



# SUNSET ADVISORY COMMISSION

Court Reporters  
Certification Board



Staff Report  
May 2002

**COURT REPORTERS CERTIFICATION BOARD**

**SUNSET STAFF REPORT**

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# SUMMARY



## Sunset Staff Report

# Court Reporters Certification Board

## Summary

The Court Reporters Certification Board is a small agency with a specialized mission: ensuring the qualifications of individuals who work to preserve the records of court proceedings. The Board is in the Judicial branch of government, under oversight of both the Supreme Court and the Legislature. Because the agency's staff is small – three employees – the Board performs many of the agency's administrative functions, such as writing, administering, and grading exams. The Board does not perform the traditional state board function of rulemaking, however, as this authority is vested in the Supreme Court.

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*The Board should continue ensuring the qualifications of those who preserve the records of court proceedings.*

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The Sunset review of the Court Reporters Certification Board focused on the Board's administrative functions and analyzed whether the current structure should continue. Although the small size of the agency presents definite workload difficulties, the review noted that, over the years, a variety of alternatives have been tried and that no better organizational alternatives currently exist. The review then examined the Board's operations and found ways that these could be streamlined while improving the services and information provided to the public.

A summary of the recommendations in this report is provided in the following material.

## Issues / Recommendations

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### **Issue 1 Texas Has a Continuing Need for the Court Reporters Certification Board.**

#### **Key Recommendation**

- Continue the Court Reporters Certification Board for 12 years.

*For more information, contact Steve Hopson, (512) 463-1300. Sunset staff reports are available online at [www.sunset.state.tx.us](http://www.sunset.state.tx.us).*

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**Issue 2 Key Elements of the Board's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.****Key Recommendations**

- Require the Board to apply the Occupations Code guidelines to define which felony and misdemeanor convictions disqualify an applicant from certification.
- Require the Board to adopt a Court Reporter's Code of Ethics.
- Remove the requirement that complainants file notarized complaint forms.
- Authorize the Board to adopt a policy allowing staff to dismiss baseless cases without Board approval.
- Authorize staff to conduct preliminary investigations of complaints.
- Authorize the Board to levy administrative penalties, and adopt an administrative penalty matrix in agency procedures or rules.

**Fiscal Implication Summary** \_\_\_\_\_

The recommendation in this report would not have a fiscal impact to the Court Reporters Certification Board.

## **ISSUES / RECOMMENDATIONS**

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# Issue 1

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## Texas Has a Continuing Need for the Court Reporters Certification Board.

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### Summary

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#### Key Recommendation

- Continue the Court Reporters Certification Board for 12 years.

#### Key Findings

- Texas has a continuing need for regulating the court reporting industry to ensure high standards for court transcripts and protect the public.
- No significant benefit would result from transferring the Board's functions to another agency.
- While organizational structures vary, many states use a state agency to regulate the court reporting industry.

#### Conclusion

The Sunset review evaluated the continuing need for an independent agency to regulate the court reporting industry and enforce Texas' court reporting laws. The review assessed whether the Board's functions could be successfully transferred to another agency and looked at how other states perform this function. Sunset staff concluded that the Court Reporters Certification Board performs an important mission, that regulation of the court reporting industry is needed to ensure that only qualified individuals and firms operate in Texas, and that transferring the functions of the Board to another state agency would not result in significant cost savings.

## Support

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### **The Board certifies court reporters and registers court reporting firms.**

- The Board seeks to ensure that only qualified individuals and firms engage in court reporting by performing two functions: certification and registration, and enforcement. The agency operates on a budget of \$157,000 per year, and has a staff of three full-time equivalent employees – an Executive Director, a director of administration, and an administrative assistant.
- The Board is a working board and performs many functions typically done by agency staff in larger agencies. For example, Board members themselves prepare, administer, and grade exams. The Board also approves curriculum of court reporting schools in Texas.

While the Board sets fees paid by court reporters and firms and determines whether disciplinary action should be taken against a licensee, the Board does not have rulemaking authority. The Board serves in an advisory capacity to the Supreme Court, which adopts rules governing the court reporting industry.

- The agency's functions were carried out by the Office of Court Administration (OCA) until 1985. The OCA runs several programs, gathers statistics, and oversees administrative functions for the courts. The Legislature created the Board as an independent state agency in 1985, as the Board's size and responsibilities had increased over the years. Currently, the OCA assists the agency with payroll-related reporting, information technology, purchasing, and reporting on use of Historically Underutilized Businesses.

### **Texas has a continuing need for regulating the court reporting industry to ensure high standards for court transcripts and protect the public.**

- Court reporters are responsible for ensuring the quality of the record in court proceedings. Because of the potential harm that may result from poor quality transcripts, court reporters serve as officers of the court and must abide by the rules of the Supreme Court. In addition, incorrect or incomplete records may cause rulings to be over-turned or cases to be re-tried. For example, a major issue in the current appeal of high-profile Darlie Routier murder conviction is the defendant's claims of inaccuracies in the transcript.<sup>1</sup>
- Because court reporters must accurately record detailed court proceedings, the Board conducts written and oral exams on applicants for certification. The average pass rate for the oral exam is only 29 percent, suggesting that the exam effectively screens out unqualified applicants.

- The Board's enforcement actions are needed to protect the public and to deter violations. The Board accepts written complaints from the public and licensees about court reporters, and takes disciplinary actions including requiring continuing education, reprimands, suspensions, or revocations of certification. These disciplinary actions are taken against court reporters on allegations of fraudulent or dishonest behavior, unprofessional conduct, and failure to perform duties. In addition, the Board has authority to seek injunctions against persons who are practicing court reporting without certification.

**No significant benefit would result from transferring the Board's functions to another agency.**

- Sunset staff considered whether other state agencies would be appropriate to perform the functions of the Board. While the Texas Department of Licensing and Regulation (TDLR) provides a variety of similar licenses, including the licensing of court interpreters, TDLR is an executive branch agency – not a judicial branch agency as is the Board. Since court reporter certification is a judicial branch function and TDLR is an executive branch agency, transferring this function to TDLR may present an inappropriate exception to the Constitution's separation of powers clause. In addition, no current licensing function of TDLR requires the agency to defer to the Supreme Court for rulemakings as would licensing of court reporters. This provision would most likely result in a difficult arrangement for the agency.
- The Office of Court Administration is a judicial branch agency that performs a variety of administrative functions for the courts. However, OCA does not have any regulatory or licensing programs for individuals and firms and does not have a developed complaint and enforcement process. The agency would need to develop expertise in these areas and would most likely use a similar structure that currently exists at the Board. As such, the transfer of these functions and structure to OCA would not result in significant cost savings or efficiency gains. Also, the OCA and the Board have an ongoing relationship: OCA currently provides some administrative support, and has provided varying degrees in the past. The review found this current level of interaction to be reasonable.
- The State Commission on Judicial Conduct, also a judicial branch agency, takes enforcement actions in cases of judicial misconduct of judges and judicial officers. While the Commission does act in response to complaints as the Board does, the Commission does not have a structure in place to license individuals and firms. Because the Commission would have to create this licensing structure, the transfer of functions from the Board would likely not result in significant savings.

**While organizational structures vary, many states regulate the court reporting industry.**

- Twenty-nine states certify court reporters through either voluntary or mandatory programs. The chart, *Court Reporter Regulation in Other States*, displays the number of states which certify court reporters.<sup>2</sup> In most states, court reporter certification is carried out by an agency which has a variety of functions, such as a court administration office, and in only nine states is the function housed in an independent agency. For example, California, the state with the highest number of court reporters, certifies court reporters through its Department of Consumer Affairs.

<b>Court Reporter Regulation in Other States</b>		
<b>Status</b>	<b>Number of States</b>	<b>Examples</b>
Mandatory Certification	23	Texas, New Jersey, California
Voluntary Certification	6	Indiana, Alabama, New York

## Recommendation

### Change in Statute

#### 1.1 Continue the Court Reporters Certification Board for 12 years.

### Impact

This recommendation would continue the Court Reporters Certification Board as an independent agency responsible for certifying court reporters and registering court reporting firms.

### Fiscal Implication

If the Legislature continues the current functions of the Board, using the existing organizational structure, the Board's current appropriation of \$159,169 would continue to be required to maintain the operation of the agency.

<sup>1</sup> Holly Becca, "Court hears Routier's appeal," *Dallas Morning News* (March 28, 2002), P. 29-a.

<sup>2</sup> National Court Reporters Association State Survey, 2001.

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## Issue 2

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### **Key Elements of the Board's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.**

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## Summary

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### **Key Recommendations**

- Require the Board to apply the Occupations Code guidelines to define which felony and misdemeanor convictions disqualify an applicant from certification.
- Require the Board to adopt a Court Reporter's Code of Ethics.
- Remove the requirement that complainants file notarized complaint forms.
- Authorize the Board to adopt a policy allowing staff to dismiss baseless cases without Board approval.
- Authorize staff to conduct preliminary investigations of complaints.
- Authorize the Board to levy administrative penalties, and adopt an administrative penalty matrix in agency procedures or rules.

### **Key Findings**

- Licensing provisions of the Board's statute do not follow model licensing practices and could negatively affect the fair treatment of licensees and consumer protection.
- Nonstandard enforcement provisions of the Board's statute could reduce the agency's effectiveness in protecting the consumer.
- A nonstandard administrative practice could reduce the Board's protection of the public and licensees.

### **Conclusion**

Various licensing and enforcement processes set up in the agency's statute do not match model licensing standards that Sunset staff have developed from experience gained through more than 70 occupational licensing reviews in 25 years. The Sunset review identified these recommendations by comparing the Board's programs and statutes against these licensing standards to identify unwarranted variations and to recommend changes to bring them in line with the model standards.

Some of the agency's enforcement activities, such as Board members participating in all elements of the complaint process from preliminary review to sanctioning a licensee, introduce too much possibility for bias. Unclear guidelines such as lack of definition of ethical professional practices or the inability to levy fines, reduce the Board's enforcement effectiveness and flexibility.

## Support

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### **The Board certifies court reporters to ensure the accuracy of transcripts of Texas court proceedings.**

- The Board certifies to the Supreme Court of Texas that 2,950 court reporters are qualified to meet the recordkeeping needs of court officials and legal professionals. Qualified court reporters are those individuals who have attended training schools and passed Board-created tests.
- The Board oversees the activities of the duly certified court reporters, and is responsible for all elements of the complaint process such as conducting preliminary reviews, investigations, hearings, and sanctioning licensees. The Board's staff conducts most of the administrative licensing functions, such as state agency business, processing new applications, and renewing certificates.

### **The Sunset Commission's experience from reviewing more than 70 occupational licensing programs during the last 25 years has been documented for application to future reviews.**

- The rapid increase and questionable practices of some occupational licensing programs were the main impetus behind creation of the Sunset Advisory Commission. Currently, about 65 professional or occupational licensing functions exist in Texas as free-standing agencies, member agencies, or programs under an umbrella agency such as the Texas Department of Licensing and Regulation. Forty-five licensing programs have undergone Sunset review since the Commission's creation in 1977, and 24 of these programs have been reviewed more than once, resulting in more than 70 evaluations of licensing functions.
- Over time, the Sunset Commission has adopted eight "across-the-board" provisions for application to licensing agencies undergoing Sunset review. For example, two of these standards require licensing agencies to adopt a system of continuing education for licensees and give these agencies a full range of administrative sanctions ranging from reprimands to license revocation. Application of such standards helps to ensure the consistent use of key licensing and enforcement features across licensing programs.
- The Sunset staff has documented lessons learned in reviewing licensing programs to guide reviews of occupational licensing agencies. These standards are not intended for blanket application to all licensing agencies, but provide a model for evaluating a licensing program's structure. The following material highlights areas where the Board's statutes differ from these model standards, and describes the potential benefits of bringing the statute into conformity with standard practices.

*Conforming the Board's statute with model practices could benefit the Board.*

**Licensing provisions of the Board’s statute do not follow model licensing practices and could negatively affect the fair treatment of licensees and consumer protection.**

- **Criminal Convictions.** State law provides a general standard to guide licensing agencies in determining which crimes should affect licensure in a given profession. This law, Chapter 53 of the Occupations Code, “Consequences of Criminal Conviction,” takes effect when individual licensing statutes are silent on the relationship of crime to licensure. Basically, it provides that a criminal conviction affects qualifications for licensure when the crime is related to the profession, according to guidelines developed by the agency and published in the Texas Register. Following these guidelines, an agency may disqualify a person from receiving a license or deny the opportunity to take a licensing exam because of specific criminal activity.

*Defining the crimes which disqualify applicants from certification could save the applicants much time and expense.*

Neither the Board’s statute nor rules define the crimes most applicable to court reporting. The rules simply state that the Board shall determine if a criminal offense disqualifies an applicant from being certified as a court reporter based only on moral turpitude, fraud, or corruption. The Board determines these crimes on a case by case basis, although it has generally held that a felony conviction disqualifies an individual from licensure.

The lack of definition leaves open to question which misdemeanors may disqualify an individual for certification. Also, failure to define in advance which criminal convictions could prevent certification can cause applicants to expend much time and expense, only to find at the point of application that they cannot be certified.

- **Standards of practice.** When appropriate, a regulatory agency should have clear standards of conduct to provide a sound basis for acting on consumer complaints. In addition to statutes and rules, some agencies also use a Code of Ethics to further define appropriate behavior for licensees. For example, both the State Board for Educator Certification and the Judicial Conduct Commission have adopted ethical codes for the professions they oversee. The text box, *Professional Codes of Conduct*, shows examples of these codes.

<p><b>Professional Codes of Conduct</b></p> <p><u>Code of Ethics and Standard Practices for Texas Educators</u></p> <p><i>Principle III: Ethical conduct toward professional colleagues.</i></p> <p>Standard 4. The educator shall not interfere with a colleague’s exercise of political and citizenship rights and responsibilities.</p> <p>Standard 5. The educator shall not discriminate against, coerce, or harass a colleague on the basis of race, color, religion, national origin, age, sex, disability, or family status.</p> <p><u>Code of Judicial Conduct</u></p> <p><i>Preamble.</i> The Code is intended . . . to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.</p> <p><i>Canon 3, Adjudicative Responsibilities.</i></p> <p>A judge shall not . . . manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status . . .</p>
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*Creating a code of ethics for court reporters could answer questions about professional conduct and enable the Board to take actions against unethical behavior.*

Although the Board's statute and rules list the offenses for which a court reporter can be sanctioned, some of the offenses are not clearly defined. For example, incompetence and failure of duty could be differently interpreted. Additionally, while the rules define unprofessional conduct, the definition is not inclusive of all behaviors. The Board, though considering the option, has yet to adopt a Code of Ethics to assist licensees in understanding acceptable professional behavior.

As a result, some court reporters indicate that despite the availability of the statute and rules, they continue to have questions about what constitutes acceptable professional behavior, and have expressed the need for a resource to provide advice. However, the Board does not give advice or respond to procedural inquiries.<sup>1</sup>

In addition, the Board has, although infrequently, dismissed complaints because no rules or standards govern the accusations filed against a court reporter. For example, one complaint alleged unethical, impartial behavior when a court reporter released an incomplete, uncertified transcript by e-mail to one party in a case.<sup>2</sup> No rules exist to guide the release of uncertified transcripts via e-mail, therefore the Board did not have grounds to take action against the court reporter.

**Nonstandard enforcement provisions of the Board's statutes could reduce the agency's effectiveness in protecting the consumer.**

- **Complaint filing.** Legislative enactments have established that the public should have easy access to an agency's enforcement processes through reasonable complaint filing procedures. The public, the agency, or a licensee should be able to file a written complaint against a licensee on a simple, standard agency complaint form provided by the agency on a Web site, through e-mail, or through regular mail. The form should request enough information to start an investigation, but not be so detailed or technical as to discourage complaints.

*Requiring complaints to be notarized could deter the public from accessing the Board's enforcement process.*

The Board's statute requires all complaints to be filed on a notarized form available from the agency through regular mail or fax only. Typically, complaints are not required to be notarized in other licensing agencies programs, and this requirement unnecessarily impedes the public's ability to file complaints. Eliminating the notarization requirement would also allow filing of complaints over the Internet, a practice that makes complaint filing easy and convenient in several other agencies, such as the Texas Department of Licensing and Regulation.

- ***Administrative dismissal.*** The agency's statute or rules should provide for administrative dismissal of complaints, giving agency staff the authority to dismiss complaints that clearly do not allege misconduct or are not within the agency's jurisdiction. For example, the Commission on Human Rights staff dismisses a complaint if the investigation reveals that reasonable cause does not exist to establish that the employer engaged in an unlawful employment practice, and informs the board of all such dismissals.

The Board's staff does not have the authority to administratively dismiss complaints. Allowing the staff to dismiss baseless complaints frees up the Board's time to fully concentrate on the complaints that have merit, while still providing the Board information on staff actions. In addition, since no appeals process exists for complaints dismissed by the Board during preliminary review, creating a staff dismissal process could also allow the Board to hear appeals of these administrative dismissals.

- ***Complaint sanctions.*** Authority to levy administrative penalties, or fines, should be considered for a licensing agency and agencies should use a penalty matrix to help ensure that fines are determined in a systematic manner. Currently, the Board may reprimand, suspend, order continuing education, or revoke a license in violation of the statute or rules, but does not have the authority to fine a licensee.

Many state licensing agencies already have administrative penalty authority. Past Sunset reviews have recommended that agencies such as the Department of Banking, Board of Professional Land Surveying, Real Estate Commission, and the State Board of Public Accountancy, use administrative penalties as an additional tool for ensuring licensees' compliance with statutes and rules. Authorizing the Board to levy fines would give the agency a powerful tool to encourage compliance without having to revoke a license or prevent the licensee from temporarily practicing the profession.

**A nonstandard administrative practice could reduce the Board's protection of the public and licensees.**

- ***Availability of public information.*** A licensing agency should make consumer information easily available to the public. Sunset has focused on the availability of public information since its start in 1977. Currently, the Board's Web site focuses on providing information to its licensees and does not include standard information on the operation and practices of court reporters for the public. Easily available information should also include access to complaint forms and records of past administrative actions taken against licensees.

*Requiring all complaints to go to the Board ties up the Board's time in dealing with baseless or nonjurisdictional complaints.*

*The Board's lack of authority to fine court reporters denies it an important enforcement tool.*

# Recommendation

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## Change in Statute

### Licensing

#### **2.1 Require the Board to define which convictions disqualify an applicant from certification.**

This recommendation would require the Board to create a process, modeled after the guidelines in Occupations Code, Chapter 53, for dealing with criminal convictions, in place of the current statutory provision on moral turpitude. The recommendation would also require the Board to propose rules to the Supreme Court defining the misdemeanors most reasonably related to the court reporter profession that would disqualify an individual from being certified as a court reporter. Based on these requirements, the Board would develop guidelines explaining how a particular crime relates to a court reporter license. This recommendation would also require the Board to propose rules to the Supreme Court to clearly define its policy regarding the effect of felony convictions on a court reporter license.

As established in state law, applicants would be automatically disqualified should they present false information on an application form, including omitting information regarding previous criminal behavior. These guidelines would be published using the Court's standard rules process, with the opportunity for public comment.

#### **2.2 Require the Board to adopt a Court Reporter's Code of Ethics.**

This recommendation would enable the Board to discipline court reporters for practices that do not violate statutes or current rules, but compromise the ethical practice of court reporting. Adopting a Code of Ethics would help to ensure the integrity of the profession. The Board could use the Texas Court Reporters Association and the National Court Reporters Association codes of ethics as guides in developing the court reporter's Code of Ethics. The Board would propose to the Supreme Court a rule stating that violations of the Code of Ethics would be a punishable administrative offense, and would update the Code as necessary to account for changes in technology or other factors affecting the profession.

### Enforcement

#### **2.3 Remove the requirement that complainants file notarized complaint forms.**

This recommendation would eliminate onerous requirements on individuals wanting to file complaints. The form and content of the complaint forms would be left to the discretion of the Board.

#### **2.4 Authorize the Board to adopt a policy allowing staff to dismiss baseless cases without Board approval.**

Board staff should have the ability to dismiss cases that do not violate the statute. Board members should rely on staff expertise and experience to determine when cases should be dismissed. Checks and balances, such as a Board member acting as a consultant, would ensure that the agency does not

dismiss cases deserving further action. In addition, the recommendation would provide for the right of the person who filed the complaint to request reconsideration by the Board. Board members who consult staff on specific cases would recuse themselves if a dismissed case were heard on reconsideration. The Board would also have the right to request to review dismissed case files and discuss them at its meetings.

## **2.5 Authorize the Board to levy administrative penalties, and adopt an administrative penalty matrix in agency procedures or rules.**

This recommendation would give the Board authority to fine licensees for violations of the statute. The Board would have the flexibility of an additional enforcement means and be able to apply penalty amounts that reflect the severity of the violation. All administrative penalties collected would be deposited into General Revenue.

The Board should develop an administrative penalty matrix that relate appropriately relates fines to different violations. The agency may develop these amounts in procedures and not in formal rules; however, the procedures should be proposed by the Board as a rule to be adopted by the Supreme Court.

In developing the penalty matrix, the Board shall take into account factors including, but not limited to, a licensee's compliance history, seriousness of the violation, and the threat to public welfare, to ensure that administrative penalties are applied fairly.

## **Management Action**

### **Administrative**

## **2.6 Require the Board to make consumer information available to the public on its Web site or through email.**

This recommendation would ensure that complaint forms and information on the court reporting profession and on the compliance history of individual licensees are more readily available to the public.

## **2.7 Require the Board to post information on its Web site regarding conditions that may negatively affect certification.**

This recommendation would require the agency to disclose the criminal history circumstances that could affect eligibility for certification in a manner readily available to court reporter students. The Board would be required also to include the Code of Ethics on the Web site.

## **Impact**

The application of these recommendations to the Board's programs would result in efficiency and consistency from standardization, additional administrative flexibility, fairer processes for the licensee, and additional protection to consumers. The following chart, entitled *Benefits of Recommendations*, categorizes the recommendations according to their greatest benefits.

<b>Benefits of Recommendations</b>				
<b>Recommendation</b>	<b>Benefits</b>			
	<b>Efficiency from Standardization</b>	<b>Administrative Flexibility</b>	<b>Fairness to Licensee</b>	<b>Protection of Consumer</b>
<b>Licensing</b>				
2.1 Require the Board to define which convictions disqualify an individual from licensure.	✓	✓	✓	✓
2.2 Require the board to adopt a Court Reporter's Code of Ethics.		✓	✓	✓
<b>Enforcement</b>				
2.3 Eliminate onerous complaint filing requirements	✓	✓		✓
2.4 Authorize the Board to adopt a policy allowing staff to dismiss cases without Board approval.	✓	✓		✓
2.5 Authorize the Board to levy administrative penalties, and require a penalty matrix in procedure.	✓	✓	✓	✓
<b>Administrative</b>				
2.6 Require the Board to make information available to the public on its Web site or through email.			✓	✓
2.7 Require the Board to post information on its Web site regarding conditions that may negatively affect certification.			✓	✓

## **Fiscal Implication**

These recommendations would not have a significant fiscal impact to the State. Granting authority to levy administrative fines may result in additional revenue, to the credit of the General Revenue Fund, though these amounts cannot be estimated for this report. Other recommendations may result in increased effectiveness, which would make resources available to support the general activities of the agency.

<sup>1</sup> <http://www.crcb.state.tx.us/faqs.htm> Accessed April, 1, 2002.

<sup>2</sup> Case example found when Sunset staff reviewed a sample of the Board's complaint files from the last four years, April 2002.

## **ACROSS-THE-BOARD RECOMMENDATIONS**

<b>Court Reporters Certification Board</b>	
<b>Recommendations</b>	<b>Across-the-Board Provisions</b>
	<b>A. GENERAL</b>
Update	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Do Not Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Modify	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Do Not Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Require information to be maintained on complaints.
Apply	11. Require development of an equal employment opportunity policy.
Apply	12. Require information and training on the State Employee Incentive Program.

<b>Court Reporters Certification Board</b>	
<b>Recommendations</b>	<b>Across-the-Board Provisions</b>
<b>B. LICENSING</b>	
Modify	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Modify	2. Provide for notice to a person taking an examination of the results of the examination within a reasonable time of the testing date.
Modify	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Do Not Apply	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Apply	6. Authorize agencies to use a full range of penalties.
Apply	7. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Already in Statute	8. Require the policymaking body to adopt a system of continuing education.

## **AGENCY INFORMATION**

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# Agency Information

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## Agency At a Glance

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Since 1914, the courts of Texas have identified the obligation to “preserve the record” in court proceedings, and have considered court reporters to be officers of the court. In 1977, the Legislature created an independent agency to regulate the court reporter profession.

The Board’s major functions include:

- administering the quarterly court reporter examination and certifying court reporters;
- registering court reporting firms; and
- processing complaints and taking disciplinary action against certified court reporters and court reporting firms.

## Key Facts

- **Funding.** In fiscal year 2001, the Board was appropriated \$111,187 and received an additional \$21,013 as a deficiency grant from the Governor’s office. Agency appropriations were offset by \$277,623 in fees paid into the General Revenue Fund from licensees.
- **Staffing.** The Board had three full-time equivalent (FTE) positions in fiscal year 2001. All employees work in Austin.
- **Examination and Certification.** In fiscal year 2001, the Board had 2,950 active court reporter certifications and 268 court reporter firm registrations. 258 applicants took the oral exam that same year and 156 took the written court reporter exam.
- **Enforcement.** Of the 28 complaints filed in FY 2001, the Board determined one to be nonjurisdictional; dismissed or withdrew 22 during preliminary review; and set five for formal hearing. One of the complaints resulted in disciplinary action.
- **Policy Body.** The Supreme Court has rulemaking authority for court reporting and appoints members to the Board. Board members perform agency functions, but are unpaid.

### Mission Statement

The mission of the Court Reporters Certification Board is to certify, to the Supreme Court of Texas, qualified court reporters to meet the needs and expectations of the public through statewide certification and accountability.

*On the Internet  
Information about the  
Board is available at  
[www.crcb.state.tx.us](http://www.crcb.state.tx.us).*

## Major Events in Agency History

- 1914** District court judges begin swearing in shorthand reporters as officers of the court.
- 1977** The Legislature establishes the Texas Court Reporters Committee to certify court reporters.
- 1985** A separate staff is established for the Board, to conduct administrative tasks previously undertaken by the Office of Court Administration.
- 1997** Court reporting firms are required to register with the Board.
- 2001** Board composition is changed to include representation from court reporting firms.

## Organization

### Policy Body

*The Supreme Court appoints the Board's 13 members and approves all of its rules.*

The Board's size and composition, changed by the Legislature in 2001, consists of 13 members including one judge, two attorneys, six court reporters, and four public members – appointed by the Supreme Court. The chart, *Court Reporters Certification Board*, identifies current Board members and their city of residence. All members were appointed before the statutory changes took effect.

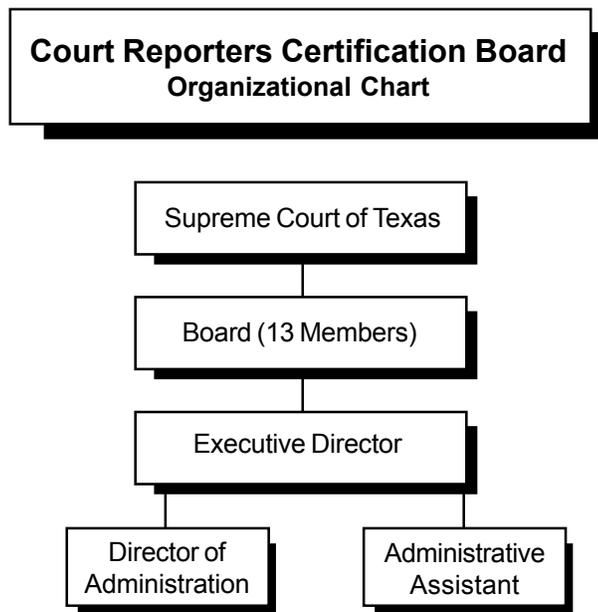
Court Reporters Certification Board			
Member	City	Qualification	Term Expiration
Honorable Frank Montalvo, Chair	San Antonio	Judge	2006
Albert Alvarez	Austin	Court Reporter	2005
Michael Cohen	San Antonio	Attorney	2002
Barbara Chumley	Houston	Court Reporter	2002
Sara Dolph	Austin	Public Member	2005
Michelle Herrera	San Antonio	Public Member	2007
Judy Miller	Ft. Worth	Court Reporter	2006
Monica Seeley	Dallas	Court Reporter	2002
Lou O'Hanlon	Austin	Public Member	2002
Anna Renken	San Antonio	Court Reporter	2005
Wendy Tolson Ross	San Antonio	Attorney	2007
Kim Tindall	San Antonio	Court Reporter	2006
Vacant		Public Member	

The Board administers the quarterly court reporters examination and processes complaints against court reporters and firms. Board members also suggest rules to the Supreme Court, which has final rulemaking

and fee approval authority. The Board meets quarterly, and has nine subcommittees to help carry out functions. The subcommittees include the Testing Committee, which reviews, proctors, and grades exams, and the Court Reporter Schools Curriculum Committee, which approves curricula submitted by each court reporting school.

## Staff

The *Court Reporters Certification Board Organizational Chart*, depicts the structure of the agency. In FY 2001, the Board employed 3 FTEs, all located in Austin. The Executive Director, under the direction of the Board, oversees the agency's day-to-day activities. Because the staff size is so small, no analysis was prepared comparing the agency's workforce composition to the overall civilian labor force.



## Funding

### Revenues

In fiscal year 2001, the Board was appropriated \$111,187 from licensing fees paid into the General Revenue Fund. As a licensing agency, the Board raises revenue through licensing fees to cover its administrative costs. In fiscal year 2001, the revenue raised by the agency through licensing fees totaled \$277,620. The Board, with Supreme Court approval, increased renewal fees in fiscal year 1998, to support continuing education, and exam fees in 2000 to support increased operating expenses.

*Because the agency exceeded its appropriations the last two fiscal years, deficiency grants were needed to continue its operations.*

## Expenditures

The Board expended \$136,265 in FY 2001 on its single strategy, examination and certification. Due to the agency exceeding its appropriation, a deficiency grant of \$21,013 from the Governor's office was needed to continue agency operations in fiscal year 2001. A similar deficiency grant was also made in fiscal year 2000.

In addition to the expenditures shown above, the Legislature has directed the Board, and other licensing agencies that pay the costs of regulatory programs with fees levied on licensees, to also cover direct and indirect costs appropriated to other agencies. Examples of these costs include building maintenance and utilities paid by the State Building and Procurement Commission, and accounting services provided by the Comptroller of Public Accounts. For fiscal year 2001, these direct and indirect costs totaled \$58,532.

*Appendix A* shows the Board's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services for fiscal years 1998 to 2001. The agency has fallen below the HUB purchasing goals in two of the categories but has consistently surpassed the goal for commodities spending.

## Agency Operations

The Board administers the state exam for court reporters, and certifies to the Texas Supreme Court those individuals qualified, based upon successful exam completion, to practice court reporting in Texas. The Board also registers court reporting firms who offer services in Texas. To ensure that court reporters provide services adhering to a standard of excellence to protect the public, the Board operates under one strategy, Exam and Certification. For discussion purposes, the strategy is broken out and described below.

### Examination

The Board administers the quarterly court reporter exam containing both an oral and a written element in Austin. After training at a court reporting school and passing a proficiency test with a minimum grade of 95 percent, the schools give students a Statement of Proficiency declaring them eligible to take the Board's certification tests. In 2001, 258 individuals sat for the oral exams and 124 individuals sat for the written exams. In lieu of an education certificate and a Statement of Proficiency from a court reporting school, the Board also accepts certification from a court reporter association. For example, the textbox *National Court Reporter's Association Certifications* discusses two types of acceptable certifications.

#### National Court Reporter's Association Certifications

**Registered Professional Reporter (RPR)** - an entry-level designation, issued to NCRA members who successfully complete a written examination and test evaluating the speed of stenographic skills.

**Registered Merit Reporter (RMR)** - an advanced-level certification, issued to NCRA members who have served as RPRs for at least 3 years and have successfully completed an advanced written examination and test evaluating the speed of stenographic skills.

### Court Reporter Education

In 1994, the Board began approving the appropriate curriculum content – which includes English grammar, medical and scientific terminology, and software training - that schools use to train court reporters. Training schools include proprietary and technical schools, and public higher education institutions. Two state agencies are responsible for final approval of the curricula of Texas’ court reporter schools. The Texas Workforce Commission approves the curricula of all proprietary and technical schools, while the Higher Education Coordinating Board approves curricula for higher education institutions. Both agencies rely on the expertise of the Board when approving court reporter training programs.

### Court Reporter Certification and Court Reporter Firm Registration

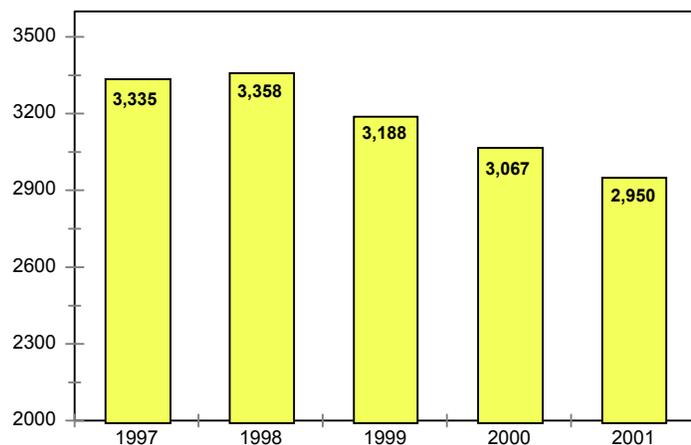
The Board issues certificates to practice court reporting to individuals upon successful completion of the written and oral exams. The chart, *Certified Court Reporters*, shows the total number of certified court reporters for the last five years. Some of the decline in the number of certified court reporters since 1998 may be attributable to the Board’s institution of mandatory continuing education in that year.

In FY 2001, 57 individuals successfully passed the exams and were certified. The different court reporter certifications are discussed in the textbox, *Types of Texas Court Reporter Certifications*. Two types of individuals, discussed in the textbox, *Persons Exempt from Board Certification*, are not required to hold a Board certification. The Board does not grant reciprocity for individuals who are certified in another state.

Currently, the Board does not conduct background checks. Applicants are required to disclose any criminal behavior in their application materials. If an applicant has been convicted of a criminal offense, the Board votes to approve or deny the application.

In 1997, the Legislature authorized the Board to register court reporting firms and in 2001 the Board was given authority to take administrative actions against the firms. To date, 295 firms have registered

**Certified Court Reporters  
FY 1997-2001**



**Types of Texas Court Reporter Certifications**

**Machine Recorders** - Also referred to as Certified Shorthand Reporters (CSR), these individuals use a stenographer’s machine to transcribe court proceedings in shorthand. The reporter later translates the shorthand symbols into full text.

**Oral Stenographers or Voice Writers** - These individuals who use a recording mask in the court room to quietly record their own voice dictating the court proceedings. The reporter later transcribes the dictation.

**Written Symbols** - A rarely used method of court reporting using shorthand.

**Persons Exempt from Board Certification**

The following individuals are not required to hold a court reporter certification.

**Transcriptionists** - Takes shorthand notes during a hearing and translate the shorthand after the hearing. May or may not be certified to practice.

**Court Recorders** - Court recorders simply have a tape recorder in the court and are never certified.

with the Board. Currently, all court reporter certificates and court reporter firm registrations are valid for two years and must be renewed within 120 days after the December 31 expiration date.

The Board requires 10 hours of continuing education prior to certificate renewal, but does not check every licensee's compliance with this requirement. Instead, the Board audits a sampling of licensees for compliance. Court reporting firms are not required to take exams or complete continuing education requirements before registering with the Board.

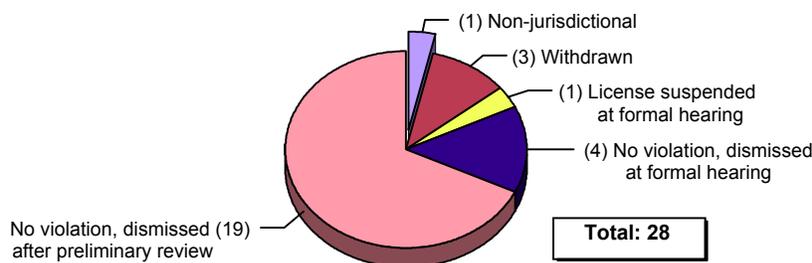
**Enforcement**

Although enforcement is not a separate strategy or division of the agency, the Board is required to provide a forum in which complaints against court reporters and firms can be heard. The complaint process is illustrated in the flowchart on the next page, *Complaint Process*. The Board takes disciplinary action if necessary to protect the public and to hold parties accountable for their actions.

The Government Code and rules of professional conduct promulgated by the Supreme Court, provide the Board with guidelines for disciplining court reporters and court reporting firms.<sup>1</sup> The chart, *Disposition of Complaints Against Court Reporters*, illustrates the Board's actions on

**Disposition of Complaints Against Court Reporters**

FY 2001

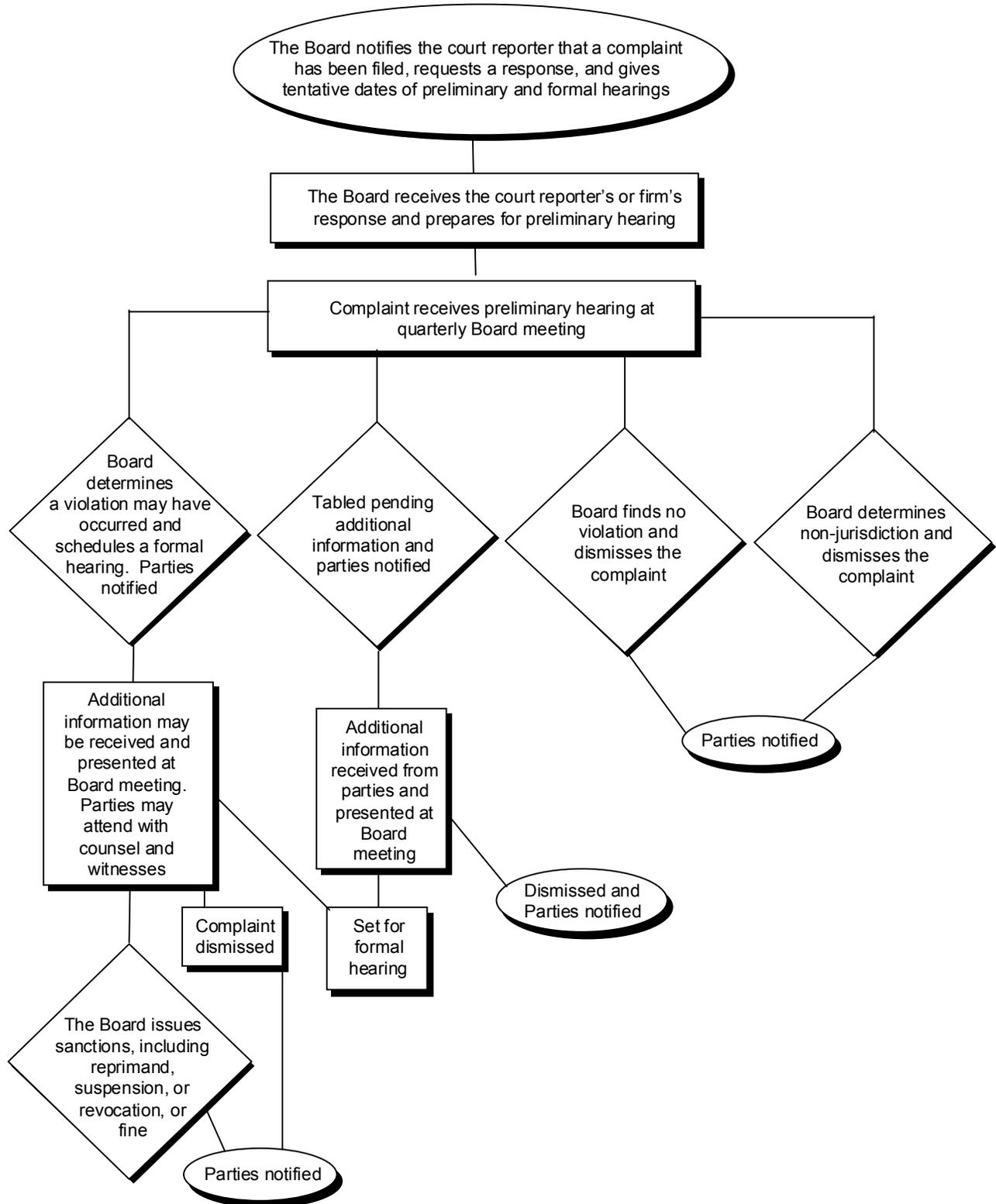


complaints received in fiscal year 2001. The Board dismisses approximately 68 percent of the complaints during preliminary hearings.

Since creating the Board in 1977, the Legislature expanded the Board's disciplinary authority against individual court reporters to include reprimands, suspension of certification, and requiring additional continuing

education. The Board's authority over court reporting firms included reprimands, suspensions, revocations, and fines. In addition, the Board has authority to seek an injunction against an individual who is engaged in practice without being certified by the Supreme Court and against firms that are not registered with the Board.<sup>1</sup>

### Complaint Process





# **APPENDICES**

## Appendix A

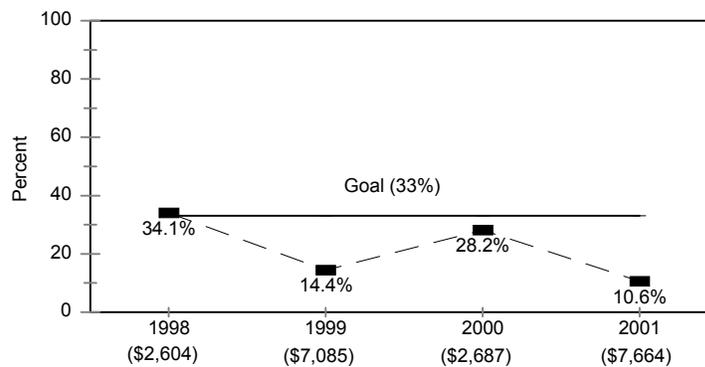
### Historically Underutilized Businesses Statistics

#### 1998 to 2001

The Legislature has encouraged state agencies to increase their use of Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.<sup>1</sup> The review of the Court Reporters Certification Board revealed that the agency is not complying with all state requirements concerning HUB purchasing, specifically, the agency has not adopted HUB rules. However, the Office of Court Administration has done the purchasing for the agency for the last two years.

The following material shows trend information for the Court Reporters Certification Board use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in the Texas Building and Procurement Commission's statute.<sup>2</sup> In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Texas Building and Procurement Commission. The dashed lines represent the percentages of the agency's spending with HUBs in each purchasing category from 1998 to 2001. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category. In the area of spending for Other Services, the agency has fallen short of the State's HUB purchase goal of 33 percent. However, the agency has surpassed by a large margin the goal for HUB spending on commodities for the last two years.

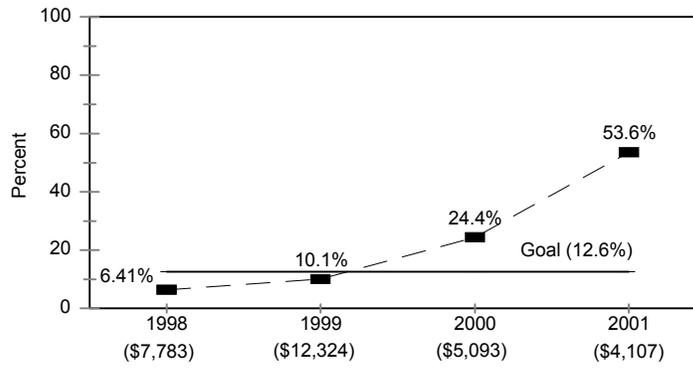
#### Other Services



The Board fell below the State's goal for each of the last three fiscal years, although its expenditures were small.

## Appendix A

### Commodities



The Board exceeded the State's goal each of the last two fiscal years.

<sup>1</sup> Texas Government Code Ann., ch. 325, sec. 325.011(9)(B) (Vernon 1999).

<sup>2</sup> Texas Government Code Ann., ch. 2161.

## Appendix B

### Staff Review Activities

The Sunset staff engaged in the following activities during the review of the Court Reporters Certification Board.

- Worked extensively with agency staff.
- Attended meetings of the Court Reporters Certification Board and met with Board members.
- Interviewed representatives of the Office of Court Administration, Court of Criminal Appeals, Supreme Court, Attorney General's Office, and State Commission on Judicial Conduct.
- Conducted interviews and solicited written comments from national, state and local interest groups, official court reporters, freelance court reporters, court reporting firm owners and interested members of the public.
- Met with in person or interviewed over the phone representatives from the Texas Court Reporters Association, Texas Organization of Reporter Training Schools, and National Court Reporters Association.
- Worked with the Governor's Office, Lieutenant Governor's Office, Speaker's Office, Legislative Budget Board, and legislators' staffs.
- Reviewed reports by the Office of Court Administration, Legislative Budget Board, the Perryman Group, and Esquire Deposition Services.
- Researched the functions of and interviewed representatives from court reporter regulatory agencies in other states.
- Visited a court reporting school, a court, and a court reporting firm.
- Reviewed agency documents and reports, state statutes, legislative reports, previous legislation, literature on court reporting issues, and performed background and comparative research using the Internet.



**SUNSET REVIEW OF THE  
COURT REPORTERS CERTIFICATION BOARD**

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