully played in the past.

Permitting Assistance Group

- A Council workgroup created by changes to the Coastal Coordination Act in 1995.
- Members include Council member agencies and public members. Federal agencies, such as the U.S. Army Corps of Engineers, also participate.
- Coordinated the opening of two Permit Service Centers in Corpus Christi and Galveston to provide permitting assistance to individuals and small businesses; and created the Joint Permit Application Form, a common application form used by all agencies for permitting coastal projects.

Without a comprehensive coastal plan that establishes clear, statewide goals and priorities, the Council and its member agencies cannot effectively direct their programs and funding toward meeting the State's coastal needs.

Texas has no regular, comprehensive coastal planning process to develop overall coastal goals and priorities for the State that the Council and its member agencies could use to guide their programs and funding decisions. Although the Council sets priority project types for each grant cycle, the range of priority areas is broad and unfocused. The Council selected 22 different project types out of the more than 75 total types it allows as priorities for the fiscal year 2010 grant awards, making the Council's goals for what it wants to accomplish with the grants program unclear.⁹

The Council's goals for the grants program are unclear.

The Council typically provides less than \$2 million annually in competitive grants for coastal projects. Ensuring these limited funds advance state coastal goals and priorities is critical to maximize their impact. State coastal goals and priorities could assist the Council in optimizing its grant funds and help other agencies that make coastal grants, such as GLO, focus their funding decisions as well.

The Council does not require consistent reporting from the networked agencies to allow for effective interagency information sharing for comprehensive coastal planning.

By Council rule, all of the networked agencies must maintain a record of their proposed actions that could adversely affect coastal resources and report that information quarterly to the Council.¹⁰ These actions include issuing permits, rulemaking, and other coastal resource management decisions. However, the Council does not specify what types of information the agencies must maintain and report, including the level of detail they must provide. As a result, agencies do not report consistent types of information, making some reports of limited value to the Council. For example, the Texas Commission on Environmental Quality reports detailed information on their enforcement actions, including case identification numbers, name of the regulated entity, and county, but its reporting on coastal permits is limited to a summary chart of the number and type of permits.¹¹ By contrast, the Public Utility Commission reports more detailed information about its proposed permits than any of the other agencies, such as docket number, applicant name, and county.¹²

The Council does not have consistent data to identify coastal trends and issues.

Without sufficiently detailed and consistent information from all of the networked agencies, the Council cannot use the data to identify trends and emerging issues for its coastal planning efforts. The data requirement simply creates a repository of information with little value or use.

Other states have successfully implemented long-range, comprehensive coastal planning processes, and Texas conducts long-range planning for other critical natural resources.

Both Louisiana and Georgia have successfully developed comprehensive coastal planning processes, including specific strategies to implement their plans. Louisiana develops its Comprehensive Master Plan for a Sustainable Coast every five years to establish overall objectives, and creates an annual action plan to guide progress toward achieving those objectives.¹³ Georgia created its first Coastal Comprehensive Plan in 2008, which identifies priority issues and establishes an implementation plan.¹⁴ Also, Texas conducts long-range planning efforts for other natural resources, such as the State Water Plan and the Texas Land and Water Resources Conservation and Recreation Plan.^{15,16}

Recommendations

Change in Statute

1.1 Continue the Coastal Coordination Council for 12 years.

This recommendation would continue the Council for the standard 12-year period. The General Land Office would continue to provide administrative support to the Council.

1.2 Require the Coastal Coordination Council to create a comprehensive, five-year Texas Coastal Plan, and provide annual updates to the Legislature on progress toward meeting goals established in the Plan.

This recommendation would require Council members to work together to create a five-year Texas Coastal Plan describing coastal conditions and needs, establishing statewide coastal goals, and reporting progress toward those goals. As part of this process, the Council would conduct an overall assessment of the coast, using available research, public input, and each Council member agency's input. The Council could use existing plans developed by each agency to assist in developing this overall Coastal Plan. The Council could also use information gathered on the condition of coastal natural resource areas through its federally required Assessment and Strategies Report. The Council would include the following elements, at a minimum, in the Texas Coastal Plan:

- establishing statewide coastal goals and priorities, and identifying any barriers that prevent the State from reaching them;
- identifying current coastal needs and conditions, emerging coastal trends and issues, and any other issues that could be addressed through the Plan;
- defining the current duties of federal, state, and local governments on the coast, including overlaps and gaps in the coastal programs and duties of the networked agencies; and
- identifying specific strategies to implement the Plan, and developing measures to allow for reporting of agency-level and overall progress towards the Plan's goals.

The statute would require the Council to use a process that provides for input from the public, local governments, and federal agencies in evaluating coastal conditions and issues, and in formulating goals, priorities, and strategies. The Council would be required to adopt the first Texas Coastal Plan by December 1, 2012, and adopt subsequent plans every five years thereafter.

This recommendation would also require the Council to include information in its existing annual report to the Legislature providing status updates from all Council member agencies on their coastal programs and activities, including progress toward meeting the Plan's goals and strategies.

Most of the information, data, and analyses required to create the Texas Coastal Plan are currently available through the individual Council member agencies that already have staff dedicated to CMP and other coastal activities, including coastal planning. The Council could use this information to develop the Texas Coastal Plan without a cost to the Council or the member agencies. Since the Council is currently using federal funds to assess the condition of the coast and identify ways to improve the CMP, it could use that information in conjunction with other data and analyses from the member agencies to develop the Texas Coastal Plan.

1.3 Require the Council to use goals developed through the Texas Coastal Plan to target its grant funding and evaluate the success of grant funds spent toward meeting the Plan's goals.

Under this recommendation, the Council would need to clearly link its grant funding priorities to the goals established in the Texas Coastal Plan. The Council would establish performance measures allowing it to assess the overall impact and outcomes of the projects it funds, and would include this assessment as part of future Texas Coastal Plans and in the Council's annual reports to the Legislature.

1.4 Require the Council to evaluate the need for the Permitting Assistance Group in its current form, and statutorily authorize the Council to assign it additional duties and add members if needed.

This recommendation would require the Council to evaluate PAG's functions, membership, and usefulness. This evaluation would include soliciting input from all members of PAG and assessing any pending PAG initiatives. The Council would adopt rules to restructure PAG based on the results of the evaluation to ensure the best use of one of the Council's interagency coordination mechanisms. This recommendation would also allow the Council to expand the functions and add members to PAG based on its evaluation.

Management Action

1.5 The Council should establish standard types of data networked agencies must include in their quarterly reports.

The Council should adopt rules delineating the types of information networked agencies must provide to the Council on a regular basis, including agency actions, enforcement actions, and rulemakings. Council rules should require CMP networked agencies to submit the same types of information, as applicable, containing a similar level of detail. The Council should determine the level of detail based on the kinds of information it deems most useful for evaluating coastal development impacts to inform the coastal planning process required under Recommendation 1.2. For example, information requirements could include permit identification number, applicant name, and county. The Council should establish these requirements taking into account the limits of the agencies' current technological capabilities.

Having information regarding the types and locations of development occurring on the coast could help the Council identify natural resource impacts resulting from the development and create strategies to address those impacts through coordinated planning. The Council could identify necessary research projects, target grant funds, and formulate potential policy changes agencies could implement as part of the Texas Coastal Plan.

Fiscal Implication Summary

These recommendations would not have a fiscal impact to the State.

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- 1 Texas Natural Resources Code, sec. 33.2.
 - 2 Texas Natural Resources Code, sec. 33.202.
 - 3 Staff perform both state and federal consistency reviews and attempt to informally resolve consistency concerns before they rise to the Council level.
 - 4 National Oceanic and Atmospheric Administration, *Final Evaluation Findings, Texas Coastal Management Program, April 2004 through December 2006*, pp. 7-8. Online. Available: coastalmanagement.noaa.gov/mystate/docs/TexasCMP2007.pdf. Accessed: January 20, 2010; National Oceanic and Atmospheric Administration, *Evaluation Findings for the Texas Coastal Management Program January 2001 to March 2004*, (June 2005), pp. 3, 8-9. Online. Available: www.glo.state.tx.us/coastal/pdf/312evaluation-findings-2004.pdf. Accessed: January 20, 2010; and National Oceanic and Atmospheric Administration, *Evaluation Findings for the Texas Coastal Management Program from August 1996 to December 2000*, (August 2001), p. 28. Online. Available: www.glo.state.tx.us/coastal/pdf/312evaluation-findings06.pdf. Accessed: January 25, 2010.
 - 5 Texas General Land Office, *Texas Coastal Management Program Annual Report 1999* (Austin, Texas, 1999), p. 25. Online. Available: www.glo.state.tx.us/coastal/pdf/annual99report6.pdf. Accessed: January 20, 2010; Texas General Land Office, *Texas Coastal Management Program 2000 Annual Report* (Austin, Texas, 2000), p. 13. Online. Available: www.glo.state.tx.us/coastal/pdf/annual00report.pdf. Accessed: January 20, 2010; Texas General Land Office, *Texas Coastal Management Program 2001 Annual Report* (Austin, Texas, 2001), p. 7. Online. Available: www.glo.state.tx.us/coastal/pdf/annual01report2.pdf. Accessed: January 20, 2010; Texas General Land Office, *Texas Coastal Management Program 2002 Annual Report* (Austin, Texas, 2002), pp. 1-2. Online. Available: www.glo.state.tx.us/coastal/pdf/annual02report.pdf. Accessed: January 20, 2010.
 - 6 Coastal Coordination Council, "Coastal Coordination Council Strategic Plan Objectives" (Austin, Texas, May 18, 2000). Online. Available: www.glo.state.tx.us/coastal/ccc/2000/ec000518/item07b.pdf. Accessed: January 29, 2010.
 - 7 Center for Public Policy Dispute Resolution, University of Texas School of Law, *Texas Coastal Management Program, Tenth Anniversary Self-Assessment, Executive Committee Work Session* (Austin, Texas, September 30, 2008), p. 8. Online. Available: www.glo.state.tx.us/coastal/ccc/2008/110608ec/agenda_07_Self-Assessment.pdf. Accessed: January 22, 2010.
 - 8 Coastal Coordination Council meeting minutes (Austin, Texas, March 5, 2009). Online. Available: www.glo.state.tx.us/coastal/ccc/2009/062509ccc/agenda02minutes.pdf. Accessed: February 10, 2010; Coastal Coordination Council meeting minutes (Matagorda, Texas, June 25, 2009). Online. Available: www.glo.state.tx.us/coastal/ccc/2010/021110ccc/agenda03Minutes.pdf. Accessed: February 10, 2010.
 - 9 Texas Coastal Management Program. *CMP Grants Program, Guidance and Application Form, Grant Cycle 15, April 2009*. pp. 9-17. (Austin, Texas, 2009). Online. Available: www.glo.state.tx.us/coastal/ccc/2009/030509ccc/agenda05Cycle14GuidanceDocument.pdf. Accessed: January 22, 2010.
 - 10 Texas Administrative Code, Title 31, part 16, rule 505.30.
 - 11 Texas General Land Office, *Texas Commission on Environmental Quality Quarterly Report for the Period June 1, 2008 thru August 31, 2008* Online. Available: www.glo.state.tx.us/coastal/consistency/reports/fy08/quarter4/TCEQ-4thQuarter.pdf. Accessed: January 25, 2010.
 - 12 Texas General Land Office, *Public Utility Commission of Texas 4th Quarter-FY 2008 Reporting Period Coastal Management Report* Online. Available: www.glo.state.tx.us/coastal/consistency/reports/fy08/quarter4/PUC-4thQuarter.pdf. Accessed: January 25, 2010.
 - 13 Coastal Protection and Restoration Authority of Louisiana. *Fiscal Year 2011 Annual Plan, Integrated Ecosystem Restoration and Hurricane Protection in Coastal Louisiana* (Baton Rouge, Louisiana, January 2010), p. 5. Online. Available: www.lacpra.org/assets/docs/Draft%20CPRA%20FY%202011%20Annual%20Plan%201-29-10%20For%20Public%20Review%20WEB%20FORMAT.pdf. Accessed: February 3, 2010.
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Responses to Issue 1

Recommendation 1.1

Continue the Coastal Coordination Council for 12 years.

Agency Response to 1.1

None received.

For 1.1

None received.

Against 1.1

None received.

Modifications

1. Reconstitute the Council as an independent agency with appropriate staff and resources. (Jack Hunt, President and CEO – King Ranch, Inc., Houston)
2. Abolish the Coastal Coordination Council. (Jack Hunt, President and CEO – King Ranch, Inc., Houston)

Recommendation 1.2

Require the Coastal Coordination Council to create a comprehensive, five-year Texas Coastal Plan, and provide annual updates to the Legislature on progress toward meeting goals established in the Plan.

Agency Response to 1.2

While the creation of a comprehensive Texas Coastal Plan appears to be a common sense way to increase coordination among Council member agencies, much of this coordination is occurring on the staff level and this recommendation would hold the Council responsible for progress toward goals it has no authority to implement. Further, the Council is already creating a five-year plan to guide its grant-making decisions through a federally required process that will include an assessment of the Texas coast. The plan recommended in the staff report would go beyond the plan the Council is currently creating by including member agency goals and program priorities that are beyond the Council's authority to implement and would require the Council to report to the Legislature progress towards meeting these goals. Agencies on the Council have their own governing boards or elected officials, legislative directives, and priorities which may not align with a plan adopted by the Council. Such a plan could also conflict with other statewide plans, such as the State Water Plan or the Texas Land and Water Resources Conservation and Recreation Plan.

If it is the direction of the Legislature that this plan be developed, the Council will need to have new policymaking authorities to implement it.

This recommendation also underestimates the time and expense of developing such a far-reaching planning document, and would require federal grant funds to be reallocated from future coastal projects and member agency staff resources to be redirected from other priorities. Aligning the goals and priorities of each member agency is a daunting task that will serve little purpose given the authority of the Council. Recommendation 1.2 would expand the role of the Council beyond its initial mission by subjecting member agency planning and other authorities to the purview of the Council through adoption of a five-year planning document. (Coastal Coordination Council members: The Honorable Jerry Patterson, Commissioner – Texas General Land Office; The Honorable Elizabeth Ames Jones, Commissioner – Railroad Commission of Texas; José Dodier, Chairman – Texas State Soil and Water Conservation Board; and The Honorable George Deshotels, Commissioner, Precinct No. 2 – Matagorda County)

Staff Comment: Requiring the Council to develop the Texas Coastal Plan would not necessitate giving the Council additional authority to implement the Plan. The Plan would instead be developed and implemented by each of the member agencies. Creating and adopting common goals and strategies in the Plan would depend upon mutual agreement amongst the member agencies. The concept of the Plan is to incorporate, not conflict with, existing agency priorities and other statewide plans. All Council agencies would be involved in formulating the Plan.

The intent of the recommendation is to have the Council use each of the member agencies' existing data and analyses, strategic plans, statewide plans, and the Council's current CMP planning efforts to create the Texas Coastal Plan, which would provide an opportunity for the State to consider these agencies' coastal programs and responsibilities in a broader sense and connect these to achieve greater impact.

For 1.2

None received.

Against 1.2

None received.

Recommendation 1.3

Require the Council to use goals developed through the Texas Coastal Plan to target its grant funding and evaluate the success of grant funds spent toward meeting the Plan's goals.

Agency Response to 1.3

None received.

For 1.3

None received.

Against 1.3

None received.

Recommendation 1.4 _____

Require the Council to evaluate the need for the Permitting Assistance Group in its current form, and statutorily authorize the Council to assign it additional duties and add members if needed.

Agency Response to 1.4

None received.

For 1.4

None received.

Against 1.4

None received.

Recommendation 1.5 _____

The Council should establish standard types of data networked agencies must include in their quarterly reports.

Agency Response to 1.5

None received.

For 1.5

None received.

Against 1.5

None received.

Commission Decision

Modified and adopted Recommendation 1.1 to abolish the Coastal Coordination Council on September 1, 2011 and transfer its functions to the General Land Office, and to require the General Land Office to establish, by rule, a Coastal Coordination Advisory Committee. GLO would be required to consult with the National Oceanic and Atmospheric Administration during the Council's one-year wind-down process to ensure continued compliance with federal requirements

and to maintain federal approval of the Texas Coastal Management Program. Members of the Coastal Coordination Advisory Committee would include a representative from each of the current Coastal Coordination Council member agencies, and the following four members appointed by the Land Commissioner:

- (a) a city or county elected official who resides in the coastal area;
- (b) an owner of a business located in the coastal area who resides in the coastal area;
- (c) a resident from the coastal area; and
- (d) a representative of agriculture.

Modified and adopted Recommendation 1.4 to require the General Land Office, instead of the Council, to evaluate the need for the Permitting Assistance Group in its current form, and statutorily authorize the General Land Office to assign it additional duties and add members if needed.

Modified and adopted Recommendation 1.5 to direct the General Land Office, instead of the Council, to establish standard types of data networked agencies must include in their quarterly reports.

Legislative Action

Senate Bill 656 abolishes the Council on September 1, 2011 and transfers its functions and authority to GLO. The bill requires the Land Commissioner to adopt a comprehensive plan to ensure the smooth transition of all programs from the Council to GLO. The bill also requires GLO to consult with the National Oceanic and Atmospheric Administration as necessary during the transition to ensure continued compliance with federal requirements and to maintain federal approval of the Texas Coastal Management Program.

The bill requires the Land Commissioner, by rule, to establish the Coastal Coordination Advisory Committee to provide advice on matters related to the CMP, and to comply with federal requirements for interagency coordination. Membership of the Coastal Coordination Advisory Committee will closely mirror the makeup of the Council, including a representative from each of the current Council-member agencies and four members appointed by the Land Commissioner representing specific coastal interests. (Recommendation 1.1 with Commission modification)

Senate Bill 656 also requires the Land Commissioner to evaluate the functions, membership, and usefulness of the Permitting Assistance Group (PAG) by January 1, 2012. This evaluation must include input from all PAG members and the Coastal Coordination Advisory Committee. The bill authorizes the Land Commissioner to adopt rules to restructure or abolish, expand the functions of, or add members to PAG based on the results of the evaluation. (Recommendation 1.4 with Commission modification)

As a management recommendation not needing statutory change, Recommendation 1.5 with the Commission's modification did not result in legislative action.

New Issues

New Issues

None received.

Provisions Added by Legislature

Provisions Added by Legislature

1. Ensure the current Council-member agencies and citizen members continue to have input into the state and federal consistency review processes.

Senate Bill 656 allows the Coastal Coordination Advisory Committee to refer state and federal consistency issues to the Land Commissioner for review if three members of the Committee agree there is a significant unresolved dispute regarding a proposed action's consistency with the goals and policies of the CMP.

2. Remove unnecessary statutory language detailing the federal consistency review process.

The bill deletes outdated and unnecessary statutory language regarding specific elements of the federal consistency review process. This language was removed at the request of the National Oceanic and Atmospheric Administration to allow the consistency process be adopted in rule so the State can react and update the process more quickly when federal law or guidelines change.

3. Require the Attorney General rather than the Land Commissioner to review consistency determinations made by GLO, the Land Commissioner, or the School Land Board.

Senate Bill 656 prohibits the Land Commissioner from reviewing a consistency determination made by GLO, the Land Commissioner, or the School Land Board. The bill instead requires the Land Commissioner to refer these consistency determinations to the Attorney General for review to prevent any conflicts of interest. The bill requires the Attorney General to determine whether the referred actions are consistent with the goals and policies of the CMP and allows the Attorney General to protest an action.

Appendices

Appendix A

Coastal Zone Management Act Funding Categories FY 2009

Funding Categories	Amount	Number of Projects	Examples of Projects
Section 306/306A: Administrative and Coastal Resource Improvement Funds			
Funding for Coastal Management Program grant projects that address environmental concerns and promote sustainable economic development on the coast. The Council may use up to half of this funding for construction or land acquisition projects.	\$1,735,000 ¹	18	<ul style="list-style-type: none"> Public education campaign to address illegal sewage dumping by boats in Clear Lake and Galveston Bay Acquisition of land for developing a wetland preserve Analysis of the long-term impact and recovery of marshes following Hurricane Ike Chemically controlling the spread of invasive plants
Section 309: Program Enhancement Funds			
Funding the Council uses to develop and implement projects, including research, for Coastal Management Program improvements or policy changes. The Council identifies necessary projects every five years by assessing certain coastal resource issues, as prescribed by the federal government.	\$536,000 ²	4	<ul style="list-style-type: none"> Development and implementation of a strategy for land conservation and preservation Evaluation of coastal natural hazards mitigation, preparedness, response, and recovery
Section 310: Nonpoint Source Pollution Control Program Implementation Funds			
Funding to implement the Nonpoint Source Pollution Control Program. The Council uses these funds for projects that address polluted runoff.	\$75,000 ³	2	<ul style="list-style-type: none"> Public service announcements to increase awareness and participation in protecting impaired water bodies

¹ Does not include \$260,000 used for the Council's administration.

² Some projects span multiple years, but receive funding on an annual basis.

³ Grant recipients completed projects under budget and spent \$70,581. The General Land Office used the remainder for other program-related activities, such as travel to nonpoint source pollution conferences.

Appendix B

Staff Review Activities

During the review of the Coastal Coordination Council, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with General Land Office personnel, who provide administrative support to the Council; attended a Council meeting and reviewed minutes from past meetings; spoke with staff from key legislative offices; conducted interviews and solicited written comments from interest groups and the public; reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the structure and functions of coastal management programs in other states; and performed background and comparative research using the Internet.

In addition, Sunset staff also performed the following activities unique to the Council.

- Interviewed members of the Council's Executive Committee and Permitting Assistance Group.
- Interviewed staff and visited the Permit Service Center in Galveston.
- Met with staff and toured a Council-funded coastal prairie and wetlands habitat restoration project near Galveston Bay.
- Interviewed staff from the Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, Railroad Commission of Texas, Texas Department of Transportation, Texas State Soil and Water Conservation Board, Texas Water Development Board, and Texas A&M Sea Grant College Program.
- Interviewed staff from the National Oceanic and Atmospheric Administration, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and National Marine Fisheries Service.
- Interviewed coastal management program staff from Louisiana, Virginia, Mississippi, Massachusetts, and Georgia.

SUNSET STAFF REVIEW OF THE COASTAL COORDINATION COUNCIL

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