

The logo for the Texas Sunset Advisory Commission is a semi-circular emblem. It features a dark, textured interior with the words "Texas", "Sunset", "Advisory", and "Commission" stacked vertically in a bold, white, sans-serif font. The emblem is framed by a white border and sits atop a thick, dark horizontal bar.

**Texas  
Sunset  
Advisory  
Commission**

**STAFF EVALUATION**

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***Texas Conservation Foundation***

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**A Staff Report  
to the  
Sunset Advisory Commission**

**1984**

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## SUMMARY

The Texas Conservation Foundation was established in 1969 and is currently active. It is responsible for providing financial support for state parks, natural resource conservation areas and historical areas through its status as a state agency operating as a charitable, non-profit foundation. In order to accomplish its mandate, the foundation's primary responsibilities are to solicit donations of cash and property and to serve as an intermediary for negotiating the transfer of real estate from citizens to the state. Cash and property received by the foundation primarily benefit land managing agencies such as the Parks and Wildlife Department.

The need for the foundation was analyzed and the review indicated that while the functions performed by the foundation are important, they cannot be effectively carried out by a state agency. Therefore, the Texas Conservation Foundation should not be continued. The recommendation to discontinue the agency appears below, along with two alternatives which address maintaining the agency with several improvements and transferring foundation functions to another agency.

### Approaches for Sunset Commission Consideration

#### **I. ABOLISH THE AGENCY**

##### **A. The Texas Conservation Foundation should be abolished.**

The foundation has not been successful in performing its main responsibilities of fund raising and intermediating real estate transactions. Because the foundation is a state agency and is subject to restrictions placed on governmental operations, the foundation has been unable to effectively perform its mandate, and should therefore be abolished.

#### **II. ALTERNATIVES**

##### **A. Continue the foundation with modifications.**

##### **1. The statute should require the selection of advisory committee members to assist the board.**

An advisory committee could provide needed fund raising and technical assistance for the foundation's small staff and board. Authority for the governor to appoint an advisory committee has existed since 1979, but it is not mandatory. Although the board has requested that the committee be appointed, it has not occurred. The statute should be

amended to make the appointment of an advisory committee mandatory.

2. **The agency statute should be amended to expand the current exemption to the Open Records Act to better maintain donor confidentiality.**

Information on donations made to the foundation is currently maintained in files open to the public, in accordance with the Open Records Act. Donations could be discouraged by this practice because many donors would not want their contribution made public. In order to maintain confidentiality, the agency's statute should be amended to permit the foundation to close files to the public concerning donations made to the foundation upon request of the donor.

3. **The statute should be amended to remove restrictions on operation, maintenance and development of land holdings.**

A restrictive clause in the agency's statute prohibits the expenditure of state funds to operate, maintain and develop land acquired through the foundation unless specifically authorized by the legislature. Because there is no guarantee the legislature will authorize the funds to be expended, donations may be discouraged and the agency could end up holding property indefinitely instead of transferring it to another land managing agency. Removal of this clause would allow the agency to become more active in real estate transactions.

4. **The foundation should improve coordination with agencies it benefits.** (management improvement/non-statutory)

Problems can occur in negotiating real estate transactions when several parties are interested in the same piece of land. In order to avoid competition with other parties and duplication of efforts, the foundation should specify its role when working with another agency prior to taking action on the property.

- B. **Abolish the Texas Conservation Foundation and transfer its functions to the Parks and Wildlife Department.**

Both the Texas Conservation Foundation and the Parks and Wildlife Department are authorized to receive donations of cash and property. Although these functions are similar, the Parks and Wildlife Department (P&WD) has substantially less flexibility in performing these

functions. By increasing the authority of P&WD to perform current foundation functions, benefits such as cost savings, improved coordination and expansion of operations could result. However, if the functions were transferred, the authority of the Parks and Wildlife Department to become involved in real estate would be expanded further than the legislature originally intended.



## AGENCY EVALUATION

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The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
  2. Does the agency operate efficiently?
  3. Has the agency been effective in meeting its statutory requirements?
  4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
  5. Is the agency carrying out only those programs authorized by the legislature?
  6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?
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## BACKGROUND

### Organization and Objectives

The Texas Conservation Foundation was created in 1969 and is currently active. The foundation is governed by a six-member board composed of three public members and three ex-officio members - the director of the Texas Parks and Wildlife Department, the Texas Land Commissioner and the director of the Texas Historical Commission. Appointment of the three public members is divided among the governor, the lieutenant governor and the speaker of the house. Public members serve at the pleasure of the appointing official, or for staggered six-year terms. The governor has the responsibility for selecting the board chairman from the existing board membership. Operations of the foundation are conducted from an Austin office by a staff of two, the executive director and administrative technician, with an appropriation from general revenue of \$97,962 in fiscal year 1984.

The Conservation Foundation was created in 1969 to address concerns about diminishing financial resources for park land and the loss of available natural resource areas caused by increasing land development in Texas. It is patterned after a non-profit park foundation benefiting the National Park System. The foundation was designed to provide a means by which individuals interested in supporting parks and preserving natural resources and historic sites could make tax deductible cash and property gifts to the state through a charitable, non-profit foundation.

Originally, the foundation board was composed of twelve members, including nine citizen appointments made by the governor. Foundation activities were sporadic for nearly ten years because it received no public funds, had no staff and had difficulty getting a quorum for meetings. In 1979, the 66th Legislature reorganized the foundation by reducing the board from twelve to six members, including three ex-officio and three public members, and divided the three citizen appointments among the governor, lieutenant governor and house speaker. A provision was added to the statute enabling the governor to appoint an advisory committee to assist the board in fund raising. In 1980, the foundation received its first state appropriation from Park Fund 64 and the two-member staff was hired.

While current statutory responsibilities of the agency are varied and include such mandates as collecting data and compiling an inventory of natural areas

around the state, the agency's primary objective can be divided into two functions - fund raising and negotiating real property transactions for the benefit of state park, historical and natural resource conservation purposes.

The establishment of land conservation entities which perform responsibilities similar to those of the Texas Conservation Foundation is a fairly new but increasingly popular idea among other states also facing limited budgets for natural resource conservation activities. Texas is unique among other states because these responsibilities are carried out through a state agency established as a charitable, non-profit foundation. The majority of other states perform these functions through a private corporation established outside of state government that works directly with the state's park and recreation agency.

## REVIEW OF OPERATIONS

### Evaluation of Programs

As previously mentioned, the Texas Conservation Foundation performs two primary activities, fund raising and negotiating real property transactions. A description of these activities follows, along with major findings and recommendations identified during the review.

#### Fund Raising

The foundation raises funds and accepts tax deductible donations of money and property to be used to benefit state parks, natural resource conservation areas and historic sites. This is accomplished by the foundation's executive director and board members through contact with prospective corporate and individual donors. Once money or property is donated to the foundation, the primary recipients of such gifts are the Parks and Wildlife Department, General Land Office, Texas Historical Commission, and local park groups. Since 1980, the foundation has received contributions of cash and property valued at around \$790,000. While some donations may be used for purposes chosen by the foundation, other donations have been earmarked for special projects. For example, donations have been dedicated to the acquisition of Bellaire Park near Houston, the restoration of the state capital's fire-damaged Senate wing, and litter clean-up projects at various state lakes. A recent donation of a computer system, valued at over \$300,000, capable of producing topographical maps represents the largest property donation made to the foundation.

#### Intermediary for Real Property Transfers

The foundation negotiates transfers of real estate from individuals and corporations to the state. Current statutory authority allows the foundation to accept land donations, purchase property, exchange unsuitable land holdings for more useful land, and act as trustee for donations until they can be transferred to other land managing bodies. Examples of recent foundation real property transactions include transfer of the ten acre Steadman-Adair archeological site to the Texas Historical Commission and acquisition of land holdings in Bell and Chambers counties for eventual sale.

By designating an intermediary agent to perform both fund raising and negotiation of real estate transactions, a useful device is created for addressing statewide conservation needs. Fund raising functions involve seeking out

interested donors and offering tax deductions on contributions as an incentive to attract donors to support state conservation efforts.

The function of acting as a real estate negotiator benefits land managing agencies such as the Parks and Wildlife Department (P&WD) in several ways. Property that P&WD would like to obtain often becomes available at a time when funds are lacking and the intermediary has the capability of negotiating and moving quickly on such acquisitions. Property can then be held by the non-profit organization until P&WD can accept possession of it. This flexibility to accept donations, make purchases and trade lands provides several options for negotiating land transactions. Another benefit that can be provided by such an organization is its ability to accept donations of property unsuitable for park development and to sell it, with the money going to P&WD.

The Texas Conservation Foundation has not effectively performed its functions and has, therefore, not proven to be a useful method for conservation efforts. Because of its establishment as a state agency, it is subject to the same administrative procedures that hamper the ability of other land managing agencies in dealing with fund raising and real estate transactions. The review of foundation activities dealt with two issues: the need for a state agency to perform fund raising and real property negotiations and the agency's effectiveness in performing these activities. The review resulted in the recommendation set out below.

**The Texas Conservation Foundation  
should be abolished.**

The Texas Conservation Foundation was initially established to address concerns about the lack of funding for park and natural resource areas and the apparent need for an agency to accept gifts of money or property for conservation purposes.

There is little question about the need for more money to finance acquisition of park and natural resource areas in the state. Of all 50 states, Texas ranks third in population, but ranks 41st in park acreage per capita. Soaring land prices and rapidly increasing population projections for the state will most likely cause this situation to worsen in the years ahead. It was hoped that the agency would also be a means by which landowners could donate money or fragile property to the state for conservation purposes, since P&WD was, at the time, using cash and property donations primarily for recreational purposes. While the two functions the foundation was established to perform are designed to address these concerns, the

agency has had little success in either raising funds or in acting as an intermediary for property transfers.

In its role as fund raiser, the foundation has not been successful. Since its reorganization in 1980, the foundation has taken in over \$468,000 in cash contributions and property contributions valued at around \$320,000. At the same time, the foundation has received yearly state appropriations of over \$100,000 since 1980 for administration of its duties. While some of this appropriation has been turned back to the legislature every year, the foundation has been appropriated a total of about \$600,000 which has been used to bring in \$790,000 in cash and property contributions.

Of the cash donated, less than \$1,000 has gone to the foundation's primary beneficiary, the Parks and Wildlife Department. Projects such as lakeshore clean-up, senate wing restoration and local park acquisitions have used most of the money contributed. Property donations since 1980 include lots in Bell and Chambers counties which the agency hopes to sell and a computer topographical mapping system. No donated property has ever been transferred to P&WD.

In order to improve the foundation's track record in fund raising, a rider was placed in the agency's appropriation pattern directing the Texas Conservation Foundation (TCF) to raise \$1 million in contributions by the end of the 1984-1985 biennium. This is now the agency's goal.

In its role as an intermediary for the transfer of real estate to the state, the foundation has made only limited use of its authority. Since 1980, the foundation has not made a direct property purchase and has not traded any land holding for more useful property. TCF recently transferred one archeological site acquired prior to 1980 to the Texas Historical Commission and has four current land holdings valued at over \$65,000, two of which were acquired since 1980. The General Land Office, which was intended to be another beneficiary, has not received any property holdings as a result of TCF real estate transactions, but has received some financial benefit from minerals attached to the archeological site. P&WD has not received any land or money from the sale of lands transacted by the foundation.

There are two reasons for the foundation's lack of success in performing the activities for which it was established. First, the foundation's beginnings as a state agency were plagued with lack of support by the existing governor and by publicly expressed skepticism about the agency by the first TCF board chairman. This lack

of support by the board chairman contributed to the agency's inactivity for many years. This situation appears to be in the process of improving due to the new and enthusiastic leadership of the current board chairman who assumed duty in December, 1983. Also, the governor has never appointed the advisory committee which was supposed to assist the foundation in fund raising. This responsibility has been left up to the foundation's small board and director. Of the six board members, three are ex-officio heads of other state agencies who have major responsibilities unrelated to foundation activities.

The second major problem contributing to the foundation's ineffectiveness appears to lie in its status as a state agency. Performing fund raising and real property negotiations as a state agency seems to have hindered operations more than helped. First, a state agency is subject to several restrictions when handling funds and real estate. For example, investment ability is limited because foundation funds must be placed in the state treasury since they are state funds. Quick action on bargain land deals is important in real estate acquisitions, but this process can be slowed down by weeks pending TCF board approval and the necessity to go through state purchasing procedures. Lack of access to cash due to the need to go through state appropriation processes to get funds may also hinder the foundation's ability to make necessary land purchases.

Finally, donors may be reluctant to work with a state-administered foundation in negotiating a donation because the foundation is considered a public body. Since some individuals and corporations would not want the source of the contribution made known, they may be hesitant to deal with a public foundation. This reluctance could result in the loss of some donations to the foundation.

Restrictions in the agency's enabling legislation may also interfere with its ability to receive donations or make real estate transactions. For example, a clause in the agency's statute requires specific legislative authorization for any state agency to expend funds to operate, maintain and develop property acquired by the foundation. This tends to discourage donations and use of TCF as a real property intermediary because there is no guarantee the legislature will approve operational funds for land passing through the foundation.

The foundation cannot easily do other things that are routinely done by private organizations when soliciting contributions. It cannot entertain prospective donors or even buy them a meal. Such techniques are common to successful fund

raising efforts in the private sector, but are considered questionable practices by a state agency expending state funds.

Because of the constraints placed on the foundation due to its status as a state agency, the Texas Conservation Foundation should be abolished. The foundation cannot effectively perform its functions given the current limitations.

Although the foundation cannot function effectively as a state agency, the need for the foundation's functions still exists. These functions can be best provided in the private sector by a charitable foundation having more flexibility to carry out real estate transactions and aggressively recruit donations. Advantages of performing such functions in the private sector include: quicker land acquisition procedures for good deals that arise; confidentiality for contributions made; ability to aggressively recruit donors by offering entertainment and recognition incentives; and greater cash investment ability.

Such a private sector foundation could be established through the Secretary of State's Office under articles of incorporation as a private, non-profit corporation. In order to continue to attract tax deductible donations, non-profit corporation status could also be obtained from the Internal Revenue Service. The foundation could continue to be operated by a board of directors, along with an appointed advisory committee, with policies established by the board in a set of administrative by-laws. Finally, funding for such a private sector corporation would need to come from an initial endowment made to the program to cover operating expenses or interest earned from a sizeable donation made to the foundation.

There are many examples of successful private conservation groups in Texas, as well as around the country. Groups such as the Texas chapter of the Nature Conservancy, the Trust for Public Land, the Texas Historical Foundation, and many small conservation groups, all provide private support for conservation efforts in the state. Most of these groups would agree that there is room for more organizations to perform the same function because of the size of the job to be done. Nationally, the California State Park Foundation serves as somewhat of a model for the establishment of new private support foundations designed to directly benefit state parks, historical sites and natural area land acquisition efforts. This foundation is operated by a board of directors and a set of procedural by-laws which outline foundation policies. Since it began 15 years ago, over \$55 million in cash and property donations have been raised. Such foundations have

sprung up in over one fifth of the states and many are patterned after the California example.

In the event that the Texas Conservation Foundation is abolished and no private foundation is created, certain aspects of the functions TCF was established to perform would continue to occur. Recently, the Texas Historical Commission has become more active in the acquisition of historic and archeological sites for preservation purposes. Natural, scientific, and wildlife conservation area acquisitions are performed by the Nature Conservancy, Parks and Wildlife Department, and on a limited basis by the Trust for Public Lands. The General Land Office (GLO) is involved in trades of some of its lands for wetlands and is required by the legislature to focus on wetlands in environmentally sensitive areas. The GLO, in cooperation with the Nature Conservancy, is also performing an extensive inventory of natural resources and endangered species in the state to identify priority preservation areas. Additionally, numerous environmental groups in the state exist to promote natural resource conservation activities and are attempting to heighten public awareness of the need to conserve state resources before they disappear.

## EVALUATION OF OTHER SUNSET CRITERIA

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The review of the agency's efforts to comply with overall state policies concerning the manner in which the public is able to participate in the decisions of the agency and whether the agency is fair and impartial in dealing with its employees and the general public is based on criteria contained in the Sunset Act.

The analysis made under these criteria is intended to give answers to the following questions:

1. Does the agency have and use reasonable procedures to inform the public of its activities?
  2. Has the agency complied with applicable requirements of both state and federal law concerning equal employment and the rights and privacy of individuals?
  3. Has the agency and its officers complied with the regulations regarding conflict of interest?
  4. Has the agency complied with the provisions of the Open Meetings and Open Records Act?
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## EVALUATION OF OTHER SUNSET CRITERIA

This section covers the evaluation of the agency's efforts in applying those general practices that have been developed to comply with the general state policies which ensure: 1) the awareness and understanding necessary to have effective participation by all persons affected by the activities of the agency; and 2) that agency personnel are fair and impartial in their dealings with persons affected by the agency and that the agency deals with its employees in a fair and impartial manner.

### Open Meetings/Open Records

The review of the agency's compliance with the Open Meetings Act indicated the Texas Conservation Foundation has generally filed notices of meetings with a specified agenda in a timely manner. Notices are also sent to legislative oversight entities having an interest in foundation activities. Executive sessions held by the board appear to be properly announced and are used to discuss permissible topics such as real estate transactions.

Almost all of the information maintained by the agency is open to the public, including records on natural resources occurring on privately owned property which cannot be made private unless the property owner gives written consent. Since this information can be made confidential through a provision in the agency's statute, it is properly exempted from disclosure under the Open Records Act.

### EEOC/Privacy

An evaluation was conducted to determine the extent to which the agency has complied with applicable provisions of state and federal statutes relating to equality of employment opportunity and the rights and privacy of individual employees. While the foundation does not currently have an affirmative action plan, such a plan would provide little benefit to an agency with only one classified employee. Assistance from the Texas Parks and Wildlife Department's recruitment officer was used to ensure that fair recruitment procedures were followed to recruit the one employee that has been hired by the foundation's executive director. There have not been any charges of discrimination or unfair practices filed against the agency with the Equal Employment Opportunity Commission. The results of the review indicated the agency performs adequately in this area.

### **Public Participation**

While agency board meetings do not generally address topics that necessitate public input, all agency meetings are open to the public and are periodically held in cities outside of Austin. Minutes of meetings are made available to the public through the Legislative Reference Library and the agency office. Public participation in the agency's rule-making process is not actively sought because the agency's only rules pertain to board procedures. The review indicated that while the foundation provides the public with appropriate access to general information about the agency's activities, public awareness of the agency's functions is low.

One problem the foundation faces regarding public participation is the lack of agency visibility. Limited funds and staff hinder the foundation's ability to let potential donors know the foundation exists and to explain what its goals are. While printed brochures available upon request and occasional press releases are the primary means used to promote the agency, it is expected that awareness will remain low given current restraints.

### **Conflict of Interest**

The review indicated that the foundation needs to establish procedures for making board members and employees aware of their responsibilities under conflict-of-interest statutes. Currently, board members and employees do not receive a written copy of the statute on standards of conduct of state officers and are not requested to provide a signature indicating they have read the law. Additionally, board members of "non-major state agencies" are required to file an affidavit with the secretary of state if they have a substantial interest in business regulated by a state agency or that does business with a state agency (Art. 6252-9b, Sec. 5, V.A.C.S.). While board members had not yet been notified of this requirement, the agency indicated board members would soon be supplied a new copy of the form to determine if there is a need to file one.

## ALTERNATIVES

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The analysis of whether there are practical alternatives to either the functions or the organizational structure are based on criteria contained in the Sunset Act.

The analysis of alternatives is directed toward the answers to the following questions:

1. Are there other suitable ways to perform the functions which are less restrictive or which can deliver the same type of service?
  2. Are there other practical organizational approaches available through consolidation or reorganization?
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## ALTERNATIVES

As part of the review of this agency, the functions performed by the agency were evaluated to determine if alternative practices are available. State agencies with functions similar to those performed by this agency were reviewed to determine if they had developed alternative practices which offered substantial benefits and which could be implemented in a practical fashion. It was concluded that practical alternatives do exist, and they are discussed below.

**A. The Texas Conservation Foundation could be maintained with modifications.**

This approach would maintain the foundation as a state agency. The review indicated that maintenance of the foundation as a state-administered body would require the following changes in the agency's statute to improve operations:

- 1. The statute should require the selection of advisory committee members to assist the board.**

Authorization for an appointed advisory committee to serve alongside the foundation's six-member board is provided in Section 181.014 of the Natural Resources Code. While authorization for the governor to appoint such a committee has existed since 1979, the establishment of the committee is not mandatory. Although the board has requested the governor to make the necessary appointments, no appointments had been made at the time of the review. Because the foundation board is limited in size and is composed of three different agency heads having limited time to perform fund raising activities, an advisory committee could effectively enlist fund raising and technical support for the foundation. In order to ensure timely appointments of advisory committee members to support the board, the agency's statute should be amended to make the appointment of the advisory committee mandatory.

- 2. The agency statute should be amended to expand the current exemption to the Open Records Act to better maintain confidentiality of donations.**

The Open Records Act requires that state agency records be maintained in files open to the public unless information falls under certain categories of exemption. Nearly all of the agency's files are currently maintained as open records. Because one of the agency's major functions is to select and receive contributions of cash or property, the agency maintains files containing informa-

tion relating to the amount and value of a gift as well as the nature of the property given. Because files kept on donations could hinder the agency's ability to attract donors who don't want their contributions made public, the agency should not be required to disclose such information. To maintain the necessary confidentiality, the agency's statute should be amended to make the files on donations made to the foundation confidential upon request of the donor.

**3. The statute should be amended to remove restrictions on operation, maintenance and development of foundation land holdings.**

Land acquisitions made by the foundation through gifts, purchases and exchanges, have remained at fairly low levels over the years due, in part, to a restrictive clause in the agency's statute. Section 181.012-d of the code specifies that no state funds for property maintenance, operations or development shall be spent by any state agency unless specifically authorized by the legislature. As a result, state agencies who receive property by way of a transfer from the foundation are unable to spend funds to maintain the property without specific authorization from the legislature.

Two problems relating to foundation involvement in real estate transactions can occur because of this limitation. First, the foundation could be left holding property that was acquired for a particular state agency if operation expenditures for that property were rejected by the legislature. Second, sale or donation of land to the foundation by citizens is discouraged because the foundation cannot assure anyone that the property will be operated and maintained. The result of these potential problems is that primary beneficiaries of TCF property holdings, such as P&WD, are reluctant to encourage the foundation to acquire park and wildlife property because there is no assurance the legislature will authorize P&WD to expend funds to develop and use the property.

Decisions on expenditure of funds to operate and develop property acquired by TCF would be more appropriately made by the benefiting agency, such as P&WD, acting in knowledge of their budget and staff resources. This would reduce the possibility that some needed properties would not be acquired when available and would put the procedure in line with the P&WD Commission's current practice of making decisions on property gifts that come directly to P&WD. Therefore, the agency's statute should be changed to delete the restriction requiring legislative approval of operation and maintenance expenses found in 181.012-d of the code.

**4. The foundation should improve coordination with agencies it benefits.**

Three state agencies are the primary beneficiaries of cash and real property acquisitions made by the foundation: the Texas Historical Commission; P&WD; and the General Land Office. Knowledge of real property being considered for sale or donation may come from a variety of sources, including any of the three state agencies, the foundation itself, and private sector foundations. Problems can occasionally occur when two or more entities interested in the same piece of property initiate action on it, resulting in competition for certain land holdings. This competition can inflate the cost of the property if it is to be purchased, or it can discourage the donation if the property is a potential gift to charitable organizations or to the state.

Since the foundation serves as an intermediary for real estate transfers from individuals to the state, it is important for the foundation to coordinate actions with all parties involved. While this requirement is somewhat complicated by the private nature of real estate transactions, it is nonetheless necessary for the foundation to work out a procedure for the transaction with the agency involved specifying the foundation's role. This procedure may be in the form of a written agreement outlining the foundation's involvement in the real estate transaction and could be reviewed with the agency involved prior to any action taken by the foundation.

**B. The foundation could be abolished and the responsibilities transferred to Parks and Wildlife Department.**

Because of the similarity of certain functions performed by the foundation and the Parks and Wildlife Department, the review of TCF operations included the appropriateness of transferring the foundation's responsibilities to P&WD. The goal of the land acquisition program within the P&WD parks division is to acquire property to be used for future parks. As a result, P&WD is frequently involved in real property purchases.

The Conservation Foundation clearly has more authority than does the Parks and Wildlife Department for involvement in real estate transactions as an intermediary, trustee and fund raiser. Transferring the foundation's functions would provide the Parks and Wildlife Department increased authority to accept donations of unsuitable park land for eventual sale, hold endowments, trade property with fewer restrictions, and sell any property acquired.

A transfer of TCF functions to P&WD has both benefits and drawbacks. Benefits that could result from the consolidation include: potential cost savings from eliminating the need to maintain TCF as a separate non-profit foundation; improved coordination of efforts with P&WD staff; and the opportunity to expand existing foundation functions due to increased staff and support services available at P&WD headquarters.

A drawback to this transfer would be the loss of the foundation's separate identity as an intermediary agency capable of coordinating real property acquisitions with other land managing agencies such as GLO and the Texas Historical Commission. Another disadvantage is that the increased authority given to the Parks and Wildlife Department would cause the agency to act as a real estate broker. This role goes beyond the point with which the legislature or agency itself would be comfortable.

**ACROSS-THE-BOARD RECOMMENDATIONS**

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From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

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TEXAS CONSERVATION FOUNDATION

To be Applied if Agency is Maintained

Applied	Modified	Not Applied	Across-the-Board Recommendations
<b>A. GENERAL</b>			
*			1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
		X	7. Require the board to establish skill-oriented career ladders.
		X	8. Require a system of merit pay based on documented employee performance.
X			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
X			10. Provide for notification and information to the public concerning board activities.
X			11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
X			12. Require files to be maintained on complaints.
X			13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		X	14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.

Texas Conservation Foundation  
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>B. LICENSING</b>
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
			5. (a) Provide for licensing by endorsement rather than reciprocity.
			(b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

\*Already in statute or required.