

# Texas Department of Transportation

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## Agency at a Glance

The Texas Department of Transportation (TxDOT) began in 1917 as the State Highway Department. Since that time, the Department has evolved from its original responsibilities of granting financial aid and directing county road construction programs, to a much broader mission of delivering a 21st century transportation system to address the State's growing transportation needs. To fulfill its mission of providing safe, efficient, and effective means for the movement of people and goods throughout the state, TxDOT:

- plans, constructs, maintains, and supports the State's transportation system, including roads, bridges, public transportation, railroads, airports, the Gulf Intracoastal Waterway, and ferry systems;
- develops and operates a system of toll roads using public- and private-sector partners and financing options; and
- manages operations on the state highway system, including improving traffic safety, issuing oversize/overweight permits, providing rest areas and travel information, and regulating outdoor advertising.

## Summary

The Sunset Commission considered TxDOT through a special purpose review, following up on the full Sunset review of the agency conducted in 2008. At that time, the Sunset Commission adopted and forwarded recommendations to the 81st Legislature aimed at restoring trust and confidence in TxDOT, but the agency's Sunset bill did not pass. Instead, the Legislature continued TxDOT for two years in separate legislation and directed the 2010 Sunset review to focus on the appropriateness of the Sunset Commission's previous recommendations.

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*More time is needed to ensure  
TxDOT's progress is lasting.*

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Based on this re-examination, the Sunset Commission concluded that while TxDOT has worked diligently to address many of the previous recommendations, more time is needed to judge the depth and effect of the changes before TxDOT's progress in restoring trust and confidence can be considered lasting. As such, the Sunset Commission determined the majority of the previous recommendations remain appropriate, and that TxDOT continues to need statutory authority and direction to implement them. The following material summarizes the Sunset Commission's recommendations on TxDOT that continue to be appropriate for consideration by the 82nd Legislature.

## Issue 1

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### ***Until Trust in the Texas Department of Transportation Is Restored, the State Cannot Move Forward to Effectively Meet Its Growing Transportation Needs.***

#### **Recommendations**

##### ***Change in Statute***

##### **1.1 Abolish the Texas Transportation Commission and replace it with an appointed Commissioner of Transportation.**

This recommendation would abolish the five-member Texas Transportation Commission and replace it with a single Commissioner of Transportation. The Governor would appoint the Commissioner with the check and balance of Senate confirmation every two years. The Commissioner's two-year term would expire February 1 of each odd-numbered year. The Commissioner of Transportation would be prohibited from serving if the Commissioner's term has expired and the Commissioner has not been reappointed by the Governor and confirmed by the Senate. If the Governor does not reappoint the Commissioner or make a new appointment by February 28 of odd-numbered years, then the authority to appoint the Commissioner would, by statute, transfer to the Lieutenant Governor. Although the appointment by the Governor would be subject to Senate confirmation, the appointment by the Lieutenant Governor would not.

##### **1.2 Require the Commissioner of Transportation to resign from office before accepting any campaign contributions if running for elected office.**

This recommendation would require the Commissioner of Transportation (or any successor policy-making structure) running for elected office to resign from office before accepting any campaign contributions.

##### ***Recommendation to Legislative Committees***

##### **1.3 Request that the Senate Committee on Transportation and Homeland Security and the House Committee on Transportation continue providing necessary oversight of the Department and the State's transportation system.**

Instead of creating a separate Transportation Legislative Oversight Committee to provide additional and possibly duplicative oversight of TxDOT as was recommended in 2008, the Sunset Commission requests the Senate Committee on Transportation and Homeland Security and the House Committee on Transportation, as part of their ongoing charge, to consider:

- overseeing and assessing TxDOT's progress in implementing the management audit and other recommendations, particularly those identified by the TxDOT Restructure Council as priorities;
- monitoring TxDOT's planning, programming, and funding of the State's transportation system, including reviewing and commenting on TxDOT's transportation research program;
- assessing the cost-effectiveness of the use of state, local, and private funds in the transportation system;
- identifying critical problems in the transportation system, including funding constraints and recommending strategies to solve those problems; and

- determining long-range needs of the transportation system and recommending policy priorities for the system.

As part of this recommendation, TxDOT would be required to report the status of its implementation of the management audit recommendations and process improvements to the Committees as well as the Senate Finance and House Appropriations Committees.

### ***Change in Statute***

#### **1.4 Continue TxDOT for four years.**

This recommendation would continue TxDOT for a four-year period to ensure that needed changes have occurred to re-establish the Legislature's and the public's trust and confidence in the Department. This shorter Sunset review timeframe will give the Legislature the opportunity to evaluate these changes, including the accountability of a single Transportation Commissioner. The Legislature could make any changes it deems necessary in the Department's next Sunset review in 2015.

#### **1.5 Apply the standard Sunset across-the-board requirement for the Department to develop a policy regarding negotiated rulemaking and alternative dispute resolution, and update other standard across-the-board provisions.**

This recommendation would ensure TxDOT develops and implements a policy to encourage alternative procedures for rulemaking and dispute resolution, conforming to the extent possible to model guidelines by the State Office of Administrative Hearings. The Department would also coordinate implementation of the policy, provide training as needed, and collect data concerning the effectiveness of these procedures. Because the recommendation only requires the Department to develop a policy for this alternative approach to solving problems, it would not require additional staffing or other expenses. The other standard across-the-board requirements would be updated to apply to a single Commissioner, rather than the Transportation Commission.

## **Issue 2**

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### ***TxDOT's Internal Controls Are Not Adequate to Ensure the Transparency and Accountability Necessary to Maintain Public Trust and Confidence.***

#### **Recommendations**

##### ***Change in Statute***

#### **2.1 Require TxDOT's Chief Financial Officer to report directly to the Commissioner of Transportation.**

Under this recommendation, TxDOT's Chief Financial Officer would report directly to the Commissioner of Transportation instead of reporting to the Executive Director to ensure adequate oversight and accountability of the Department's financial operations.

#### **2.2 Require TxDOT to evaluate the performance of its administrative and decision-making staff to determine whether employees should retain their positions within the Department.**

This recommendation would require the Commissioner of Transportation to ensure that TxDOT employees are performing their duties with the citizens of Texas foremost in mind, which includes being professional, diligent, and responsive to directives and requests from the Commissioner and the Legislature. To carry out this recommendation, TxDOT employees would undergo performance reviews. Based on the outcomes of these reviews, the Commissioner would need to re-evaluate the employment of any employee not satisfying these objectives.

### **2.3 Require TxDOT and its employees to develop, adopt, and adhere to a Code of Ethics, and to establish an ethics hotline for reporting violations.**

Under this recommendation, TxDOT would be statutorily required to develop and adopt a Code of Ethics to promulgate a transparent culture and enhance public trust in the agency. All TxDOT employees would be required to annually affirm their adherence to this Code of Ethics. TxDOT would also be required, by statute, to establish an ethics hotline through which employees and others could report, anonymously or by name, violations of the Code of Ethics.

## **Issue 3**

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### ***The State's Complicated Transportation Planning and Project Development Process Frustrates Understanding of How Important Decisions Are Made.***

#### **Recommendations**

##### ***Change in Statute***

#### **3.1 Require TxDOT to redevelop and regularly update the long-range Statewide Transportation Plan describing total system needs, establishing overarching statewide transportation goals, and measuring progress toward those goals.**

This recommendation would integrate TxDOT's various planning efforts into a single, measurable plan. This new plan should present a focused, meaningful vision to guide all of TxDOT's and Metropolitan Planning Organizations' (MPOs') other short-range planning and programming efforts. The new plan would re-engineer the Statewide Transportation Plan, already required by both federal and state law. This recommendation would add to existing statutory provisions by requiring the following elements.

- **Measurable goals.** TxDOT would develop specific, long-term transportation goals for the state, and measurable targets for each goal. The Department would report annually to the Legislature on its progress toward these goals, as already required in state law. This information also would be easily accessible from TxDOT's website.
- **Statewide priorities.** The Department would identify priority corridors, projects, or areas of the state of particular concern in meeting statewide goals.
- **Participation plan.** TxDOT would develop a participation plan specifying methods for obtaining formal input on statewide goals and priorities from other relevant state agencies, political subdivisions, local planning organizations, and the general public.
- **Regular updates.** The plan would span 24 years and would be updated every four years, similar to MPOs' long-range plans.

- **Forecast assumptions.** TxDOT and MPOs would collaborate to develop mutually acceptable assumptions for long-range federal and state funding forecasts. These assumptions would guide TxDOT's and MPOs' long-range planning in the Statewide Transportation Plan and Metropolitan Transportation Plans.
- **Integration with other long-range plans.** All other long-range transportation planning and policy efforts would support the specific goals outlined in the Statewide Transportation Plan. TxDOT should clearly reference how these plans fit together with and support the Statewide Transportation Plan.

**3.2 Require TxDOT to establish a transparent, well-defined, and understandable system of project approval and programming within TxDOT that integrates project benchmarks, timelines, priorities, and cash forecasts.**

This recommendation would place the framework for TxDOT's transportation programming process in statute to provide greater visibility about its overall purpose and greater control to the Legislature regarding the way TxDOT makes transportation decisions. Specific elements of the programming process would be left to the Department through rulemaking. TxDOT would be required to establish a project development plan and statewide work program that largely reflects its current internal programming document, the Unified Transportation Program. The recommendation would require TxDOT to annually set target funding levels and list all projects it plans to develop and begin constructing over a 10-year time period, but would not require the specific list of projects to be established in statute or rule to maintain the Department's flexibility to make adjustments during project implementation.

TxDOT would collaborate with its local transportation partners to update the actual programming document each year. The annual updates would include funding scenarios, a list of major projects with benchmarks and timelines, and project priority groups, as guided by agency rules, discussed in more detail below. The Department would be required to work with MPOs and other local planning entities to develop scenarios for the annual funding forecast based on a range of underlying assumptions. TxDOT, however, would be responsible for determining the forecast to be used for statewide planning purposes by MPOs and TxDOT. The Department would also develop publicly available summary documents highlighting project benchmarks, priorities, and forecasts in a way that is understandable to the public.

The recommendation would require TxDOT to define, in rule, program funding categories, such as safety, maintenance, and mobility. These rules would also describe how the Department selects projects for inclusion in the program in cooperation with MPOs and local partners. In implementing the recommendation, TxDOT must ensure that rules do not conflict with federal transportation planning requirements. TxDOT would also be required to adopt rules, as discussed below, to provide tools that are not in its current programming process, to better manage and monitor the Department's performance.

- **Project benchmarks and timelines.** Through a project approval process clearly defined in rule, TxDOT and its local partners would be required to develop benchmarks and timelines for implementation of major transportation projects in the programming document. Benchmarks and timelines would need to be set for both implementation and construction phases. These partners would define a "major project" so that creating and tracking benchmarks and timelines would not be unreasonably difficult to implement. The list of major projects would be updated annually, and projects could not enter the four-year implementation phase of the programming document unless critical benchmarks and timelines were met. Benchmarks should include, at a minimum,

target timeframes for each major stage of project development, such as preliminary engineering, advance planning and environmental review, right-of-way acquisition, and production of final plans, specifications, and estimates.

- **Project priority groups.** Through a process clearly defined in rule, TxDOT and local partners would assign all projects in the programming document to broad priority groups. The highest priority group would reflect the list of major projects identified for benchmark tracking. Other projects would be grouped into categories of lesser priorities. Grouping projects in this manner would establish prioritized categories instead of prioritized projects, a difficult task to accomplish when many projects carry similar importance in different regions of the state. TxDOT's central office staff could use project priority groups as one indicator to help allocate staff time and resources to the most important statewide projects. Prioritization would also make the programming document more useful in explaining how TxDOT's work program is meeting statewide goals.
- **Funding allocations.** TxDOT would be required to establish and regularly update formulas for allocating funds in each program category at least every five years through a clearly defined rulemaking process.
- **Cash forecast.** The Department would be required to annually produce and publish an official cash forecast through a process and schedule clearly defined in rule. TxDOT would be required to allocate funds based on the adopted funding allocation formulas, and could not exceed the cash forecast.

This recommendation would require TxDOT to annually produce a programming document that shows the progress of transportation projects through development, promotes the allocation of resources systematically among competing priorities, provides reasonable projections of future funding to help planning and avoid surprises, and increases the overall transparency of project programming.

### **3.3 Require TxDOT districts to develop detailed work programs driven by benchmarks for major projects and other statewide goals for smaller projects.**

This recommendation would require each TxDOT district to develop a consistent, publicly available work program based on projects in the programming document described in Recommendation 3.2. These work programs would cover a four-year period and include all projects that districts will implement during that time. The work programs would track major projects in the same way as the overall programming document, according to project implementation benchmarks developed in cooperation with local transportation partners. Information on lower priority projects would also be available in summary form. District work programs would provide valuable information describing the status of local projects to transportation partners and the public. TxDOT should use information in the work programs to monitor performance of the district and key district personnel.

### **3.4 Require TxDOT to develop online reporting systems for providing project specific information in a regularly updated dashboard, judging the effects of spending on specific transportation problems, and assessing progress in meeting overall transportation goals.**

- **Dashboard reporting system.** This recommendation would require TxDOT to develop an online, comprehensive, and regularly updated dashboard reporting system, with input from the Legislature, local planning organizations, and the public, through a process clearly defined in rule. The dashboard report would combine information from all of TxDOT's plans into one master list that would be presented in an easy-to-navigate and searchable format. TxDOT should use

information such as letting schedules that are currently available, and update the online information on a regular schedule specified in rule. TxDOT would be required to adopt rules clearly describing the specific elements in the dashboard report which should include, but not be limited to, the following elements, as practically available and not cost prohibitive:

- details on funding sources for projects, including information linking specific sources of funding to specific projects;
  - project benchmarks and timelines, current progress towards goals for meeting specific benchmarks, and a list of project managers assigned to projects and their contact information;
  - an annual review of project benchmarks and timelines to determine their completion rates and show whether the projects were on time;
  - for projects scheduled to last more than one month or costing more than \$5 million, work zone information detailing the number of lanes open or closed; time of closure; and expected and measured delay when closed;
  - clearly defined criteria for projects classified as maintenance and disclosure of the condition of a road prior to maintenance expenditures;
  - information about the sources of funding and expenditures by TxDOT district, spending category, and type of revenue, including private sources such as Comprehensive Development Agreements or toll revenue; and
  - options to download statistical information in various formats, including HTML, PDF, Excel, or other database programs.
- **Effects of transportation spending.** TxDOT would be required, by rule, to develop a process to clearly identify both the State’s transportation needs and the State’s transportation wants, and a system to report on the effects of spending on specific transportation problems. TxDOT would be required to adopt rules clearly describing how this information would be reported, including locally entered information about local transportation projects listed in priority order by district, as part of the online dashboard report described above. A user should be able to easily compare projects in this system with projects actually in TxDOT planning or construction phases using the dashboard report.

TxDOT would be required to prepare a list of the most significant transportation problems in each TxDOT district, and report on the effectiveness of transportation spending in addressing these problems, described by the indicators below, to justify why each project is a priority. TxDOT would be required to prepare before and after studies on the effects of all TxDOT spending programs, internally or through a university’s transportation research program. Performance measures would be defined in rule and should include the following indicators, searchable on the dashboard report by county, road numbers, and functional road class:

- pavement condition indicators such as the International Roughness Index used by the Federal Highway Administration, and the percentage of pavement in good or better condition;
- bridge condition indicators such as structurally deficient, functionally obsolete, and bridge deterioration scores;

- congestion and traffic delay indicators, including the locations of the worst delays and variable travel times on major streets and highways, and the effects on both person and truck freight travel; and
  - crash, injury, and fatality indicators including a list of the worst sections of road in the state by TxDOT district, as practically available.
- **Annual reports.** TxDOT would also provide at least three types of annual reports that would be available on TxDOT’s and districts’ websites in a searchable and easily accessible format.
  - **Statewide report.** The Department would prepare the “State of Texas Transportation” report, providing a high-level summary of annual progress in meeting transportation goals. The report should include information about attainment of statewide goals as described in the Statewide Transportation Plan, progress in attaining major priorities, a summary of success in meeting statewide project implementation benchmarks, and information about the accuracy of past financial forecasts. The report would be formally presented to legislative committees with oversight of transportation issues each year, and be easily accessible on the Department’s website.
  - **Legislative district report.** Each year, TxDOT would develop “report card” information similar to that contained in the State of Texas Transportation report, but containing information on progress in attaining transportation goals in the TxDOT districts within each state legislative district. TxDOT would provide members of the Legislature with this specific report and meet with them at their request to explain it.
  - **TxDOT district report.** TxDOT would provide this same type of report for each of its districts, forwarding it to local planning entities, cities, county commissioners’ courts, regional planning councils, and other appropriate local entities in the TxDOT district.

As part of this recommendation, the Legislature should consider eliminating many of the reports it requires TxDOT to produce by rider in the General Appropriations Act, since information they contain would be available through the newly created reporting system.

## Issue 4

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### ***TxDOT Does Not Meet the High Expectations Placed on It to Ensure Consistent, Unbiased, and Meaningful Public Involvement.***

#### **Recommendations**

##### ***Change in Statute***

##### **4.1 Require TxDOT to develop and implement a public involvement policy that guides and encourages more meaningful public involvement efforts agencywide.**

This recommendation would require TxDOT to develop an official policy that provides guidance outlining additional public involvement strategies such as those suggested by the U.S. Department of Transportation, and consider requiring district and division staff to document these activities.

TxDOT should also work to clearly tie public involvement to decision making and provide clear information to the public about the specific outcomes of their input. This recommendation should

apply to all public input with TxDOT, including into statewide transportation policy making, specific projects through the environmental process, and all of the Department's rulemaking procedures.

TxDOT would also be required to provide information about public input relating to all environmental impact statements, including the number of positive, negative, or neutral comments received. TxDOT would present this information to the Commissioner of Transportation in an open meeting, and report this information on its website in a timely manner.

#### **4.2 Require TxDOT to develop standard procedures for documenting complaints and for tracking and analyzing complaint data.**

This recommendation would require TxDOT to develop policies and procedures to formally document and effectively manage the complaints it receives agencywide according to the following provisions.

- Adopt rules that clearly define TxDOT's complaint process from receipt to disposition, and specify that these rules apply to each of its divisions and districts.
- Develop a standard form for the public to make a complaint to the Department. The complaint form would be available to the public on the Department's website and complaints would be accepted through the Internet.
- Compile detailed statistics and analyze complaint information trends to get a clearer picture of the problems the public has with TxDOT's functions and responsibilities. This complaint data would include information such as the nature of complaints and their disposition, and the length of time to resolve complaints. The Department should track this information on a district basis, as well as by each division. TxDOT should report this information monthly to administration and quarterly to the Commissioner.

This recommendation would also update the standard Sunset across-the-board language requiring the Department to maintain information on all complaints and notify the parties about policies for and status of complaints.

#### **4.3 Strengthen lobbying prohibitions for TxDOT.**

This recommendation would prohibit the Commissioner of Transportation and TxDOT employees from using any money under the agency's control or engaging in activities to attempt to influence the passage or defeat of a legislative measure. Advocacy or activity of this nature would be grounds for dismissal of an employee. This recommendation would not prohibit the Commissioner of Transportation or employees of TxDOT from using state resources to provide public information or to provide information responsive to a request, nor would it prohibit TxDOT from lobbying for federal appropriations.

Implicit with this recommendation is the repeal of the statutory provision (Texas Transportation Code, sec. 201.0545) that requires the Transportation Commission to consider ways to improve its operations and authorizes the Commission Chair to periodically report to the Legislature concerning potential statutory changes that would improve the operation of the Department. Strengthening lobbying prohibitions for TxDOT officials and employees would effectively render this provision meaningless. These changes would address concerns that some TxDOT officials or employees may have overstepped their authority to suggest operational improvements, and instead appear to engage in advocacy.

## Issue 5

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### ***State Statute Unnecessarily Restricts Contracting Practices Available to TxDOT.***

#### **Recommendations**

##### ***Change in Statute***

##### **5.1 Authorize TxDOT to use the design-build model of project delivery for traditional highway projects.**

TxDOT's statute currently only allows toll roads to use the design-build model of project delivery, in which the design and construction phases of a project occur under one contract. This recommendation would allow the Department to use design-build for traditionally financed highway projects. This recommendation would not require TxDOT to use design-build, but would simply authorize its use.

TxDOT would develop rules specifying the conditions under which a design-build contract could be considered. Factors that should be addressed in rule include the size and complexity of the project; the speed in which the project is needed; the level and training of agency staff managing the project; and any other elements determined to be important in the proper use of this project delivery model.

##### **5.2 Remove provisions in statute requiring TxDOT to advertise certain contract notifications in local or statewide newspapers.**

This recommendation would remove statutory advertising requirements for the time and place of construction and maintenance contract bid openings. TxDOT would still have the authority to use newspaper notifications in situations where their use is necessary and cost effective.

## Issue 6

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### ***More Information Is Needed to Improve Regulation of Oversize and Overweight Vehicles to Prevent Damage to Roads and Bridges.***

#### **Recommendations**

##### ***Change in Statute***

##### **6.1 Require TxDOT to review ways of improving the regulation of oversize and overweight vehicles.**

Under this recommendation, TxDOT would be required to continue to work to evaluate the impacts and improve the regulation of oversize and overweight vehicles, including the consideration of the following:

- prohibiting overweight vehicles from using Texas highways if the loads cannot be engineered to prevent damage to the road(s) or bridge(s) based upon the weight specifications for which the roads and bridges were built;
- requiring an applicant for an overweight permit to pay a graduated highway maintenance fee based on the overweight amount that is commensurate with the damage done to roads and bridges;

- requiring all fees collected by the State from oversize and overweight permits to be deposited to the State Highway Fund; and
- eliminating all exemptions for overweight vehicles and requiring an overweight permit and fee in an amount commensurate to the amount of damage done to the roads and bridges by the permitted vehicle.

### ***Management Action***

#### **6.2 Direct TxDOT to report its findings for improving the regulation of oversize and overweight vehicles.**

Under this recommendation, TxDOT would brief the Sunset staff quarterly on its progress towards reporting its recommendations for improvements to the regulation of oversize and overweight vehicles. TxDOT's report(s) and recommendations should be completed by December 31, 2011.

## **Issue 7**

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### ***The State's Overall Approach to Outdoor Advertising Does Not Follow Common Licensing Practices, Reducing the Effectiveness of Regulation.***

#### **Recommendations**

##### ***Change in Statute***

#### **7.1 Require an outdoor advertising license with standard enforcement provisions for operators on rural roads that matches the requirements to operate on federal-aid roads.**

This recommendation would require a license to operate outdoor advertising on rural roads, matching the license requirements that currently exist for outdoor advertisers only on federal-aid roads. Under this change, a single license would enable outdoor advertisers to operate on both road systems. Outdoor advertisers would still have to obtain permits for individual signs with different standards, such as height and spacing, for each type of road.

The license for outdoor advertisers on rural roads would be subject to the same enforcement authority as currently governs the federal-aid road license. These provisions include the authority to revoke or suspend licenses, or place licensees on probation for a violation of statute or rules. In combination with Recommendation 7.4, clarifying the Department's authority to deny license renewal, these provisions would provide standard enforcement options for all outdoor advertisers operating along the state highway system to ensure more consistent regulation of signs on all roads.

#### **7.2 Standardize the appeals process for denied sign permits by eliminating the Board of Variance.**

This recommendation would eliminate TxDOT's Board of Variance for hearing appeals of rural road sign permit denials. TxDOT would use the same review process for rural road permit appeals as currently exists for federal-aid roads. Under this change, the agency head would have authority to grant variances from the rural road sign standards.

### **7.3 Require TxDOT to deposit all outdoor advertising fees into the State Highway Fund.**

This change would require the fees collected for signs along federal-aid roads be deposited into the State Highway Fund, the same as fees collected for signs along rural roads, instead of the Texas Highway Beautification Account in General Revenue.

### **7.4 Authorize the Department to deny license renewal if a licensee's permits are in poor standing.**

This recommendation would clarify the Department's authority to deny the renewal of an existing license for outdoor advertisers on federal-aid roads. Providing this standard enforcement tool would ensure the Department considers any compliance issues that a licensee might have before renewing a license.

### **7.5 Require the Department, by rule, to establish a complaints process and procedures for tracking and reporting outdoor advertising complaints, and providing information to the public about how to file a complaint.**

This recommendation would complement the Department's recent efforts to develop a complaint process by requiring it to clearly outline in rule how it will handle complaints regarding outdoor advertising. The rules should include, at a minimum:

- a system for prioritizing complaints so the most serious complaints receive attention before less serious complaints;
- procedures for complaint investigation and resolution; and
- a procedure for compiling and reporting detailed annual statistics about complaints.

The Department should also have processes in place to inform the public of complaint procedures. Persons affected by the regulations should be able to file a written complaint against a licensee on a simple form provided by the Department.

### **7.6 Provide standard administrative penalty authority for both federal-aid and rural roads, and require that all fines be deposited into the State Highway Fund.**

This recommendation would clarify the existing administrative penalty authority as an enforcement tool for regulating outdoor advertising on rural roads. Specifically, this recommendation would eliminate language that a violation be intentional before the Department may assess an administrative penalty under its rural road regulations. It would also provide for an appeal of such a penalty by substantial evidence instead of by trial de novo. The recommendation would extend this standard administrative penalty authority to violations of the Department's regulations on federal-aid roads.

As part of this recommendation, all fines collected for both types of roads would be deposited into the State Highway Fund, not to the General Revenue-Dedicated Texas Highway Beautification Account.

## Issue 8

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### ***Unmanaged Dynamic Message Signs May Affect TxDOT's Ability to Ease Traffic Flows.***

#### **Recommendation**

##### ***Change in Statute***

- 8.1 Require all electronic signage to be actively managed to mitigate congestion, including suggesting alternative routes when applicable.**

This change would require TxDOT to ensure that all Dynamic Message Signs located on highways are managed and kept as current as possible by personnel from TxDOT or with the cooperation of local governments.

## Issue 9

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### ***TxDOT Has Not Developed a Plan to Implement Recommended Changes from Recent Reports in an Effective and Timely Manner.***

#### **Recommendations**

##### ***Management Action***

- 9.1 Direct TxDOT management to develop a plan for implementing recommendations of the Sunset Commission, the Restructure Council, and the Grant Thornton audit.**

This recommendation directs TxDOT to develop a detailed implementation plan by June 30, 2011 for effecting the recent recommendations of the Sunset Commission, Restructure Council, and Grant Thornton audit. The Plan should detail each process or procedure to be implemented, a specific timeline for each step of each process or procedure, and the individual responsible for successful implementation. TxDOT should put a full-time dedicated Implementation Team in place immediately with the assistance of an outside professional change management firm. The Implementation Plan should be substantially implemented by June 30, 2014.

##### ***Recommendation to Legislative Committees***

- 9.2 The Sunset Commission requests that the Legislature's standing committees on transportation monitor TxDOT's progress in implementing recommendations from recent reports.**

This recommendation is a request to the Senate Committee on Transportation and Homeland Security and the House Transportation Committee to monitor TxDOT's progress in implementing the Plan noted above. TxDOT should report monthly on progress towards meeting the implementation timeline, including processes and procedures that are failing to meet the timeline. If the Committees recommend corrective action on the processes and procedures failing to meet the timeline, TxDOT management should respond in writing to action taken on each recommended corrective action.

## Fiscal Implication Summary

The recommendations on TxDOT would result in an overall savings of approximately \$1.6 million per year, as summarized below.

- Issue 1** – Eliminating the five-member Texas Transportation Commission would result in a savings of \$628,671 to the State Highway Fund and a reduction of six FTEs. Annual savings of about \$79,570 would come from eliminating the part-time salaries members receive. Eliminating the five commissioner assistant positions would result in a savings of \$510,078 for these salaries and fringe benefits. An additional savings of \$39,023 would result from elimination of the travel and operating expenses of both the Commission members and their assistants. With a full-time Commissioner, the Department would not need both an Executive Director and a Deputy Executive Director. The savings from eliminating one of these positions, and reorganizing staffing and salaries accordingly, would provide the necessary funding for the Commissioner’s salary as determined by the Legislature.
- Issue 5** – The recommendation to eliminate required newspaper advertising for construction and maintenance contract bid openings, at TxDOT’s discretion, would result in savings to the State Highway Fund. TxDOT could reduce annual expenditures from the State Highway Fund by an estimated \$1 million, assuming TxDOT would eliminate newspaper notice for larger projects.
- Issue 7** – The statutory recommendations to deposit all outdoor advertising program fees and fines into the State Highway Fund would result in an approximate \$585,605 annual gain to this account, and a loss of the same amount to the General Revenue-Dedicated Texas Highway Beautification Account.

Fiscal Year	Savings to the State Highway Fund	Gain to the State Highway Fund	Loss to the General Revenue-Dedicated Texas Highway Beautification Account	Change in FTEs From FY 2011
2012	\$1,628,671	\$585,605	\$585,605	-6
2013	\$1,628,671	\$585,605	\$585,605	-6
2014	\$1,628,671	\$585,605	\$585,605	-6
2015	\$1,628,671	\$585,605	\$585,605	-6
2016	\$1,628,671	\$585,605	\$585,605	-6