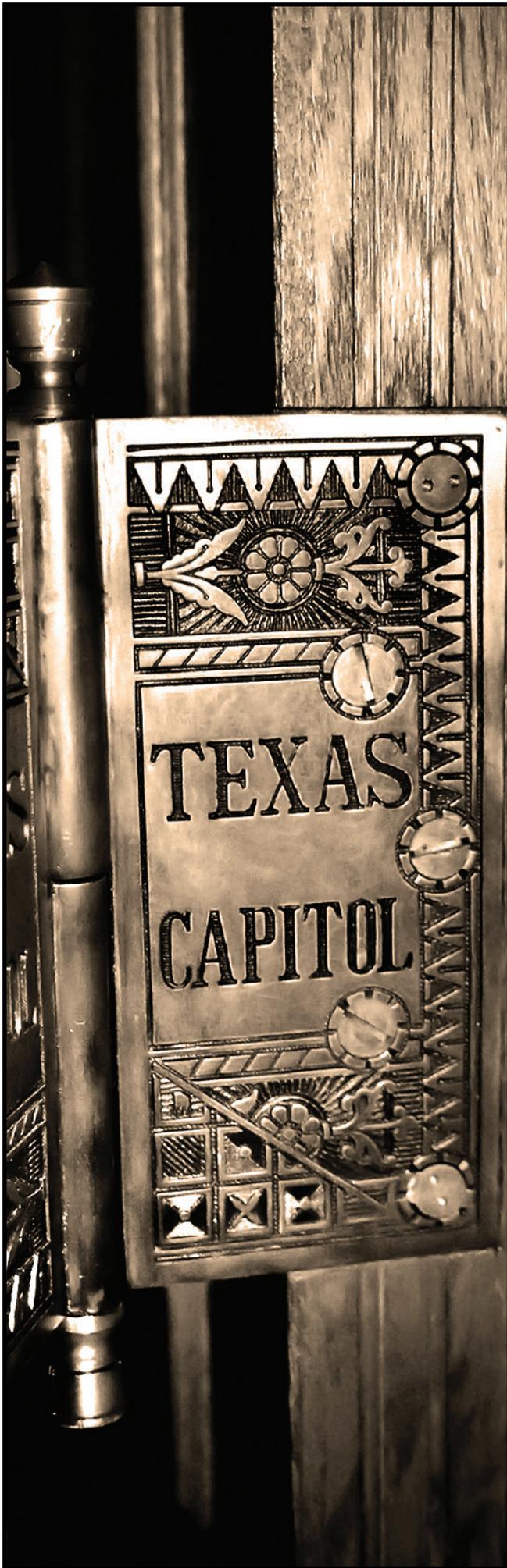


SUNSET ADVISORY COMMISSION

COMPLIANCE REPORT

Implementation of 2011 Sunset Legislation

JANUARY 2013



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Cover photo: The Texas Capitol is a marvel of craftsmanship down to the smallest details. The beautifully carved wood door frames are emphasized with elaborate, custom-designed bronze hinges and hardware produced especially for the building by Sargent and Co. of New Haven, Connecticut, in the late 1880s. The eight inch by eight inch hinges are inscribed with the words "Texas Capitol", decorated with incised designs of geometric and stylized floral motifs, and weigh over seven pounds each.

**IMPLEMENTATION OF
2011 SUNSET LEGISLATION**

**COMPLIANCE REPORT
JANUARY 2013**

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SUMMARY

SUMMARY

The Sunset Act requires the Sunset Commission to review the implementation of Commission recommendations and resulting legislation from the previous legislative session. This review is designed to ensure that agencies implement changes adopted by the Legislature through the Sunset process.

In 2011, the 82nd Legislature passed 18 of the 22 bills containing the Sunset Commission's recommendations. These bills contained a total of 189 provisions requiring action by the agencies involved.

Sunset staff worked with each agency affected by these provisions to assess their efforts to implement the required changes. Sunset staff found that agencies have made 85 percent of these changes, with most of the remainder in progress. Key changes implemented as a part of the Sunset process include the following.

- Merging the functions of the Texas Youth Commission and Texas Juvenile Probation Commission into a single agency focused on diverting youth from state institutions and serving them more effectively in their local communities.
- Abolishing the Coastal Coordination Council, On-Site Wastewater Treatment Research Council, Equine Research Account Advisory Committee, and Electronic Government Program Management Office of the Department of Information Resources.
- Improving the transparency, accountability, and reliability of the Texas Department of Transportation through a more integrated and understandable transportation planning process, increased public involvement, and strengthened internal controls.
- Equipping the Texas Commission on Environmental Quality (TCEQ) with the tools needed to take appropriate enforcement action, better targeting regulation according to entities' compliance history, and increasing the transparency of TCEQ's enforcement approach and specific policies.
- Improving the functions of the Division of Workers' Compensation (DWC) at the Texas Department of Insurance to streamline the workers' compensation process by simplifying the resolution of disputes to provide a quicker, more accessible alternative to the courts, improving oversight of medical care provided, and strengthening DWC's ability to take enforcement actions to protect system participants.

The chart, *Summary of 2011 Sunset Legislation Implementation*, shows that 15 percent of the provisions have not yet been fully put into action. The chart on page 3, *2011 Sunset Legislation Implementation by Agency*, shows the progress of each agency in implementing its statutory changes. Detailed information on the status of each statutory provision that is in progress, or not implemented, is provided by agency in the following exception charts.

Summary of 2011 Sunset Legislation Implementation

Status of Provisions	Number	Percentage
Implemented	160	85%
In Progress	25	13%
Not Implemented	4	2%
Total	189	100%

The Sunset Commission did not conduct a compliance review for four of the agencies under Sunset review, as their Sunset legislation failed to pass into law during the 82nd Legislature. The Legislature did not pass the Sunset bills for the Railroad Commission of Texas or the Public Utility Commission of Texas but continued the agencies for another two years through a bill that makes adjustments to the Sunset Commission's review schedule for several upcoming biennia. The Governor vetoed the two Sunset bills that would have continued the Department of Information Resources and the Department of Housing and Community Affairs. However, the 82nd Legislature passed separate legislation during its 1st Called Session reauthorizing both agencies for two years and placing them again under Sunset review.

In addition to statutory changes, the Sunset Commission adopted 45 management recommendations for improvements to agency operations under review before the 2011 Session. The State Auditor's Office evaluated the implementation of 25 of these management recommendations. The Auditor's findings are contained in SAO Report No. 13-006, *A Report on State Agency and Transportation Authority Implementation of Sunset Advisory Commission Management Actions*, which is included in this report on page 19. Following up on the Auditor's report, Sunset found that two management recommendations, one made for the Texas Forest Service and the other for the Texas Water Development Board, had not been implemented. The exception charts for these agencies, found on pages 8 and 17, provides further information on these provisions.

2011 Sunset Legislation Implementation by Agency*

Agency		Bill Number	Changes Required	Changes Implemented	In Progress	Not Implemented
Capital Metropolitan Transportation Authority		S.B. 650	9	8	1	
Coastal Coordination Council		S.B. 656	5	1	4	
Emergency Communications, Commission on State		H.B. 1861	3	3		
Environmental Quality, Texas Commission on		H.B. 2694	25	23	2	
On-site Wastewater Treatment Research Council						
Forest Service, Texas		S.B. 646	4	3	1	
Hearing Instruments, State Committee of Examiners in the Fitting and Dispensing of		S.B. 663	12	11		1
Housing Corporation, Texas State Affordable		H.B. 1818	4	4		
Injured Employee Counsel, Office of		H.B. 1774	3	3		
Insurance, Texas Department of		H.B. 1951	14	7	6	1
Insurance Counsel, Office of Public		S.B. 647	1	1		
Juvenile Justice Agencies	Texas Youth Commission	S.B. 653	21	16	3	2
	Texas Juvenile Probation Commission					
	Office of Independent Ombudsman					
Public Finance Authority, Texas		H.B. 2251	3	3		
Racing Commission, Texas		H.B. 2271	11	8	3	
Equine Research Account Advisory Committee						
Soil and Water Conservation Board, Texas State		H.B. 1808	8	6	2	
Speech-Language Pathology and Audiology, State Board of Examiners for		S.B. 662	3	3		
Transportation, Texas Department of		S.B. 1420	28	25	3	
Water Development Board, Texas		S.B. 660	11	11		
Workers' Compensation at Texas Department of Insurance, Division of		H.B. 2605	24	24		
Totals			189	160	25	4

* As of December 2012.

BILL PROVISIONS
IN PROGRESS, PARTIALLY IMPLEMENTED, OR
NOT IMPLEMENTED

BILL PROVISIONS

In Progress, Partially Implemented, or Not Implemented

Capital Metropolitan Transportation Authority – S.B. 650

Senate Bill 650, as adopted by the 82nd Legislature, made numerous changes to the operations and finances of the Capital Metropolitan Transportation Authority (Capital Metro). The legislation included nine changes requiring action. The following chart summarizes one provision that is still in progress and provides its status.

Bill Provision	Implementation	
	Status	Comments
<p>1. Requires the Board to maintain a reserve equal to at least two months of operating expenses and requires the Board to adopt criteria for spending any amount in the core balance of the reserve fund.</p> <p>Requires Capital Metro to report to the Legislature on its progress meeting the reserve no later than December 31, 2014, and requires the Board to establish the reserve account no later than September 1, 2016.</p>	In Progress	<p>In September 2010 the Board adopted a policy on establishment and expenditure of reserves, and is making progress towards establishing the reserve account. Capital Metro estimates a two-month operating reserve to be about \$30 million and estimates a fiscal year 2013 ending balance of about \$26.7 million. Capital Metro is not required to establish the reserve account until September 1, 2016.</p>

Coastal Coordination Council – S.B. 656

Senate Bill 656, as adopted by the 82nd Legislature, abolished the Coastal Coordination Council (Council) and transferred its functions to the General Land Office (GLO). The legislation included a total of five changes requiring action. The following chart summarizes four provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Abolishes the Coastal Coordination Council and transfers its functions and existing authority to GLO and the Land Commissioner. Provides transition language requiring GLO to consult with the National Oceanic and Atmospheric Administration (NOAA) to ensure continued compliance with federal requirements for maintaining approval of the State's Coastal Management Program.	In Progress	The transfer of Coastal Management Program functions to GLO must be formally approved by NOAA to maintain compliance with federal requirements. GLO estimates NOAA will approve this change by March 2013.
2. Requires the Land Commissioner, by rule, to establish the Coastal Coordination Advisory Committee to advise the Commissioner on the Coastal Management Program. Requires membership to include representatives from each of the previous Council-member agencies, and requires the Commissioner to appoint four members representing specific interests to the Advisory Committee.	In Progress	GLO has formed the Advisory Committee. The Land Commissioner has appointed all but one of his four appointees, and each previous Council-member agency has appointed their representative. However, GLO has not yet established this Committee in rule. Agency staff estimates these rules will be adopted by March 2013, though no official action has been taken.
3. Prohibits the Land Commissioner from reviewing a consistency determination of GLO, the Land Commissioner, or the School Land Board. Requires the Land Commissioner to refer requests for review of these consistency determinations to the Attorney General, and establishes a review process at OAG. Authorizes the Attorney General to adopt rules to implement this process.	In Progress	GLO legal staff is working with the Office of the Attorney General to implement this consistency determination process. The agencies have not yet determined whether adoption of rules is necessary, but plan to do so by the end of 2012.
4. Deletes statutory language to remove an outdated provision and language detailing the federal consistency review process to better conform to federal requirements.	In Progress	NOAA approval is necessary to implement this provision, and GLO estimates NOAA will approve this change by March 2013.

Texas Commission on Environmental Quality – H.B. 2694

House Bill 2694, as adopted by the 82nd Legislature, continues the Texas Commission on Environmental Quality (TCEQ) for 12 years. The legislation included a total of 25 changes requiring action. The following chart summarizes two provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Transfers the authority for making groundwater protection recommendations regarding oil and gas activities from TCEQ to the Railroad Commission of Texas, relating to three types of wells: oil and gas wells, injection wells for oil and gas waste, and injection wells for geologic storage of anthropogenic carbon dioxide.	In Progress	The agencies substantially completed the transfer of the program from TCEQ to the Railroad Commission in September, 2011. The Railroad Commission is continuing to adopt rules relating to the program, most recently publishing proposed rules in the Texas Register on September 7, 2012. Once the Railroad Commission adopts all necessary rules, to complete implementation, TCEQ will repeal its rules related to the program.
2. For certain water management plans, requires the executive director to complete a technical review within one year of administrative completion; allows the applicant 30 days to provide additional information to TCEQ and provides for a tolling period; provides for public comment; and requires the Commission to act on a hearing request and act on the application within 60 days.	In Progress	The Lower Colorado River Authority submitted its water management plan to TCEQ on March 12, 2012. TCEQ expects to complete its technical review of the plan well before April 19, 2013, as required by provisions in the bill.

Texas Forest Service – S.B. 646

Senate Bill 646, as adopted by the 82nd Legislature, continues the Texas Forest Service for 12 years. The legislation included four changes requiring action. The following chart summarizes one provision that is still in progress and provides its status.

Bill Provision	Implementation	
	Status	Comments
1. Require the Texas Forest Service to develop a Texas Wildfire Protection Plan to be reported to the Legislature.	In Progress	The Texas Forest Service developed a draft Texas Wildfire Protection Plan and posted it on its website for public comment. The agency will accept comments through December 16, 2012 with a final document submitted to the Legislature before the beginning of the 83rd Legislative Session.

In addition to the provisions in S.B. 646, the Sunset Commission also issued seven management recommendations regarding the Texas Forest Service. One of the recommendations has not been implemented, as explained in the chart below.

Management Recommendation	Implementation	
	Status	Comments
1. Direct the Texas Forest Service to reduce the current number of its field offices, co-locating staff with other public agencies when possible.	Not Implemented	The Texas Forest Service conducted a comprehensive assessment of the agency's office locations but determined that no other office closures are necessary. The number of agency field offices has expanded since publication of the Sunset report from 52 to 67. The agency notes that field office location is important for timely and effective wildfire response to minimize damage and loss of life and property. The agency also notes that more than half of its field offices are collocated with other public agencies.

**State Committee of Examiners in the Fitting and
Dispensing of Hearing Instruments – S.B. 663**

Senate Bill 663, as adopted by the 82nd Legislature, continues the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for six years. The legislation included a total of 12 changes requiring action. The following chart summarizes the provision that has not been implemented and provides the status of the Committee's implementation of the provision.

Bill Provision	Implementation	
	Status	Comments
1. Adds standard Sunset language requiring the Committee to adopt policies to separate its policymaking duties from the agency's management functions.	Not Implemented	DSHS staff presented information on this requirement during the Committee's September 2011 meeting. The Committee has indicated that it will consider and act upon a draft policy at its January 2013 meeting, but as of December 2012, no draft policy had been produced.

Texas Department of Insurance – H.B. 1951

House Bill 1951, as adopted by the 82nd Legislature, continues the Texas Department of Insurance (TDI) for 12 years. The legislation included a total of 14 changes requiring action. The following chart summarizes one provision that has not been implemented and six provisions that are still in progress, and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
<p>1. Requires TDI to better define the process for requesting supplemental information from insurers in rule.</p> <p>Requires TDI to track, compile, and routinely analyze the number and type of supplemental information requests it makes. Requires TDI to routinely track, compile, and routinely analyze factors that contribute to rate disapprovals.</p> <p>Requires TDI to make information about the general rate review process, including factors that contribute to disapproval available to the public each year.</p>	In Progress	<p>TDI indicates that draft rules relating to supplemental information are expected to be complete by the end of 2012, and to be adopted in February 2013.</p> <p>TDI tracks each request for supplemental information, but does not compile or routinely analyze requests. Since TDI has not disapproved any rates since the passage of the bill, it has not been required to track rate disapproval factors.</p> <p>TDI indicates that drafts of the rate process are in progress and will be posted on its website upon completion, which is expected on December 31, 2012.</p>
<p>2. Requires TDI to generally define, in rule, factors that could result in a company being placed under prior approval.</p>	In Progress	<p>TDI indicates that it will begin draft rulemaking in December, 2012.</p>
<p>3. Requires the State Fire Marshal's Office (SFMO) to create a risk-based approach to conducting its routine inspections of state buildings and requires the Commissioner to adopt related rules. Requires the SFMO to report on or before January 1 of each year to the governor, lieutenant governors, speaker of the house of representatives, relevant legislative committees the Office's findings related to routine inspections.</p>	In Progress	<p>TDI has adopted a rule that lays out guidelines for assigning potential fire safety risk, as required in the bill. The State Fire Marshal's Office has prepared a draft report and expects to publish the report before the bill's January 1 deadline.</p>
<p>4. Requires the Commissioner to establish a penalty matrix for violations by SFMO licensees and to delegate administration of these penalties to the SFMO, by rule.</p>	Not Implemented	<p>TDI indicates that it will complete a rule proposal in Summer 2013.</p>
<p>5. Requires TDI to develop and implement a plan to collect from insurers and publish certain information relating to the processing of personal automobile and residential property claims, and requires TDI to publish the information on its website. Provides that the information will be collected on an annual basis, with the information broken down by quarter.</p>	In Progress	<p>TDI has not begun to collect claims information data, but indicates that it will ask for data for the fourth quarter of 2012 by December 31, 2012.</p>

Texas Department of Insurance – H.B. 1951 (continued)

Bill Provision	Implementation	
	Status	Comments
6. Requires the Commissioner to study the reduced rate filing requirements for insurers writing residential property insurance in underserved areas, including the impact of increasing the percentage of the total amount of premiums collected to qualify for reduced rate filing requirements. Requires the study results to be included in the TDI's biennial report. Expands the factors that the Commissioner must consider when designating areas of the state as underserved to include reasonable access to the full range of coverages and policy forms. Requires the Commissioner to study areas of the state designated as underserved and to determine which areas to designate as underserved every six years.	In Progress	TDI indicates that it has completed its study of the impact of increasing the percentage of the total amount of premiums collected to qualify for reduced rate filing requirements, and plans to publish it in its biennial report, which has an anticipated publication date of December 31, 2012. TDI has not yet studied the areas of the state designated as underserved nor determined which areas to designate as underserved, as the bill requires it to do once every six years.
7. Reduces the minimum number of curriculum hours required for licensure from eight hours to seven hours for residential fire alarm technicians. Requires that one of those minimum hours be dedicated to completing the course exam. Requires the course examination to contain a minimum of twenty-five questions, and requires that an applicant accurately answer at least eighty percent of the questions to pass the examination.	In Progress	TDI submitted a rule proposal containing the changes to the <i>Texas Register</i> on November 8, 2012.

Texas Juvenile Justice Department – S.B. 653

Senate Bill 653, as adopted by the 82nd Legislature, abolishes the Texas Juvenile Probation Commission and the Texas Youth Commission and transfers their functions to a newly created state agency, the Texas Juvenile Justice Department (TJJD), with a Sunset date of 2017. The legislation included a total of 21 changes requiring action. The following chart summarizes two provisions that have not been implemented and three provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Expands existing language on interagency cooperation to include improvement of services for all youth served by the Department, instead of only youth on probation. Authorizes the Department to cooperate and contract with private foundations in addition to governmental entities.	In Progress	TJJD's Executive Director has met or has meetings planned with the executives of the state agencies required by the bill, but these agencies have not met as a group and have not made joint recommendations to the Governor or Legislature to increase collaboration.
2. Requires the Department to operate a single toll-free number to receive any information concerning the abuse, neglect, or exploitation of children in the custody of the Department or housed in a local probation facility. Requires that the Department operate and answer the hotline 24 hours per day, every day of the year. Modifies the provision to require the Department to share complaints received on its 24-hr hotline with the Office of Inspector General and the Office of Independent Ombudsman.	Not Implemented	TJJD operates the hotline as required but has not reduced the two existing toll-free numbers to one because of the prohibitive cost of reprinting all printed material in county facilities.
3. Requires the Department to establish and implement a program evaluation system. Requires the Department to establish and implement a system to evaluate the effectiveness of state and county programs and services for youth.	In Progress	TJJD has completed its evaluation of state programs but has only begun its evaluation of county programs. TJJD anticipates completing its county program evaluation by the end of 2013.
4. Provides that statements made by a child or data obtained during administration of the risk and needs assessment is not admissible against the child at any other hearing. Extends the same protection for the risk and needs assessment as currently exists for the mental health screening.	Not Implemented	TJJD reports that, in practice, staff administering mental health assessments verbally inform youth of this provision. However, TJJD has yet to adopt rules to ensure this practice but intends to do so in fiscal year 2013.
5. Requires the Department to encourage compliance with state or federal educational service standards by facilitating interagency coordination and collaboration among juvenile probation departments, school districts, and the Texas Education Agency; and developing a plan to ensure continuity of educational services to juvenile offenders, including special education for youth with disabilities.	In Progress	TJJD is developing training for local probation departments on state and federal educational service standards. Over the next two years, TJJD anticipates collaborating with probation departments, school districts, and the Texas Education Agency on a plan to ensure continuity of educational services to juvenile offenders.

Texas Racing Commission – H.B. 2271

House Bill 2271, as adopted by the 82nd Legislature, continues the Texas Racing Commission for 6 years. The legislation included a total of 11 changes requiring action. The following chart summarizes three provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Requires the Commission to designate racetrack licenses as either active or inactive and develop, in rule, renewal criteria for licenses designated as inactive. Requires the Commission to perform reviews of active racetrack licenses every five years. Designates a one year renewal timeframe for inactive racetracks. Authorizes the Commission to develop and assess fees as part of the renewal process. In addition, authorizes the Commission to refuse to renew an inactive racetrack license. Instructional Provision that requires the Commission to designate each racetrack license as either inactive or active by no later than September 1, 2012.	In Progress	The Commission adopted all necessary rules except on the scheduling and process for conducting reviews of active race tracks. The Commission designated all licenses as active or inactive at its meeting on August 14, 2012. The Commission's Rule Committee will consider finalized language for a proposed rule on the scheduling and process for conducting reviews of active race tracks at its February 2013 meeting.
2. Adds standard Sunset language requiring the Commission to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.	In Progress	The Commission's Rule Committee will consider finalized language for a proposed rule implementing this recommendation at its February 2013 meeting.
3. Specifies that an active racetrack license effective until the license is designated as inactive or is surrendered, suspended, or revoked. Also specifies that the commission should use revocation only when it reasonably determines that other disciplinary actions are inadequate.	In Progress	The Commission will consider publishing a proposed rule eliminating perpetual racetrack licenses at its December 18th, 2012 meeting.

Texas State Soil and Water Conservation Board – H.B. 1808

House Bill 1808, as adopted by the 82nd Legislature, continues the Texas State Soil and Water Conservation Board for 12 years. The legislation included a total of eight changes requiring action. The following chart summarizes two provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Clarifies that the State Board’s brush control efforts should focus on water supply enhancement and changes the name of the Program from Brush Control to Water Supply Enhancement. Requires the State Board to establish program goals.	In Progress	The State Board has changed the name and focus of its program from the Brush Control Program to Water Supply Enhancement Program. The State Board has also created draft goals and an outline for its next Water Supply Enhancement Plan. The State Board expects to adopt and publish the Plan by July 2013.
2. Requires the State Board to develop a system to rank and prioritize water supply enhancement projects, rather than areas of the state, based on water conservation need and water yield. Requires the State Board to rank, based on need for water conservation and potential water yield, watershed projects across the state. Specifies criteria for project prioritization, including projected water yield through a model in a feasibility study.	In Progress	The State Board has developed the components necessary for ranking and prioritizing water supply enhancement projects. Specifically, the State Board, in consultation with stakeholders and hydrologists, has completed a system for ranking water conservation need, created a spatial analysis system to determine the highest water-yielding acres of a watershed, and adopted rules to reflect new statutory changes. The State Board expects to fully implement these components in a comprehensive system to rank and prioritize water supply enhancement projects in July 2013.

Texas Department of Transportation – S.B. 1420

Senate Bill 1420, as adopted by the 82nd Legislature, continued the Texas Department of Transportation for four years. The legislation included 28 changes requiring action. The following chart summarizes three provisions that are still in progress and provides the status of each.

Bill Provisions	Implementation	
	Status	Comments
1. Requires TxDOT to develop and implement a public involvement policy that guides and encourages more meaningful public involvement efforts agency-wide. Requires the Department's public involvement policy to make efforts toward clearly tying public involvement to decisions made by the Department and providing clear information to the public about specific outcomes of public input.	In Progress	The Transportation Commission has adopted a Public Involvement Policy that requires the agency to "purposefully involve the public in planning and project implementation by providing for early, continuous, transparent and effective access to information and decision-making processes." The agency is preparing guidance for staff to ensure that efforts are made to tie public input to Department decisions, and to notify the public on the specific outcomes of public input. The agency anticipates this guidance will be completed and distributed by mid-2013.
2. Authorizes TxDOT to enter into comprehensive development agreements (CDAs) for all or part of the following projects, with this authority expiring on August 31, 2015 for all of the projects except the State Highway 99 (Grand Parkway) project: <ul style="list-style-type: none"> • the State Highway 99 (Grand Parkway) project; • the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S. Highway 380; • the North Tarrant Express project in Tarrant and Dallas Counties, including on State Highway 183 from State Highway 121 to State Highway 161 (Segment 2E); on Interstate Highway 35W from Interstate Highway 30 to State Highway 114 (Segments 3A, 3B, and 3C); and on Interstate Highway 820 from State Highway 183 North to south of Randol Mill Road (Segment 4); • the State Highway 183 managed lanes project in Dallas County from State Highway 161 to Interstate Highway 35E; • the State Highway 249 project in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774; 	In Progress	<p>Six of the authorized projects are currently in various stages of procurement or implementation. The seventh, U.S. Highway 290 in Houston, is being constructed via the traditional design-bid-build method, rather than as a CDA.</p> <p>The following projects have not received full environmental clearance.</p> <ul style="list-style-type: none"> • The State Highway 99 (Grand Parkway) project, Segments B, C, H, and I-1. Anticipate clearance late 2013/2014. • The North Tarrant Express project in Tarrant and Dallas Counties, including on Interstate Highway 820 from State Highway 183 North to south of Randol Mill Road (Segment 4). Currently under review. • The State Highway 288 project in Brazoria County and Harris County. Currently under review; anticipate clearance in 2013. • The U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99. Record decision approved August 2012; anticipate remaining re-evaluations by 2013.

Texas Department of Transportation – S.B. 1420 (continued)

<ul style="list-style-type: none"> • the State Highway 288 project in Brazoria County and Harris County; and • the U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99. <p>Before entering into a CDA for these projects, requires the Department to obtain the appropriate environmental clearance by August 31, 2013 for any project other than the State Highway 99 (Grand Parkway) project, and present a full financial plan for the project, including costing methodology and cost proposals, to the Commission. Requires the Department to present a report to the Commission on the status of each CDA project, including status of environmental clearance, explanation of any project delays, and anticipated procurement completion date, by December 1, 2012.</p>		
<p>3. Authorizes TxDOT or certain Regional Mobility Authorities (RMAs) to enter into a CDA relating to improvements to or construction of the following projects, with this authority expiring on August 31, 2015:</p> <ul style="list-style-type: none"> • the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street; • the U.S. 183 (Bergstrom Expressway) project from Springdale Road to Patton Avenue; or • a project consisting of the construction of the Outer Parkway Project from U.S. Highway 77/83 to Farm-to-Market Road 1847; and the South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100. <p>Before entering into a CDA for these projects, requires the Department or RMA as applicable to obtain the appropriate environmental clearance by August 31, 2013 and present a full financial plan for the project, including costing methodology and cost proposals, to the Commission. Requires the Department or RMA to present a report to the Commission on the status of each CDA project, including status of environmental clearance, explanation of any project delays, and anticipated procurement completion date, by December 1, 2012.</p>	<p>In Progress</p>	<p>These projects are currently in various stages of procurement or implementation.</p> <p>The following projects have not received full environmental clearance.</p> <ul style="list-style-type: none"> • The U.S. 183 (Bergstrom Expressway) project from Springdale Road to Patton Avenue. Anticipate completion of environmental study in 2014. • A project consisting of the construction of the Outer Parkway Project from U.S. Highway 77/83 to Farm-to-Market Road 1847. Environmental study in progress. • The South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100. Final Environmental Impact Statement in progress.

Texas Water Development Board – S.B. 660

Senate Bill 660, as adopted by the 82nd Legislature, relating to the Texas Water Development Board and providing for its next Sunset review in 12 years, included a total of 11 changes, all of which have been implemented by the Board. In addition to the provisions in S.B. 660, the Sunset Commission also issued three management recommendations. The Board has not implemented one of these recommendations, as summarized in the chart below.

Management Recommendation	Implementation	
	Status	Comments
1. The Board should request a full exemption for the Texas Natural Resources Information System (TNRIS) from the data center services contract at the Department of Information Resources (DIR) to accommodate its statutory emergency management responsibilities.	Not Implemented	While the Board requested, and was denied, an exemption for the entire agency from the data center services contract in spring 2011, it has not requested an exemption specific to TNRIS. The Board and DIR have worked on an alternative approach to address several of the Sunset Commission's concerns related to TNRIS through the Pilot Texas Cloud Offering. However, uncertainty regarding the use of contract funds for a continued cloud vendor threatens to require the Board to again work with DIR to find a solution for TNRIS.

STATE AUDITOR'S OFFICE
REPORT ON IMPLEMENTATION
OF SUNSET ADVISORY COMMISSION
MANAGEMENT ACTIONS



John Keel, CPA
State Auditor

A Report on
**State Agency and
Transportation Authority Implementation of
Sunset Advisory Commission Management Actions**

November 5, 2012

Members of the Legislative Audit Committee:

The State Auditor's Office has reviewed the status of 10 state agencies' and 1 public transit authority's implementation of 25 non-statutory recommendations (management actions) included in the *Sunset Advisory Commission Report to the 82nd Legislature*. The entities involved included:

- Capital Metropolitan Transportation Authority.
- Commission on State Emergency Communications.
- Commission on Environmental Quality.
- Texas A&M Forest Service.
- State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments.
- Office of Injured Employee Counsel.
- Racing Commission.
- Soil and Water Conservation Board.
- Department of Transportation.
- Water Development Board.
- Department of Insurance – Division of Workers' Compensation.

Objective, Scope, and Methodology

Texas Government Code, Section 325.012 (d), provides for the State Auditor's Office's examination of the non-statutory recommendations (management actions) that the Sunset Advisory Commission (Commission) recommends.

The objective of this report was to report on the implementation status of the 25 management actions included in the *Sunset Advisory Commission Report to the 82nd Legislature*.

The scope included 11 entities to which the Commission directed management actions in its report to the 82nd Legislature.

This report relied on self-reported information provided by the entities. The information in this report was not subject to the tests and confirmations that would be performed in an audit.

The following members of the State Auditor's staff performed the project:

- Lucien Hughes (Project Manager)
- Charles Wilson, MPAff (Assistant Project Manager)
- Dana Musgrave, MBA (Quality Control Reviewer)
- John Young, MPAff (Audit Manager)

All of the entities reported that they had either fully implemented or were in the process of implementing all management actions. Twenty of the 25 management actions were reported as having been fully or substantially implemented; 5 management actions were reported as incomplete or ongoing. No entity reported that it had not implemented management actions in response to the Sunset Advisory Commission's recommendations.

SAO Report No. 13-006

Robert E. Johnson Building
1501 North Congress Avenue
Austin, Texas 78701

P. O. Box 12067
Austin, Texas 78711-2067

Phone: (512) 936-9500
Fax: (512) 936-9400
Internet: www.sao.state.tx.us

Members of the Legislative Audit Committee
November 5, 2012
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The table in the attachment to this letter summarizes the implementation status of the management actions at the 11 entities reviewed.

We appreciate the entities' cooperation with this report. If you have any questions, please contact John Young, Audit Manager, or me at (512) 936-9500.

Sincerely,

John Keel, CPA
State Auditor

Attachment

cc: The Honorable Rick Perry, Governor of Texas
Boards, commissions, and executive management of the following entities:
Sunset Advisory Commission
Capital Metropolitan Transportation Authority
Commission on State Emergency Communications
Commission on Environmental Quality
Texas A&M Forest Service
State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments
Office of Injured Employee Counsel
Racing Commission
Soil and Water Conservation Board
Department of Transportation
Water Development Board
Department of Insurance – Division of Workers' Compensation



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Attachment

Entities' Implementation of Sunset Advisory Commission Management Actions

Table 1 presents information on each entity's implementation of non-statutory recommendations (management actions) in the *Sunset Advisory Commission Report to the 82nd Legislature*. The definitions of each implementation status are as follows:

- **Fully Implemented:** Successful development and use of a process, system, or policy to implement a management action.
- **Substantially Implemented:** Successful development but inconsistent use of a process, system, or policy to implement a management action.
- **Incomplete or Ongoing:** Ongoing development of a process, system, or policy to address a management action.
- **Not Implemented:** Lack of a formal process, system, or policy to address a management action.

Table 1

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
Capital Metropolitan Transportation Authority		
<p>The [Capital Metropolitan Transportation Authority] Board should evaluate, and take action on, measures to reduce costs and increase revenues. To help attain a baseline operating reserve, Sunset staff identified a number of areas the Board should review to reduce costs and increase revenues. If appropriate, the Board should incorporate these changes in its fiscal year 2011 budget, or</p>	<p>Fully Implemented as of September 7, 2012</p>	<p>Each individual Sunset recommendation to reduce operating costs has been thoughtfully considered by the Board as part of the approving annual operating and/or capital budgets. See details below.</p> <ul style="list-style-type: none"> ▪ 5% across the board reduction in costs, based on the fiscal yr 2010 operating & capital budget of \$206.2 M - (Frank Ordaz, Director of Financial Planning) Status: Complete - Not selected for implementation <p>In preparing the FY2011 budget, each department provided a list of expense reductions that equaled five-percent of non-service related costs. The finance department incorporated a number of these reductions into the proposed budget; however, without significant changes to the labor and management agreements with StarTran, an overall five-percent reduction likely would have required reductions to transit service. In response to public input, the agency did not elect to reduce service.</p> <ul style="list-style-type: none"> ▪ CMTA & StarTran admin staff to contribute 4% of wages to their pension plan - (Donna Simmons, Human Resources Director) Capital Metro's benefits consultant completed a benchmarking and funding status study on the pension plan for administrative employees in 2011. Based on the study, staff recommended (and the Board approved) a change in the actuarial cost method used to determine annual plan contributions but recommended that no change be made to require employee contributions until after the labor structure transition is complete. This will allow Capital Metro to fully assess the impact of employee reductions on the Plan. The study also found the formula for retirement benefits to be substantially lower than for most governmental plans that require an employee contribution. ▪ 10% reduction in cost by revising paratransit policies that exceed ADA requirements, including taxi vouchers, open returns, door to door services, and reservations - (Chad Ballentine, Director Paratransit)

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
<p>implement sooner where feasible:</p> <ul style="list-style-type: none"> ▪ Adopt a 5-percent across-the-board reduction in costs, based on the fiscal year 2010 operating and capital budget of \$206.2 million. ▪ Require Capital Metro and StarTran administrative employees to contribute 4 percent of wages to their pension plan. ▪ Increase paratransit productivity to achieve a 10-percent reduction in costs by revising policies that exceed Americans with Disabilities Act requirements, including taxi vouchers, open returns, door-to-door services, and reservations. ▪ Charge a bus fare of 50 cents for groups currently riding free (\$1.7 million in revenues) and charge \$2 for paratransit rides (\$155,600 in revenues). ▪ Renegotiate the UT-Austin contract to cover 65 percent of Capital Metro's fully allocated costs of providing shuttle services. ▪ Freeze capital spending on expansions of commuter rail that use tax revenues as a source of funding, including 		<p>Status: Complete - All paratransit policy changes have been fully implemented</p> <p>Six policies were successfully changed to meet the ADA requirements.</p> <ol style="list-style-type: none"> 1. The largest policy change made was the new process of validating eligibility for MetroAccess paratransit. This was implemented fully in March 2012, allowing tighter controls over program resources. 2. Service level was changed from a standard of "door-through-door" to the new ADA standard of "curb-to-curb". 3. "Taxi vouchers on request" was a premium non-ADA mandated service that was eliminated. 4. 30 minute ready window was changed from the previous 15 min window to a more flexible 30 minute window. 5. Capital Metro formalized the paratransit service area as a ¼ mile ADA corridor. 6. "No show" policy with suspension enforcement was implemented to reduce wasted trip resources. <p>Three policies were successfully revised to reduce cost by adjusting them closer to the ADA standards but they were not completely reduced to the ADA minimum.</p> <ol style="list-style-type: none"> 1. Call center hours were reduced by a total of 21 hours per week, but because of public feedback they were not reduced to the minimum required by ADA regulations. 2. "Open Returns" policy, although not required by the ADA, became more limited based on allowed trip type, but was not eliminated. <p>Advance reservation policy was not reduced to the minimum 1 day in advance required by ADA, but was reduced from 8 days down to 3.</p> <ul style="list-style-type: none"> ▪ Bus fare of 50 cents for groups currently riding free and charge \$2 for paratransit rides. (Frank Ordaz, Director of Financial Planning) <p>Status: Complete - Alternative action taken</p> <p>Effective January 16, 2011, adults over 65 and persons with disabilities, who used to ride for free, began paying \$0.50 for a single ride as a reduced fare. In addition, the fare for paratransit riders increased from \$1.20 to \$1.50 per ride.</p> <p>On November 10, 2010, the board adopted this fare change.</p> <ul style="list-style-type: none"> ▪ UT-Austin contract to cover 65% of CMTA's fully allocated costs of providing shuttle services. (Frank Ordaz, Director of Financial Planning) <p>Status: Complete - Alternative action taken</p> <p>The Capital Metro board took alternative actions to increase cost recovery on the UT Shuttle contract. The board approved a two-year base contract with eight one-year options with the University of Texas at the July 26, 2010 board of directors meeting. The University reimburses Capital Metro for 50 percent of the UT Shuttle service direct operating costs on a per vehicle hour of service basis. In addition, the University pays Capital Metro a fee for each trip taken by a student on regular fixed-route and rail services. This fee was \$0.40 cents per ride for the first year and from year two onward; this fee is 50% of the base fare.</p> <ul style="list-style-type: none"> ▪ Freeze capital spending on expansions of commuter rail that use tax revenue as a source of funding, including extra sidings or double tracking, as long as safety is not compromised. (Frank Ordaz, Director of Financial Planning) <p>Status: Complete</p> <p>The approved FY2011 capital budget did not include expenditures for the expansion of commuter rail except for improvements to existing pedestrian crossings, fencing of right of way and the installation of tank shields to existing commuter rail vehicles for safety reasons. The FY2011 capital budget also included funding for "state of good repair" infrastructure projects, such as bridge replacements identified in the agency's Railroad Bridge Safety Management Program and bridge repairs.</p> <p>The approved FY2012 capital budget did not include expenditures for the expansion of commuter rail except for improvement of existing pedestrian crossings for safety reasons, the construction of a fully enclosed bike shelter at the Kramer Station to allow bicyclist to park their bikes in a secured area and the payment of retainage of existing ticket vending machines at commuter rail stations.</p> <p>The proposed FY2013 capital budget does not include expenditures for the expansion of commuter rail except for the final obligation of the Martin Luther King Station for the design and construction of</p>

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
<p>extra sidings (\$5 million) or double-tracking (\$48 million), as long as safety is not compromised.</p> <ul style="list-style-type: none"> Review all capital spending projects and put on hold any not immediately needed to ensure public safety or that would not jeopardize federal funding if not completed. For example, discontinue bus stop upgrades not required by the Americans with Disabilities Act. 		<p>hardscape and landscape improvements on a portion of Alexander Avenue, an upgrade to existing ticket vending machines to support zip code verification, an upgrade to existing security camera for commuter rail vehicles and improvements to existing pedestrian crossings for safety reasons, improvements in the current layout of the tracks at the Plaza Saltillo station to allow for increased development of the site, and "state of good repair" infrastructure projects, such as railroad track rehabilitation, railroad bridge repair and upgrade, and design of a commuter rail control system for safety reasons.</p> <ul style="list-style-type: none"> Review all capital spending projects and put on hold any not immediately needed to ensure public safety or that would not jeopardize federal funding if not completed. (Frank Ordaz, Director of Financial Planning) <p>Status: Complete - Not selected for implementation</p> <p>Capital Metro staff evaluated all existing and proposed capital projects to ensure alignment with the agency's strategic plan. Projects that involve safety or regulatory compliance were given priority when allocating funding. Based on public input and agency objectives, the FY2011 budget includes projects needed from a safety or federal funding standpoint as well as those needed for continued operation of service. For example, projects that improve bus stop accessibility, maintain the agency's existing infrastructure and assets in a state of good repair, and respond to ongoing customer demand are included in the FY2011 budget.</p>
<p>Capital Metro should develop a competitive procurement plan for transit services.</p>	<p>Fully Implemented as of: April 30, 2012 - Paratransit May 4, 2012 - Fixed Route</p>	<p>Responsible Manager: Donna Simmons, HR Director and Labor Transition Project Manager</p> <p>Status: Complete</p> <p>A comprehensive project plan was developed and used to guide the transition to an outsourced labor force for bus and paratransit operations. The procurement process has been cited as a best practice by the contractors involved in the solicitation process. Effective August 19, 2012, fixed route and paratransit operations will transition to the selected contractors, which is ahead of the statutory deadline of September 1, 2012.</p>
<p>Capital Metro's Board should take immediate action to prioritize needed replacement, repair, and maintenance of its railroad bridges.</p>	<p>Fully Implemented as of: May 18, 2011 - Modification 11 December 12, 2011 - Modification 15</p>	<p>Responsible Manager: Melvin Clark, Vice President Rail Operations</p> <p>The Board took the following actions to address the replacement, repair, and maintenance of its railroad bridges:</p> <p>Contract Modification 11 executed on May 18, 2011:</p> <ul style="list-style-type: none"> 10 condition 1 bridges must be raised to condition 3 by June 1, 2012 and maintained at condition 3 until the end of the contract. 50 condition 2 bridges must be raised to condition to 3 by June 1, 2015 and maintained at condition 3 until the end of the contact. Maintain all existing condition 3 bridges at condition 3 or higher as of the date of the modification to condition 3 or higher until the end of the contract. <p>Contract Modification 11 status as of August 1, 2012:</p> <ul style="list-style-type: none"> 10 of 10 condition one bridges have been raised to condition three (100% Complete) 14 of 50 condition two bridges have been raised to condition three (28% Complete) <p>Contract Modification 15 executed on December 12, 2011:</p> <ul style="list-style-type: none"> Raise two condition 1 bridges to condition 3 by March 12, 2013 and maintain at condition 3 until the end of the contract Raise one condition 2 bridge to condition 3 by March 12, 2013 and maintain at condition 3 until the end of the contract <p>Contract Modification 15 status as of August 1, 2012:</p> <ul style="list-style-type: none"> 1 of 2 condition one bridges raised to condition three (50% Complete) 1 of 1 condition two bridges have been raised to condition three (100% Complete) <p>Modifications 11 and 15 address the condition upgrades and ongoing maintenance of each of Capital Metro's railroad bridges with the exception of the one located at milepost 52.44. Upgrading the bridge at milepost</p>

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
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		<p>52.44 is scheduled to be addressed as one of the projects in the FY 13 Capital Program. This project will convert wood deck of bridge 52.44 to open deck structure.</p> <p>Maintaining all of Capital Metro's railroad bridges at a condition 3 is a currently a part of Capital Metro's capital improvement plan.</p> <p>In FY 13, Capital Metro will begin a load rating analysis program for all of its in-service railroad bridges in order to comply with Federal Railroad Administration regulations in CFR 49 Part 237 Bridge Safety Standards.</p> <p>Our Bridge Safety Management Plan Version 4a dated April 16, 2012 also addresses one of the requirements of FRAs Bridge Safety Standards.</p> <p>Based on the above, we have fully implemented the Sunset recommendation.</p>
Capital Metro should develop a contract monitoring plan for major rail projects to ensure accountability for the cost-effective delivery of services.	Fully Implemented as of August 2012	<p>Responsible Manager: Melvin Clark, Vice President Rail Operations</p> <p>Commuter Rail Operations: A high level contract management plan (CMP) was completed in May 2010. Rail staff attended contract management training in April 2012. An enhanced detailed CMP was completed 8/2012.</p> <p>Freight Rail Operations: The Rail Operations organization has been managing the lease contract with Watco using a CMP with yearly metrics that monitor performance on a monthly basis since the contract was executed in 12/2010.</p> <p>Rail Operations also uses the budget metrics of Revenue per Car Move, Expense per Car Move, and Car Moves for the budget year, and they are measured, charted, reported and explained for any variances that occur as a result of monthly operations. Rail Operations also uses the following metrics to manage the freight contractor in order to review and analyze the car movements on the freight line. In addition, Rail Operations will perform "one off" analysis as required and/or requested for specific measurement or comparisons to review performance for specific requests by management.</p> <p>In addition to the CMP, Capital MetroRail staff is also in the process of developing a Business Plan for Freight Rail Operations. The "business" plan will provide the following:</p> <ul style="list-style-type: none"> ▪ A legal opinion as to the Common Carrier Freight Obligation for CMTA ▪ Capacity of the rail line for freight car moves based on the current infrastructure and the current commuter operating times ▪ Capacity of the rail line for freight cars moves should CMTA invest and run FRA compliant passenger cars ▪ The type of business model CMTA should pursue to manage the freight operation for the long range.
Commission on State Emergency Communications		
The Commission should maintain internal program-related performance measures for [the Texas Poison Center Network] TPCN.	Substantially Implemented	<p>The FY 2011 and FY 2012 Commission contracts with the Regional Poison Control Centers (RPCCs) identify internal program-related performance measures that are to be reported on a quarterly basis to the CSEC. The CSEC staff maintains the performance measures reported by the six (6) RPCCs. These measures include:</p> <ul style="list-style-type: none"> ▪ Call Type: human, animal, information and others. ▪ Number of Human Exposures Per Call Taker Full Time Employee: number of salaried full time employee call takers, and total number of hours all salaried full time employee call takers worked. ▪ Educational Activities: number of public education presentations conducted, number of people reached, number of professional education presentations, number of professionals reached; and number of counties reached by personal presentations. ▪ Number of research projects completed. ▪ Number of network -wide cooperative measures completed; and number of medical guidelines completed. <p>The 82nd Legislature made changes to the Health and Safety Code, Chapter 777, giving the CSEC authority to standardize the operations of and implement management controls to improve the efficiency of the poison control centers, and to submit a plan for doing so to the LBB and GOBPP. The Commission approved the plan on September 13, 2011, and the plan was submitted by October 31, 2011, as required. Two action items on the plan relate directly to performance measures.</p> <p>According to the plan of action, the Commission adopted Rule 254.3, Regional Strategic Plans and Reporting for Poison Control Service on March 7, 2012. Section (d) of the rule requires the RPCCs to report performance measures quarterly; and, that the RPCCs use the Commission's standard financial and</p>

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Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
		<p>performance reports as adopted in an adopted Program Policy Statement.</p> <p>According to the plan of action, a Program Policy Statement for reporting quarterly performance measures is scheduled for the Commission's next regularly scheduled meeting on October 10, 2012. The Program Policy Statement will provide "how to" instructions to the RPCCs and will more clearly and specifically define the internal program-related performance measures to be reported to, and maintained by, CSEC. The CSEC quarterly performance reporting policy will be implemented with the RPCC submission of 1st Quarter FY 2013 performance measures.</p>
Commission on Environmental Quality		
<p>Direct TCEQ to amend its mission statement to include the concept of protecting public health.</p>	<p>Fully Implemented as of September 14, 2012</p>	<p>On September 14, 2012, the TCEQ Commissioners met in Commission Work Session (CWS) to continue the discussion from a previous CWS addressing possible revisions to the TCEQ's Mission Statement.</p> <p>By a unanimous vote, the Commissioners approved revising the TCEQ Mission Statement to reflect the Sunset Advisory Commission's Management Directive.</p> <p>In making those revisions, the following comments were made:</p> <p>Revising the statement is a formality that describes what the agency already does;</p> <ul style="list-style-type: none"> ▪ Commission actions reflect the language in the revised statement; ▪ the revised language is not being changed in an effort to allow a cause of action that the agency is not protecting public health; and ▪ this revision will not change what the agency strives to accomplish. <p>Below is the language adopted by the Commissioners on September 14, 2012, which is verbatim the language in the SSAC report on TCEQ.</p> <p>Revised TCEQ Mission Statement</p> <p>The Texas Commission on Environmental Quality strives to protect our state's public health and natural resources consistent with sustainable economic development. Our goal is clean air, clean water, and the safe management of waste</p> <p>TCEQ Contact: Diane Mazuca Special Projects Coordinator Office of Legal Services/TCEQ 512/239-3504 diane.mazuca@tceq.state.gov</p>
Texas A&M Forest Service		
<p>TFS should evaluate its organizational structure to develop a more comprehensive statewide approach to delivering its services.</p>	<p>Incomplete/ Ongoing</p>	<p>The agency has changed the organizational structure for its Forest Health and Urban Forestry programs to achieve greater efficiencies. The agency's executive leadership is scheduled to meet on August 27th to discuss the need for any further changes.</p> <p>The agency had originally planned to complete a review of its organizational structure by the end of FY2011; however, the agency's ability to accomplish this was greatly impacted by the catastrophic and historic 2011 fire season which lasted most of calendar 2011. We anticipate full implementation of this recommendation by December 31, 2012.</p> <p>Responsible Persons: Tom Boggus, Director Mark Stanford, Associate Director for Forest Resource Protection Bill Oates, Associate Director for Forest Resource Development and Sustainable Forestry Robby DeWitt, Associate Director for Finance and Administration</p>

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
Direct TFS to reduce the current number of its field offices, collocating staff with other public agencies when possible.	Incomplete/ Ongoing	<p>In August of 2011, the agency tasked members of its Leadership Enrichment Program (Class #2) with conducting a comprehensive assessment of the agency's office locations. Progress meetings have been held with the agency's Executive Team throughout the past year and the final assessment report is anticipated to be completed in September. The agency's Executive Team will utilize this report in making decisions regarding future office locations and reductions.</p> <p>It should be recognized that the agency has closed a number of small offices during the past eight years. These closings include the following locations:</p> <ul style="list-style-type: none"> ▪ Alto (Indian Mound Nursery) ▪ Amarillo ▪ Center ▪ Coldspring ▪ Horseshoe Bay ▪ Jefferson ▪ Tyler ▪ Waco <p>These closures were made based upon due consideration for programmatic needs, projected cost savings, and operational efficiencies.</p> <p>The agency has also made a concerted effort to co-locate with other public agencies. Currently, 32 of the agency's locations are in facilities owned by other state or local governmental entities.</p> <p>We anticipate full implementation of this recommendation by December 31, 2012.</p> <p>Responsible Persons: Tom Boggus, Director Mark Stanford, Associate Director for Forest Resource Protection Bill Oates, Associate Director for Forest Resource Development and Sustainable Forestry Robby DeWitt, Associate Director for Finance and Administration</p>
Direct the agency to cross-train program delivery staff in both firefighting and forestry programs, as appropriate.	Fully Implemented as of February 28, 2012	<p>The agency has made a conscientious and concerted effort to cross-train staff. Noted examples include the following:</p> <p><u>Fire Training and Response</u></p> <ul style="list-style-type: none"> ▪ All East Texas Resource Specialists and District Foresters continue to train and respond as firefighters and fireline supervisors. ▪ 85% (17 of 20) FRD Central and West Texas field staff have attended agency wildfire and emergency response training, including courses for basic firefighter, fire supervisor, incident command system, fire behavior, public information officer, fire prevention teams, status check-in recorder and post-fire recovery for landowners. ▪ Central and West Texas FRD staff have participated in 32 wildfire response mobilizations in 2011 and 2012. ▪ Currently 11 of the 22 FIA employees have attended the basic firefighter training class and assisted with the response during the 2011 Fire Season either through direct firefighting or support activities. <p><u>Resource Development Training</u></p> <ul style="list-style-type: none"> ▪ In 2012, Incident Response field personnel in Central and West Texas (including the newly hired firefighter and Task Force positions) attended training in Forest Health, Urban and Community Forests, tree identification, mature tree management, tree measurement and assessment and the Texas Big Tree Registry program. <p><u>Drought Impact Study</u></p> <ul style="list-style-type: none"> ▪ In 2012 the TFS FRD Division began a drought impact survey to assess statewide tree mortality following the 2011 drought. Survey data collection involves approximately 700 plots (75' radius) located across the state. FRP field staff in Central and West Texas are assisting FRD and East Texas foresters with site access, scheduling and plot measurements. <p><u>Emerging Communities Program</u></p> <ul style="list-style-type: none"> ▪ Rapid growth impacts communities in a wide range of issues that include water quality, emergency

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
		<p>management, wildfire, urban forests, wildlife and environmental impacts. FRD staff have launched workshops statewide to address proactive solutions for the impacted emerging communities. FRP is engaged with FRD in providing speakers and subject matter experts to assist with the development of wildfire protection plans and Firewise Communities.</p> <p><u>Other Examples of Cross-Divisional Program Support Include</u></p> <ul style="list-style-type: none"> ▪ Bastrop Lost Pines Recovery Workshops, Lost Pines Recovery Team Meetings, and Seedling Give-a-Way (Bastrop Home Products Show). ▪ 2011 Post Fire Property Damage Assessments (PK and Rock House) & Town Hall Meetings (Fort Davis & Bastrop Complex). ▪ August 2012 Changing Roles Workshop in New Braunfels, TX. ▪ GIS collaboration with "quick" post-fire resource assessment, mapping, imagery and analysis of the Bastrop Complex. ▪ FRP Resource Specialist assisting with Forest Inventory Analysis plots in the Trans-Pecos. ▪ FIA data collection has been expanded to include measurements that support fire danger and fire behavior calculations. <p>Cross-training is an on-going initiative.</p> <p>Responsible Persons: Mark Stanford, Associate Director for Forest Resource Protection Bill Oates, Associate Director for Forest Resource Development and Sustainable Forestry</p>
TFS should make [Volunteer Fire Department] VFD Assistance Program information readily available to the public.	Fully Implemented as of July 31, 2012	<p>The agency updated its website for the VFD Assistance Program to include links to the annual report, information about program changes, grant application status list, updated funding lists, program procedures, and application scoring criteria.</p> <p>Maintenance of this website is an on-going initiative. Additional links and updates will be added over time as appropriate to keep the website up to date.</p> <p>Responsible Person: Joe Fox, Capacity Building Department Head</p>
TFS should streamline VFD Assistance Program administration by making better use of electronic communication.	Fully Implemented as of November 30, 2011	<p>The agency requests e-mail contact information as part of the grant application. In November 2011 the agency implemented a new procedure of sending receipt letters, approval letters, grant extensions and grant expiration notices (basically all correspondence except for checks) via e-mail to VFDs. Standard postal service is used after two failed attempts by e-mail.</p> <p>Responsible Person: Joe Fox, Capacity Building Department Head</p>
State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments		
The Committee should reassess its \$500 annual continuing education sponsor fee.	Incomplete/ Ongoing	The Committee will discuss and possibly act on an agenda item relating to the continuing education provider fee at its upcoming meeting scheduled for September 26, 2012.
Direct staff to develop and consistently enforce formal policies and procedures for administration of the practical exam.	Fully Implemented as of January 1, 2012	Staff have developed formal policies and procedures for the administration of the practical exam.

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
Office of Injured Employee Counsel		
Direct the Office to work with [the Division of Workers' Compensation] DWC at the Texas Department of Insurance to ensure injured employees are fully prepared by Ombudsmen before attending a DWC Benefit Review Conference.	Fully Implemented as of January 2011	OIEC agrees with this recommendation and has taken numerous steps to ensure injured employees are fully prepared prior to entering the Texas Department of Insurance, Division of Workers' Compensation (DWC) administrative dispute resolution system. OIEC procedures have been changed to fully implement the agency's early intervention efforts. The primary objective of OIEC's early intervention efforts is to ensure that injured employees are prepared to proceed and have obtained necessary information to permit them to make the strongest case possible to establish their entitlement to indemnity and medical benefits. The application of DWC's benefit review conference rules that enforce HB 2605 helped implement this recommendation except in cases when a first assigned impairment rating is disputed. In those claims, claimants are often forced by rule to enter the DWC's Benefit Review Conference (BRC) process prior to being prepared in order to preserve a claimant's right to dispute the rating. OIEC provided both public rule comment to the rulemaking initiative and filed a rule petition to resolve this issue. DWC denied both the rule comment and rule petition. OIEC notes it is difficult to discourage its customers from entering the dispute resolution process if they are not fully prepared, particularly when those customers are without an income source. However, OIEC also understands the paramount need to ensure State resources are used efficiently and effectively. Documentation of efforts made by OIEC staff to resolve claims prior to requesting a BRC are attached to each DWC-045 form filed by the agency in accordance with DWC's BRC Rules. OIEC employees responsible for implementation: Ombudsman Program staff.
Direct the Office to work with DWC to complete firewalls in the new database system.	Fully Implemented as of October 26, 2011	OIEC agrees with this recommendation to work with DWC during its development of the new computer system to include proper firewalls restricting information from field office staff. OIEC's access to the current DWC information technology system has been restricted in order to avoid the appearance of impropriety. OIEC formed a committee with DWC staff to develop a new system to ensure appropriate access of information to OIEC staff. OIEC's management is sensitive to the appearance of impropriety and is committed to working with DWC to ensure that all system participants operate on a level playing field in the administrative dispute resolution process. As a result, on October 26, 2011, both OIEC and DWC staff executed a Memorandum of Understanding (MOU) that provides for limited and appropriate access to regulatory information by OIEC employees in only those cases where the agency is providing assistance in an injured employee's claim. Additionally, every OIEC employee has signed an attestation to the terms of the MOU in an agency effort to reinforce accountability of the MOU and its restricted access to information. OIEC Form OMB-02. The "Ombudsman Assistance Request Form," was revised to include language that instructs the agency customer to specifically indicate permission for OIEC staff to access their claim file. In addition, processes were developed for OIEC employees to seek and document verbal permission to access an injured employee's confidential claim information in those cases where written permission has not yet been obtained. New computer codes were created and are now entered in OIEC customer files after authorization to access to the file has been properly obtained by OIEC staff. OIEC employees responsible for implementation: all OIEC employees.
Racing Commission		
The Commission should review the operations and management of all active racetrack licenses.	Incomplete/ Ongoing	In response to new Texas Racing Act (TRA) § 6.0601, the Commission has recently adopted rules to guide its designation of racetrack licenses as active or inactive. Only active racetrack licenses are subject to the operations and management review required under TRA § 6.06(k). Inactive racetracks are subject to the review and renewal process of TRA § 6.0602. Therefore, the review of active licenses cannot begin until after the Commission has made this designation. The instructional provisions found in Section 28(a) of HB 2271 require the Commission to make this designation no later than September 1, 2012. At its meeting on August 16, 2012, the Commission met this requirement by designating seven racetrack licenses as active and six licenses as inactive. Now that this designation has been made, the Commission will develop rules to establish a staggered schedule and review procedure for active licenses. These rules are required by the instructional provisions found in Section 28(b) of HB 2271.

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
Soil and Water Conservation Board		
The State Board should use a stakeholder process to develop grant goals and performance measures, and to routinely use grant results to improve existing programs.	Fully Implemented as of February 22, 2012	<p>This recommendation applies to two programs.</p> <p>Program: Water Supply Enhancement Program (WSEP) Program Director: Johnny Oswald</p> <p>The WSEP established a formal stakeholder group. The stakeholder group met on February 22, 2012 and discussed a number of primary and secondary goals for the Program, as well as advisory committees on feasibility studies and program implementation and rules. Discussion resulted in consensus that water savings as a result of brush management through the Program was the most appropriate and direct measure of effectiveness, therefore it was established as the overall goal. This group will meet on a consistent basis to make adjustments to program goals as necessary. The water savings goal for Fiscal Year 2013 was set at 882 million gallons per year. These goals exist as an output performance measure for the Program. The agency considered this recommendation to be fully implemented for this program when the existing water savings target associated with the Program's applicable performance measure was chosen to represent the primary goal at the stakeholder meeting.</p> <p>Program: Water Quality Management Plan (WQMP) Program Program Director: Lee Munz</p> <p>To utilize a stakeholder process, the Water Quality Management Plan (WQMP) Program initially focused on the Local Work Group gatherings that already meet annually in each Texas county to set priorities for USDA-Farm Bill programs. The group's membership was determined to be an appropriate representation of the WQMP Program's stakeholders, and agency staff attended a selection of these meetings across the state to garner input on goals for the Program. Subsequent to implementing this approach, agency management initiated a major assessment of the Program at the direction of the governing board whereby the entire process for allocating grant funds would be modified to more adequately address changing water quality and quantity concerns across the state. The TSSWCB intends to present a sweeping set of recommendations to the agency's governing board in September 2012 for their consideration. A major component to these modifications will be the assembling of a stakeholder group in each of the TSSWCB's five state-districts (roughly 40 counties each) that would develop and submit Program goals and priorities for the State Board's consideration. The first meeting of these groups is anticipated for Spring 2013 prior to the State Board's annual approval of the agency's operating budget in July (as is customary). In addition to these goals that are established relating to natural resource concerns, the agency has implemented the use of a custom designed computer model that estimates the amount of nitrogen, phosphorus, and sediment that are retained on the lands within each WQMP. These estimates provide a direct measure of the impact of this program on Texas water quality. In 2011, 303,640 lbs of N, 61,087 lbs of P, and 20,764 tons of sediment were estimated to be prevented from entering Texas waters. For Fiscal Year 2012, the agency set a goal to repeat the same numbers for Fiscal Year 2011. As a result of changes to the agency's policies on status reviews of existing WQMPs, it is expected that modifications will be made to direct Program efforts toward areas that will enhance these pollutant load reductions. Knowledge to adequately make such modifications will likely become evident after several more years of data collection. This recommendation was fully implemented on October 1, 2011 after Local Work Group meetings had been conducted and after N, P, and sediment load reductions goals were set for Fiscal Year 2012.</p>
The State Board should approve brush species eligible for treatment through the Program.	Fully Implemented as of September 21, 2011	<p>Program: Water Supply Enhancement Program (WSEP) Program Director: Johnny Oswald</p> <p>Brush species eligible for treatment through the Program are listed in the State Plan which is approved by the agency's governing board. Fiscal Year 2012 species represented in projects funded through the Program include Mesquite, Ashe Juniper, and Red Berry Juniper. These projects are located in Twin Buttes Watershed, Pedernales River Watershed, Guadalupe River Watershed, Lake Brownwood Watershed, Little Wichita Watershed, and the Edwards Aquifer watershed. This recommendation was fully implemented on September 21, 2011, when the State Board approved funding allocations for the Program for Fiscal Year 2012.</p>

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
The State Board should continue to dedicate a portion of its funding to evaluate the effectiveness of the Program.	Fully Implemented. (Date is not applicable. This is a recommended management action to continue conducting an already implemented activity.)	<p>Program: Water Supply Enhancement Program (WSEP) Program Director: Johnny Oswald</p> <p>The WSEP Program continues to dedicate a portion of its funding to evaluate the effectiveness of the Program. Examples include:</p> <ul style="list-style-type: none"> ▪ USGS, 12CSTX098000000: This agreement provides payment to USGS to develop a SWAT model to project the efficacy of brush control at the basin scale in the Upper Guadalupe River watershed. ▪ Rainwater, 2012-13007-27068: This agreement provides payment to Dr. Ken Rainwater to assist the TSSWCB in engineering support for determining monitoring and water yields in WSEP projects. ▪ Texas Tech Univ., 13007-2011-01: This agreement provides payment to Texas Tech to collect data and provide GIS maps for the EDYS model, which will be used as a tool to identify the most advantageous locations for conducting water supply enhancement through brush control.
Department of Transportation		
Direct TxDOT management to develop a plan for implementing recommendations of the Sunset Commission, the Restructure Council, and the Grant Thornton audit.	Fully Implemented as of July 1, 2011	The recommendation is fully implemented. TxDOT management developed plans for implementing recommendations of the Sunset Commission, the Restructure Council, and the Grant Thornton audit in fiscal year 2011.
Water Development Board		
The Board should request a full exemption for [the Texas Natural Resources Information System] TNRIS from the data center services contract at [the Department of Information Resources] DIR to accommodate its statutory emergency management responsibilities.	Incomplete/ Ongoing	TWDB is participating in the Pilot Texas Cloud Offering (PTCO) through DIR to address TNRIS' needs. The PTCO contract expires in August of 2013 at which time the TWDB will assess whether to continue with the cloud provider under the PTCO or work with the new DIR Data Center Services vendors for providing a better solution.
Department of Insurance - Division of Workers' Compensation		
The Division should require a review of all Contested Case Hearing decisions to ensure consistency amongst field office staff.	Fully Implemented as of April 13, 2010	<p>On April 13, 2010 the Division reinstated its mandatory reviews of Contested Case Hearing decisions by the Hearings Division. Prior to this date hearing officers had the choice of submitting their Contested Case Hearing decisions to the Hearings Division for review.</p> <p>Attached is a copy of the Division's current policy and procedure requiring mandatory reviews of Contested Case Hearing decisions. [Attachment is not presented in the SAO report]</p> <p>Implementation Contact: Dan Barry, Acting Deputy Commissioner for Hearings (512) 804-4439</p>

Status of Entity Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Entity Comments on Management Actions
Improve the medical quality review process by clarifying the Quality Assurance Panel's involvement.	Substantially Implemented as of: January 1, 2011 - The original Medical Quality Review Procedure became effective. July 27, 2012 - The Division proposed new rules, updated the medical quality review process, and proposed a new DWC Form-072 for public comment.	<p>The Division developed and implemented a Medical Quality Review Procedure effective January 1, 2011, which includes information regarding:</p> <ul style="list-style-type: none"> the purpose and role of the Quality Assurance Panel in the medical quality review process; a statement that the Medical Advisor selects the Quality Assurance Panel from the members of the Medical Quality Review Panel (MQRP) based on their medical expertise, specialty backgrounds, and their experience in utilization review and quality assurance; a statement that the Quality Assurance Panel members are also selected to ensure that the panel is comprised of health care professionals from diverse health care backgrounds; the length of time a member may serve on the Quality Assurance Panel (2 year terms); the frequency of Quality Assurance Panel meetings (at least quarterly); the roles and responsibilities of staff for the Office of Medical Advisor and the Quality Assurance Panel; and a statement that the Medical Advisor will provide Quality Assurance Panel member with status on the number and types of final dispositions of enforcement cases originating from medical quality reviews. <p>A copy of this procedure can be found here: http://www.tdi.texas.gov/wc/hcprovider/documents/omamqprocedure1210.pdf.</p> <p>The Division has also proposed new rules (28 TAC §§180.60, 180.62, 180.64, 180.66, 180.68, 180.70, 180.72, 180.74, 180.76, and 180.78) regarding the Medical Quality Review Panel (MQRP), the Quality Assurance Panel and the medical quality review process that further clarify the Quality Assurance Panel's role in the process.</p> <p>Specifically, these proposed rules outline the scope of the medical quality review process, the rights and responsibilities of persons involved in the medical quality review process, the qualifications and composition of both the MQRP and Quality Assurance Panel, training requirements for MQRP members, disqualifying associations, the frequency of Quality Assurance Panel meetings and procedures to ensure that MQRP and Quality Assurance Panel members are kept informed of enforcement outcomes. The rule proposal was published in the <i>Texas Register</i> on 07/27/2012 and a public hearing was held on these rules on 08/13/2012. On October 17, 2012, Commissioner Rod Bordelon adopted the rules and October 18, 2012 the process document was adopted. Both the rules and the revised process will be effective on January 1, 2013.</p> <p>To accompany the proposed new rules, the Division has proposed changes to the Medical Quality Review Process (formerly called the Medical Quality Review Procedure) and proposed a new DWC Form-072 form (Medical Quality Review Application) for public comment. The Division plans to further clarify the role of Quality Assurance Panel members and Division staff during Quality Assurance Panel meetings in the Medical Quality Review Process before it is finally adopted. The new DWC Form-072 will be used by health care practitioners who want to apply to become members of the MQRP. The comment deadline for this process and new form is 08/27/2012 and a public meeting with stakeholders is planned for September 5, 2012. The Division expects adoption of the proposed rules, Medical Quality Review Process, and new DWC Form-072 by the end of the calendar year.</p> <p>Implementation Contact: Dr. Donald Patrick, Medical Advisor (512) 804-4415 and Mary Landrum, Manager, Health care Policy and Implementation (512) 804-4814</p>
Direct the Division to develop an ex parte communication policy relating to cases under investigation	Fully Implemented as of: August 15, 2012 - Internal procedure memorialized in writing. January 24, 2012 - New enforcement rules adopted.	<p>The Division has been following internal procedure since 2009 to prevent any ex parte communication within the Division for State Office of Administrative Hearings (SOAH) proposals for decision regarding certain enforcement actions (i.e., those actions not involving monetary penalties) that return to the Commissioner of Workers' Compensation for final decision. Since the passage of HB 2605, this internal procedure has been extended to include Commissioner decisions on all enforcement actions (including those actions involving monetary penalties) and was recently memorialized in writing.</p> <p>Agency staff is also required to comply with the State Bar of Texas Ethics Opinion 587 (involving ex parte communications between attorneys and agency decision makers on agency matters) for cases under investigation. The Division's General Counsel has also provided guidance to various program areas within the Division and the Commissioner of Workers' Compensation to ensure that staff is notified about this opinion and to assist staff with specific questions as necessary.</p> <p>Additionally, the Division has adopted several rule amendments as well as new rules (28 TAC §§180.1, 180.3, 180.5, 180.8, 180.27, 180.4, 180.9 and 180.10 28) to implement the various changes to enforcement provisions of the Labor Code made by HB 2605, including new rules regarding ex parte emergency cease and desist orders and proposals for decision.</p>

Status of Entity Implementation of Sunset Advisory Commission Management Actions					
Management Action	Implementation Status	Entity Comments on Management Actions			
		<p>Attached is: [Attachments are not presented in the SAO report]</p> <ul style="list-style-type: none"> ▪ a copy of the Division’s ex parte communication procedure; ▪ a copy of the State bar of Texas’ Ethics Opinion 587 (May 2009); and ▪ a copy of the adopted rules implementing all of the changes to various enforcement provisions in the Labor Code as a result of the passage of HB 2605, including ex parte emergency cease and desist orders and proposals for decision (see http://www.tdi.texas.gov/wc/rules/adopted/documents/ao1800212m.pdf). <p>Implementation Contact: Dirk Johnson, General Counsel (512) 804-4422 and Leah Gillum, Workers’ Compensation Litigation Director (512) 804-4278</p>			
<p>The Division should closely coordinate with other state agencies to include nonsubscription reporting requirements in their print and electronic publications.</p>	<p>Fully Implemented as of: March 2012 - Confirmed that all other state agency Web sites were updated. July 13, 2012 - Adopted rules and updated forms.</p>	<p>In September 2011 the Division completed a re-organization of the Division’s Employer Resource webpage to facilitate external access to relevant information about workers’ compensation coverage, benefits and requirements for non-subscribing employers.</p> <p>In March 2012 the Division completed a project to update workers’ compensation and non-subscription information on other agencies’ websites that are specifically geared for Texas employers, including updating weblinks on those other agency websites to the Division’s new Employer Resource webpage. This update was completed with the following agencies/websites (see attached documentation): [Attachments are not presented in the SAO report]</p> <ul style="list-style-type: none"> ▪ Texas Workforce Commission; ▪ Governor’s Office; ▪ Texas.gov; ▪ Comptroller of Public Accounts; and ▪ Texas Secretary of State’s Office. <p>Additionally, the Division recently completed a project to update all of its existing rules and add new rules (28 TAC §§110.7, 110.103, 110.105, 160.1, 110.1, 110.101, 160.2, and 160.3) relating to non-subscribing employer reporting requirements in an effort to clarify these requirements and reporting timeframes to promote increased employer compliance. As part of this rulemaking effort, the Division also revised two forms - the DWC Form-05 (Employer Notice of No Coverage or Termination of Coverage) and DWC Form-07 (Employer’s Report of Non-Covered Employee’s Occupational Injury or Disease).</p> <p>A copy of the rules that were adopted on July 13, 2012 can be found here: http://www.tdi.texas.gov/wc/rules/adopted/documents/aonsr0712.pdf.</p> <p>A copy of the new DWC Form-05 and DWC Form-07 forms can be found here: http://www.tdi.texas.gov/forms/form20numeric.html.</p> <p>Implementation Contact: Amy Lee, Special Deputy Commissioner for Policy and Research (512) 804-4410 and Blanca Guardiola, Program Specialist (512) 804-4716</p>			
Summary for All Entities Reviewed					
Number of Management Actions	Fully Implemented	Substantially Implemented	Incomplete/Ongoing	Not Implemented	Total
	18	2	5	0	25