

**SUNSET ADVISORY COMMISSION**

**STAFF REPORT**

**on the**

**TEXAS COMMISSION ON INTERSTATE COOPERATION**

**1982**

## FOREWORD

Over the past several years, there has been a sustained interest among the states in a new concept in legislative review popularly described as sunset. Since 1976, more than half the states have enacted legislation which embodies the primary element of sunset, the automatic termination of an agency unless continued by specific action of the legislature.

The acceptance of this concept has been aided by a general agreement that the normal pressures of the legislative process tend to prevent a systematic review of the efficiency and effectiveness with which governmental programs are carried out. The sunset process is, then, an attempt to institutionalize change and to provide a process by which a review and redefinition of state policy can be accomplished on a regular systematic basis.

The Texas Sunset Act (Article 5429K, V.A.C.S., as amended) was enacted by the 65th Legislature in 1977. Under the provisions of the Act, agencies are automatically terminated according to a specified timetable, unless specifically continued by the legislature.

To assist the legislature in making the determination of whether an agency should be continued and, if continued, whether modifications should be made to its operations and organizational structure, the Act establishes a ten-member Sunset Advisory Commission composed of eight legislative members and two public members. The commission is required to evaluate the performance of the agency in accordance with specific criteria set out in the Act and to recommend necessary changes resulting from the findings of the evaluation.

The process by which the commission arrives at its recommendations moves through three distinct phases beginning with a self-evaluation report made by the agency to the commission. The second phase involves the preparation of a report to the commission by its staff, evaluating the activities of the agency, and proposing suggested changes for commission consideration. The final phase involves public hearings on the need to continue or modify an agency and the development of commission recommendations and legislation, based on the agency self-evaluation, staff report, and public testimony.

The Sunset Commission's findings, recommendations, and proposed legislation are then required to be transmitted to the legislature when it convenes in regular session.



## INTRODUCTION AND ORGANIZATION OF AGENCY REVIEWS

The Texas Sunset Act abolishes several agencies on September 1, 1983 unless each is re-established by the 68th Legislature.

The staff reviewed the activities of these agencies according to the criteria set out in the Sunset Act and has based its conclusions on the findings developed under these criteria.

Taken as a whole, these criteria direct the review of an agency to answer four primary questions:

1. Does the state need to perform the function or functions under review?
2. Could the public still be adequately served or protected if the functions were modified?
3. Is the current organizational structure the only practical way for the state to perform the function?
4. If the agency is continued and continues to perform the same functions, can changes be made which will improve the operations of the agency?

The report is structured to present the performance evaluation of each agency separately. The application of the across-the-board recommendations, developed by the commission to deal with common problems, is presented in a chart at the end of each report and is not dealt with in the text except in one instance. When the review develops a position which opposes the application of a particular recommendation, the rationale for the position is set forth in the text.



**SUMMARY OF STAFF FINDINGS AND CONCLUSIONS**



## SUMMARY

### Organizations and Objectives

The Texas Commission on Interstate Cooperation was established in 1941 and is currently inactive. The 19-member commission is composed of the governor, lieutenant governor, the speaker of the house, five members of the senate, five members of the house, the secretary of state, the attorney general, two citizens and two state administrative officials.

The commission was created to foster informal cooperation among states and to ensure the state's membership in the Council of State Governments. The review indicates that this latter purpose has been accomplished; the agency never functioned in a manner which would accomplish its statutory goals, and that it has been inactive since the mid-1950s.

### Need to Continue Functions

The review indicated that while there is a need to continue cooperative efforts between Texas and other states, this responsibility has been assigned to other agencies and there is no need to continue the Commission on Interstate Cooperation for this purpose.

### Approaches for Sunset Commission Consideration

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

##### A. **The Interstate Cooperation Commission should be abolished.**

The primary goal of establishing the state's membership in the Council of State Governments has been accomplished through the payment of membership dues through appropriations to the Office of the Governor. Other agencies have been developed which accomplish the informal goals of the commission in a direct fashion. For example, the Advisory Commission on Intergovernmental Relations acts as an active research body to improve coordination and cooperation between all levels of government.



## **AGENCY EVALUATION**

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

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

## BACKGROUND

### Historical Development

The Texas Commission on Interstate Cooperation was created in 1941 by the 47th Legislature. The 19-member commission represents the legislative and executive branches of state government and the general public, and is composed of five members of the senate appointed by the lieutenant governor, and five members of the house appointed by the speaker, the secretary of state, the attorney general, two members of the public and two state administrative officials. The governor is designated to serve as the commission's chairman and the lieutenant governor and speaker serve as the first and second vice-chairmen.

The commission was established at a time when there was an increasing need for cooperation in and among state governments. The growing complexity of federal programs and other issues required a larger forum for cooperation and communication between local, state, and federal units of government.

During the decade of the 40's, the Council of State Governments (CSG) was the primary national forum for the exchange of ideas and the conduct of dialogue with other concerned and involved entities. It is unclear whether the CSG originally required each state to create an Interstate Cooperation Commission to join the council. The development of such entities appears to have been encouraged, however, as 48 states had developed such bodies by 1949.

The Act creating the Texas commission (Art. 4413b-1, V.A.C.S.) sets out three primary purposes of the agency: 1) initiation and maintenance of the state's membership in the Council of State Governments; 2) encouragement of amicable, informal contact between this state and other states; and 3) advancement of cooperation between Texas and other units of government by facilitating:

- a. the adoption of compacts and uniform or reciprocal statutes;
- b. the interchange and clearance of research and information;
- c. the personal inter-cooperation of governmental offices, officials and employees.

### Current Programs and Objectives

It is apparent from a review of available records that the creation of the commission was intended to initiate Texas' membership in the Council of State Governments. Once this was accomplished by the passage of the enabling legislation, no real effort was made to pursue the other statutory goals. The

membership in CSG has been maintained since 1947 through payment of dues by an appropriation made to the governor's office. The Council of State Governments reports that membership is not now dependent upon a state having an interstate cooperation commission.

The Texas commission is an inactive agency and available records indicate that the full commission has met only once since its creation. Although the statute was amended in 1949 to authorize the employment of staff and the payment of expenses, no staff has ever been employed by the commission nor have records of expenditures for any other purpose been found.

## REVIEW OF OPERATIONS

The Texas Commission on Interstate Cooperation is currently inactive. The legislature has created a number of other agencies which accomplish in a direct fashion, the rather informal goals set out for the Interstate Cooperation Commission.

The Commission on Uniform State Laws, created in 1941, promotes uniformity of Texas' laws with those of other states on a national level. The Office of State-Federal Relations, created in 1967, assists in coordinating state and federal programs by acting as a liaison and resource entity between and for those levels of government.

The Texas Department of Community Affairs, created in 1971, acts as a service and coordination agency between local communities and state and national levels of government. The Texas Advisory Commission on Intergovernmental Relations, also created in 1971, acts as a research mechanism to improve coordination and cooperation between state and federal government. Texas' continuing membership in the Council of State Governments provides a forum at both regional and national levels, for contact with executive and legislative officials from other states who have similar problems and interests.

The primary goal of the commission was to initiate and maintain Council of State Government membership. This was, and is still, accomplished through an appropriation to the governor's office to pay the membership dues (\$102,700 for 1981).



**NEED TO CONTINUE AGENCY FUNCTIONS  
AND  
ALTERNATIVES**

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

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

1. Do the conditions which require state action still exist and are they serious enough to call for continued action on the part of the state?
2. Is the current organizational structure the only way to perform the functions?

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

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

## **NEED**

### **Function and Agency**

The commission was created to foster informal cooperation among states and to ensure the State's membership in the Council of State Governments. The review indicates that this latter purpose has been accomplished and that other active agencies have been created which carry out the commission's stated functions. It is not necessary to continue the agency.

## **ALTERNATIVE APPROACHES FOR COMMISSION CONSIDERATION**

### **Consolidation or Change in Function**

The legislature has already developed alternative methods to accomplish the functions of the commission.



**ACROSS-THE-BOARD RECOMMENDATIONS**



**TEXAS COMMISSION ON INTERSTATE COOPERATION**

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>A. ADMINISTRATION</b>
		X	1. Require public membership on boards and commissions.
		X	2. Require specific provisions relating to conflicts of interest.
		X	3. A person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
		X	4. Appointment to the board shall be made without regard to race, creed, sex, religion, or national origin of the appointee.
		X	5. Per diem to be set by legislative appropriation.
		X	6. Specification of grounds for removal of a board member.
		X	7. Board members shall attend at least one-half of the agency board meetings or it may be grounds for removal from the board.
		X	8. The agency shall comply with the Open Meetings Act, and the Administrative Procedure and Texas Register Act.
		X	9. Review of rules by appropriate standing committees.
		X	10. The board shall make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.
		X	11. Require the board to establish skill oriented career ladders.
		X	12. Require a system of merit pay based on documented employee performance.
		X	13. The state auditor shall audit the financial transactions of the board during each fiscal period.
		X	14. Provide for notification and information to the public concerning board activities.
		X	15. Require the legislative review of agency expenditures through the appropriation process.

**Texas Commission on Interstate Cooperation**  
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>B. LICENSING</b>
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. A person taking an examination shall be notified of the results of the examination within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. (a) Authorize agencies to set fees.
		X	(b) Authorize agencies to set fees up to a certain limit.
		X	5. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	6. (a) Provide for licensing by endorsement rather than reciprocity.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	7. Authorize the staggered renewal of licenses.
			<b>C. ENFORCEMENT</b>
		X	1. Authorize agencies to use a full range of penalties.
		X	2. Require files to be maintained on complaints.
		X	3. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		X	4. Specification of board hearing requirements.
			<b>D. PRACTICE</b>
		X	1. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	2. The board shall adopt a system of voluntary continuing education.