

Port of Houston Authority

H.B. 1642 D. Bonnen (Whitmire)

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The Port of Houston Authority is a 100-year old organization that has largely escaped scrutiny and close accountability because of its location between state, county, and city governments, away from their direct oversight or control. The Sunset review provided a unique opportunity for opening up the Authority to the reforms needed to restore trust following a series of missteps and controversies that have rocked the organization in recent years. The resulting changes will help the Authority move beyond these distractions and refocus on its important mission as a market player and steward of the Houston Ship Channel, a key economic asset not just for the Houston region, but also the state and nation.

House Bill 1642, the Sunset bill for the Authority, addresses concerns about the Authority's governance by requiring an immediate leadership change. The bill removes long-tenured Port Commissioners, while maintaining local control over appointments and allowing for the transfer of institutional knowledge through the current Chair and more recently-appointed members. The bill also provides for the orderly transition of leadership in the future by adding appointment deadlines, clear terms, and term limits. These changes will help ensure governance going forward is about objective oversight focused on furthering the strategic goals of the Authority and not on appointing entities concentrating and holding power or Port Commissioners distracted by extraneous matters or the perks of office.

Aside from these well-publicized changes to Port Commission appointments, House Bill 1642 also includes many other provisions to promote ethics, good governance, and oversight. The bill adds financial disclosure and conflict-of-interest requirements for Port Commissioners, and improved ethics standards for both Commissioners and Authority staff. The bill makes the Authority more accountable to its stakeholders by specifying public engagement and complaints standards, and requiring more comprehensive and transparent strategic and capital planning. The bill also requires improved guidelines for promotional spending to end the controversy and distraction these expenditures have caused for many years. Finally, House Bill 1642 ensures the Authority's operations are subject to ongoing oversight through a standard internal audit program, financial audits by the Harris County Auditor, and a follow-up Sunset review in four years. The bill does not address continuation of the Authority because it is not subject to abolishment under the Sunset Act.

Beyond these specific changes, the Sunset review process provided opportunities for making other improvements through the drafting of House Bill 1642 and through directives the Authority's management can implement without the need for statutory change. The bill pulls together the Authority's tangled session laws dating back to 1927 and places them in one chapter in the codes, where responsibilities and powers can be more clearly presented and understood. Through the review, the Sunset Commission also directed the Authority's management to standardize procurement procedures and provide additional attention to its safety program and role to oversee the Houston Pilots. Ultimately, of course, it will require committed leadership to fully implement these and other Sunset recommendations and ensure that meaningful and lasting culture change occurs.

The following material summarizes results of the Sunset review of the Authority, including management actions directed to the Authority that do not require statutory change. For additional information see the *Port of Houston Authority Sunset Final Report with Legislative Action* available on the Sunset Commission website at www.sunset.state.tx.us.

Governance

- Maintains a locally appointed, seven-member Port Commission, but adds term limits of 12 years, replaces long-serving members by October 2, 2013, and adds procedures to encourage timely appointments.
- Requires the Commission to develop and implement policies clearly separating the policymaking responsibilities of the Commission and the management responsibilities of the Authority's Executive Director and staff.
- Requires standard best practices to promote ethics and good governance for the Commission and Authority staff.

Public Engagement

- Requires the Authority to develop and implement a policy to guide and encourage more meaningful stakeholder involvement efforts.
- Requires the Authority to develop a standard process to receive, respond to, document, and analyze complaints.

Strategic Planning

- Requires the Authority to create a comprehensive strategic planning process, including long-range strategies and shorter-range implementation plans tied to financial and capital planning.

Audit Oversight

- Requires the Authority to establish an internal audit function following accepted internal auditing standards.
- Authorizes audit oversight of the Authority by the Harris County Auditor based on risk and clarifies related statutory provisions.
- Removes outdated provisions prescribing the Harris County Auditor's Authority-related audit duties.

Financial Controls

- Requires the Port Commission to adopt comprehensive and publicly available policies and provide detailed reporting on the Authority's use of the Promotion and Development Fund.
- Requires the Authority to adopt travel and expense policies to include generally accepted expenditure control elements with clear lines of accountability for both staff and Commissioners.
- Requires the Port Commission to accept gifts more than \$500 in an open meeting, and to document the purpose of these gifts in the Commission's minutes, similar to standards applying to state agencies.

Procurement

- The Authority should take steps to better manage and align its organizational approach to procurements. (management action – nonstatutory)
- The Authority should review small business goals and selected functions. (management action – nonstatutory)
- The Authority should eliminate or better manage ongoing professional services contracts. (management action – nonstatutory)
- The Authority should improve disclosure and communications policies for solicitations. (management action – nonstatutory)
- The Authority should take steps to improve the evaluation and award of contracts. (management action – nonstatutory)
- The Authority should establish a training program on conflicts of interest and other aspects of contracting. (management action – nonstatutory)

Safety

- The Authority should take aggressive steps to implement a coordinated and comprehensive safety program. (management action – nonstatutory)

Pilot Oversight

- The Port Commission, acting as the Pilot Board, should take a more active role in oversight of the Houston Pilots. (management action – nonstatutory)

Codification

- Transfers the Authority’s un-codified source law into the Special Districts Local Laws Code for clarity, repeals obsolete provisions, and makes technical changes.

Additional Sunset Review

- Subjects the Authority to Sunset review but not abolishment in four years, and requires the Authority to pay the cost of the review.

Fiscal Implication

House Bill 1642 will not have a significant fiscal impact to the State. Provisions contained in the legislation and management directives are designed to improve the Authority’s internal operations and efficiency, but the exact impact will depend on implementation. The bill also requires the Authority to pay for the cost of another Sunset review, estimated at \$240,093 during the 2016–2017 biennium.

