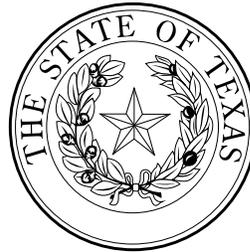


**Texas Commission on  
Fire Protection**

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**Staff Report**



**Texas Sunset  
Advisory Commission**

**1996**

## TEXAS SUNSET ADVISORY COMMISSION

### Membership

Representative Patricia Gray, Chair

Senator Ken Armbrister, Vice-Chair

Representative Fred Bosse

Senator J.E. "Buster" Brown

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Director

In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 10-member Commission is a legislative body that reviews the policies and programs of more than 150 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.

**TEXAS COMMISSION ON FIRE PROTECTION**

**SUNSET STAFF REPORT**



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# **EXECUTIVE SUMMARY**





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# Executive Summary

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The Texas Commission on Fire Protection (TCFP) was created by the Legislature in 1991 to combine the three main aspects of fire protection — prevention, suppression, and investigation— under one agency. The Commission’s mission is to enforce statewide laws and assist local governments in ensuring that the lives and property of the public and of the fire service are adequately protected from fires and related hazards. The Commission meets this responsibility by establishing minimum standards for education, training, and employment of fire fighters; certifying paid fire fighters and fire departments; conducting fire and arson investigations and fire safety inspections; and licensing and regulating the fire alarm, extinguisher, fire protection sprinklers, and fireworks industries. After evaluating the need for these functions, the review focused on how consolidation was working and how well the Commission was performing its duties. As part of this analysis, staff compared the structure and composition of the Commission to that of other state agencies and evaluated its ability to regulate, promulgate rules, and work with its advisory committees. The following material discusses the results of our review efforts.

## 1. Improve the Commission's Rulemaking Ability by Giving the Commission Complete Authority to Adopt Rules and Changing Advisory Committee Member Selection.

The Commission’s rulemaking authority is limited by the power of its numerous advisory committees. The Commission cannot reject or modify rule proposals made by the advisory committees. Instead, the Commission’s rule rejections or modifications must be submitted to the relevant advisory committee for approval. This limited rulemaking authority is not consistent with most other state agency Boards and Commissions in Texas and has resulted in the adoption of numerous, and possibly unnecessary, rules. Also, the Commission is unable to select the advisors it feels are most appropriate to perform the duties assigned to advisory committees. Many times, the Commission must select advisory committee members from lists provided by private associations with a vested interest in the committee’s actions. In one case, the members of

an advisory committee are selected, appointed, and serve at the will of private associations, not the Commission.

***Recommendation:*** Provide the Commission full authority to propose, adopt, or reject the rules under its jurisdiction, but require that the advisory committees have the opportunity to review and comment on rules before adoption. Also, require that all members of advisory committees shall be selected and appointed by the Commission, with input from the relevant associations if deemed necessary by the Commission.

## 2. Ensure the Public’s Interests are Represented by Adding Public Members to the Commission.

TCFP does not currently have public members on its policymaking Board. Members of the general public should be added to the Commission to provide a public perspective and protect the public’s interest in policy development and rulemaking. The work of the Commission provides

substantial opportunity for public members to have input into many areas of public policy that affect the safety of the general public. The Commission will continue to rely on the expertise of advisory committees on technical matters.

***Recommendation:*** Restructure the Commission's membership to add three public members and reduce from three to two the members representing chief officers, fire fighters, and volunteer fire chiefs or fire fighters. Additionally, specify that for chief officers and fire fighters, one must be employed by a political subdivision with a population of less than 50,000 and one from a political subdivision of more than 50,000.

### 3. Remove the Texas Commission on Fire Protection's Responsibility to perform Key Rate Inspections.

TCFP currently evaluates Texas municipalities' fire fighting capacity through key rate inspections. The Texas Department of Insurance (TDI) will no longer use key rates to set insurance rates. Instead, TDI will use the Fire Suppression Rating Schedule inspections. The Insurance Services Office (ISO) already performs these inspections; therefore, continued TCFP inspections would be duplicative.

***Recommendation:*** Remove TCFP's statutory responsibility to perform key rate inspections.

### 4. Reduce Duplication by Having One Certification for Both Paid and Volunteer Fire Fighters.

When the Commission on Fire Protection was created in 1991, it was required to create an optional certification program for volunteer fire fighters. Despite having the same education and training requirements and using the same tests, the Commission maintains separate programs. Certified volunteer fire fighters that wish to become certified paid fire fighters are required to take the same examination. In addition, paid fire fighters are required to be employed in a fire protection related field to renew their certification. Sunset staff found no reason to continue administration of separate programs and to require employment for continued certification.

***Recommendation:*** Reduce duplication by having one certification for both paid and volunteer fire fighters.

### 5. Continue the Texas Commission on Fire Protection for 12 years.

TCFP should be continued to ensure that the state's paid fire fighters are qualified and trained, local governments and fire departments have assistance with fire safety inspections and fire and arson investigations, and the fire alarm, extinguisher, fire sprinkler, and fireworks industries are licensed and regulated. These functions are essential to the safety of the state and should be continued.

***Recommendation:*** Continue the Texas Commission on Fire Protection for 12 Years.

## Fiscal Impact Summary

The recommendations contained in this report could result in a savings to the state. Savings in the amount of \$151,278 per year should result from the discontinuation of key rate inspections. Additionally, allowing fire fighters that are not currently employed in the fire service to renew their certifications should generate an additional \$30,000 to General Revenue.

## **APPROACH AND RESULTS**





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# Approach and Results

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## Approach

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The 72nd Legislature, in 1991, passed Senate Bill 383, the Sunset bill for the Commission on Fire Protection Personnel Standards and Education which consolidated that agency with the State Fire Marshal's Office, a division of the Texas Department of Insurance, the Key Rate section of the TDI property division, and the Fire Department Emergency Board. The purpose of the consolidation was to put all aspects of fire service regulation into one agency, the Texas Commission on Fire Protection. At that time, the Legislature gave the new Commission a Sunset date in 1997 instead of the standard 12-year interval between reviews.

The purpose and focus of the Sunset review was to see how the consolidation was working and the need for any adjustments. Sunset staff examined whether the Commission is meeting its new statutory charge — enforcing statewide laws and assisting local governments in ensuring that the lives and property of the public and of the fire service are adequately protected from fires and related hazards. The review found widespread support for having the many fire-related regulatory and oversight functions housed in one agency and that many of the agency's current approaches are working well. Whereas a review will typically focus on any problems an agency has in performing its functions, this Sunset review also examined whether the Commission's structure allows the 12 Commission members to exercise governance and make policy through traditional functions such as rulemaking and working with advisory committees.

Sunset staff also looked at improving the efficiency of the agency's two fire fighter certification programs and whether they could be combined. Finally, Sunset staff looked at the effect on the Commission of the Department of Insurance's decision in September 1996 to replace its Key Rate Schedule with a new Fire Suppression Rating Schedule (FSRS) to evaluate a community's fire suppression capability. As a result, the recommendations in this report address several themes — making the composition, powers, and authority of the Commission in line with other state policy boards and eliminating duplication in certain agency programs.

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*The Sunset review looked at how consolidation was working and the need for any adjustments.*

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During the review, staff had the benefit of previous evaluation work. At the request of the then Executive Director, the Texas Performance Review (TPR) division of the Comptroller's Office performed a review of the Commission 1995. Staff work was conducted in the spring and the report was released in November. Sunset staff considered the recommendations offered by TPR and examined many of the issues raised in that report. With a change in Executive Directors at the Commission in October 1995, and resulting changes in the agency management, Sunset staff asked the State Auditor to look at financial and management controls within the agency. The State Auditor's report should be out in January 1997 for use during the session as legislation is considered to continue the agency.

## Review Activities

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In conducting the review, the Sunset staff:

- Worked extensively with TCFP staff;
- Worked with the Legislative Budget Board, State Auditor, and the Texas Department of Insurance;
- Attended two quarterly Commission meetings;
- Met individually with four members of the Commission;
- Surveyed and met with fire service interest groups about their concerns with the future of fire protection in Texas and recommendations for improvement;
- Accompanied a TCFP inspector on an inspection of a fire department;
- Accompanied TCFP personnel as they administered the skills portion of the basic fire fighter certification exam; and
- Reviewed the 1991 Sunset report and resulting legislation, agency documents and reports, state statutes, legislative reports, previous legislation, literature on law enforcement, other states information, and information on the Internet.

## Results

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The Sunset review started with answering the standard question of whether the functions TCFP performs continue to be needed. TCFP's major responsibilities include certifying and regulating paid fire fighters and fire departments; establishing minimum standards for education and training of fire fighters; performing fire safety inspections and fire and arson investigations; licensing and regulating fire alarm, extinguisher, and

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*During the review, staff had the benefit of other recent evaluation work and called on the State Auditor for assistance.*

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automatic sprinkler industries; and licensing and regulating individuals that sell fireworks. The staff concluded that TCFP's activities to provide these services should continue.

Once the agency's functions were deemed necessary, the focus of the review shifted to the organizational structure used to provide these functions. TCFP was evaluated to see if consolidation or transfer of all or some its functions was warranted. Although other state agencies perform similar functions such as setting professional standards and licensing, no other agency was identified that could appropriately handle these function for the Texas fire service. Staff looked instead at changes that could improve the Commission's ability to regulate and provide services to the Texas fire service.

In reviewing how TCFP carries out its mission, Sunset staff focused on the following areas.

***The structure of the Commission and its authority*** - Sunset staff compared the composition of the Commission, its rulemaking authority, and its relationship to advisory committees to that of other agencies. Both **Issue 1**, improving the advisory committee process by giving the Commission full rulemaking authority and **Issue 2**, adding public members to the Commission, address the irregularities in the Commission's structure and try to make the Commission's authority more like that of other state policy bodies.

***Responsibility for Key Rate Inspections*** - In September 1996, the Department of Insurance replaced its Key Rate Schedule with a new Fire Suppression Rating Schedule (FSRS) to evaluate a community's fire suppression capabilities. Under the Key Rate Schedule, the Commission on Fire Protection was responsible for performing key rate inspections and making recommendations to the schedule to the Department of Insurance. With FSRS, the Insurance Services Organization, an insurance industry research group, performs inspections. Sunset staff found that Commission inspections would be redundant and provide no additional benefits. **Issue 3** recommends that the Commission's statutory requirement to perform inspections be removed. However, the recommendation calls on TCFP to continue to provide technical assistance to local fire departments concerning the FSRS.

***Separate Certification Programs for Paid and Volunteer Fire Fighters*** - When the Commission was created in 1991, it was required to create a separate, optional certification program for volunteer fire fighters. Sunset staff compared the requirements of the paid certificate to those of the

volunteer certificate and found no reason to keep the programs separate. **Issue 4** recommends combining the two programs and eliminating the employment requirement for continued certification.

## Recommendations

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1. Improve the Commission's Rulemaking Ability by Giving the Commission Complete Authority to Adopt Rules and Changing Advisory Committee Member Selection.
2. Ensure the Public's Interests are Represented by Adding Public Members to the Commission.
3. Remove the Commission's Responsibility to Perform Key Rate Inspections.
4. Reduce Duplication by Having One Certification for Both Paid and Volunteer Fire Fighters.
5. Continue the Texas Commission on Fire Protection for 12 years.

## Fiscal Impact

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If enacted, the recommendations in this report will generate a savings to General Revenue of \$181,278 annually. The recommendation to continue TCFP will require its annual appropriation of approximately \$6.6 million to continue the operation of the agency.

Fiscal Year	Revenue Gain to General Revenue Fund	Change in Number of FTE's From Fiscal Year 1996
1998	\$181,278	-3
1999	\$181,278	-3
2000	\$181,278	-3
2001	\$181,278	-3
2002	\$181,278	-3

# ISSUES



# Issue 1



## Improve the Commission's Rulemaking Ability by Giving the Commission Complete Authority to Adopt Rules and Changing Advisory Committee Member Selection.

### Background

In 1991, the Legislature created the Texas Commission on Fire Protection (TCFP). The structure of the agency included the former Commission on Fire Protection Personnel Standards and Education; the State Fire Marshal's Office, a division of the Texas Department of Insurance (TDI); the Key Rate Section of the TDI's property division; and the Fire Department Emergency Board, formerly attached to the State Fire Marshal's Office. State law authorized the new Commission to adopt rules to comply with state and federal laws regarding fire protection and to manage the operations of the agency. The Legislature authorized the Commission to appoint advisory committees to advise or assist the Commission in these areas.<sup>1</sup>

In addition, the Legislature statutorily mandates the existence of seven advisory committees — Fire Protection Personnel, Volunteer Fire Fighter, and Funds Allocation Advisory Committees and Fire Alarm, Fire Extinguisher, Fire Protection (Sprinkler), and Fireworks Advisory Councils. Currently, these seven advisory committees assist the Commission with its rulemaking responsibilities. The Commission has established two additional advisory committees, the Testing Committee and the State Fire Code Committee. The Testing Committee is a subcommittee of the Fire Protection Personnel Advisory Committee and the State Fire Code Committee is charged with recommending the adoption of nationally recognized standards to use during fire and safety inspections and completing a feasibility study on a statewide fire code to be reported to the 75th Legislature. The chart, *Texas Commission on Fire Protection Advisory Committees*, shows the composition and rulemaking authority of TCFP's advisory committees.

The Commission is statutorily designated as the rulemaking body; however, the Commission must share its rulemaking authority with seven advisory committees. Rule proposals drafted by the advisory

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*Statute mandates several advisory committees that share rulemaking authority with the Commission.*

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<b>Texas Commission on Fire Protection Advisory Committees</b>		
<b>Advisory Committee</b>	<b>Composition</b>	<b>Rulemaking Duties</b>
<b>Advisory Committees Appointed Directly by Commission</b>		
Fire Protection Personnel Advisory Committee	<ul style="list-style-type: none"> <li>• Nine members including six current or retired fire protection personnel and three instructors of fire protection personnel</li> </ul>	Develops rules related to standards, education, and regulation of paid fire fighters and departments.
Fire Alarm Advisory Council	<ul style="list-style-type: none"> <li>• Seven members with experience in fire prevention services or industry expertise</li> </ul>	Develops rules concerning the fire alarm industry.
Fire Extinguisher Advisory Council	<ul style="list-style-type: none"> <li>• Eight members with fire service, insurance, or industry experience</li> </ul>	Develops rules concerning the fire extinguisher industry.
Fire Protection (Sprinkler) Advisory Council	<ul style="list-style-type: none"> <li>• Seven members with fire service, insurance, or industry experience</li> </ul>	Develops rules concerning the fire protection sprinkler system industry.
State Fire Code Committee (established by appropriation rider)	<ul style="list-style-type: none"> <li>• 16 members, one of which is the State Fire Marshal</li> </ul>	Submits recommendations on the adoption of nationally recognized standards to use during fire and safety inspections.
<b>Advisory Committees Appointed with Industry Involvement</b>		
Fireworks Advisory Council	<ul style="list-style-type: none"> <li>• Five members who are representatives of the fireworks industry, with three appointed from a list supplied by the Texas Pyrotechnic Association</li> </ul>	Develops rules related to standards, education, and regulation of paid fire fighters and departments.
Volunteer Fire Fighter Advisory Committee	<ul style="list-style-type: none"> <li>• Nine members, with six appointed from a list supplied by the State Firemen's and Fire Marshals' Association; members include six volunteer fire fighters and three instructors of volunteer fire fighters</li> </ul>	Develops rules related to standards and education of volunteer fire fighters and departments.
<b>Advisory Committee Appointed by Outside Group</b>		
Funds Allocation Advisory Committee	<ul style="list-style-type: none"> <li>• Six members (serve at the will of the appointing authority): <ul style="list-style-type: none"> <li>- three appointed by the Texas State Association of Fire Fighters</li> <li>- three appointed by the State Firemen's and Fire Marshals' Association</li> </ul> </li> </ul>	Reviews, evaluates, and recommends applications for financial assistance under the Fire Department Emergency grant/loan program.

committees are sent to the Commission for approval. If the Commission rejects the rule or has modifications, the rule must go back to the advisory committee for further development and/or approval. The Commission can suggest amendments to proposed rules, but the advisory committee must approve the changes before the Commission may adopt the rules.

The Sunset review examined TCFP's advisory committee structure, composition, and authority to determine whether this system benefits the regulatory operating procedures of the agency and follows the state's standard approach of using advisory committees.

## Findings

- ▼ **The rulemaking authority of the Commission is unnecessarily limited by the powers of its advisory committees.**
  - ▶ The rule development system in place prevents the Commission from rejecting or directly modifying rules that are not in the best interests of their regulatory authority. If an advisory committee proposes rules that the Commission does not agree with, the Commission's only option is to send the rules back to the advisory committee. The advisory committee then has statutory authority to make changes and send the rule back to the Commission.
  - ▶ From discussions with various Commission members and agency personnel, Sunset staff concluded that the Commission has decided at times to adopt rules it was not fully comfortable with because of the difficulty in using advisory committees to make changes. In fact, over the past five years, the Commission has only returned approximately four to five percent of the fire service rule proposals to an advisory committee for changes.<sup>2</sup>
  - ▶ The Commission cannot propose rules needed to properly exercise its regulatory authority. The seven statutorily mandated advisory committees are charged with developing and proposing rules. This situation removes a standard and necessary regulatory tool from the Commission.
  - ▶ The areas of regulation that are limited by the advisory committee structure are significant. For example, the Commission cannot, on its own volition, propose or modify rules regarding the standards for the training and expertise of

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*The Commission has adopted rules it was not fully comfortable with because making changes through the advisory committees is difficult.*

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firefighters or standards for fire alarms, sprinklers, and fire extinguishers.

▼ **Restrictions upon the Commission’s rulemaking authority are not consistent with other state agency boards and commissions that use advisory committees.**

- ▶ In most instances, state agencies do not share formal rulemaking authority with advisory committees.
- ▶ State regulatory boards and commissions with rulemaking authority and advised by advisory committees generally possess the ability to adopt, modify, and reject all rule proposals; the advisory committees usually assist in the development of and review and comment on the proposed rules. For example, advisory committees appointed by the Department of Human Services are only “allowed to assist in the development of and to comment on the rules before the rules are finally adopted.”<sup>3</sup> Other examples include the State Advisory Committee on Child-Care Facilities and Emergency Medical Services’ Technical Advisory Committee.

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*The Commission has no role in selecting members of one of its key committees which deals with the agency’s grants and loans program.*

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▼ **The Commission’s ability to select advisory committee members is unnecessarily restricted.**

- ▶ The Commission is statutorily required to select advisory committee members for the Volunteer Fire Fighter Advisory Commission and the Fireworks Advisory Council from lists supplied to them by professional associations.
- ▶ Members from one of the advisory committees are not appointed by the Commission and are therefore unaccountable to the Commission.

The Commission has no role in selecting members for one of its key advisory committees. Members of TCFP’s Funds Allocation Advisory Committee, which reviews and evaluates all applications for financial assistance under the Fire Department Emergency grant/loan program, serve at the will of two associations that select and appoint the committee’s members. The two associations are the Texas State Association of Fire Fighters and the State Firemen’s and Fire Marshals’ Association.

State agencies in Texas generally do not use advisory committees whose members are appointed by an association with a vested interest in the committee's actions and who are unaccountable to the agency that the committee advises.

## Conclusion

The power vested in TCFP advisory committees is unnecessarily strong and significantly inhibits the ability of the Commission to fully attend to its statutory duties. This problem is compounded by the Commission's inability to select the advisors it feels are most appropriate to perform the duties assigned to advisory committees. The result is the regulated industries hold unnecessarily extensive regulatory powers. This situation is far outside the state's standard approach of providing Governor appointed boards with exclusive regulatory authority over their particular areas, while allowing the boards to obtain advice from committees, when and if it is appropriate. The staff found no reasons to deviate from the standard for TCFP.

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*The Commission's rulemaking authority and its advisory committees need to be brought in line with the standard for state policymaking boards.*

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## Recommendation

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### Change in Statute

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- Provide the Commission full authority to propose, modify, adopt, or reject rules under its jurisdiction.
- Require that the advisory committees have the opportunity to review and comment on rules before adoption by the Commission, except in emergency rulemaking situations.
- Revise the process used to select members of the Commission's advisory committees by:
  - requiring that all members of advisory committees shall be selected and appointed by the Commission; and
  - allowing the Commission, as it deems appropriate, to receive input from the relevant associations for names of potential advisory committee members.

These recommendations would ensure that the Commission would have full rulemaking powers and duties, including the ability to adopt, reject, or modify committee rule recommendations. This change clarifies that the advisory committees would act in an advisory role only. The advisory committees, including the Funds Allocation Advisory Committee, shall make recommendations, but the final decisions will be made by the

Commission. The staff's recommendations would also ensure that the advisory committees used by the Commission are accountable to the Commission and not to outside entities that have a vested interest in the Commission's decisions. However, the Commission would have authority to request and obtain recommendations of potential advisory committee members from the relevant associations.

The associations and advisory committees would continue to have an important role in the Commission's regulatory processes. The advisory committees would continue to propose rules and would be given the opportunity to review and comment on all rules, except in emergency rulemaking situations. As recommended above, the Commission would have the ability to adopt rules, on an emergency basis, without review by an appropriate advisory committee. This emergency rulemaking would be governed by relevant provisions of the Administrative Procedure Act that cover such situations.

## Management Action

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- **Require the Commission to reevaluate and readopt, as appropriate, all rules by January 1, 1999.**

The current rulemaking system at TCFP has not allowed the Commission to reject or modify rules without first submitting the reasons for rejection or modification to the pertinent advisory committee for approval. Therefore, to decrease inefficiency, a tremendous volume of rules of questionable necessity were adopted by the Commission under this system. Under the new system, the Commission should take the opportunity to review whether all the numerous rules adopted under the previous system are indeed necessary and properly reflect the regulatory needs of the Commission.

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## Fiscal Impact

This recommendation will not have a fiscal impact to the state.

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<sup>1</sup> Government Code, Section 419.008.

<sup>2</sup> Discussion with TCFP General Counsel, November 4, 1996.

<sup>3</sup> Texas Human Resources Code, Section 22.009.

# Issue 2



## Ensure the Public's Interests are Represented by Adding Public Members to the Commission.

### Background

The Legislature established the Texas Commission on Fire Protection in 1991 by consolidating the State Fire Marshal’s Office, the Texas Commission on Fire Protection Personnel Standards and Education, the Department of Insurance’s Key Rate Section, and the Fire Department Emergency Board. At that time, the consensus of Legislature was that all the members of the Commission should have ties to the Texas fire service. The chart, *Commission Composition*, shows the membership categories for Commission members.

While the Commission has rulemaking authority on sometimes highly technical matters, the Commission cannot create rules on its own. All rule recommendations that come before the Commission must be approved by an appropriate advisory committee.

Commission Composition	
<ul style="list-style-type: none"> <li>● <b>3 Chief officers</b></li> <li>- minimum rank of battalion chief</li> <li>- at least 2 department heads</li> </ul>	<b>Appointments must include one member from a political subdivision of:</b>  less than 50,000  between 50,000 and 200,000  more than 200,000
<ul style="list-style-type: none"> <li>● <b>3 Fire fighters</b></li> <li>- rank of captain or below</li> <li>- 1 active in fire prevention education</li> </ul>	
<ul style="list-style-type: none"> <li>● <b>3 Volunteer fire chiefs or volunteer fire fighters</b></li> </ul>	
<ul style="list-style-type: none"> <li>● <b>1 Certified fire protection engineer</b></li> </ul>	
<ul style="list-style-type: none"> <li>● <b>1 Certified arson investigator</b></li> </ul>	
<ul style="list-style-type: none"> <li>● <b>1 Fire protection instructor</b></li> </ul>	

These advisory committees, whose members represent the entities the Commission regulates, study, draft, and recommend rule proposals according to needs of the general public, the fire service, and the fire protection industries. If the Commission rejects a proposed rule, it may send the rule back to the advisory committee for recommended action. The Commission cannot amend language in a rule proposal without the advisory committee’s approval. The Commission can

### Texas Commission on Fire Protection Advisory Committees

Fire Protection Personnel Advisory Committee  
 Volunteer Fire Fighter Advisory Committee  
 Funds Allocation Advisory Committee  
 Fire Alarm Advisory Council  
 Fire Sprinkler Advisory Council  
 Fire Extinguisher Advisory Council  
 Fireworks Advisory Council  
 State Fire Code Committee  
 Testing Committee

suggest specific amendments, but the advisory committee must approve any alterations before the Commission can adopt the rule.

The Sunset Commission has adopted an approach toward open government and public access to most state governmental decision-making process that is reflected in the Sunset Commission's across-the-board recommendations. One of these recommendations calls for including public members on all agency policymaking bodies. In reviewing the Texas Commission on Fire

Protection, Sunset staff focused on whether the Commission's current composition provides for adequate public representation and whether the current structure is necessary for effective fire protection regulation.

## Findings

- ▼ **State policy dictates public representation on state agency boards and commissions.**
  - ▶ From its inception, the Sunset Advisory Commission has had as its policy a requirement for public membership on agency boards. The Sunset Commission's position has been that boards and commissions, consisting only of members from a regulated profession or group affected by the activities of an agency, may not respond adequately to broad public interests.
  - ▶ The Sunset Commission has routinely recommended that public members be added to boards under its review. For example, the Sunset Commission has recently recommended a public member majority on the Credit Union Commission citing that a majority of public members would be more likely to recognize issues of particular interest to the public and develop appropriate rules and policy to address those issues, such as rules concerning public notice and input in decisions.
  - ▶ In structuring agency boards, the Legislature has consistently included members of the general public. The Legislature has passed legislation that provides for public representation on boards that set policy and oversee the regulation of professions and occupations such as accountants, architects, real estate brokers and agents, the manufactured housing industry, the boiler industry, and air conditioning contractors. In addition, during the 73rd Legislature, licensing boards that regulate

various health care professions were required to have public representation on their boards.

- ▼ **The Legislature has deemed appropriate having public members on boards that consider technical matters.**
- ▶ Many policy boards established by the Legislature oversee complex, technical laws. The Public Utility Commission, Alcoholic Beverage Commission, Board of Health, and the Texas Natural Resources Conservation Commission each have public members on their boards which set policy for large industries, technical professions, and businesses that involve critical decisions that have a major impact on the economy of the state.
  - ▶ The duties of the Commission and the nature of the industry are not so technical as to be outside the decision making ability of public members. All decisions do not require only the expertise of fire protection personnel. In addition, the technical aspects of the proposals considered by the Commission are supported by the advisory committees that recommend rule changes to the Commission. These committees provide the Commission with substantial expertise on which to rely when making decisions on standards and regulations affecting the fire service and the fire industry.
  - ▶ In 1989, the Legislature created the Department of Licensing and Regulation with an all public Board to provide a broad policy direction that would protect the public interest in all matters under its jurisdiction. The Legislature determined that adequate expertise would be available through the use of advisory committees and the rulemaking process to ensure that technical matters needing board judgment could be satisfactorily resolved. The Legislature essentially determined that the duties of the Board were not overly technical in nature and therefore could be handled by public members.
  - ▶ Representatives of the general public do not have the training and expertise to evaluate whether highly specialized professionals, such as physicians, have properly diagnosed and treated a patient. However, non-licensed consumers do have the ability to protect the public's interest in matters where the function or service being assessed is non-technical in nature. For example, consumers can generally determine from

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*State policy dictates public members on state agency boards and commissions.*

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evidence presented whether a licensed person in a profession actually delivered a service or complied with a law governing the occupation.

- ▼ **Adding public members would help the Commission carry out its stated mission, goals, and strategies.**
  - ▶ The Commission on Fire Protection's mission statement emphasizes providing local governments with the assistance necessary to protect the lives and property of the public and fire service personnel. This assistance could be supported by members with a non-fire service perspective in areas such as providing fire prevention information and educational programs.
  - ▶ The Commission has specific responsibilities to license and regulate companies and individuals who sell, install, service or maintain portable and fixed fire extinguisher systems, fire alarm systems, automatic fire sprinkler systems, and issue licenses for the sale, possession, and display of fireworks. This regulation would be enhanced by the addition of members who can provide a broader public perspective and add to the regulating process.

## Conclusion

The work of the Commission on Fire Protection provides substantial opportunity for public members to have input into many areas of public policy that affect the safety of the general public and provide a broader perspective on regulatory policy related to the fire service. The Sunset Commission has consistently recommended public members on agency boards to avoid domination by a regulated industry or profession to the exclusion of broader public goals. Requiring public members on the Commission would ensure a balance of public perspective with current professional expertise.

The work of the Commission is not sufficiently technical to warrant an exclusion of public members. The Legislature has consistently placed public members on boards that deal with technical information and highly complex regulatory issues. The Sunset review concluded that the Commission on Fire Protection need not have only members from the fire service.

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*The Commission would benefit from public members and need not have only members from the fire service.*

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## Recommendation

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### Change in Statute

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- Restructure the Commission's membership to:
  - add three members of the general public;
  - reduce from three to two the members representing chief officers, fire fighters, and volunteer fire chiefs or fire fighters; and
  - specify that, for chief officers and fire fighters, one must be employed by a political subdivision with a population of less than 50,000 and one by a political subdivision of more than 50,000.

This recommendation changes the Commission membership to allow the public to have adequate representation. Providing public members would increase the effectiveness of the Commission in protecting the public and increase public perspective in its policy development and rulemaking. While this recommendation does not provide for the Sunset standard, one-third public membership, it does add three representatives of the general public, while maintaining members with other needed expertise as discussed below.

This recommendation would retain the current Commission size of 12 members. Each of the segments of the fire service would continue to have representation; two members representing fire chiefs, fire fighters, and volunteer fire fighters; as opposed to the current structure of three representatives for each. The current slots for a fire protection engineer, arson investigator, and fire instructor are not affected by this recommendation. The changes in composition would be phased in as current members' terms expire, thus opening spots on the Commission for new appointments.

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### Fiscal Impact

This recommendation would not have a direct fiscal impact to the state.



# Issue 3



## Remove the Texas Commission on Fire Protection's Responsibility to Perform Key Rate Inspections.

### Background

Key rate inspections evaluate the fire suppression capability of a municipality. The key rate has been used by the Texas Department of Insurance (TDI) to set insurance rates for homeowners.

The Key Rate Schedule is based on population, with larger populations needing higher levels of fire protection. The key rate then indicates how well the fire suppression capacity meets the needs of the municipality. The Key Rate Schedule also takes into account public education efforts and participation in the Texas Fire Information Reporting System (TEXFIRS) to establish a key rate for a municipality.

Before 1991, the State Board of Insurance, now TDI, performed key rate inspections of cities and set key rates for cities. In 1991, the Legislature transferred the responsibility of performing key rate inspections to the Texas Commission on Fire Protection (TCFP). However, TCFP only inspects and recommends a key rate to TDI and does not actually set a key rate for a city. TDI sets the key rate when accepting, rejecting, or modifying TCFP's recommendation.

Starting in 1997, TDI will no longer use the Key Rate Schedule to set insurance rates in Texas. Instead, TDI has adopted the Fire Suppression Rating Schedule (FSRS) established by the Insurance Services Office (ISO).

Both the Key Rate Schedule and the FSRS evaluate a community's fire suppression capabilities. However, while the key rate is based on population, the FSRS evaluates the fire flow needs of the structures in a jurisdiction. Fire flow is a measurement of how much water is needed to fight a fire at specific buildings in the jurisdiction. The FSRS was established by ISO, an insurance industry research group that provides insurance rate services to insurance companies and most state insurance regulators. ISO has been using the FSRS in Texas since 1940 for commercial underwriting purposes.

*Key rate inspections evaluate the fire suppression capability of a municipality.*

Unlike the key rate, the FSRS does not take into account the fire prevention activities of a jurisdiction when evaluating its fire suppression capacity. To rectify this short-coming, TDI adopted the “Texas Addendum” to the FSRS that accounts for a community’s fire prevention efforts and participation in the Texas Fire Information Reporting System (TEXFIRS). For a more complete comparison of the two methods see the table, *Comparison of the Fire Suppression Rating Schedule and the Key Rate Schedule*.

<b>Comparison of the Fire Suppression Rating Schedule and the Key Rate Schedule</b>	
<b>Fire Suppression Rating Schedule</b>	<b>Key Rating Schedule</b>
Determines fire suppression need by rating fire flow needs of structures in community	Determines fire suppression need by measuring municipality's population
Classifies 1,200 jurisdictions in Texas	Rates 650 municipalities in Texas
Jurisdiction rated on how well it meets ideal standards	Municipality rated on how well it meets minimum standards
“Texas Addendum” measures participation in TEXFIRS and public education efforts.	Automatically measures participation in TEXFIRS and public education efforts

Both the Key Rate Schedule and the FSRS require inspections to determine a community’s fire fighting capability. The key rate inspection focused on population, the ability of the local fire departments to meet the fire suppression needs of the municipality, and public education efforts. Key rate inspections generally took four to five days to complete.

FSRS inspections focus on the fire suppression needs of the buildings in the area and can take from three days to six months to complete, depending on the size of the jurisdiction. ISO currently performs FSRS inspections in over 1,200 jurisdictions for insurance companies.

TDI’s decision to switch from the Key Rate Schedule to the FSRS raises questions as to the need for TCFP to perform key rate inspections of cities and what the Commission’s role should be in the future regarding inspections of fire fighting capabilities. These questions are addressed in the following material.

## Findings

- ▼ TDI’s decision to discontinue the Key Rate Schedule removes the need for the Commission’s key rate activities.
  - ▶ TDI’s decision to use the Fire Suppression Rating Schedule beginning in January 1997 eliminates the need for TDI to receive key rate recommendations, as well as the need for the inspections that supported the Key Rate Schedule.



increase significantly for the Commission to effectively inspect jurisdictions in a timely manner.

- ▼ **Nearly every other state uses ISO inspections to support the Fire Suppression Ratings Schedule.**
  - ▶ Every other state currently uses the FSRS to evaluate the fire suppression capabilities of its communities. While five states perform their own FSRS inspections, the remaining 44 rely on ISO inspections.
  
- ▼ **Local fire departments may need technical assistance to manage new demands brought by FSRS.**
  - ▶ The switch from the key rate system to the FSRS may cause some initial confusion for local fire departments. In addition, some local fire departments and municipalities have expressed concern over the new FSRS system. Some departments do not have extensive experience with the FSRS and have not had access to certain FSRS and ISO information. Departments may need some assistance to determine how to improve their operations and equipment to better their FSRS classification.
  - ▶ ISO is a private entity supported by the insurance industry. Its priority is to perform inspections and not to provide technical assistance, or an explanation of inspection records to fire departments. Beginning in 1997, however, the FSRS and ISO inspection process and findings will become public information. TCFP, with its excellent working relationship with local fire departments, has the technical expertise to work with communities regarding the inspection process and to improve their FSRS classification.

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*Other than providing technical assistance, TCFP's role in setting fire insurance rates should be eliminated.*

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## Conclusion

TDI's decision to no longer use the Key Rate Schedule for setting fire insurance rates removes the need for the Commission's current key rate activities, including rate schedule recommendations and inspections. Although the new schedule also requires supporting inspections, a private group already performs these inspections and the information is readily available to TDI. Inspections performed by the Commission would be duplicative and would require a significant increase in funding. A better approach would be to eliminate the Commission's role in setting fire insurance rates.

## Recommendation

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### Change in Statute

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- Remove the Commission's responsibilities for inspections and assistance related to key rates.

This recommendation would remove TCFP's duty to perform key rate or any other fire suppression inspections of municipalities for the purpose of recommending ratings to TDI. Under this approach, TDI would obtain all inspection information from ISO without charge. This change eliminates the Commission's responsibility to perform a function no longer needed by TDI and ensures the state does not duplicate a function already available from the private sector.

Lastly, this recommendation will not prevent the Commission from inspecting fire departments. Standard TCFP inspections of fire departments under its Standards and Certification Division will continue.

### Management Action

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- TCFP should provide technical assistance to local fire departments concerning the FSRS.

The Commission is currently authorized to advise and assist public entities with duties related to fire protection. This recommendation would encourage TCFP to provide technical assistance to communities to help them find ways to improve their FSRS classification and interpret inspection results. TCFP, because of their relationship with the fire service, could provide a helpful service to the localities through this technical assistance aspect.

Based on TCFP's fiscal year 1997 budget, the key rate strategy was divided into two parts: key rate inspections and providing engineering assistance. The Commission expects these two strategies to cost \$370,639 combined in fiscal year 1997. Under this

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## Fiscal Impact

recommendation, TCFP would provide technical assistance through the engineering assistance strategy at the continued cost of \$218,146, but would stop conducting key rate inspections. This change would result in an annual savings of \$151,278.

<b>Fiscal Year</b>	<b>Savings to General Revenue</b>	<b>Change in Number of FTE's From Fiscal Year 1996</b>
1998	\$151,278	-3
1999	\$151,278	-3
2000	\$151,278	-3
2001	\$151,278	-3
2002	\$151,278	-3

## Issue 4



### Reduce Duplication by Having One Certification for Both Paid and Volunteer Fire Fighters.

#### Background

The Commission on Fire Protection Personnel Standards and Education was created in 1969 to develop minimum level training standards for paid fire protection personnel. The Commission began certifying paid fire protection personnel in 1971 to increase fire fighters' safety in Texas. In 1991, this Commission was consolidated with other fire service activities to create the Texas Commission on Fire Protection (TCFP). This new Commission became responsible for creating an optional certification program for volunteer fire fighters. Volunteer fire fighters agreed to the creation of a certification program, but their concerns, especially the time it would take a volunteer to complete the training and the possibility of mandatory training for volunteer fire fighters, led to a separate certification program. The Commission instituted written examinations in 1992 and skills testing in 1993 as requirements for both certifications.

Currently, the Commission certifies paid fire protection personnel in five different disciplines — structural fire protection, aircraft fire protection, marine fire protection, fire and arson investigation, and fire inspection. After the basic certification, further training and education and experience can qualify personnel for higher levels of certification within each discipline. The requirements for the structure (paid) fire fighter certification include 458 hours of training from an approved academy, the passage of a written test and a skills test, and certification from the Department of Health as an emergency care attendant. Paid fire fighters receive their training from one of 89 department academies or junior college academies.

The optional certification program for volunteer fire fighters administered by the Commission includes three disciplines — volunteer fire fighter, volunteer fire investigator, and volunteer fire inspector. Volunteer personnel can qualify for higher levels of certification with further training, education, and experience, like the paid certification program. Volunteer fire fighters that wish to become

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*Concerns of volunteer fire fighters led to the creation of separate certification programs for paid and volunteers.*

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certified by TCFP have several options. They may complete a recognized training program from the State Firemen and Fire Marshals' Association and take the Commission's written and skills exams. Volunteers may also take the 498 hour curriculum approved by TCFP, which includes emergency care attendant training, and pass the same written exam and skills exam as paid fire fighters.

Full time paid employees assigned structure fire protection duties must be certified by the Commission within one year from the date of their employment. Aircraft and marine fire protection personnel must become certified within two years. Volunteers are not required to become certified at any time.

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*Training requirements and exams are the same for both paid and volunteer certification.*

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Although the State Fireman and Fire Marshals' Association and local volunteer fire departments have traditionally provided training to volunteer fire fighters, one reason the volunteer certification program was created was to increase the training and education of volunteer fire fighters. However, only 250 volunteer fire fighters out of approximately 37,000 volunteer fire fighters in Texas have chosen to become certified.<sup>1</sup> Another reason for creating the volunteer program was to create a certification that would be recognized and allow volunteers to successfully transition into careers as paid fire fighters. Sunset staff sought to learn whether these goals have been met, whether it is necessary to have two separate programs, and if the efficiency and effectiveness of these certification programs could be improved.

## Findings

- ▼ The requirements for the paid personnel certification program are the same as those for volunteers.
  - ▶ The minimum standards for each certification requires completion of an approved basic fire fighter curriculum. The only difference between the paid and volunteer curriculum is that paid fire fighters must take a 458-hour approved curriculum and take additional training to receive certification from the Texas Department of Health as an emergency care attendant. Volunteer personnel receive this emergency training as part of their 498-hour curriculum.

Not only is the training equivalent, the Commission considers them interchangeable. According to the agency, its enabling statute requires the certification program for volunteer fire fighters to provide the same training as the program for paid

fire fighters. Commission rules state that the minimum standards for a paid structure certificate include completing *either* the basic paid curriculum or the basic volunteer curriculum.

- ▶ Paid and volunteer fire fighters take the same test for certification. Both must receive a score of at least 70 on the first or second attempt on the written test. Both paid and volunteer fire fighters must pass a skills test which includes a test of four practical skills to be physically demonstrated by each examinee. Both must complete 20 hours of continuing education each year to retain certification.
- ▼ **Requiring a fire fighter moving from volunteer to paid status to retake the exam is unnecessary.**
  - ▶ The Commission's statute requires a certified volunteer fire fighter wishing to become a certified paid fire fighter to retake the written exam.<sup>2</sup> As mentioned before, the written exam for the paid and volunteer certifications are the same.
  - ▶ Certified volunteer fire fighters have already passed the exam. The review concluded that requiring a volunteer fire fighter to pass the written exam a second time does not serve as additional measure of competence and provides no additional training or education.
- ▼ **Combining the certifications for paid and volunteers would require a change in the use of employment status for continued certification.**
  - ▶ Certificates held by paid personnel become inactive on the day employment is terminated. Paid personnel that leave a job have one year to regain employment or they lose certification. Fire fighters whose certificates remain unrenewed for more than one year must again take and pass the Commission's written exam and skills test.
  - ▶ Volunteer fire fighters do not have a requirement to remain active as a fire fighter, other than continuing education. Single certification would require the elimination of the employment requirement for continued certification.

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*Single certification would require that employment no longer be used for continued certification.*

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## Conclusion

The Commission on Fire Protection created an optional certification program for volunteer fire fighters in 1991. While the volunteer fire fighters supported its creation, their concerns about mandatory training for volunteer fire fighters and the length of time it would take volunteers to complete training led to the creation of a separate certification program. But after five years, the reasons for creating a separate certification program no longer justify its continuation. The two programs have the same requirements and paid and volunteer personnel even take the same exams. The longer time it takes volunteer fire fighters to complete training is not an impediment to creating a unified program. With the requirements for the certifications being the same, consolidating the two programs would help certified volunteer fire fighters wishing to make the transition to careers as paid fire fighters by eliminating the requirement that they retake the certification exams.

## Recommendation

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### Change in Statute

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- Combine paid fire fighter certification and volunteer fire fighter certification into one certification program.
- Eliminate employment as a requirement to maintain a paid fire fighter certificate.

Combining the two certification programs will make the transition from certified volunteer to paid fire fighter easier for those choosing to have careers in the paid fire service. In addition, combining the two programs will make it easier for the Commission to certify fire fighters by streamlining operations and eliminating redundant efforts. Since training and education requirements are almost identical now, the Commission will be able to affect this change easily. Removing the employment requirement will allow certified fire fighters to leave paid employment and maintain certification as long as continuing education requirements are met and the annual \$20 fee is paid. Fire fighters not currently employed in fire protection would have the responsibility to ensure their certificate is renewed.

Employment will continue to be a requirement for initial certification for paid fire fighters. Volunteers will need to have an affiliation with a volunteer department to become certified. Certificate holders not currently employed in the fire service can obtain continuing education from the Fire School at Texas A&M, paid fire departments, volunteer departments, or from certified proctors. The details of how continuing education will be tracked and accessed will need to be addressed by the Commission.

Fire departments will continue to be responsible for renewing the certificates of their paid fire fighters and paying the annual \$20 certification fee. Fire fighters that are no longer employed in fire protection would be responsible for their certification renewal. Although the Commission can mail renewal notices for these individuals directly to them, the fire fighters should be responsible for keeping up their renewal requirements.

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## Fiscal Impact

This recommendation will not result in a fiscal impact to TCFP. Combining paid and volunteer certification programs will not increase the workload of the Fire Service Standards and Certification Division, since the division currently handles both programs.

Additional fee revenue will result from this recommendation. According to the Commission, eliminating the employment requirement for recertification will increase the number of certificates issued annually by 1,500. The Commission will have to track and send renewal information for these 1,500 individuals directly to them and verify that these individuals have completed their continuing education requirements. Any cost associated with this additional workload can be offset by the additional \$30,000 in fees expected to be collected by the Commission.

<b>Fiscal Year</b>	<b>Gain to General Revenue</b>
1998	\$30,000
1999	\$30,000
2000	\$30,000
2001	\$30,000
2002	\$30,000

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<sup>1</sup> Texas Commission on Fire Protection, *Self Evaluation Report to the Sunset Advisory Commission*, September 1, 1995, page 10.

<sup>2</sup> Government Code, Chapter 419. Texas Commission on Fire Protection, Section 419.075 Becoming Certified Under Subchapter B.



# Issue 5



## Continue the Texas Commission on Fire Protection for 12 Years.

### Background

The Commission on Fire Protection Personnel Standards and Education was created by the Legislature in 1969 to set training standards for paid fire fighting personnel. Before 1969, all training standards were voluntary in Texas. As part of its responsibility to increase fire fighters' safety in Texas, this agency began certifying paid fire protection personnel in 1971.

The 72nd Legislature created the Texas Commission on Fire Protection (TCFP) in 1991 by consolidating several components of the fire service in Texas, including the Commission on Fire Protection Personnel Standards and Education. The purpose of the consolidation was to create a single agency that could improve the performance and professionalism of the fire service in Texas by ensuring that the lives and property of the public and fire service personnel were protected from fires and related hazards.

TCFP's responsibilities include the certification and regulation of paid fire fighters and fire departments; an optional certification program for volunteer fire fighters and volunteer fire departments; establishment of the minimum standards for education, training, and employment of fire fighters; providing fire protection engineering assistance to local governments; fire and arson investigations; fire safety inspections; licensure and regulation of the fire alarm, extinguisher, and fire protection sprinkler industries; and the licensure and regulation of individuals that sell, possess, and display fireworks. Finally, the Commission administers the fire department emergency program and fire prevention education programs for the state.

In a Sunset review, continuation of an agency and its functions depends on certain conditions being met, as required by the Sunset Act. First, a continuing need should exist for the state to provide the functions or services. In addition, the functions should not duplicate those currently provided by any other agency. Finally, the potential benefits of maintaining a separate agency must outweigh any

advantages of transferring the agency's functions or services to another agency. The evaluation of the need to continue TCFP and its current functions led to several findings that are discussed in the following material.

## Findings

### ▼ TCFP's functions of ensuring quality fire protection and the training of fire service personnel continue to be needed.

- ▶ The state's strategic plan calls for state government "to protect and enhance the health, well-being, and productivity of all Texans." TCFP assures Texans that paid fire protection personnel possess a minimum level of quality to adequately protect their well-being through the setting of standards for training and certification.
- ▶ TCFP sets the minimum level of competency for paid Texas fire personnel by identifying the important concepts, skills, and knowledge needed in training. The agency also establishes uniformity in training by approving training academies and establishing the learning objectives for all the basic fire fighting training programs conducted in Texas. Currently, 89 approved academies offer the basic paid fire fighting training program.
- ▶ After training, TCFP ensures the quality of paid fire protection personnel by requiring passage of a state exam and meeting of minimum requirements needed for certification. In fiscal year 1996, TCFP issued 18,039 new or renewal certificates to paid personnel and 250 to volunteer fire fighters.
- ▶ Once an individual becomes a certified fire fighter, TCFP maintains the educational level of the officer by requiring 20 hours of continuing education every year. The agency develops testing materials for fire fighters and approves the training and educational programs in the state.

TCFP also enforces the statute and rules governing paid fire protection personnel and paid fire departments and takes administrative actions against fire fighters and fire departments for violations. In fiscal year 1996, no certificates or licenses were suspended, probated, or revoked. However, TCFP levied \$4,000 in administrative fines against paid fire departments.

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*The state needs to ensure that fire protection personnel are adequately trained and equipped to do their jobs.*

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- ▶ In addition, TCFP is responsible for regulating the fire alarm, sprinkler, and extinguisher industries. Regulation of these industries is necessary to ensure that quality services and quality fire safety are provided to consumers. Regulation of the fireworks industry is important because of its potential impact on fire prevention and fire safety in Texas.
  
- ▼ **While organizational structures may vary, most states have an entity that regulates some or all aspects of the fire services.**
  - ▶ Texas is unique in that it has combined all aspects of the fire service into one agency, including the regulation of the fire sprinkler, alarm, extinguisher, and fireworks industries. However, most states regulate paid fire fighters and fire departments either in an agency similar to TCFP or through a Department of Labor or a Department of Insurance. In addition, most states have a State Fire Marshal's office that conducts statewide fire and safety inspections. Eliminating the Commission would make Texas one of only a few states to lack regulation of the fire service and fire protection industries.
  
- ▼ **While other Texas state agencies have similar duties and responsibilities, TCFP's functions are not duplicated by any other agency.**
  - ▶ Other state agencies have similar duties of setting standards, licensing, and enforcement; however, TCFP is the only state agency responsible for setting the standards for testing and certifying paid fire protection personnel. In addition, TCFP regulates the fire extinguisher, sprinkler, alarm, and fireworks industries. Transferring these responsibilities to another agency would not result in increased efficiency and could result in a reduction in the regulation effectiveness due to a loss of expertise provided by the Commission and agency staff.

Consolidation of TCFP with another agency with similar functions would not result in savings to the state that would warrant such action solely on those grounds.
  - ▶ Other state agencies, such as Texas A&M's Firemen Training School and Texas Forest Service, have fire protection responsibilities, but these responsibilities are not duplicated by the Commission. The Firemen Training School, a part of the

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*Texas is unique in that it has combined all aspects of the fire service into one agency.*

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*TCFP should continue to oversee the state's fire service and related industries.*

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Texas Engineering Extension Service, provides full scale training that enables paid and volunteer fire fighters to gain practical, hands-on experience in fire protection. The Texas Forest Service's primary responsibility is to provide rural fire protection. The Forest Service provides intensive fire protection throughout East Texas and helps rural areas to establish their own fire fighting capabilities by cost-sharing fire fighting equipment, supplies, and communications and by providing fire training and emergency coordination. The Commission has memoranda of understanding with both of these agencies to coordinate activities.

## Conclusion

The existence of a regulatory agency to oversee the training and regulation of paid fire protection personnel and paid fire departments is an important state function that continues to be needed in Texas. Placing the authority for regulation of the fire sprinkler, alarm, extinguisher, and fireworks industries with the Commission is also justified. No other state agencies were identified that could assume the Commission's functions with increased benefits to the state or with significantly reduced costs.

## Recommendation

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### Change in Statute

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- **Continue the Texas Commission on Fire Protection for 12 Years.**

This recommendation would result in the Commission having a new Sunset date of September 1, 2009.

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### Fiscal Impact

If the Legislature continues the current functions of TCFP using the existing organizational structure, its fiscal year 1997 appropriation of about \$6.6 million would continue to be required for operation of the agency.

# **ACROSS-THE-BOARD RECOMMENDATIONS**



<b>Texas Commission on Fire Protection</b>	
<b>Recommendations</b>	<b>Across-the-Board Provisions</b>
	<b>A. GENERAL</b>
See Issue 2	1. Require at least one-third public membership on state agency policymaking bodies.
Already in Statute	2. Require specific provisions relating to conflicts of interest.
Already in Statute	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Already in Statute	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Already in Statute	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Already in Statute	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Already in Statute	9. Provide for public testimony at meetings of the policymaking body.
Already in Statute	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Update	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Already in Statute	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Update	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.

<b>Texas Commission on Fire Protection</b>	
<b>Recommendations</b>	<b>Across-the-Board Provisions</b>
	<b>B. LICENSING</b>
Already in Statute	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Already in Statute	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Already in Statute	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applied	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Already in Statute	5. Authorize the staggered renewal of licenses.
Already in Statute	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Apply	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Already in Statute	9. Require the policymaking body to adopt a system of continuing education.

# **BACKGROUND**



# Background

## Agency History

In 1991, the 72nd Legislature created the Texas Commission on Fire Protection (TCFP). Intended to combine the three main aspects of fire protection—prevention, suppression, and investigation—into one agency, TCFP represents the Legislature’s effort to simplify the structure and oversight of fire protection in Texas. Senate Bill 383, the Sunset bill for the Commission on Fire Protection Personnel Standards and Education, consolidated the Commission with the State Fire Marshal’s Office, a division of the Texas Department of Insurance (TDI); the Key Rate Section of the TDI’s property division; and the Fire Department Emergency Board, formerly attached to the State Fire Marshal’s Office. This bill also required the Commission to create an optional certification program for volunteer fire fighters and required entities that provide fire protection to local governments to comply with TCFP’s regulations.

Two additional agencies with fire protection responsibilities, the Texas A&M University System’s Firemen’s Training School and the Texas Forest Service, were not included in this consolidation, however, SB 383 required the agencies to work with the new Commission on fire-related activities.

During the 73rd Legislature, Senate Bill 1110 clarified the definitions of volunteer, part-paid, and full-paid fire departments and fire fighters. The bill also created a bridging mechanism which allows volunteer fire fighters certified through the State Firemen’s and Fire Marshal’s Association to sit for the Commission exam for paid fire protection personnel.

The primary role of TCFP is to enforce statewide laws and assist local governments in ensuring that the lives and property of the public and of the fire service are adequately protected from fires and related hazards. The agency’s major responsibilities include:

- certification and regulation of paid fire fighters and fire departments;
- establishment of the minimum standards for education, training, and employment for fire fighters;

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*TCFP represents the Legislature's attempt to combine fire prevention, suppression, and investigation into one agency.*

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- voluntary certification of volunteer fire fighters and fire departments;
- regulation of the fire departments, local government agencies, institutions or facilities that provide training courses for fire fighters;
- administration of the fire department emergency and the donations programs;
- review the key rate schedule, recommend changes to TDI, and inspect municipalities using the key rate schedule;
- provide fire protection engineering assistance to local government officials upon request;
- fire and arson investigations;
- fire safety inspections;
- licensure and regulation of fire alarm, extinguisher, fire protection sprinkler industries;
- regulation of the storage, handling, and use of flammable liquids at retail service stations;
- licensure and regulation of individuals that sell, possess, and display fireworks; and
- oversight of the Texas Fire Incident Reporting System (TEXFIRS) and the fire prevention education program.

## Policymaking Structure

TCFP is governed by a 12-member Commission, appointed by the Governor, with the advice and consent of the Senate. The Commission's composition is shown in the text box, *Commission Composition*.

<b>Commission Composition</b>	
<ul style="list-style-type: none"> <li>● <b>3 Chief officers</b></li> <li>- minimum rank of battalion chief</li> <li>- at least 2 department heads</li> </ul>	<b>Appointments must include one member from a political subdivision of:</b>  less than 50,000  between 50,000 and 200,000  more than 200,000
<ul style="list-style-type: none"> <li>● <b>3 Fire fighters</b></li> <li>- rank of captain or below</li> <li>- 1 active in fire prevention education</li> </ul>	
<ul style="list-style-type: none"> <li>● <b>3 Volunteer fire chiefs or volunteer fire fighters</b></li> </ul>	
<ul style="list-style-type: none"> <li>● <b>1 Certified fire protection engineer</b></li> </ul>	
<ul style="list-style-type: none"> <li>● <b>1 Certified arson investigator</b></li> </ul>	
<ul style="list-style-type: none"> <li>● <b>1 Fire protection instructor</b></li> </ul>	

Commission members serve staggered six-year terms with the fire instructor designated as the presiding officer, unless the Governor appoints the Chair, which is the case presently. Commission members adopt rules to comply with state and federal laws regarding fire protection and set policy to guide the operations of the agency. The Commission may also make or encourage studies on fire protection, conduct or encourage research to improve fire protection, and advise or assist another entity with duties related to fire protection. The Commission hires the Executive Director who, in turn, hires the State Fire Marshal. Both positions serve under the supervision of the Commission.

The Commission is assisted by several advisory committees in the performance of its duties. Currently, nine advisory committees assist the Commission with policy development, seven of which are statutorily-mandated. Please see the text box, *Texas Commission on Fire Protection Advisory Committees*, for a detailed description of each. Unlike most other agencies, TCFP's statute puts much of the rulemaking authority in the hands of the advisory committees. While the statute designates the Commission as the rulemaking body, rules cannot be created by the Commission without the approval of the appropriate advisory committee. Once the advisory committee drafts a rule proposal, the rule is sent to the Commission for approval. If the Commission rejects the rule or has changes, the rule must go back to the advisory committee for further development and/or approval. The Commission can suggest amendments to proposed rules, but the advisory committee must approve the changes before adoption.

## Funding and Organization

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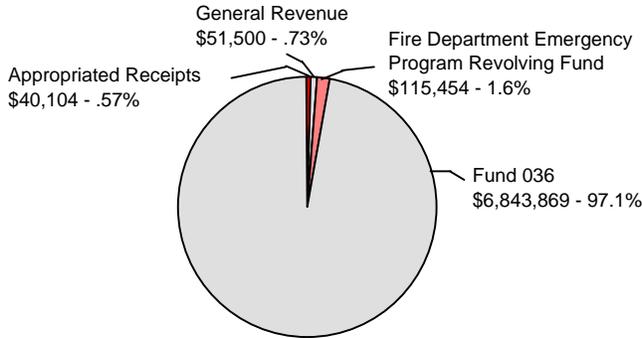
### **Funding**

TCFP receives its funding from four main sources — taxes on insurance premiums, the Fire Department Emergency Revolving Fund, the General Revenue Fund, and other Appropriated Receipts. The largest source of revenue used to finance the agency comes from the TDI's Operating Fund 036, generated by taxes on insurance premiums. The agency receives an appropriated portion of this fund to operate its programs. More than \$6.8 million, or 97 percent, of the agency's budget is supported by Fund 036. Part of the \$6.8 million TCFP receives from Fund 036 consists of license fees collected on fire alarms, extinguishers, sprinklers, and fireworks, which totaled approximately \$1.5 million in fiscal year 1996.

<b>Texas Commission on Fire Protection Advisory Committees</b>		
<b>Advisory Committee</b>	<b>Composition</b>	<b>Duties</b>
<i>Fire Protection Personnel</i>	<ul style="list-style-type: none"> <li>● 9 members appointed by the Commission               <ul style="list-style-type: none"> <li>- 6 current or retired fire protection personnel</li> <li>- 3 instructors of fire protection personnel</li> </ul> </li> </ul>	Assists the Commission in matters related to standards, education, and regulation of paid fire fighters and departments.
<i>Testing</i>	<ul style="list-style-type: none"> <li>● 7 members appointed by the Commission on the recommendation of the Fire Protection Personnel Advisory Committee               <ul style="list-style-type: none"> <li>- 1 person acting as a liaison from the Fire Protection Personnel Advisory Committee</li> </ul> </li> </ul>	Works with the Fire Protection Personnel Advisory Committee in matters dealing with fire fighter curricula and testing procedures.
<i>Volunteer Fire Fighter</i>	<ul style="list-style-type: none"> <li>● 9 members appointed by the Commission, six of whom must be from a list supplied by the State Firemen's and Fire Marshals' Association of Texas               <ul style="list-style-type: none"> <li>- 6 volunteer fire fighters</li> <li>- 3 instructors of volunteer fire fighters</li> </ul> </li> </ul>	Assists the Commission in matters related to standards and education of volunteer fire fighters and departments.
<i>Funds Allocation</i>	<ul style="list-style-type: none"> <li>● 6 members               <ul style="list-style-type: none"> <li>- 3 appointed by the State Firemen's and Fire Marshals' Association of Texas</li> <li>- 3 appointed by the Texas State Association of Fire Fighters (serve at the will of the appointing authority)</li> </ul> </li> </ul>	Reviews, evaluates, and recommends all applications for financial assistance under the Fire Department Emergency grant/loan program.
<i>Fire Alarm Advisory Council</i>	<ul style="list-style-type: none"> <li>● 7 members appointed by the Commission               <ul style="list-style-type: none"> <li>- 3 employed by a registered firm in the fire protection industry with at least 3 years experience in the sale, installation, maintenance, or manufacturing of fire alarm or fire detection devices</li> <li>- 2 experienced in the engineering of fire prevention services or member of a fire protection association</li> <li>- 1 experienced and employed by a municipality or county as a fire prevention officer</li> <li>- 1 experienced and employed by any registered firm with at least 3 years experience in the operation of a central fire alarm monitoring station</li> </ul> </li> </ul>	Assists the Commission in regulatory matters concerning the fire alarm industry.

<b>Texas Commission on Fire Protection Advisory Committees</b>		
<b>Advisory Committee</b>	<b>Composition</b>	<b>Duties</b>
<i>Fire Extinguisher Advisory Council</i>	<ul style="list-style-type: none"> <li>● 8 members appointed by the Commission experienced and knowledgeable in one or more of the following areas: fire services, fire extinguisher manufacturing, fire insurance inspection or underwriting, fire extinguisher servicing, or member of a fire protection association or industrial safety association</li> </ul>	Assists the Commission in regulatory matters concerning the fire extinguisher industry.
<i>Fire Protection (Sprinkler) Advisory Council</i>	<ul style="list-style-type: none"> <li>● 7 members appointed by the Commission               <ul style="list-style-type: none"> <li>- 3 actively engaged in the management of a fire sprinkler business for not less than 5 years</li> <li>- 1 representative of the engineering section of Texas Department of Insurance's property division</li> <li>- 1 member of the State Firemen's and Fire Marshals' Association of Texas</li> <li>- 1 member each from 2 fire departments in incorporated Texas cities</li> </ul> </li> </ul>	Assists the Commission in regulatory matters concerning the fire protection sprinkler system industry.
<i>Fireworks Advisory Council</i>	<ul style="list-style-type: none"> <li>● 5 members appointed by the Commission               <ul style="list-style-type: none"> <li>- 5 representatives of the fireworks industry with 3 appointed from list supplied by the Texas Pyrotechnic Association</li> </ul> </li> </ul>	Assists the Commission in regulatory matters concerning the fireworks industry.
<i>State Fire Code Committee</i> (established by appropriation rider)	<ul style="list-style-type: none"> <li>● 16 members, one of which is the State Fire Marshal</li> </ul>	Submit recommendations to the Commission on the adoption of nationally recognized standards to use during fire safety inspections and assist the Commission in completing a feasibility study on a statewide fire code and reporting the findings to the 75th Legislature.

**Sources of Revenue  
Fiscal Year 1996**

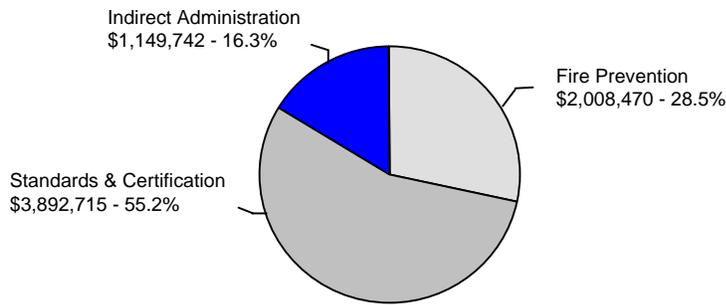


Total Revenue: \$7,050,927

Another source of funding, the Fire Department Emergency Revolving Fund, is derived from principal and interest payments on loans made to fire departments. These funds, however, can only be used to make additional loans through the Fire Department Emergency funding program. TCFP also receives the appropriated receipts from the sale of standards manuals, TEXFIRS reports, and volunteer fire fighter lists. The chart, *Sources of Revenue - Fiscal Year 1996*, provides a breakdown by source.

In fiscal year 1996, TCFP spent approximately \$7.1 million. The chart, *Expenditures by Agency Goal - Fiscal Year 1996*, shows a breakdown of the agency's total expenditures for each of its main functions plus a category entitled indirect administration. This goal includes the agency's purchase of goods and services from HUB contracts.

**Expenditures by Agency Goal  
Fiscal Year 1996**



Total Expenditures: \$7,050,927

<b>Expenditures by Agency Goal Fiscal Year 1996</b>	
<b>Fire Prevention</b>	
Information and Education	\$469,239
Property Inspections	\$1,539,231
<b>Subtotal</b>	<b>\$2,008,470</b>
<b>Standards and Certification</b>	
Licensing and Certification	\$1,372,668
Equipment and Training	\$901,456
Key-Rate Inspections	\$429,765
Arson Investigations	\$1,188,826
<b>Subtotal</b>	<b>\$3,892,715</b>
<b>Indirect Administration</b>	
<b>Subtotal</b>	<b>\$1,149,742</b>
<b>Total</b>	<b>\$7,050,927</b>

The Legislature has established a statewide goal of 30 percent of all agency contracts be made with Historically Underutilized Businesses (HUBs). The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews. TCFP purchased approximately 10.5 percent of goods and

services from HUBs in fiscal year 1995. (See chart, *Purchases from HUBs - Fiscal Year 1995*)

Purchases from HUBs Fiscal Year 1995	
Total Purchases of Goods and Services	\$379,342
Total Spent with Certified HUBs	\$39,793
Percent Spent with Certified HUBs	10.49%
Statewide Average	15.89%
State Goal	30%

**Organization**

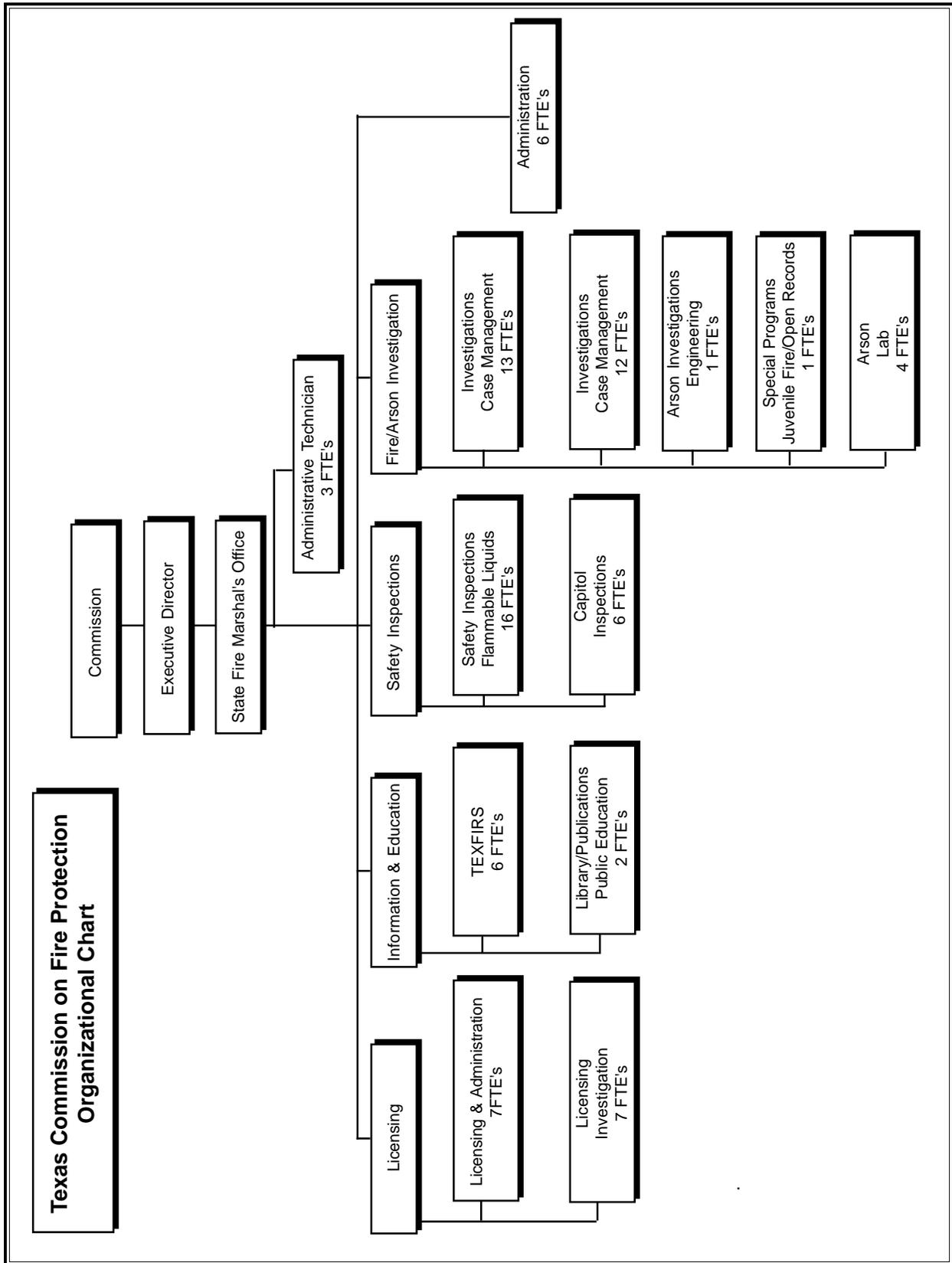
TCFP employed 135 workers at the end of fiscal year 1996, with 91 located in the Austin headquarters, six located in the State Capitol, and 38 assigned to the six regional offices. The six regional offices — Austin, Duncanville, Lubbock, Conroe, Corpus Christi, and Tyler — are overseen by the State Fire Marshal’s Office. Most of the staff members assigned to these offices work as deputy fire marshals, performing fire and arson investigations and fire safety inspections. Other staff in the regions include licensing investigators, compliance officers, and support personnel. TCFP also uses office space in 24 satellite locations loaned free of charge from local police, sheriff, and fire departments for agency inspectors and investigators. (See chart, *Texas Commission on Fire Protection - Commission Regions*)

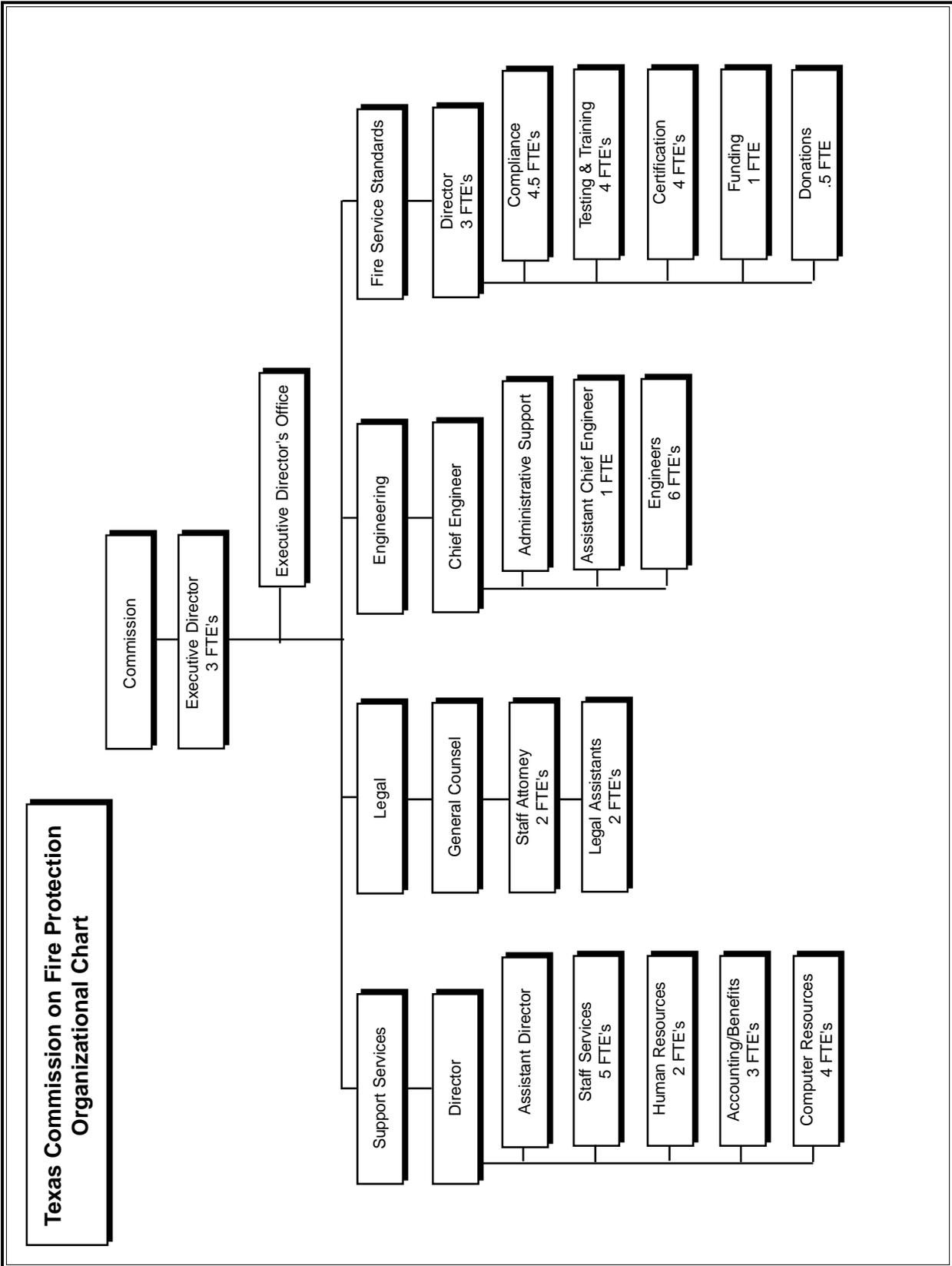
The Commission appointed a new Executive Director in October 1995, who instituted a full agency review that reorganized the functions and budget of the agency at both the state and regional level. Austin headquarters now has six major Divisions — the Office of the Executive Director, State Fire Marshal’s Office, Fire Service Standards and Certification, Engineering, Legal, and Support. (See *Texas Commission on Fire Protection Organizational Charts*) In addition, the regional office structure has changed. The State Fire Marshal’s Office was reorganized by function, creating five sections — Fire and Arson Investigation, Information and Education, Licensing, Fire Safety Inspections, and Administration. The regional offices also serve as larger “satellite” offices for field investigators and inspectors who travel to perform their duties.

TCFP is subject to the General Appropriations Act, including provisions that set employment goals for minorities and women by specific job category. These goals are a useful measure of diversity and an agency’s commitment to developing a diverse workforce. (See chart, *Equal Employment Opportunity Statistics - Fiscal Year 1996*)

Equal Employment Opportunity Statistics Fiscal Year 1996							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	State Goal	Agency	State Goal	Agency	State Goal
Officials/Administration	14	15%	5%	0%	8%	22%	26%
Professional	43	3%	7%	7%	7%	31%	26%
Technical	28	15%	13%	18%	14%	43%	41%
Protective Services	36	9%	13%	9%	18%	9%	15%
Para-Professionals	3	0%	25%	34%	30%	100%	55%
Administrative Support	24	17%	16%	13%	17%	84%	84%
Skilled Craft	NA	NA	11%	NA	20%	NA	8%
Service/Maintenance	1	0%	19%	0%	32%	0%	27%







## Agency Operations

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TCFP's strategic plan has two goals that encompass the functions of the agency — *Fire Prevention* and *Standards and Certification*. Six strategies directly support these goals. The two goals and resulting six strategies are described in the following material.

### Fire Prevention

TCFP's first stated goal is to educate the public about the dangers and consequences of fires and related hazards. Two strategies assist the agency in increasing the public's awareness of fire hazards.

#### *INFORMATION AND EDUCATION*

The Public Education program, located in the State Fire Marshal's Office, develops and presents fire prevention education to the public in a variety of ways. TCFP distributes brochures on home fire safety and sets up informational booths at state and local conferences and exhibits. In fiscal year 1996, the agency exhibited the fire prevention booth at six conferences in Texas.

TCFP provides Texas schools with information about fire prevention through the development of curriculum on fire education targeted at all grade levels, kindergarten through 12th grade. TCFP targets public schools, but private schools occasionally ask for the curriculum for their students also. The schools report on their activities such as the classes held, fire drills, etc. and this information is given to the engineering division for its impact on a municipality's key rating. TCFP communicated with about 6,500 Texas schools and 1,044 school district superintendents in fiscal year 1996.

Under the Arson Abatement program administered by the State Fire Marshal's Office, TCFP participates in the Arson Hotline and Reward program. This program, created jointly in 1992 by TCFP, the National Insurance Crime Bureau (NICB), and A Texas Advisory Council on Arson (ATAC), consists of a 24-hour arson hotline that assists in the arrest of arsonists statewide. Callers to the hotline are eligible for a reward of up to \$1,000 if the information leads to the arrest of a suspected arsonist and if the property were insured. NICB personnel staff the hotline, fund the reward program, and forward the information to TCFP. The agency contacts law enforcement in the area of the suspected arson to begin an investigation. Since September 1994, the arson hotline has received 46 calls and three arrests have been made in a pending arson case.

The Information and Education Section also operates a Fire Safety House program for elementary school children throughout the state. The Commission's fire safety house, donated to the Commission by the Texas Fire Chiefs' Association, travels to one of twelve regions of the state each month to supplement fire prevention activities conducted by local fire departments.

In addition to the Public Education program, TCFP operates the Texas Fire Incident Reporting System (TEXFIRS). Established with the assistance of an United States Fire Administration (USFA) grant in 1982, TEXFIRS is a computerized database of incidents of fires around the state. Approximately 591 fire departments reported information on fire incidents in calendar year 1995. TEXFIRS includes information on fire locations, the types and construction of the structures involved, the material ignited, the extent of fire and smoke damage, and the number and frequency of injuries and deaths involved. The agency publishes this information in an annual report called *Fires in Texas*. TCFP uses the compiled information to plan fire safety inspections, target their public education efforts, and measure the impact of arson within the state.

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*The agency maintains TEXFIRS, a database of fire incidents around the state.*

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TCFP also maintains the Ernest Emerson Fire Protection Resource Library that houses fire protection education materials for fire departments and the public. The library primarily stores training videos for fire departments and training professionals to use during fire fighter training. In fiscal year 1996, the library mailed 892 videos to fire departments and other entities. Additionally, the library accesses and monitors the training offered by the Fire Education Television Network (FETN), a company that broadcasts fire fighting training to local municipalities by satellite.

### ***PROPERTY INSPECTIONS***

The State Fire Marshal's Office conducts fire safety inspections throughout the state of 24-hour child care facilities, state buildings, day care centers, nursing homes, hotels/motels, and other buildings upon request. Primarily performed in unincorporated areas, TCFP inspects the buildings for a basic level of fire safety protection based on the presence of fire hazards either in the construction or use of the building. In the absence of a statewide fire code, inspectors use Life Safety Code provisions as a guideline for inspections. TCFP conducts fire safety inspections primarily upon request or complaint; however, about 60 percent of all inspections are requested inspections for licensure of day care centers and 24-hour child care facilities. TCFP also performs targeted inspections of other buildings such as bars, dance halls, or bingo halls in unincorporated areas, based on reported TEXFIRS information.

TCFP is also responsible for enforcing the Texas Fire Escape Law during its building inspections. Although the statutory language for this law is antiquated, more modern provisions for fire escapes are located in Commission rules. Statutory language also requires inspectors to report problems with boilers in the midst of a fire safety inspection to the Department of Licensing and Regulation, which regulates boiler safety. In fiscal year 1996, TCFP inspected 6,695 buildings for fire safety.

In addition to enforcement of basic fire protection in buildings, deputy State Fire Marshals inspect the storage, handling, and use of flammable liquids at retail service stations in unincorporated areas. In fiscal year 1996, the agency inspected 91 retail service stations based on called-in complaints.

A separate group of agency fire safety inspectors are housed in the Capitol Complex to provide inspections of state-owned buildings managed by the General Services Commission (GSC). Based on legislative direction, the agency, through agreement with GSC, inspects 55 buildings—52 in Austin and one each in Waco, San Antonio, and Houston for fire safety. These inspectors can be called to conduct inspections in other state-owned buildings upon receipt of a request or complaint. Through another agreement with the State Preservation Board, TCFP conducts the fire safety inspections of the Capitol and the historic General Land Office building, both managed by the Preservation Board.

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*The State Fire Marshal conducts fire safety inspections primarily upon request or complaint, and in unincorporated areas of the state.*

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## **Standards and Certification**

TCFP's second goal ensures that the state's fire prevention, suppression, and investigation capabilities are sufficient to protect the public. The agency uses four strategies to support this goal.

### ***LICENSING AND CERTIFICATION***

TCFP develops standards for the training and practice of both paid and volunteer fire fighters, including regulation of the training facilities and instructors. TCFP ensures that the state's fire fighters possess and maintain the level of education and abilities required by state law through certification of paid and volunteer fire fighters.

With the advice of the Fire Protection Personnel Advisory Committee, the Testing Committee, and the Volunteer Fire Fighter Advisory Committee, TCFP develops the training curriculum and testing materials for fire fighters and approves the training and educational programs in the state. Training for paid firefighters can be completed, either through training facilities run by fire departments or non-fire department training facilities

operated by junior colleges. Currently, potential fire fighters must complete at least 458 hours of basic training before being eligible to sit for the TCFP written and skills examination. At the end of fiscal year 1996, 89 paid training facilities existed statewide.

Volunteer fire fighters may receive training through TCFP-certified volunteer academies and training facilities or privately through the State Firemen's and Fire Marshals' Association training program. The agency's certification program for volunteer fire fighters is optional and currently only 250 volunteer fire fighters have chosen to be certified. In recognition of the many demands on volunteer fire fighters, TCFP does not place a time limit on completion of training before certification. At the end of fiscal year 1996, 113 volunteer fire fighter training facilities existed statewide.

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*Paid fire fighters must be certified within one year of employment.*

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Paid and volunteer fire fighters sit for the same examination, administered by TCFP staff examiners and designated facility examiners. The only exception is that paid fire fighters must be tested and certified on their emergency care attendant skills by the Texas Department of Health and volunteers do not. Certification of paid fire fighters must be obtained within one year of employment, during which the agency allows non-certified fire fighters to perform fire suppression duties if they have completed the basic training curriculum and have passed the state exam. By law, local governments are required to pay the certification fees for paid fire protection personnel.

TCFP also provides the basic examination for marine and aircraft firefighters, fire inspectors, and fire and arson investigators. Out-of-state fire fighters trained in a jurisdiction accredited by the International Fire Service Accreditation Congress or trained in a state with standards comparable to Texas may sit for the TCFP exam without being re-trained. As of October 1996, Texas had 285 paid, 2,000 volunteer, and 50 combined paid/volunteer fire departments. At fiscal year end, approximately 18,039 paid fire protection personnel were certified in Texas.

A TCFP certificate must be renewed yearly. However, state law requires fire fighters that fail to renew within a year to sit for the exam again. Renewal of paid and volunteer fire fighter certificates require participation in 20 hours of continuing education courses per year. Fire departments keep the records of fire fighters' completion of continuing education. Fire departments are also required to report the employment and termination of fire fighters. If a fire fighter is terminated, the certificate becomes inactive, but unexpired. Licenses must be renewed annually; if not,

unrenewed licenses expire and must be renewed within the year or the fire fighter must retake the exam.

TCFP's enforcement efforts focus primarily on fire departments. TCFP inspects fire departments and training facilities once every two years and periodically audits their training and continuing education records. The agency also checks the department's equipment, such as protective clothing and breathing apparatus, and standard operating procedures. Volunteer fire departments have no mandatory requirements and may request an inspection if desired. TCFP uses the inspection process to encourage fire departments into voluntary compliance; however, violations of state laws and rules may lead to enforcement actions. Inspectors forward cases of noncompliance to TCFP's Legal Division for an assessment of appropriate action such as administrative penalties. Fire fighters that violate the statute or rules risk probation, suspension, or revocation of their certificate. In fiscal year 1996, no certificates or licenses were suspended, probated, or revoked. However, TCFP levied \$4,000 in administrative fines against paid fire departments.

The agency, under the State Fire Marshal's Office, also regulates the fire alarm, extinguisher, sprinkler, and fireworks industries in Texas. Each industry has its own statutorily-created advisory council to help the Commission determine the standards for the sale, installation, servicing, and maintenance of these devices. In a fairly complicated licensure structure, TCFP registers the companies and licenses the professional individuals associated with each particular industry. (*See Fire Protection Industries Licenses and Fees*) Licensees must also pass an examination before licensure. Approximately 2,463 individuals sat for a fire protection device or fireworks examination in fiscal year 1996. Licensees are encouraged to attend continuing education courses, but participation is voluntary.

To enforce the statutes governing the regulation of these devices and systems, TCFP investigates licensees of fire alarms, sprinklers, and extinguishers upon complaint only. Fireworks stands are inspected routinely, particularly during heavy fireworks usage times. TCFP completed 1,129 investigations and received 1,117 complaints or requests for inspection, about 70 percent related to retail fireworks stands, in fiscal year 1996. Investigators report case findings of noncompliance to TCFP's Legal Division for possible enforcement actions against the licensee. TCFP may refuse to renew, suspend, revoke licenses, or assess monetary penalties for violations of the statute and rules. In addition, licensed or unlicensed individuals may be charged criminally by Travis County or local county authorities. In fiscal year 1996, TCFP refused to renew one

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*If a fire fighter is terminated, the certificate becomes inactive, but unexpired for up to one year.*

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<b>Fire Protection Industries Licenses and Fees</b>	
<b>Fire Alarms</b>	
Certificate of Registration	\$500
Branch office of registered firm	\$150
Fire alarm technician	\$100
Residential fire alarm superintendent (single station)	\$100
Residential fire alarm superintendent	\$100
Fire alarm planning superintendent	\$100
Examination fee	\$20
<b>Fire Protection (Sprinkler) Systems</b>	
Certificate of Registration - General	\$900
Certificate of Registration - Dwelling	\$300
Certificate of Registration - Underground Fire Main	\$300
Responsible Managing Employee - General	\$175
Responsible Managing Employee - Dwelling	\$100
Responsible Managing Employee - Underground Fire Main	\$100
Application fee	\$50
Examination fee	\$50
<b>Fire Extinguishers</b>	
Certificate of Registration - Type A, B and PL	\$450/1st year \$300/yr thereafter
Certificate of Registration - Type C	\$250 1st year \$150/yr thereafter
Branch office	\$100
Fire extinguisher (individual)	\$50
Apprentice permit	\$30
Examination fee	\$20
<b>Fireworks</b>	
Manufacturer	\$1,000
Distributor	\$1,500
Jobber	\$1,000
Importer	\$200
Pyrotechnic operator	\$25
Public display license	\$400
Retail stand permit	\$20
Class B public display permit	\$50
Agricultural, industrial, and wildlife control permits	\$10

license, revoked one license, and probated the suspension of six licenses. The remaining 63 cases resulted in administrative penalties, totaling \$37,800 in fiscal year 1996.

### ***EQUIPMENT AND TRAINING***

In 1989, the Legislature established the Fire Department Emergency Board, administratively attached to the State Fire Marshal's Office at TDI, to provide loans, grants, and scholarships to fire departments for equipment and training needs. Two years later, legislators included this board in the consolidation of fire prevention agencies to form TCFP. An advisory committee of representatives from the State Firemen's and Fire Marshals' Association of Texas and the Texas State Association of Fire Fighters assists the Commission in the operation of this program. The Funds Allocation Advisory Committee reviews rules regarding allocation of the funds and applications for assistance. The committee attempts to issue 50 percent in grants and 50 percent in loans and provide equal assistance to urban and rural departments. The statute requires that the Commission's actions concerning allocation of these funds be based on recommendations of the advisory committee. TCFP oversees how the money is spent by requiring verification of purchases, including receipts and invoices, and conducting inspections to verify the purchase of equipment.

In addition to disbursing monies to fire departments for their equipment needs, TCFP also accepts gifts, grants, and contributions from private organizations and industries, fire departments, state agencies, and the federal government and redistributes them where needed. TCFP gives away the equipment, such as uniforms and pagers, on a first-come, first-serve basis, upon written request to the agency.

### ***KEY RATE INSPECTIONS***

Formerly a function of the Texas Department of Insurance (TDI), TCFP's Engineering Division conducts inspections of the fire protection capabilities of Texas cities called key rate inspections. The key rate of a city or town measures its deficiencies in fire protection that would encourage fire hazardous situations or impede the work of firefighting. TCFP inspects the fire department's equipment and personnel, building codes, the city's water supply system, and other fire suppression tools and recommends the appropriate key rate for that locality. After the inspection, TCFP reports the findings of the inspection and recommends a key rate to TDI. TDI retained the authority to accept or reject TCFP's recommendations and to establish the locality's property insurance

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*Grants and loans  
are given to local  
fire departments,  
primarily for  
equipment needs.*

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premiums. TCFP must also recommend changes to the Key Rate Schedule, the criteria by which a locality is measured, subject to the approval of TDI.

Recently, TDI adopted a different system to establish a locality's insurance rate. Texas was the only state that used a "key rate" to establish insurance rates. The new city grading schedule, developed by the Insurance Services Offices, an insurance industry association, does not include having TCFP conduct any inspections. However, discussions continue between the agency, TDI, and representatives of the fire service as to TCFP's continuing role in grading cities' fire protection capabilities.

The Engineering Division also provides assistance to other agency programs. Engineers answer technical questions concerning regulation of flammable liquids at retail service stations, provide electrical engineering expertise during arson investigations and property inspections, and review advanced certification applications in the Fire Service Standards and certification division. The Engineering Division also provides assistance to local governments on request, such as the review of fire sprinkler plans and answering other technical questions concerning fire protection issues.

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*Given that key rates will no longer be used, TCFP's continuing role in grading cities' fire protection capabilities is uncertain.*

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### **ARSON INVESTIGATIONS**

TCFP's final strategy is to investigate fire and arson. Most of the state's major metropolitan areas employ their own arson investigators, so upon request, the State Fire Marshal's Office concentrates its efforts on the investigations of fire scenes in unincorporated areas of the state. All TCFP arson investigators are peace officers and carry the authority to interrogate and make arrests during an investigation. In addition, TCFP arson investigators use a trained canine corps to help detect where a fire was started.

Samples are sent to the Forensic Arson Laboratory, located in the Austin headquarters, for accelerant testing. The Forensic Arson Laboratory provides services to all law enforcement and public safety organizations in the state. Results are back within 3-5 days. The lab analyzed 2,454 samples related to 746 initial cases of suspected arson in fiscal year 1996. TCFP reports its findings, usually within a month of completion, to the local district attorney for prosecution. In fiscal year 1996, TCFP received 786 requests for investigations. The division conducted 1,625 initial and follow-up investigations that resulted in 103 arson convictions.

Under the State Fire Marshal's Office, TCFP runs the Arson Abatement program, which includes the arson information management system (AIMS), a statewide tracking system for arsonists and the juvenile fire-setter intervention program. Since approximately 55 percent of the arson fires in Texas are set by juvenile firesetters, TCFP, upon the recommendation of A Texas Advisory Council on Arson (ATAC), helps establish community-based intervention program for juvenile firesetters around the state.

### ***LEGAL AND SUPPORT SERVICES***

TCFP has established two divisions that help assist the primary programs of the agency. Legal Services ensures that the agency complies with its enabling statute and rules regarding the regulation over fire protection in Texas. TCFP employs legal staff that prosecute cases related to the State Fire Marshal's investigations of licensed companies and the Fire Service Standards and Certification division's inspections and investigations of fire departments and other entities. This Division provides general legal support to the Commission, Executive Director, and the advisory committees. The General Counsel also acts as the agency's liaison to the Office of the Attorney General.

The Support Services Division, composed of staff services, human resources, accounting/benefits, and computer resources, helps the agency perform its regular duties on a daily basis. Combined, these programs provide administrative support services such as personnel, maintenance of the agency's personal computers, and facilities management to agency staff.

The Executive Director's office includes the agency Director, the Office of Budget and Planning, and the Public Information Office.



**TEXAS COMMISSION ON FIRE PROTECTION**

**Report prepared by:**

*Larry Graham - Project Manager*

Jennifer G. Jones

Peter Kant

Lee Rowan

Rachelle Sanchez

Barbara Hunley

**JOEY LONGLEY**

**DIRECTOR**

**Sunset Advisory Commission  
P.O. Box 13066  
Room E2.002, Capitol Extension  
Austin, Texas 78711**

**(512) 463-1300  
FAX (512) 463-0705**

