

Sunset Advisory Commission

*Recommendations to the
Governor of Texas
and Members of the
Seventy-Third Legislature*



March 1993

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Chapter 1

General Overview

Introduction

Over the past decade, many states have implemented a form of 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. Since that time, ten states, citing lobby pressure, have discontinued the process.

The use of sunset has been aided by a general agreement that unless legislative bodies are given a structured approach, no systematic review will be directed toward the efficiency and effectiveness with which governmental programs are operated. The sunset process is, then, an attempt to institutionalize the discussion of change and to provide a process by which this can be accomplished by the legislature on a regular systematic basis.

The nature of sunset is a switch from the normal legislative dictum of "if it ain't broke, don't fix it" to ongoing preventative maintenance that does not wait until a crisis results before action is taken.

A variety of approaches to the basic sunset concept have been enacted into law by different states, including one shot reviews of all agencies; staggered review of designated agencies over a defined time period; reviews that allow the reviewing body to determine the time periods and agencies; and reviews that are directed not to agencies but to selected functional groupings of state services.

The sunset process and approach finally adopted by Texas in 1977 was developed around concepts proposed by the Constitutional Convention in 1974 and the Joint Advisory Committee on Government Operations in 1976. Under the Texas Sunset Act, over 200 state agencies and advisory committees are scheduled for review or automatic termination at specified intervals.

One of the key elements of any successful legislative oversight activity is to have a permanent policy body which guides a professional staff. Through this arrangement, well thought-out approaches for identifying policies and constructing practical standards to evaluate those policies can be developed for the legislature. The Sunset Advisory Commission was created to fill this role. Membership of the commission consists of four members of the House of Representatives and one public member, who are appointed by the Speaker of the House, and of four members of the Senate and one public member, who are appointed by the Lieutenant Governor. Legislative members serve staggered four-year terms and public members serve two-year terms. The chair and vice-chair alternate every two years between the Senate and House of Representatives appointees. The commission is authorized to appoint a director and to employ sufficient staff to discharge its responsibilities in regard to agency reviews. The Sunset Advisory Commission is responsible for recommending to the legislature whether the agencies under review and their functions should be abolished or continued in some form.

Another important element of sunset is the process used to develop decisions. The process has to be open and provide a forum for ideas that would normally not be expressed. In large part, the 18-month period required for the review is a direct result of the openness of the process. The commission seeks out and encourages the viewpoints of all groups and individuals, not just those of established associations. For a brief period of time, all ideas are given equal weight.

The process of arriving at commission recommendations moves through four distinct phases beginning with an agency self-evaluation report to the commission. The second phase involves the preparation of an evaluation report by the staff of the commission. The third phase involves a public hearing at which the information contained in the reports and testimony by the public is considered. The final phase involves a decision by the commission of any changes it wishes to recommend to the legislature and incorporation of those recommendations into

legislation. Traditionally, the legislation has been sponsored by the legislative members of the commission. Actions taken by the 66th through the 72nd Legislatures, under the sunset process, have been positive in terms of incorporating the concept into the existing legislative process.

To date, the commission has reviewed 227 agencies. An additional 46 agencies have a sunset date in their statutes but have not yet been through the sunset review process. Major agencies that have not been reviewed are:

Partial List of the 46 Agencies Subject to the Texas Sunset Act but Not Yet Reviewed	Sunset Date
Texas Workers' Compensation Commission	1995
Texas Workers' Compensation Insurance Fund	1995
Workers' Compensation Research Center	1995
Texas Racing Commission	1995
Texas Commission on Fire Protection	1997
Texas Public Finance Authority	1997
Texas Commission on Alcohol and Drug Abuse	1999
Texas Department of Protective and Regulatory Services	1999
Texas Hospital Equipment Financing Council	1999
Texas Health and Human Services Commission	1999
Texas Ethics Commission	2001
Low-Level Radioactive Waste Disposal Authority	2001
Lottery Division, Office of the State Comptroller	2003

Sunset Action - 1979 to 1993

	1979	1981	1983	1985	1987	1989	1991	1993 Projected*	Totals (Percent of All Agencies Reviewed)
Legislative Session	66th	67th	68th	69th	70th	71st	72nd	73rd	
Agencies Reviewed	26	28	32	31	20	30	30	30	227
Agencies Continued	12	22	29	24	18	25	22	19	171 (75 Percent)
Agencies Abolished Outright	8	2	3	6	2	3	3	0	27 (12 Percent)
Agencies Abolished & Functions Transferred	1	3	0	0	0	2	3	1	10 (4 Percent)
Agencies Combined	4	1	0	0	0	0	2	10	17 (7 Percent)
Agencies Separated	1	0	0	1	0	0	0	0	2 (1 Percent)

*Legislative action is not yet complete on these agencies. Projected action is that recommended by the Sunset Commission.

Across-the-Board Recommendations

Introduction

From its inception, the Sunset Commission has identified common problems with agencies reviewed. Agency-wide standards have been developed and these problems have been addressed through standard statutory provisions incorporated into the legislation developed for all agencies undergoing sunset review. These across-the-board recommendations are listed below along with their justifications.

Recommendations Applied to All Agencies

1. **Require one-third public membership on boards and commissions.**

The purpose of government is to protect the health, welfare and safety of the public. However, some agencies do not have public members on their boards. Boards consisting only of members from a regulated profession or group affected by the activities of an agency may not respond adequately to broad public interests. This potential problem can be addressed by giving the general public a direct voice in the activities of the agency through representation on the board.

2. **Specify that the governor designate the chair of an agency.**

Due to the overlapping terms of appointment, it may be difficult for a governor to give voice to new policies. If the governor appoints the chair, who acts as spokesperson for the agency, these policies can be discussed.

3. **Require specific provisions relating to conflicts of interest between agency duties and duties performed for professional associations.**

An agency may develop close ties with professional trade organizations and other groups that may not be in the public interest. Conflict-of-interest provisions are necessary to prevent these kinds of relationships from developing.

4. **Prohibit persons required to register as a lobbyist from acting as general counsel to the board or commission or serving as a member of the board or commission.**

Conflicts of interest can result when board members and agency general counsel are involved in lobbying. This guideline reduces the possibility of such conflict.

- 5. Require that appointment to the board or commission be made without regard to race, color, disability, sex, religion, age, or national origin of the appointee.**
- It is essential that state agencies be fair and impartial in their operations. The achievement of this goal is aided by the existence of policy-making boards whose appointees have been chosen on an impartial and unbiased basis.
- 6. Specify grounds for removal of a board or commission member.**
- Several of the preceding across-the-board provisions set out appointment requirements for board members (e.g., conflict-of-interest requirements). This provision directly specifies that it is grounds for removal of a board member if these requirements are not met. In addition, the provision clarifies that if grounds for removal exist, the board's actions taken during the existence of these grounds are still valid.
- 7. Require the board or commission to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.**
- Requiring agencies to submit annual reports of all receipts and disbursements improves legislative overview of agencies' fiscal activities.
- 8. Require the board or commission to establish skill-oriented career ladders.**
- Policies resulting from this recommendation are intended to help employees know how to progress in their careers with the state.
- 9. Require a system of merit pay based on documented employee performance.**
- Policies resulting from this recommendation create a framework for rewarding outstanding performance by agency employees.

10. Provide for notification and information to the public concerning board or commission activities.

Sunset reviews have shown that the public is often unaware of what state agencies do. The effectiveness of agencies in serving the general public may be less than "legendary customer service". To help ensure public access to the services of agencies, steps should be taken to provide information on their services to the general public.

11. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.

Various licensing agencies are not subject to legislative control through the appropriation process of the state. This lack of fiscal control by the legislature severely weakens the accountability of those agencies to the legislature and, ultimately, to the public at large. By bringing these "independent" agencies within the appropriations process, the legislature and the public could be assured of: 1) full accountability for all state funds on a uniform basis for all agencies; 2) periodic review by the Governor's Budget Office, the Legislative Budget Board, and the legislature; and 3) increased efficiency of state operations through implementation of uniform budgeting, accounting, reporting, and personnel policies.

12. Require files to be maintained on complaints.

The sunset review process has shown that complete and adequate complaint files are not maintained by some agencies. This situation has increased the time involved in resolving complaints and limited the agencies' ability to protect the consuming public. The suggested approach would serve to lessen the problem by ensuring that, at a minimum, files be developed and maintained on all complaints.

13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.

This provision ensures that all parties to a complaint are made aware of the status of the complaint and are provided with current information regarding the substance of the complaint as well as agency policies and procedures pertaining to complaint investigation and resolution.

- 14. Require development of an EEO policy.** This recommendation ensures that each agency develops a written, comprehensive equal employment opportunity plan which is filed with the governor's office and updated annually. Agency efforts in this area are further enhanced by requiring the agency to file annual progress reports with the governor's office.
- 15. Require the agency to provide information on standards of conduct for board or commission members and state employees.** This recommendation ensures that the board informs its members and employees of the provisions in state law concerning standards of conduct for state officers or employees.
- 16. Provide for public testimony at agency meetings.** This requirement ensures the opportunity for public input and participation in activities of the agency.
- 17. Require the policy body of an agency to develop and implement policies that clearly define board or commission functions and staff functions.** This recommendation establishes the executive director/administrator as the individual in charge of managing the agency's day-to-day activities. It removes the possibility of the board administering the agency in addition to setting agency policy.
- 18. Require development of a program accessibility plan.** This recommendation ensures that the agency addresses the need to make state-supported services accessible to non-English speaking people and people with physical or mental disabilities.

19. Place agency under the requirement of the state's competitive cost review program.

State agencies are funded to directly provide many types of services that could be purchased through the private sector. In 1987, the state set up a competitive cost review program to make sure that state costs for providing a service are in line with the costs charged by private business to deliver the service. Agencies that provide services that are available through the private sector are routinely made subject to the competitive cost review program when they are reviewed under the sunset process.

Recommendations Applied to Agencies with Licensing Functions

1. Require standard time frames for licensees who are delinquent in renewal of licenses.

Variations occur among licensing agencies in requirements concerning the number of days a license renewal may be delinquent before penalties are brought into effect. This provision is aimed at ensuring comparable treatment for all licensees, regardless of their regulated profession.

2. Provide for notice to a person taking an examination of the results of the examination within a reasonable time of the testing date.

This provision ensures the timely reporting of examination results. The timely notification is important to those persons whose future plans are contingent on their examination scores.

3. Provide an analysis, on request, to individuals failing the examination.

This provision ensures that examinees are informed of the reasons for failing the examination. Such knowledge serves to protect the examinee from arbitrary restrictions, as well as protecting the public by ensuring that deficiencies are adequately addressed and corrected before reexamination.

4. Require licensing disqualifications to be: 1) easily determined; and 2) related to currently existing conditions.

The statutes of many licensing agencies contain licensing disqualifiers that are vague and hard to define (such as the requirement that licensees be of "good moral character"). In addition, many provisions can permanently disqualify a person for licensure even though the disqualifying condition (such as drug addiction) is corrected. This across-the-board approach has been applied on a case-by-case basis in an effort to eliminate such vague and inequitable disqualifying provisions.

5. (a) Provide for licensing by endorsement rather than reciprocity.

A policy of licensure by endorsement allows Texas to license out-of-state applicants without examination if the applicant is licensed by a state that possesses licensing requirements substantially equivalent to, or more stringent than, Texas' requirements. The endorsement policy protects the public interest, imposes uniform requirements on all applicants, and spares the already-licensed practitioner the cost and time required in "retaking" an examination previously passed in another state.

(b) Provide for licensing by reciprocity rather than endorsement.

In a reciprocal licensing agreement, Texas and other states agree to allow a licensee to change states and receive a new license without retaking a licensing examination. This ensures equal treatment for all out-of-state licensees and spares the already licensed practitioner the cost and time required in retaking an examination previously passed in another state.

6. Authorize the staggered renewal of licenses.

This type of provision encourages the periodic renewal of licenses rather than requiring the renewal of all licenses at one particular time each year. The staggering procedure improves the efficient utilization of agency personnel by establishing a uniform workload throughout the year and eliminating backlogs in licensing efforts and the need for seasonal employees.

7. Authorize agencies to use a full range of penalties.

As a general principle, an agency's range of penalties should conform to the seriousness of the offenses presented to it. However, in many cases, licensing agencies are not given a sufficient range of penalties. This provision is intended to ensure that appropriate sanctions for offenses are available to an agency.

8. Specify board hearing requirements.

The statutes of varying licensing agencies contain board hearing provisions that parallel or are overruled by the provisions enacted in the Administrative Procedure and Texas Register Act. This across-the-board approach is a "clean-up" provision that directly specifies that a person who is refused licensure or sanctioned by a board is entitled to a hearing before the board, and that such proceedings are governed by the Administrative Procedure and Texas Register Act.

9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.

The rules of licensing agencies can be used to restrict competition by limiting advertising and competitive bidding by licensees. Such a restriction limits public access to information regarding professional services and hampers the consumer's efforts to shop for "a best buy." Elimination of these rules or statutes restores a degree of free competition to the regulated area to the benefit of the consumer.

10. Require the board to adopt a system of continuing education.

This provision is applied on a case-by-case basis. It was determined that, with respect to certain professions, proper protection of the public is dependent on practitioners having a working knowledge of recent developments and techniques used in their trades. The continuing education requirement provides one proven means of ensuring such upgrading.

Summary of Current Sunset Reviews

During the past 17 months, from September 1991 through January 1993, the Sunset Commission conducted 16 days of public hearings to hear public testimony concerning the agencies under review. During these public hearings, over 200 people testified in person and sent in written suggestions and comments.

As a result of nearly 120 hours of public hearings and work sessions, the commission completed decisions on all of the 30 agencies under review. The overall actions by the commission are shown at the right and the preliminary fiscal impact is shown below.

Overall Commission Action	
Abolish	0 agencies
Abolish/Transfer	1 agency
Combine	10 agencies
Continue with modifications	19 agencies
Total	30 agencies

Gain to State Revenues

FY 1994-95 <u>(2 years)</u>	FY 1994-98 <u>(5 years)</u>
\$ 21,961,935	\$ 66,777,086

Actions taken by the Sunset Commission on the agencies under review reflect substantive policy changes in several areas. Several of the major policy changes are highlighted below.

Improving Agency Accountability to the Governor

The commission continued its approach to increase accountability between agency boards and the governor. A recommendation that the governor be given the authority to designate the chair of the policy body has been included in the reports for most of the agencies under review.

Increasing Public Membership on Agency Boards and Commissions

The commission determined that the balance between public members and licensee members serving on a board should be changed where the agency deals primarily with consumer complaints. In those cases, the commission recommended that there be a majority of public members appointed to the board or commission.

Merger of 10 Separate Health Licensing Agencies Into Four Agencies

The commission determined that the public would benefit from consolidating agencies with similar licensee groups. The groups consolidated were:

- Board of Nurse Examiners and Board of Vocational Nurse Examiners
- Texas Advisory Board of Occupational Therapy Examiners and Texas State Board of Physical Therapy Examiners
- Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids and State Committee of Examiners for Speech-Language Pathology and Audiology
- Texas State Board of Examiners of Psychologists, Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, and Council for Social Work Certification
- Texas Board of Licensure for Nursing Home Administrators with the Department of Health program that regulates nursing homes.

Adding Powers to Health Licensing Agencies to Protect the Public

The commission determined that the state did a good job in determining who was qualified to practice, but did a much poorer job in protecting the public from the results of substandard practices.

Reorganization of Public Utility Commission and the Texas Department of Insurance

The commission determined that the public would be better served if the structures used to determine electric utility, telecommunications, and insurance rates were substantially reorganized. In both instances, duties of board members were refocused on setting rates.

Transfer of Hearings to State Office of Administrative Hearings

The commission continued the transfer of the hearings function from individual agencies to the central hearings office created by the 72nd Legislature in 1991. The hearings functions of the Public Utility Commission, Texas Department of Insurance, and the Texas Alcohol Beverage Commission were transferred.

Sunset Commission Action on Agencies Scheduled for Review by the 73rd Legislature

Agency	Action	Five Year Fiscal Impact 1994-1998	House Sponsor	Senate Sponsor
1. Texas Alcoholic Beverage Commission	Continue	\$ 47,335,000	Cain/ Wilson	Carriker/ I.Harris/ Parker
2. Texas Department of Commerce	Continue	\$ 1,995,000	Smith	Carriker
3. Employees Retirement System	Continue	\$ 6,788,500	Black/ Marchant	Barrientos
4. Teacher Retirement System	Continue	0	Black/ Marchant	Barrientos
5. General Services Commission	Continue	\$ 6,174,200	Black	I. Harris
6. Texas Department of Insurance	Continue	\$ 4,737,000	Counts	Parker
7. Office of Public Insurance Counsel	Continue	0	Counts	Parker/ I. Harris
8. Department of Public Safety	Continue	\$ (1,242,885)	Counts/ Telford	Moncrief
9. Public Utility Commission	Continue	\$ (1,150,000)	Cain	Parker
10. Office of Public Utility Counsel	Continue	0	Cain	Parker
<i>Health Licensing Agencies</i>				
11. Texas Board of Licensure for Nursing Home Administrators	Abolish & Transfer Functions	\$ (242,315)	Cain	Moncrief
12. Texas State Board of Examiners of Marriage and Family Therapists	Combine	\$ 230,240		Parker
13. Texas State Board of Examiners of Psychologists				
14. Texas State Board of Examiners of Professional Counselors				
15. Council for Social Work Certification				

Agency	Action	Five Year Fiscal Impact 1994-1998	House Sponsor	Senate Sponsor
16. Texas Advisory Board of Occupational Therapy Examiners	Combine	\$ 2,057,600	Counts	Carriker
17. Texas State Board of Physical Therapy Examiners				
18. Board of Nurse Examiners	Combine	\$ 361,710	Black	Moncrief
19. Board of Vocational Nurse Examiners				
20. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aides	Combine	\$ (215,000)	Cain	I. Harris
21. State Committee of Examiners for Speech-Language Pathology and Audiology				
22. Texas Board of Chiropractic Examiners	Continue	\$ 1,229,007	Counts	Parker/ Moncrief
23. Texas State Board of Dental Examiners	Continue	\$ (195,000)	Counts	Moncrief
24. Texas State Board of Examiners of Dietitians	Continue	\$ (287,346)	Cain	Moncrief
25. Texas State Board of Medical Examiners	Continue	\$ (220,000)	Cain/ Berlanga	Parker/ Moncrief
26. Midwifery Board	Continue	\$ 19,500	Cain	Moncrief
27. Texas Optometry Board	Continue	\$ (111,619)	Cain	Parker
28. Texas State Board of Pharmacy	Continue	\$ (556,006)	Black	Carriker
29. Texas State Board of Podiatry Examiners	Continue	0	Black	I. Harris
30. Texas State Board of Veterinary Medical Examiners	Continue	\$ 69,500	Black	Carriker
Total Five-Year Fiscal Impact: \$66,777,086				

Chapter 2

Recommendations

Texas Alcoholic Beverage Commission

Commission Members

Renee Higginbotham-Brooks, Fort Worth, Chair
 Roy Orr, DeSoto
 Neal Manne, Houston

Agency Functions

In 1935, the 44th Legislature created the Texas Liquor Control Board to regulate the manufacture, distribution, storage, and sale of alcoholic beverages in the state. In 1970, the board was renamed the Texas Alcoholic Beverage Commission (TABC). The administration of the Bingo Enabling Act was transferred from the Comptroller of Public Accounts to the TABC in 1989. The duties and responsibilities of the TABC include licensing all businesses that produce, transport, or sell alcoholic beverages in Texas; collecting and auditing all alcoholic beverage-related taxes; licensing all elements of the bingo industry and collecting bingo taxes; and enforcing state statutes and commission rules relating to alcoholic beverages and bingo. The commission's operations are provided through the central office in Austin and the 21 enforcement and 12 auditing offices located throughout the state.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 25,047,794	\$ 26,139,899
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Percent of General Revenue	100%	100%
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Number of Positions (FY 1993)

703 FTE

Commission Findings and Recommendations

The review of the Texas Alcoholic Beverage Commission included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and any changes needed to state policies contained in the agency's statute.

Need for the Agency

The Sunset Commission concluded that there is a need for the TABC to supervise and regulate all phases of the alcoholic beverage and bingo industries. The general regulatory structure in place is common to the 32 other states that regulate alcoholic beverages through the licensure of alcoholic beverage related businesses. Eighteen states control alcoholic beverages through state-operated businesses. The commission recommended that the present regulatory policies carried out by the TABC be continued.

Reorganization Alternatives

The Sunset Commission considered various reorganization options that transferred all or part of the agency's functions to another agency. The commission found that benefits could be achieved by transferring the agency's hearing function to the State Office of Administrative Hearings. With the exception of this transfer, the commission recommended the continuation of the TABC in its existing structure.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the agency's operations. These recommendations include the following major changes:

- Require the TABC to set license and permit fees to cover the costs of regulating the alcoholic beverage industry. Under this recommendation, all current fee amounts would be removed from the Texas Alcoholic Beverage Code and the agency would be authorized to set the fee levels in rules. The particular fee amounts would be based on regulatory costs and the economic impact of fee increases on the different classes of licenses and permits. Having the commission set fees prevents the legislature from having to enact legislation

just to keep up with inflation and increases in the costs of regulation.

- Provide the TABC the power to impose administrative fines for violations of the Texas Alcoholic Beverage Code. The agency would be authorized to set penalties to fit the severity of the violation, taking into account the past history of the permittee and the extent to which the permittee may have acted without knowledge or intent. In addition, the option currently provided to a violator to pay a fine in lieu of suspension would be removed and clear suspension authority would be given to the TABC.
- Modernize the regulation of wine to more closely match the regulations in place regarding beer. Under this recommendation, wineries would be authorized to conduct off-premise wine samplings, and to produce privately labeled wines. Winery owners would also be allowed to possess one comprehensive bond for securing taxes for all winery activities and to register all the vehicles used to transport wine under one license. In addition, wineries would be authorized to store bottled wine in any bonded warehouse, in wet or dry areas, as long as the winery maintains ownership of the wine.
- Allow cities to set the rules for the possession and consumption of alcohol on public property. Under this recommendation, cities would be authorized to enact ordinances regulating the consumption or possession of open containers of alcoholic beverages on public property such as streets and sidewalks. Permitted or licensed premises would not be subject to a city's ordinance-making authority.
- Remove the requirement that all retail licenses and permits, except for package stores, be at least 51 percent Texas-owned. Under this recommendation, Texas residency requirements would no longer be required for obtaining licenses or permits for bars and restaurants and for businesses such as convenience

stores and supermarkets. Residency requirements would continue to be required for package stores and the wholesale/distribution segments of the alcoholic beverage industry.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 17,614,000	\$ 47,335,000

Decrease in FTE: 46

Complete List of Recommendations

1. Continue the Texas Alcoholic Beverage Commission for a 12-year period.
2. Require the establishment of a bingo advisory committee and a citizens advisory committee.
(Cost: \$100,000/FY 1994-98)
3. Improve minority hiring by creating a human resources section and strengthening the agency's recruiting program. (Cost: \$365,000/FY 1994-98)
4. Give the TABC the power to set license and permit fees at levels which cover the costs of regulating the alcoholic beverage industry.
(Gain: \$37,800,000/FY 1994-98)
5. Provide the TABC the power to impose administrative fines for violations of the alcoholic beverage code.
6. Clarify the sale to minor statute to use a consistent standard of proof.
7. Streamline the audit function and authorize charging of interest on delinquent taxes.
(Gain: \$10,000,000/FY 1994-98)

8. Authorize summary suspensions for the excise tax.
9. Remove prohibitions on charitable contributions by the alcoholic beverage industry.
10. Allow the resetting of shelves within existing provisions of the three-tiered system and define and authorize the sale of low-alcohol coolers.
11. Modernize the regulation of wine to more closely match the regulations in place regarding beer.
12. Transfer the TABC hearings functions to the State Office of Administrative Hearings.
13. Authorize the TABC to regulate bingo charities' lease costs.
14. Authorize the use of fines against bingo lessors.
15. Allow cities to set the rules for the possession and consumption of alcohol on public property.
16. Remove the requirement that all retail licenses and permits, except for package stores, be at least 51 percent Texas-owned.
17. Remove the requirement that fingerprints be submitted to the county judge.
18. Authorize temporary licenses for package stores and off-premises beer sales.
19. Authorize small brewers to operate brewpubs as on-premise establishments at the location of the brewery.
20. Require specific provisions relating to conflicts of interest for board members. (ATB)

21. Prohibit persons required to register as a lobbyist from acting as general counsel to the board or serving as a member of the commission. (ATB)
22. Require the commission to establish skill-oriented career ladders. (ATB)
23. Require the establishment of a merit pay system based on documented employee performance. (ATB)
24. Provide for notification and information to the public concerning commission activities. (ATB)
25. Require files to be maintained on complaints. (ATB)
26. Require that all parties to complaints be periodically informed in writing of the status of the complaint. (ATB)
27. Require the development of an equal employment opportunity policy. (ATB)
28. Require the agency to provide information on standards of conduct to employees and board members. (ATB)
29. Require provisions be made for public testimony at agency meetings. (ATB)
30. Require the board to delineate between board functions and staff functions. (ATB)
31. Require the development of a program accessibility plan. (ATB)
32. Place the agency under the requirements of the state's competitive cost review program. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Texas Department of Commerce

Board Members

Vanessa Gilmore, Houston, Chair
 Vernon Faulconer, Tyler
 J. Jorge Verduzco, Laredo
 J. McDonald Williams, Dallas
 Tom Frost, San Antonio
 Gerald Grinstein, Fort Worth
 Murphy George, Lufkin
 Two vacancies

Agency Functions

The Texas Department of Commerce (TDOC) was created in 1987 to focus the state's efforts on improving the economic prosperity of the state and creating jobs. The department does this by attracting new businesses to locate in Texas and encouraging the growth of existing businesses. The department also works with communities to improve their economic prosperity, promotes Texas as a travel destination, and administers job skill training for the Texas work force.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 235,000,000	\$ 254,000,000
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Percent of General Revenue	8%	7%
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Number of Positions (FY 1993)

340 FTE

Commission Findings and Recommendations

The review of the Texas Department of Commerce included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and changes needed in the agency's statute.

Need for the Agency

The Sunset Commission concluded that there is a continuing need for the department to promote the economic development of the state. In addition, abolishing the department could jeopardize the ability of the state to continue receiving over \$200 million in federal funds it administers for job skills training. The commission recommended that the department be continued for an eight-year period.

Reorganization Alternatives

The Sunset Commission considered alternatives to continuing the department as a separate agency. Various approaches to reorganization were considered to determine if all or part of the department's functions should be transferred to other agencies. Similar programs in other agencies were analyzed to determine if they should be transferred to the department. No substantial benefits could be determined and therefore no recommendations were made to reorganize the agency.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the agency's operations. These recommendations include the following major changes:

- Make clear that the TDOC policy board, not the director, is responsible for rulemaking for department programs. In 1991, the legislature changed the structure of the agency. A governor-appointed executive director was given final authority over budget matters and daily operation of the department and the policy board was given responsibility for setting policy. The statute, however, was unclear concerning rulemaking authority. This change will clearly specify that the policy board has all final rulemaking authority for department programs.

- Transfer the department's program for certifying "disadvantaged businesses" (DBEs) for state contracting to the General Services Commission. The state's policy is to encourage more businesses that are owned by minorities and women to become suppliers for state contracts. This effort involves the work of two agencies. The TDOC identifies, certifies and publishes a directory of the disadvantaged businesses and the General Services Commission, in its role as the state purchasing agency, encourages state contracting with the certified businesses and reports to the legislature on the extent of state contracting with DBEs. This change will simplify and consolidate the process and reduce the number of agencies with which these businesses have to work.
- Charge user fees for the department's direct technical assistance and management training, when reasonable and practical. These services are funded through the General Revenue Fund and are provided on a first-come-first-served basis to businesses and communities. Many of the services are provided without charge. Under this recommendation, the department will attempt to recover some part of the cost to the state of providing these services.
- Continue the enterprise zone program and strengthen legislative control over the amount of state funds used as tax incentives. The enterprise zone program statute discontinues the availability of state tax incentives after fiscal year 1993. Under this recommendation, the department will be allowed to continue making state tax incentives available through the program. However, the amount available will be set in the general appropriations bill each biennium, instead of in general law. The department, with oversight by the state auditor's office, will provide a cost-benefit analysis of the enterprise zone program to the appropriations committees and the legislature each biennium to help them determine the amount of incentives to be provided. In addition, while the current program only provides incentives for projects that create new jobs,

this change will expand the use of program incentives to also include projects that retain jobs in Texas.

- Create an office of rural affairs to focus the department's efforts on the needs of rural businesses and communities. While the department currently has several programs to promote rural economic development, the programs are carried out through separate divisions. This change will consolidate the programs into one division to provide better focus on this important issue.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to the General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 399,000	\$ 1,995,000

No change to FTE

Complete List of Recommendations

1. Continue the agency for an eight-year period.
2. Require memoranda of understanding between the department and other agencies that administer state-level economic development programs.
3. Clarify the authority of the TDOC policy board for final rulemaking.
4. Require that direct technical assistance and management training services be fully funded by user fees, when reasonable and practical.
(Gain: \$1,935,000/FY 1994-98)
5. Authorize the department to guarantee more loans using existing funds for the rural loan guarantee program.

6. Transfer the department's role in the process to encourage state contracting with disadvantaged businesses to the General Services Commission.
7. Require the department to establish additional financing programs to help small and disadvantaged businesses.
8. Continue the enterprise zone program and strengthen legislative control over the amount of state funds used as tax incentives.
9. Clarify the policy board's responsibility for rulemaking in the administration of the JTPA program.
10. Modify the work force development incentive program to ensure maximum use of existing resources.
11. Authorize the department to sell advertising space in its tourism publications. (Gain: \$60,000/FY 1994-98)
12. Require that the location of any department foreign offices be authorized in the appropriations bill and eliminate the specific locations set out in statute.
13. Require the department to maintain an office of rural affairs to serve the needs of rural communities and businesses.
14. Require public membership on the policy board. (ATB)
15. Provide grounds for removal of a policy board member. (ATB-Updated)
16. Require annual written reports to the governor and the legislature accounting for all receipts and disbursements made under the statute. (ATB-Updated)

17. Provide notification and information to the public concerning department activities. (ATB-Updated)
18. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process. (ATB - modified)
19. Place the department under the requirements of the competitive cost review program. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Employees Retirement System of Texas

Board Members

J. Michael Weiss, Lubbock, Chair
 Byron Tunnell, Austin
 Pamela A. Carley, Austin
 Milton Hixson, Austin
 Marcus L. Yancey, Jr., Austin
 Janice R. Zitelman, San Antonio

Agency Functions

The Employees Retirement System of Texas (ERS) was created in 1947 by an amendment to the state constitution setting-up a retirement program for state workers. The ERS provides a service retirement program as well as disability, death and survivor benefits for the appointed officers, elected officials, and employees of the state. Currently, the ERS serves over 138,000 active members and nearly 28,000 retirees and is the 32nd largest public pension system in the United States with assets of approximately \$8 billion. In addition, the ERS administers the state's group health insurance plan for state employees and retirees and state university employees. The ERS also administers two retirement programs for state judges and certain other court officers.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 18,500,000	\$ 22,200,000
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Percent of General Revenue	0%	0%
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Number of Positions (FY 1993)

264 FTE

Commission Findings and Recommendations

The review of the Employees Retirement System of Texas included focusing on whether the organizational structure of the agency results in unnecessary duplication or overlap of duties between the Employees Retirement System and the Teacher Retirement System (TRS), increasing the accountability of the agency to its members and the legislature, and whether statutory changes are needed to ensure that the TRS is providing services in the most efficient and effective manner.

Need for the Agency

The review of the Employees Retirement System of Texas differed from most sunset reviews in that the agency is constitutionally created and not subject to abolishment under the Sunset Act. Therefore, the Sunset Commission did not make any recommendations regarding the overall need for the functions of the ERS.

Reorganization Alternatives

Consideration was given to whether some or all of the functions of the ERS should be consolidated with the TRS. However, consolidation of the two agencies would be difficult because it would require a constitutional amendment and the size of each agency's operations is so large there are limited economies of scale to be derived from consolidating them. The commission recommended that the ERS be continued as a separate agency.

Major Recommendations

The Sunset Commission developed a number of recommendations to improve the operation of the agency. These recommendations include the following major changes:

- Require the ERS and the TRS to examine the potential for cost savings from contracting with each other for services that are currently performed by both agencies. To date, even though they perform many of the same functions, no such examination has been made. Under this recommendation, the ERS and the TRS would be required to examine their common functions at least every two years and report the results to the Legislative Budget Board and the governor's office. This change would ensure consideration is given to potential savings

that could be achieved by the systems working together on performing similar functions.

- Authorize the transfer of retirement credit between the ERS and the TRS. Currently, employees transferring between the public schools and universities covered by the TRS and the state agencies covered by the ERS are only eligible for proportionate retirement benefits from each system. This change would allow such employees full credit for their combined years of public service, as if they had been in one system throughout their career.
- Transfer the newly created health insurance program for school district employees from the ERS to the TRS and fund through employee fees. The program has been delayed due to lack of funding and other problems. Under this recommendation, school district employees would pay a \$10 per year fee to help support the program. The TRS would be authorized to develop rules necessary to ensure the stability of the program. This approach would provide a reserve fund to get the program off the ground and ensure the availability of health insurance for public school teachers and employees.

Fiscal Impact

Gain to General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 0	\$ 0

Gain to Other Funds:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 2,715,400	\$ 6,788,500

No change in FTE.

Complete List of Recommendations

1. Require the ERS and the TRS to look for ways to cut costs by contracting with each other for services.
2. Allow transfer of service credit between ERS and TRS for employees who have worked under both systems.
3. Transfer school district employees health insurance program from the ERS to the TRS and fund through employee fees.
4. Remove the constraints on LECOSRF investments which prevent the fund from being invested like other ERS-managed funds.
(Gain: \$6,000,000/FY 1994-98)
5. Allow the ERS to combine any funds it manages for the purpose of making investments.
(Gain: \$788,500/FY 1994-98)
6. Prohibit appointment to the board of persons who have direct or indirect business ties with the system.
(ATB-Modified)
7. Update provisions dealing with conflicts of interest for board members. (ATB)
8. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
9. Require that appointment to the board be made without regard to race, color, disability, sex, religion, age, or national origin of the appointee. (ATB)
10. Update provisions dealing with removal of board members. (ATB-Modified)
11. Require the establishment of skill-oriented career ladders. (ATB)

12. Require a system of merit pay based on documented employee performance. (ATB)
13. Require member notification of board activities. (ATB-Modified)
14. Require files to be maintained on complaints. (ATB)
15. Require that all parties to formal complaints be periodically informed in writing of the status of the complaint. (ATB)
16. Require development of an equal employment opportunity policy. (ATB)
17. Require the system to provide information on standards of conduct to employees and board members. (ATB)
18. Provide for public testimony at agency meetings. (ATB)
19. Require the board to develop and implement policies which clearly separate board and staff functions. (ATB)
20. Require the development of a program accessibility plan. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Teacher Retirement System of Texas

Board Members

C.A. Roberson, Fort Worth, Chair
 A.W. Riter, Jr., Tyler
 Frank W. (Bo) Camp, Brownfield
 George M. Crowson, Houston
 Charlsetta Finley, El Paso
 Stephen C. Mahood, Dallas
 Sue McGarvey, Hallsville
 Frank Monroe, Dallas
 Dana Williams, Corpus Christi

Agency Functions

The Teacher Retirement System of Texas (TRS) was authorized in 1936 by an amendment to the Texas Constitution with enabling legislation signed into law in 1937 by the 45th Legislature. The TRS provides a service retirement program, disability, death and survivor benefits to teachers and administrators of the public school systems of Texas, including the Texas Education Agency and institutions of higher education. Currently, the TRS serves over 550,000 active members and 119,000 retirees and is the seventh largest public pension system in the United States with assets worth approximately \$23.7 billion. The TRS also administers a health insurance plan for about 87,000 eligible TRS public school retirees and their dependents.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 22,000,000	\$ 25,000,000
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Percent of General Revenue	0%	0%
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**Number of Positions
(FY 1993)** 405 FTE

Commission Findings and Recommendations

The review of the Teacher Retirement System included focusing on whether the organizational structure of the agency results in unnecessary duplication or overlap of duties between the TRS and ERS, increasing the accountability of the agency to its members and the legislature, and whether statutory changes are needed to ensure that the TRS is providing services in the most efficient and effective manner.

Need for the Agency

The review of the Teacher Retirement System differed from most sunset reviews in that the agency is constitutionally created and not subject to abolishment under the Sunset Act. Therefore, the Sunset Commission did not make any recommendations regarding the need for the overall functions of the TRS.

Reorganization Alternatives

Consideration was given to whether some or all of the functions of the TRS should be consolidated with the ERS. However, consolidation of the two agencies would be difficult because it would require a constitutional amendment and the size of each agency's funds are large enough that there are limited economies of scale to be derived from consolidating them. The commission recommended that the TRS be continued as a separate agency.

Major Recommendations

The Sunset Commission developed a number of recommendations to improve the operation of the agency. These recommendations included the following major changes:

- Require the TRS and ERS to examine the potential for cost savings from contracting with each other for services that are currently performed by both agencies. To date, even though they perform many of the same functions, no such examination has been made. Under this recommendation, the ERS and the TRS would be required to examine their common functions at least every two years and report the results to the Legislative

Budget Board and the governor’s office. This change would ensure consideration is given to potential savings that could be achieved by the systems working together on performing similar functions.

- Authorize the transfer of retirement credit between the TRS and the ERS. Currently, employees transferring between the public schools and universities covered by the TRS and the state agencies covered by the ERS are only eligible for proportionate retirement benefits from each system. This change would allow such employees full credit for their combined years of public service, as if they had been in one system throughout their career.
- Transfer the upcoming health insurance program for school district employees from the ERS to the TRS and fund through employee fees. The program has been delayed due to lack of funding and other problems. Under this recommendation, school district employees would pay a \$10 per year fee to help support the program. The TRS would be authorized to develop rules necessary to ensure the stability of the program. This approach would provide a reserve fund to get the program off the ground and ensure the availability of health insurance for public school teachers and employees.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 0	\$ 0

Gain to Other Funds:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 0	\$ 0

No change in FTE

Complete List of Recommendations

1. Require the ERS and the TRS to look for ways to cut costs by contracting with each other for services.
2. Allow transfer of service credit between ERS and TRS for employees who have worked under both systems.
3. Transfer school district employees health insurance program from the ERS to the TRS and fund through employee fees.
4. Prohibit appointment to the board of persons who have direct or indirect business ties with the system. (ATB-Modified)
5. Update specific provisions relating to conflict of interest for board members. (ATB)
6. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
7. Require that appointment to the board be made without regard to race, color, disability, sex, religion, age, or national origin of the appointee. (ATB)
8. Update provisions dealing with removal of board members. (ATB-Modified)
9. Require the establishment of skill-oriented career ladders. (ATB)
10. Require a system of merit pay based on documented employee performance. (ATB)
11. Require member notification of board activities. (ATB-Modified)
12. Require files to be maintained on complaints. (ATB)
13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)

14. Require development of an equal employment opportunity policy. (ATB)
15. Require the system to provide information on standards of conduct to employees and board members. (ATB)
16. Provide for public testimony at agency meetings. (ATB)
17. Require the board to develop and implement policies which clearly separate board and staff functions. (ATB)
18. Require development of a program accessibility plan. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

General Services Commission

Board Members

Ronald Kirk, Dallas, Chairman
 Parker C. Folse, III, Houston
 Bob Davis, Irving
 Betty McKool, Dallas
 Ramiro Guzman, El Paso
 Ofelia De Los Santos, McAllen

Agency Functions

The General Services Commission has provided a variety of general support services to state agencies since 1919. Over the years, the legislature has expanded the responsibilities of the commission. The GSC currently provides services to state agencies in five broad areas: purchasing, telecommunications, facilities construction and space management, building and property services, and travel and transportation. Within the five broad areas the GSC performs a magnitude of support services. Although a few of these services are limited to the Austin area, most of the GSC's services are provided statewide.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 77,706,906	\$ 125,991,440
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Percent of General Revenue	49%	49%
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Number of Positions (FY 1993)

769.2 FTE

Commission Findings and Recommendations

The review of the General Services Commission included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and changes needed in the agency's statute.

Need for the Agency

The Sunset Commission concluded that the functions performed by the General Services Commission are necessary. By continuing the central services performed by GSC, the state can reduce the cost and time needed to perform these services. Currently, no other state agency provides a variety of support services similar to those provided by the GSC. Based on these factors, the Sunset Commission recommended that the GSC be continued.

Reorganization Alternatives

The Sunset Commission recommended the transfer of the GSC's fire and safety section to the Texas Commission on Fire Protection. The Texas Commission on Fire Protection was created by the 72nd Legislature to consolidate the state's programs related to fire prevention and protection. Transfer of the fire and safety section which performs a variety of fire related activities would further consolidate the state's fire prevention and protection programs in the Texas Commission on Fire Protection.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations, in addition to the transfer of fire and safety, to improve the agency's operations. These recommendations include the following major changes:

- Expand the state's use of competitive sealed proposals in limited situations. Currently, most goods and services must be purchased using competitive bidding. Competitive bidding is designed for purchases where the product or service can be broken down into a list of measurable components. The state purchases many goods and services that contain creative or high technology components that are difficult to break down this way. The legislature recognized this difficulty in purchasing telecommunications and computer technology and authorized the use of an alternative purchasing method, competitive sealed proposals, when

making certain telecommunications or computer purchases.

The Sunset Commission recommended allowing the use of competitive sealed proposals in other instances. The recommendation would permit the GSC to use this alternative purchasing method to purchase goods of more than \$1 million and routine services of more than \$100,000 if it determines that competitive bidding is not practical or advantageous to the state. Competitive sealed proposals used under these conditions would allow the GSC to use the most appropriate purchasing method for the goods or routine services it purchases.

- Require all state agencies to use one central bidders list developed by the GSC. Current law requires each state agency to create and maintain its own bidders list or to use the GSC's bidders list. Most state agencies currently maintain their own lists and some agencies maintain multiple lists. The sunset staff conducted a survey that found many vendors were repeated on the agencies' bidders lists and in some cases were repeated on several lists within one agency. Maintaining these duplicate listings of vendors results in unnecessary cost. In addition, to the costs, vendors have a difficult time getting on the appropriate bidders list. Consolidating all of the state's bidders lists into one list maintained by the GSC and used by all state agencies will eliminate these problems. The GSC would have a two-year period to implement the consolidated bidders list. Vendors would have to contact only one agency, the GSC, to be placed on the centralized bidders list.
- Raise the threshold from \$5,000 to \$10,000 for purchases requiring bid invitations to be sent to all vendors on the bidders list. Under current law, if an agency is making a purchase of \$5,000 or more, it must send an invitation for bid to every vendor supplying that good or service. For an agency with a large bidders list, this may require printing and mailing a great number of invitations for bid. The current requirement results in unnecessary cost, especially if only a few vendors respond. Raising the threshold may reduce agencies' printing and mailing costs. This

change may also improve the timeliness of awarding contracts since fewer bids may be evaluated.

- Increase the maximum size of passenger vehicles the state can purchase. In 1989, the legislature created a new program to convert the state's vehicles to operate on alternative fuels. To convert a vehicle to alternative fuels, the vehicle must be modified to accommodate several pieces of equipment including fuel tanks, pressure regulators and a carburetor or mixer. This equipment is usually placed in the rear of the vehicle below the trunk and increases the vehicle's weight by as much as 450 pounds with full fuel tanks. The trunk area in the maximum size vehicle the state can currently purchase is often so small that substantial structural changes are required to accommodate the equipment, leaving a smaller area for cargo in the trunk. This change would allow agencies to purchase larger vehicles when the vehicle is to be converted to alternative fuels. These larger vehicles are more easily converted to alternative fuels because they require fewer, if any, structural changes and have the additional horsepower needed to pull the additional weight of the equipment and fuel.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 91,275	\$ 228,200

Gain to Other Funds:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 1,711,000	\$ 5,946,000

Decrease in FTE: 1.25

Complete List of Recommendations

1. Continue the agency for an eight-year period.
2. Transfer the fire and safety section to the Texas Commission on Fire Protection.
3. Remove the GSC from the interagency contracting process. **(Gain: \$228,200/FY 1994-98)**
4. Expand the state's use of competitive sealed proposals in limited situations.
5. Require all state agencies to use a centralized bidders list developed by the GSC.
(Gain: \$6,317,064/FY 1994-98)
6. Raise the threshold from \$5,000 to \$10,000 for purchases requiring bid invitations to be sent to all vendors on the bidders list.
7. Allow the Texas Youth Commission to lease its own residential space.
8. Waive requirements for hiring architects and engineers in emergency situations and define emergency situations.
9. Require the GSC to conduct a space utilization study to determine the varying space needs of state agencies; require the GSC to use the results of this study to allocate space to agencies in the future; and limit the maximum space allocation to 200 square feet per employee per location, except for locations with less than 15 people.
10. Modify the composition of the Uniform General Conditions review committee.
11. Require the GSC to review all energy alternatives when constructing or renovating state buildings.
12. Improve coordination to eliminate non-compatible telecommunications systems.

13. Increase the maximum size of passenger vehicle the state can purchase. (Cost: \$371,250/FY 1994-98)
14. Require that appointment to the board shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointee. (ATB-Updated)
15. Require development of an E.E.O. policy. (ATB-Updated)
16. Require development of accessibility plan. (ATB-Updated)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Texas Department of Insurance

Board Members

Claire Koriath, Chair, Austin
Allene Evans, Austin
Paul Williams, Austin

Agency Functions

Insurance regulation in Texas began in 1876, when the legislature created the Department of Insurance, Statistics and History, now called the Texas Department of Insurance. The department is governed by a three-member full-time board that sets rates, adopts rules, and hires a commissioner of insurance to handle administrative activities. The department regulates about 180,000 licensed insurance agents and 2,558 insurance companies, representing a total premium volume in Texas of more than \$35 billion. The department's major regulatory activities are setting and reviewing rates and regulating forms, monitoring the solvency and business affairs of licensed companies, enforcing the state's insurance laws and the board's rules and regulations, licensing insurance companies and agents, and providing consumer services. The department also operates 33 field offices throughout the state to perform property ratings, windstorm inspections, and financial examinations.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 48,637,040	\$ 48,704,593
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Percent of General Revenue	0%	0%
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**Number of Positions
(FY 1993)** 1,204.5 FTE

Commission Findings and Recommendations

The review of the Texas Department of Insurance included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and changes needed in the agency's statute.

Need for the Agency

The Sunset Commission concluded that the department's primary regulatory activities are needed to protect the public from insurance company failures, to assure proper conduct by insurers and other participants in the insurance market, and to ensure that insurance rates are just and reasonable for the insurance services being provided.

Reorganization Alternatives

The Sunset Commission considered alternatives to the department's existing structure to determine if all or part of the department's functions should be transferred to other agencies. The commission determined that benefits could be achieved by transferring the department's tax collection and auditing activities to the comptroller of public accounts. As chief tax collector for the state, the comptroller's office is better equipped than the department to collect, administer, and enforce insurance taxes.

The commission also found that benefits could be achieved by transferring the department's hearings function to the State Office of Administrative Hearings. The legislature has clearly expressed its intent to consolidate the hearings functions of administrative agencies if such a transfer would improve the independence, quality, and cost effectiveness of hearings. Transferring the department's hearings function to the central hearings office would remove functions that may be better performed by other agencies and would allow the department to focus more clearly on its primary mission of insurance regulation. In addition, the commission recommended transferring the collection of workers' compensation insurance data from the department to the Texas Workers' Compensation Commission (TWCC).

Currently, the department collects the insurance data for the TWCC, which enforces the reporting requirements. The Sunset Commission found that transferring this function would streamline the data reporting process and would place the authority to collect the data in the same agency that enforces the reporting requirements.

Major Recommendations

After concluding that the agency was needed and that certain organizational changes should be made, the Sunset Commission developed a number of recommendations to improve the department's operations. These recommendations include the following changes:

- Change the department's governing structure by abolishing the full-time board and providing for a single commissioner of insurance who would be responsible for all of the department's functions, except for the responsibility for establishing insurance rates. The commissioner would be appointed by the governor to a two-year term with the advice and consent of the senate. The commissioner would have to meet the same experience requirements as currently provided in statute, except that the requirement for the commissioner to be a Texas resident would be removed from the statute. Under this proposal, a six-member, part-time board would be created solely for the purpose of establishing insurance rates. This board would be appointed by the governor to six-year, staggered terms, with the advice and consent of the senate. These changes would improve accountability for the operations of the department and maintain openness and provide a broad perspective in the insurance rate-setting process. Eliminating the full-time board would also reduce confusion regarding the daily management of the department.
- Transfer the department's tax and audit functions to the comptroller of public accounts. This proposal would place responsibility for collecting the state's insurance taxes with the agency whose primary focus is collecting state taxes and which is better equipped to collect, administer, and enforce insurance taxes than the

department. The transfer would also provide for a memorandum of understanding between the TDI and the comptroller's office to ensure that information gathered through tax administration and through insurance regulation is shared between the two agencies as necessary.

- Transfer the department's hearings function to the State Office of Administrative Hearings. This proposal would follow legislative intent to consolidate the hearings functions of administrative agencies if the transfer would improve the independence, quality, and cost effectiveness of hearings. This transfer involves only those administrative hearings currently conducted by the department's hearing staff, and does not involve rate hearings, which would be conducted by the part-time board as discussed above. Conducting hearings through the central hearings office would ensure that hearings officers maintain a degree of independence from the TDI and would reduce the risk of improper contacts with agency employees acting as parties to contested cases. The transfer would also improve public confidence in the administrative process by increasing the structural objectivity of the effort.
- Create a nine-member select committee to study the effects of shifting the department's focus from setting specific rates to monitoring solvency and market conduct. The select committee would be composed of three members appointed by the governor; three members of the senate appointed by the lieutenant governor; and three members of the house appointed by the speaker of the house. Changes made by the 72nd Legislature to lessen rate setting regulations will expire in 1995. At that time, a decision will be made to continue on the course set or to change directions. The committee would provide the legislature with the information it needs to assess the impact of the recent regulatory changes and to decide the future course of insurance rate and form regulation.

- Allow associations to participate in rate hearings. Testimony at the public hearing indicated that small and medium-sized insurance companies rely on insurance associations to represent them as a group in front of the board because they do not have the resources to represent themselves. Allowing associations, such as the Texas Automobile Insurance Service Office and the Association of Fire and Casualty Companies of Texas to participate in rate hearings would enable smaller companies to be represented in a cost-justifiable way in the process.
- Continue advisory organizations for the purpose of providing insurance loss information needed in establishing insurance rates. Advisory organizations provide information such as historical data, prospective loss cost, and supplementary rating information to the industry and to the department. As part of the insurance reforms enacted in 1991, the legislature scheduled eliminating the role of these advisory organizations in the regulatory process after September 1, 1993. The proposal adopted by the Sunset Commission would continue these advisory organizations, but only for providing loss cost data.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to Insurance Operating Fund No. 036:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 1,887,000	\$ 4,737,000

Decrease in FTE: 12

Complete List of Recommendations

1. Continue the Texas Department of Insurance for a 12-year period.
2. Change the department's governing structure by eliminating the current three-member, full-time board and establishing an insurance commissioner, appointed by the governor and a six-member part-

time rate board, appointed by the governor, that would only set insurance rates.

(Gain: \$4,750,000/FY 1994-98)

3. Transfer the department's tax and audit functions to the comptroller's office.
4. Transfer the department's hearings functions to the State Office of Administrative Hearings.
5. Establish a nine-member select committee to study effects of shifting the department's focus from regulating rates and forms to monitoring insurers' financial condition and market conduct.
(Loss: \$13,000/FY 1994-98)
6. Allow small and medium sized companies to participate in rate hearings through insurance associations.
7. Allow advisory organizations to continue collecting insurance statistics for providing data on insurance losses needed to establish insurance rates.
8. Require the department to study and develop a plan for privatizing or transferring to other agencies department programs and activities as appropriate. The study must be completed and presented to the Senate Committee on Economic Development and the House Committee on Insurance no later than June 1, 1994
9. Require life insurance policy reserves to be subject to board rules instead of regulations adopted by the National Association of Insurance Commissioners.
10. Provide the department with clear guidelines for assessing administrative penalties.
11. Require the Texas Legislative Council to recodify the insurance code.

12. Provide for confidentiality of information regarding the department's early warning system.
13. Require state and local agencies to provide information to the department's fraud unit upon request.
14. Provide for confidentiality of the department's financial examinations of insurance companies through periods of supervision and conservation.
15. Require the department to study and implement provisions that will streamline insurance rate proceedings while ensuring due process for all parties.
16. Allow department staff to testify as a resource witness in individual rate hearings only as resource witnesses but continue to prohibit the staff from becoming a party to rate cases.
17. Require the department to develop and implement provisions for improving its approval process for life insurance policies.
18. Require insurance companies to report data on health and long-term care insurance to the department.
19. Allow the department to examine financially sound insurance companies every five years instead of every three years.
20. Require the department to adopt audit and compliance standards and to use audits and work papers prepared by certified public accountants when available. The department would still be able to conduct its own audits when necessary and insurers writing less than \$1 million in direct premiums in Texas in a calendar year would still be exempt from the audit requirements.

21. Increase capital and surplus requirements for surplus lines.
22. Allow insurers to show ownership of securities in ways that reflect current practices by requiring the department to define "uncertificated securities" and provide standards and financial safeguards for the types of uncertificated securities that may be held.
23. Modify requirements for reinsurance agreements.
24. Provide that a disclaimer of control is an exemption from acquisition of control requirements.
25. Standardize the existing definition of audiologists and speech-language pathologists for the purpose of authorizing insurance payments.
26. Transfer the collection of workers' compensation insurance data from the department to the Texas Workers' Compensation Commission.
27. Require public membership on the board. (ATB-Modified)
28. Require specific provisions relating to conflicts of interest. (ATB-Updated)
29. Provide that persons required to register 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. (ATB-Updated)
30. Require that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB-Updated)
31. Specify grounds for removal of a board member. (ATB-Updated)
32. Require the board to make annual written reports to the governor and the legislature detailing all receipts

- and disbursements made under its statute. (ATB-Modified)
33. Require the commissioner to establish a skill-oriented career ladders (ATB-Updated)
 34. Require the a system of merit pay based on documented employee performance. (ATB-Updated)
 35. Provide for notification and information to the public concerning the department's activities. (ATB-Updated)
 36. Require files to be maintained on complaints. (ATB-Updated)
 37. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB-Updated)
 38. Require development of an equal employment opportunity policy. (ATB-Updated)
 39. Require the department to provide information on standards of conduct for board members and employees. (ATB)
 40. Provide for public testimony at agency meetings. (ATB)
 41. Require the board to develop and implement policies that clearly define board and staff functions. (ATB)
 42. Require development of a program accessibility plan. (ATB)
 43. Place the department under the state's competitive cost review program. (ATB)
 44. Require standard time frames for licensees who are delinquent in renewal of licenses. (ATB-Modified)

45. Provide for notice to a person taking an examination within a reasonable time of the testing date. (ATB-Modified)
46. Provide an analysis, on request, to individuals failing the examination. (ATB-Modified)
47. Require licensing disqualifications to be: 1) easily determined; 2) relating to currently existing conditions. (ATB)
48. Provide for licensing by endorsement rather than reciprocity. (ATB-Modified)
49. Authorize the staggered renewal of licenses system. (ATB-Modified)
50. Authorize agencies to use a full range of penalties. (ATB-Updated)
51. Specify board hearing requirements. (ATB-Updated)
52. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading. (ATB)
53. Authorize the board to adopt a system of voluntary continuing education. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Office of Public Insurance Counsel

Public Counsel

Amy Johnson, Austin

Agency Functions

The Office of Public Insurance Counsel (OPIC) was created as an independent agency in 1991 as part of the 72nd Legislature's insurance reforms. OPIC evolved from the Office of Consumer Protection (OCP), which had operated as an independent division within the Texas Department of Insurance. OPIC represents consumers as a class in all regulated lines of insurance before the board in matters of rates, rules, and forms. Because the TDI staff is generally prohibited from participating in rate hearings, OPIC is the only state entity authorized to participate in rate filings before the board. OPIC may also appeal board decisions to district court. OPIC also maintains public education programs for consumers.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 976,084	\$ 1,163,307
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Percent of		
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General Revenue	100%	100%
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Number of Positions (FY 1993)

23 FTE

Commission Findings and Recommendations

The review of the Office of Public Insurance Counsel included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and changes needed in the agency's statute.

Need for the Agency

The Sunset Commission concluded that the office's activities are needed to ensure that the interests of insurance consumers are represented in rate hearings and other regulatory proceedings at the Texas Department of Insurance.

Reorganization Alternatives

The Sunset Commission assessed the benefits of moving the office's activities to other agencies and found that a transfer would not reduce expenditures or improve existing activities. The commission recommended continuing the office's current structure.

Major Recommendations

Among other changes, the Sunset Commission adopted a recommendation to prohibit the public counsel from appearing or intervening in matters involving commercial insurance unless representing a class of commercial consumers including at least one consumer who spends less than \$250,000 a year in total insurance premiums.

Fiscal Impact

The Sunset Commission's recommendations are not expected to have a fiscal impact to the state.

Complete List of Recommendations

1. Continue the Office of Public Insurance Counsel for a 12-year period.
2. Limit the public counsel's authority to represent commercial insurance consumers.
3. Require public membership on boards. (ATB-Modified)
4. Require specific provisions relating to conflicts of interest. (ATB-Modified)
5. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general

- counsel to the board or serve as a member of the board. (ATB-Modified)
6. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee. (ATB-Modified)
 7. Specify grounds for removal of a board member. (ATB-Modified)
 8. Require the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB-Modified)
 9. Require the board to establish skill-oriented career ladders. (ATB)
 10. Require a system of merit pay based on documented employee performance. (ATB)
 11. Provide for notification and information to the public concerning board activities. (ATB-Modified)
 12. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process. (ATB)
 13. Require development of an E.E.O. policy. (ATB)
 14. Require the agency to provide information on standards of conduct to board members and employees. (ATB-Modified)
 15. Require development of accessibility plan. (ATB)
 16. Place the agency under the state's competitive cost review program. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Department of Public Safety

Board Members

Ronald Krist, Houston, Chair
Robert Holt, Midland
Albert Alkek, Houston

Agency Functions

The Department of Public Safety (DPS) and its three-member Public Safety Commission were created in 1935 by the 44th Legislature. The DPS is responsible for enforcing traffic laws on the state's rural highways, enforcing criminal laws, administering assigned regulatory programs, regulating commercial and for-hire traffic, and directing and controlling emergency management activities in the state. The department carries out its programs and functions through the director's office, which includes the Texas Rangers Division; the Traffic Law Enforcement Division; the Criminal Law Enforcement Division; and the Administrative Division.

The Traffic Law Enforcement Division is responsible for the administration and coordination of all field traffic law enforcement activities of the department and furnishing executive security for the governor and visiting dignitaries. Primary duties of this division involve traffic supervision on rural highways while secondary functions include criminal law enforcement activities and certain regulatory functions. The Criminal Law Enforcement Division provides specialized assistance to local enforcement agencies, initiates its own law enforcement actions, and cooperates with federal agencies engaged in criminal law enforcement activities. The Texas Rangers Division is the state's special investigation and law enforcement unit. When requested, the Texas Rangers assist local law enforcement agencies in high profile investigations such as homicides, investigations of public officials, and all shooting incidents involving department personnel.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 229,152,527	\$ 233,014,782
	Percent of General Revenue	1% 1%

Number of Positions (FY 1993)	5,949 FTE
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Commission Findings and Recommendations

The review of the Department of Public Safety included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and changes needed in the agency's statute.

Need for the Agency

The Sunset Commission concluded that the DPS carries out functions the state should perform and that the agency should be continued.

Reorganization Alternatives

The Sunset Commission made no recommendation to reorganize the agency. No organizational structure found in other states would provide any significant benefit over the current structure. No benefits would be achieved by transferring any functions to another agency.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the department's operations. The recommendations include the following major changes:

- Expand the Public Safety Commission from three to six members. Most state boards and commissions in Texas are composed of six or nine members. Increasing the commission's size would give the governor more opportunity to appoint members who reflect the geographic and ethnic diversity of the state.
- Partially reverse the legislative decision to eliminate all commissioned personnel from the motor vehicle inspection program and allow the department to

continue the use of 25 commissioned officers in the program. The 72nd Legislature passed legislation requiring that the department phase out the use of commissioned officers for enforcement in the inspection program. The commission was concerned that enforcement would suffer if the department was not allowed to continue the use of a limited number of officers. The commission recommended that the department be allowed to continue using 25 commissioned officers.

- Remove the department's authority to waive the motor vehicle driving test. The department currently uses its authority to allow graduates of approved driver training courses to become licensed without passing the driving test. The commission concluded that allowing persons to become licensed without passing a driving test was an inappropriate state policy that could harm the public. The commission recommended that the department's authority to waive the test be eliminated and the driving test be required.
- Continue the state's wiretap statute. The use of wire/oral intercepts has been an effective tool in drug law enforcement. Controls placed on their use have been effective in preventing abuses of the authority. The current wiretap statute has an expiration date of September 1, 1993. The commission recommended that the current authority be continued for 12 years and reviewed again when the department undergoes sunset review in 2005.
- Standardize access to the department's criminal history information for non-criminal justice agencies and give volunteer centers access to crime records. In recent years, the number of non-criminal justice agencies authorized to obtain crime record information has steadily increased. With the increase in access, a diversity of confidentiality requirements and penalties for misuse of this sensitive information has developed in numerous statutes. The commission decided that such an inconsistent approach did not give the state the ability to adequately protect the information. This

recommendation establishes a central statute that identifies all non-criminal justice agencies that have been granted access and standardizes confidentiality requirements and penalties. The department can better respond to requests for criminal record information and safeguard against the misuse of crime records. In addition, the commission identified a need to add volunteer centers to the list of those authorized to receive the information. This need results from the inability of volunteer centers to adequately check the background of persons volunteering. The public benefits by the efforts of volunteers but can also be at risk if no background check is done.

- Require coordination between the governor's office and the department in drug law enforcement efforts. The department has not been consistently involved in developing the state's drug enforcement policy or in the state's dealings with local drug task forces. This recommendation would require a memorandum of understanding (MOU) between the department and the governor's office. This will result in increased coordination to avoid duplication and will increase use of department expertise to benefit the state's drug task forces.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 2,600,000	\$ 6,500,000

Cost to State Highway Fund No. 006:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 613,046	\$ 5,257,115

Increase in FTE: 25

Complete List of Recommendations

1. Continue the DPS for a 12-year period.
2. Give the governor the authority to designate a member of the commission as its chair.
3. Expand the Public Safety Commission from three to six members. (Cost: \$75,000/FY 1994-98)
4. Provide specific direction to the department to improve its recruitment, hiring and promotion of women and minorities.
5. Eliminate the requirement to discontinue the use of commissioned personnel in the motor vehicle inspection program and allow the department to continue to use 25 commissioned officers in the program. (Cost: \$3,735,000/FY 1994-98)
6. Fees should be charged for the reinstatement of a suspended driver's licensee.
(Gain: \$6,500,000/FY 1994-98)
7. Remove the department's authority to waive the driving test for graduates of driver training courses.
8. Require the department to establish a cost tracking system that identifies the net cost of services provided to local law enforcement agencies and other local government entities and report the cost information to the legislature through the appropriations process.
(Cost: \$1,447,115/FY 1994-98)
9. Standardize the use of criminal history information by non-criminal justice agencies and add volunteer centers to the list of those authorized to get conviction data.
10. Continue the state's wiretap statute with an expiration date that coincides with the department's next sunset review.

11. Increase coordination between the department and the governor's office in drug law enforcement efforts.
12. Adopt a management directive to require the department to explore the use of all new techniques of printing vehicle inspection stickers.
13. Adopt a management directive to require the department to implement changes to its driver's license process to speed up license issuance.
14. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. (ATB)
15. Require that appointment to the board shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointee. (ATB)
16. Specify grounds for removal of a board member. (ATB)
17. Require the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB)
18. Require the board to establish skill-oriented career ladders. (ATB)
19. Require a system of merit pay based on documented employee performance. (ATB)
20. Provide for notification and information to the public concerning board activities. (ATB-Modified)
21. Require files to be maintained on complaints. (ATB)
22. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)

23. Require development of an E.E.O. policy. (ATB)
24. Require the agency to provide information on standards of conduct to board members and employees. (ATB)
25. Provide for public testimony at agency meetings. (ATB)
26. Require development of accessibility plan. (ATB)
27. Place agency under the state's competitive cost review program. (ATB)
28. Authorize the staggered renewal of licenses. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Public Utility Commission of Texas

Commission Members

Robert W. Gee, Chair, Houston
 Karl R. Rábago, Friendswood
 Marta Greytok, Taylor Lake Village

Agency Functions

The legislature created the Public Utility Commission in 1975. The PUC is responsible for regulating electric and telephone utilities in Texas. The key functions of the commission include certifying a utility's initial operation, reviewing any new construction or changes to existing facilities, setting rates, and monitoring and auditing the operations of utilities under its jurisdiction. Currently, the PUC has oversight of 10 investor-owned electric utilities, 87 electric cooperatives, four river authorities, 59 local telephone companies, and the dominant carrier of long-distance service in the state (AT&T). Cities have retained original ratemaking authority for electric utilities and cooperatives operating within their boundaries, but the commission routinely reviews these rates when they are appealed. The commission also reviews on appeal the rates of city utilities serving customers outside of their city limits. The agency estimates that the utilities it regulates have a combined annual revenue of about \$20 billion.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
	\$ 9,957,268	\$ 10,729,132
Percent of General Revenue	88%	90%

Number of Positions (FY 1993)

235.2 FTE

Commission Findings and Recommendations

The review of the Public Utility Commission included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and changes needed in the agency's statute.

Need for the Agency

The Sunset Commission reviewed the need for the agency in regulating electric and telephone utilities. The commission concluded that utilities generally operate as monopolies and regulation is needed to protect the public from unreasonably escalating utility rates and to ensure reliable and quality service. The Sunset Commission recommended that the PUC be continued.

Reorganization Alternatives

The Sunset Commission assessed various reorganization options to determine if all or part of the PUC's functions should be combined or transferred to other agencies. The Sunset Commission concluded that benefits could be achieved by reorganizing the current regulatory structure. The Sunset Commission recommended four key changes: first, that the responsibility for hearings be transferred from the PUC to the State Office of Administrative Hearings; second, that the role of the PUC general counsel as a party to cases before the commission be eliminated; and third, that resources made available from the elimination of the general counsel's case be transferred to the Office of Public Utility Counsel (OPUC). Fourth, that OPUC be required to participate in all cases before the PUC affecting residential and small business consumers. These reorganization alternatives are explained in more detail in the major recommendations section below.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the commission's operations. The recommendations include the following changes:

- Transfer the responsibility for utility hearings from the PUC to the State Office of Administrative Hearings (SOAH). The current structure of the hearings division allows for the possibility of direct or indirect pressure by the commissioners on the hearings staff as a result

of the employer-employee relationship. Transferring this duty to the SOAH would provide increased independence and objectivity for these hearings. Due to the complexity of utility hearings, a group of administrative law judges (ALJs) at the SOAH would be required to specialize in utility cases and the current experience requirements for ALJs would be maintained.

- Eliminate the role of the PUC general counsel as a party to cases before the commission. Currently, the general counsel is employed by the commissioners to participate in all utility cases as a party. The role of the general counsel is to present a case that balances the needs of the utilities with those of consumers in the public interest. Under the recommended change, the administrative law judges who hear the cases, and ultimately the commissioners, will be responsible for determining what is in the public interest based on testimony from the utilities, consumers and any other parties.
- Transfer resources made available from the elimination of the general counsel's case to OPUC and require OPUC to participate in all cases before the PUC affecting residential and small business consumers. Since 1983, OPUC's funding has allowed it to participate in only about six percent of all rate cases before the PUC. Transferring resources from the PUC will enable the OPUC to participate in all cases affecting residential and small business consumers. Requiring such participation will ensure that the consumer perspective is represented in all such cases.
- Require the PUC to combine and improve its energy planning programs. Currently, the PUC's statutory framework for energy planning is incomplete and fragmented and does not allow for timely consideration of alternatives, such as conservation, to reduce the need for additional power plants. The changes recommended by the Sunset Commission will require the PUC to develop an integrated resource planning process that ensures that utilities select the lowest-cost, reliable

energy resources to minimize any increases to individual consumers' utility bills.

- Allow electric and telephone cooperatives to opt out of PUC rate regulation, as long as this privilege is not abused. Cooperatives, while monopolies, are owned by the same consumers receiving services and are not in business to make a profit. The Sunset Commission determined that regulatory expenses to the PUC and the cooperatives could be saved by allowing a cooperative's members to vote to opt out, while still providing safeguards against possible abuses. These safeguards include allowing members to petition for a PUC rate case review if problems arise and allowing the PUC to review a cooperative's rates upon complaint.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Loss to General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 460,000	\$ 1,150,000

Increase in Number of FTE: 7

The impact above relates to the recommendations on the PUC as a whole. It should also be noted that the reorganization of the PUC, while not impacting general revenue overall, will result in a shift of resources from the PUC to the OPUC and the SOAH. An estimate of the amount of funds and staff to be transferred has not been determined.

Complete List of Recommendations

1. Continue the Public Utility Commission for an eight-year period.
2. Reorganize the PUC by transferring the hearings division to the State Office of Administrative Hearings; removing the general counsel as a party to cases; transferring resources from the PUC to OPUC;

and requiring the OPUC to participate in all cases before the PUC affecting residential and small business consumers.

3. Remove outdated statutory organizational requirements and make the executive director responsible for running the day-to-day operations of the agency.
4. Authorize governor to designate commission chair.
5. Tighten the commission's conflict-of-interest provisions.
6. Prohibit the PUC from adjusting the gross receipts assessment.
7. Broaden the PUC's authority to assess administrative penalties.
8. Maintain the authority for the PUC to do management audits, but remove the requirement for one to be done of each utility every ten years.
9. Require the PUC to develop an integrated resource planning process. (Loss: \$1,500,000/FY 1994-98)
10. Authorize the PUC to schedule rate cases, with an exception for emergencies.
11. Authorize the PUC to conduct local public hearings on major rate cases.
12. Authorize the PUC to adopt rules to limit parties' time in presenting cases.
13. Authorize the PUC to adopt rules to limit discovery.
14. Streamline the process for notifying cities of proposed rate changes.

15. Authorize the PUC to adopt rules requiring parties to focus on contested issues in rate cases, including issues arising as a result of discovery.
16. Authorize the PUC to adopt rules authorizing hearings examiners to group parties, excluding OPUC.
17. Remove restrictions on automatic fuel adjustments.
18. Require the PUC to adopt settlement procedures to protect the rights of non-settling parties.
19. Remove limitations on central office-based PBX services.
20. Prohibit the inclusion of certain pay telephone costs in a utility's rate base.
21. Partially deregulate electric distribution cooperatives. **(Gain: \$350,000/FY 1994-98)**
22. Partially deregulate telephone cooperatives.
23. Require time limits for rate reduction cases.
24. Authorize temporary rates in rate reduction cases.
25. Require charitable contributions by utilities to be financed through utility shareholder profits.
26. Require the PUC to establish rate case expense standards.
27. Require public membership on boards and commissions. (ATB-Modified)
28. Require specific provisions relating to conflicts of interest. (ATB)
29. Provide that a person registered as a lobbyist under Article 6252-9c, V.T.C.S., may not act as general

- counsel to the commission or serve as a member of the commission. (ATB-Updated)
30. Require that appointment to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointee. (ATB-Updated)
 31. Specify grounds for removal of a commission member. (ATB-Updated)
 32. Require the commission to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB-Updated)
 33. Require the commission to establish skill-oriented career ladders. (ATB-Updated)
 34. Require a system of merit pay based on documented employee performance. (ATB-Updated)
 35. Provide for notification and information to the public concerning commission activities. (ATB-Updated)
 36. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process. (ATB)
 37. Require files to be maintained on complaints. (ATB-Updated)
 38. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB-Updated)
 39. Require development of an E.E.O. policy. (ATB-Updated)
 40. Require the agency to provide information on standards of conduct to commission members and employees. (ATB-Updated)

41. Provide for public testimony at agency meetings. (ATB)
42. Require that the commission develop and implement policies which clearly separate commission and staff functions. (ATB)
43. Require development of accessibility plan. (ATB)
44. Place agency under the state's competitive cost review program. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Office of Public Utility Counsel

Public Counsel

Luis A. Wilmot, Austin

Agency Functions

The legislature created the Office of Public Utility Counsel (OPUC) in 1983 to represent residential and small business consumers before the Public Utility Commission of Texas (PUC). The counsel is appointed by the governor for a two-year term and confirmed by the senate. The OPUC participates in many proceedings before the PUC but concentrates its efforts on telephone and electric utility rate cases having the greatest financial impact on residential and small business consumers. The office has participated in 43 out of 87 major rate cases, but only six percent of all cases before the PUC since 1983. The office has also appealed 26 of the PUC's final orders to the state courts. The OPUC estimates that its sole intervention in specific rate case issues on behalf of residential and small business consumers has saved those ratepayers nearly \$1.4 billion in rates increases from 1983 through 1990. The office also calculates a savings of \$3.7 billion based on instances where OPUC joined with other parties to recommend a position that was finally adopted.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 1,340,618	\$ 1,368,074
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Percent of		
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General Revenue	81%	82%
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Number of Positions (FY 1993)

21 FTE

Commission Findings and Recommendations

The review of the Office of Public Utility Counsel included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and changes needed in the agency's statute.

Need for the Agency

The Sunset Commission reviewed the need for the Office of Public Utility Counsel and found a continuing need for an independent office to represent residential and small business consumers in regulatory proceedings at the Public Utility Commission. The Sunset Commission recommended that OPUC be continued.

Reorganization Alternatives

The Sunset Commission assessed various reorganization options to determine if all or part of OPUC's functions should be combined or transferred to other agencies. The commission concluded that benefits could be achieved by reorganizing the current public utility regulatory structure. The Sunset Commission recommended the elimination of the role of the PUC general counsel as a party to cases before the commission, and the transfer of hearings to the State Office of Administrative Hearings. Resources made available from the elimination of the general counsel's case would be transferred to OPUC. Office of Public Utility Counsel would be required to participate in all cases before the PUC affecting residential and small business consumers. These reorganization alternatives are explained in more detail in the major recommendations section below.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the counsel's operations. The recommendations include the following major changes:

- Eliminate the role of the PUC general counsel as a party to cases before the commission and transfer hearings to the State Office of Administrative Hearings. Currently, the general counsel is employed by the commissioners to participate in all utility cases as a party presenting a public interest case that balances the needs of the utilities with those of consumers. With the elimination of the function of the general counsel, the Office of Public Utility Counsel will have to develop

new strategies for carrying out its case. The transfer of PUC hearings to the State Office of Administrative Hearings will also require reorganizing the way OPUC does its business.

- Transfer resources made available from the elimination of the general counsel's case to the OPUC and require the OPUC to participate in all cases before the PUC affecting residential and small business consumers. Since 1983, OPUC's funding has allowed it to participate in about six percent of all rate cases before the PUC. Transferring resources from the PUC will enable the OPUC to participate in all cases affecting consumers that OPUC represents. Requiring such participation will ensure that the consumer perspective is represented in all such cases.

Fiscal Impact

No overall fiscal impact to general revenue is anticipated as a result of these recommendations. It should be noted that the reorganization of the PUC and OPUC, while not affecting general revenue overall, will result in a shift of resources from the PUC to OPUC. An estimate of the amount of funds and staff to be transferred has not been determined.

Complete List of Recommendations

1. Continue the Office of Public Utility Counsel for an eight-year period.
2. Reorganize the PUC and OPUC by removing the general counsel as a party to cases, transferring resources from the elimination of the general counsel to OPUC, and requiring OPUC to participate in all cases before the PUC affecting residential and small business consumers.
3. Require public membership on boards and commissions. (ATB-Modified)
4. Require specific provisions relating to conflicts of interest. (ATB-Modified)
5. Provide that a person registered as a lobbyist under Article 6252-9c, V.T.C.S., may not act as general

- counsel to the board or serve as a member of the board. (ATB-Modified)
6. Require that appointment to the board shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointee. (ATB-Modified)
 7. Specify grounds for removal of a board member. (ATB-Modified)
 8. Require the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute. (ATB-Modified)
 9. Require the board to establish skill-oriented career ladders. (ATB)
 10. Require a system of merit pay based on documented employee performance. (ATB)
 11. Provide for notification and information to the public concerning board activities. (ATB-Modified)
 12. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process. (ATB)
 13. Require development of an E.E.O. policy. (ATB)
 14. Require the agency to provide information on standards of conduct to board members and employees. (ATB-Modified)
 15. Require development of accessibility plan. (ATB)
 16. Place agency under the state's competitive cost review program. (ATB)

ATB: Standard across-the-board recommendations placed in statutes of any agency undergoing sunset review.

Texas Turnpike Authority

Board Members

Luther G. Jones, Jr., Corpus Christi, Chair
Michael Y. Chou, Houston, Vice Chair
David E. Bernsen, Beaumont, ex officio, Chair, Texas
Transportation Commission
Raul A. Besteiro, Jr., Brownsville
Nathelyne A. Kennedy, Houston
William Mahomes, Jr., Dallas
Phillip Montgomery, Dallas
Henry R. Munoz, III, San Antonio, ex officio, Texas
Transportation Commission
James N. Muns, Plano
Clive Runnells, Houston
Jere W. Thompson, Jr., Dallas
Anne S. Wynne, Austin, ex officio, Texas Transportation
Commission

Agency Functions

The Texas Turnpike Authority was established in 1953 to design, finance through the sale of revenue bonds, construct, operate and maintain toll turnpikes throughout the state. The authority has built and continues to operate three toll facilities. Agency staff study the feasibility of proposed toll roads. Consultants are hired to perform more detailed feasibility studies and to design the roadway. Construction contracts are let on a bid basis.

The Texas Turnpike Authority is a self-supporting agency of the state and has never received appropriated funds. According to the state constitution, no state tax money may be used to finance, in whole or in part, state toll roads; however, state highway funds can be loaned for turnpike construction. All projects undertaken by the agency are financed through the sale of revenue bonds, the principal and interest on which is repaid through the collection of tolls on the turnpikes. The agency employs a staff of 241 employees. Of this total, 28 are in the agency's headquarters in Dallas; 36 employees work in a field office

in Houston; and 177 employees collect and process tolls on the two projects located in the Dallas area.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 7,475,298	\$ 9,355,350
	Percent of General Revenue	0% 0%
Number of Positions (FY 1993)	241 FTE	

Staff Findings and Recommendations

The review of the Texas Turnpike Authority was limited in scope. A full sunset review of the Authority was conducted in 1991 for the 72nd Legislature. However, House Bill 9, passed during the first special session of the 72nd Legislature, expressed the intent of the legislature that the Texas Turnpike Authority (TTA) be consolidated within the Texas Department of Transportation (TxDOT) on September 1, 1997. The bill also directed the Sunset Advisory Commission to study the feasibility of such consolidation and to report to the 73rd Legislature.

The Texas Turnpike Authority should be merged with the Texas Department of Transportation in 1997 as planned. Merging the TTA with the TxDOT would centralize the state's highway planning, construction and maintenance programs into one agency. Texas presently has two statewide agencies with the responsibility to build and operate highways -- The Texas Department of Transportation and the Texas Turnpike Authority. The TxDOT builds and maintains the vast majority of state highways. Both of these agencies have mechanisms in place to plan, design, construct and operate highways. Although internal processes may differ in how highway projects are developed, the primary difference between the two agencies is in how projects are funded. Projects developed by TxDOT are funded through either state

highway funds or a mixture of state and federal highway funds. Projects developed by the TTA are funded by the sale of revenue bonds. The advantages of a single transportation agency to plan and develop the state's transportation system outweigh the disadvantages. However, further analysis is needed to determine whether a constitutional amendment is necessary to make the merger possible.

Fiscal Impact

There would be no fiscal impact on general revenue. However, if toll roads are built, using bond funding, state highway funds will be allowed to be used elsewhere, in effect, stretching the number of road projects state funds can support. If the objective is to build more toll roads, then making more funds available will achieve this objective. Merging TTA into TxDOT would create a single agency and satisfy federal and state restrictions on the use of funds, allowing TxDOT to use federal funds for toll roads.

Health Care Licensing Boards (General)

Agency Functions

The Sunset Commission reviewed 20 health care licensing boards. Together, these boards regulate approximately 350,000 licensees. Exhibit 1 includes general background information about each board as well as comparison data. Exhibit 2 provides a historical perspective of the state's regulatory efforts in the health care licensing area. Exhibit 3 compares measures that reflect the performance of the boards in key areas. A discussion of the functions of the agencies is included in the report material on each agency.

Agency Funding (Total)

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 13,472,178	\$ 14,135,778
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Percent of General Revenue	4.7%	5.26%
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Number of Positions (Total - FY 1993)

263.5 FTE

Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the regulation of the 20 health care professions under review should be continued for a 12-year period and reviewed again in 2005.

Reorganization Alternatives

While regulation of the 20 health care professions is reasonable, the Sunset Commission concluded that a number of changes were needed in the organizational structures used to carry out the regulation. The commission recommended the creation of a health professions council consisting of representatives of each health care licensing board under review. The council was recommended as a means of facilitating the co-location of the boards and standardizing their operations. The commission also recommended that several of the boards under review be merged and that one board be abolished and its functions be transferred to another agency. Specific changes recommended are included in the material developed for each health care board.

Major Recommendations

After determining the continuing need for regulation and the appropriate organizational structures, the Sunset Commission developed a number of standard recommendations that applied to all of the health care licensing boards under review. The recommendations include the following major changes.

- Create a health professions council consisting of representatives of each of the boards under review. The approach was recommended to achieve the benefits that can result from consolidation of agencies without replacing the individual boards with an umbrella board. The council will allow the member boards to co-locate and work together to identify model licensing techniques and get agreement to put them in place.
- Standardize the complaint and enforcement processes of the boards and provide the boards with adequate enforcement authority. During the review of the health care licensing boards, the commission uncovered a number of problems with the board's enforcement procedures, such as unnecessary variations in procedures and, in some cases, lack of defined procedures. In addition, each of the boards did not have authority to use a range of enforcement penalties to adequately address violations of law and rules. The commission recommended a standard set of

enforcement procedures for all agencies to follow and, where needed, recommended additional enforcement powers. Together, these changes will improve the boards' enforcement efforts and increase their ability to protect the public.

- Require all new appointees to governing boards of state agencies to receive training relating to board service. Currently, board members receive little training to prepare them to serve on state boards and commissions. This recommendation will provide for training on the agency involved, general state laws that affect the agency's operations, such as the open meetings law, and the requirements of the ethics law.
- Establish a standard approach for licensing out-of-state practitioners coming into Texas. Currently, the boards under review use a number of different procedures to determine whether to allow licensees from other states to receive a license to practice in Texas. These procedures vary from a very time consuming and restrictive one to cursory review that provides little public protection. The standard approach recommended will allow the out-of-state practitioner to practice in Texas, under the supervision of a current licensee, while requiring the board to evaluate the fitness of the temporary licensee to be granted a permanent license.
- Require mandatory continuing education for all the professions regulated by boards under review. Currently, some boards require continuing education to maintain licensure while others do not. In addition, the continuing education programs developed by the boards do not contain all the components necessary to ensure continued competency. Requiring continuing education and specifying the necessary program components will ensure that the boards take the step of helping ensure that licensees regulated maintain adequate competence to practice their professions.

Fiscal Impact

The preliminary fiscal impact of the recommendations for all agencies combined was determined to be:

Gain to State Revenues

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 759,896	\$ 2,140,271

Increase in FTE: 7

The fiscal implications of creating the health professions council are not included because the council's exact structure and responsibilities have yet to be determined.

Complete List of Recommendations

The Sunset Commission also developed a number of recommendations that apply specifically to each of the boards under review. These recommendations are set out in the material for each agency.

The Sunset Commission's across-the-board recommendations were also applied to each board under review. The across-the-board recommendations are standard language placed in the statute of all agencies under sunset review.

Texas Board of Licensure for Nursing Home Administrators

Board Members

Johnnie Lou Avery, Big Spring, Chair
Rumaldo Z. Juarez, Edinburg, Vice Chair
Olga Cortez, McAllen
Margaret Gose, Wichita Falls
Merril M. Gray, Plano
W. Edward McLendon, Richardson
Johnnie Richardson, Houston
Dr. Jack S. Weinblatt, Temple
Gary Allen, ex officio, Department of Human Services
Patsy Harper, ex officio, Texas Department of Health
John Willis, ex officio, Texas Department on Aging
One vacancy

Agency Functions

The Texas Board of Licensure of Nursing Home Administrators licenses and regulates the practice of nursing home administration in the state. The board's enabling act is a practice act in that it regulates the practice of nursing home administration and prohibits unlicensed individuals from engaging in the practice. The Nursing Home Administration Act defines a nursing home as a nursing home or custodial care home that is licensed by the Texas Department of Health. The practice of nursing home administration involves the general administration, management, and supervision of a nursing home. To fulfill its responsibilities, the board adopts rules regarding the practice of nursing home administration, determines the qualifications of applicants, develops and administers a two part state exam, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. In addition, the board provides continuing education courses for licensees and reviews for approval continuing education courses provided by other people and organizations. As a courtesy, the board also administers a national exam for persons in the state who may want to apply for licensure in a state that requires the national exam for licensure.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 315,553	\$ 554,130
	Percent of General Revenue	0% 0%

Number of Positions (FY 1993)	10 FTE
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Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of nursing home administrators was appropriate and should be continued for a 12-year period.

Reorganization Alternatives

The Sunset Commission concluded that a separate board to regulate nursing home administrators was not needed and recommended that the Texas Board of Licensure for Nursing Home Administrators be abolished and its functions transferred to the Texas Department of Health.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission adopted a number of standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The commission did not develop any additional recommendations that specifically related to the board.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Cost to Nursing Home Administrators Fund No. 137:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$104,126	\$242,315

Increase in FTE: 2

Complete List of Recommendations

1. Abolish the board that regulates nursing home administrators, transfer its functions to the Texas Department of Health, and create an advisory committee to assist the department with continued regulation.
2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
4. Authorize the department to issue temporary and inactive licenses.
5. Standardize the enforcement process of the board and provide adequate enforcement authority.
(Cost: \$ 242,315/FY 1994-98)
6. Provide authority for the temporary suspension of licensees.
7. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
8. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Examiners of Marriage and Family Therapists

Board Members

Thomas Milholland, Abilene, Chair
Harriet Roberts, Houston, Vice Chair
Maria Flores, San Antonio
Leslie Goolishian, Galveston
Dr. Bobbie Henderson, Houston
June Hicks, Cisco
Jerome McNeil, Jr., Dallas
Lucille Romeo, El Paso
David Talbot, Sr., Commerce

Agency Functions

The regulation of marriage and family therapists was first authorized in Texas in 1991. The Texas Department of Health (TDH), with advice from the Texas State Board of Examiners of Marriage and Family Therapists, is responsible for licensing and regulating the practice of marriage and family therapy. The board's act is a practice act in that it regulates the practice of marriage and family therapy and prohibits unlicensed individuals from engaging in the practice of professional marriage and family therapy and from using the title "licensed marriage and family therapists." To fulfill its responsibilities, the TDH board, with the advice of the advisory board, is authorized to adopt rules regarding the licensing of marriage and family therapists, adopt a professional code of ethics, determine the qualifications of applicants, administer an exam, issue initial and renewal licenses, investigate complaints, and take disciplinary action to enforce its enabling act. To allow for program development in the initial year of operation, the license requirements were phased in. The restrictions on the practice and use of the title became effective March 1992 and examinations are required starting September 1993. In the first year of regulation, the department licensed approximately 2,500 marriage and family therapists.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 60,987	\$ 163,345
	Percent of General Revenue	100%
	100%	100%

Number of Positions (FY 1993)	3 FTE
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Commission Findings and Recommendations

The sunset review of the Texas State Board of Examiners of Marriage and Family Therapists included determination of the continued need for the regulation carried out by the board, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the board.

Need for Regulation

The Sunset Commission concluded that the current regulation of marriage and family therapists was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate marriage and family therapists and recommended that the Texas State Board of Examiners of Marriage and Family Therapists be merged with the boards that regulate psychologists, professional counselors, and social workers.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission adopted a number of standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The commission did not develop any additional recommendations that specifically related to the board.

Fiscal Impact

The preliminary fiscal impact figures, set out below, represent the revenues generated by the merger of the Examiners of Marriage and Family Therapists, State Board of Examiners of Psychologists, Council for Social Work Certification, and State Board of Examiners of Professional Counselors.

Gain to the State:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$272,964	\$682,410

Decrease in FTE: 3

Complete List of Recommendations

1. Merge the programs that regulate marriage and family therapists, professional counselors, psychologists, and social workers and create a new agency to administer the programs.
(Gain: \$682,410/FY 1994-98)
2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
4. Require mandatory continuing education for all licensees.
5. Standardize the enforcement process of the board and provide adequate enforcement authority.
6. Require training for new members of the board.
7. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
8. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all the agencies under sunset review.)

Texas State Board of Examiners of Psychologists

Board Members

Dr. John Sell, Dallas, Chair
Dr. Larry Schoenfeld, San Antonio, Vice Chair
Ms. Susan Askanase, Houston
Dr. Lorraine Breckenridge, Bellaire
Dr. Roberta Nutt, Denton
Ronald Brandon, Temple
Dr. Kenneth Kopel, Houston
Mrs. Olga "Cookie" Mapula, El Paso

Agency Functions

The Texas State Board of Examiners of Psychologists was created in 1969. The board licenses and regulates licensed psychologists in the state. The board's enabling act is a title act in that it prohibits unlicensed individuals from calling themselves licensed psychologists. The act also addresses the practice of psychology by prohibiting individuals from offering psychological services unless licensed by the state. The act prohibits persons from representing themselves as psychologists without being appropriately licensed. The practice of psychology involves providing services that describe, explain, and ameliorate behavior. The practice addresses normal behavior and behavioral disorders related to psychological, emotional, and mental wellness. To fulfill its responsibilities, the board adopts rules regarding the practice of psychology, determines the qualifications of applicants, administers a national competency examination and a state jurisprudence exam and issues initial and renewal licenses. The board investigates complaints against licensees and takes disciplinary action to enforce its enabling act. The board has licensed over 2,700 psychologists and over 1,300 psychological associates.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 557,616	\$ 559,515
	Percent of General Revenue	0%
	0%	0%

Number of Positions (FY 1993)	8 FTE
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Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of psychology was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate psychologists and recommended that the Texas State Board of Examiners of Psychologists be merged with the boards that regulate marriage and family therapists, professional counselors, and social workers.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission developed a number of recommendations to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The recommendations that specifically relate to the Texas State Board of Examiners of Psychologists are discussed on the next page.

- Require that the board be composed of one-third public members. Currently, only two of the board's nine members are public members. Requiring one-third public membership will help ensure that the actions of the board reflect the interests of the public as well as the profession regulated.
- Authorize the board, when the public is in danger, to temporarily suspend a psychologist's license without a hearing. Currently, the board cannot stop a licensee from practicing without a full hearing and formal board action, which often can take several months. The ability to temporarily suspend a license will allow the board to take immediate action against the licensee when an urgent need exists.

Fiscal Impact

In addition to costs associated with the merger, there were preliminary fiscal impacts determined to be:

Cost to the Psychologists Licensing Fund No. 24:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 199,282	\$ 452,170

Increase in FTE: 2

Complete List of Recommendations

1. Merge the boards that regulate psychologists, professional counselors, social workers, and marriage and family therapists into a single policy board.
2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated. (Cost: \$2,000/FY 1994-98)
4. Authorize the board to issue temporary and inactive licenses.
5. Require mandatory continuing education for all licensees. (Cost: \$35,000/FY 1994-98)

6. Standardize the enforcement process of the board and provide adequate enforcement authority.
(Cost: \$408,590/FY 1994-98)
7. Require training for new members of the board.
(Cost: \$6,580/FY 1994-98)
8. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
9. Provide authority for the temporary suspension of licenses.
10. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Examiners of Professional Counselors

Board Members

Yvonne Kohutek, San Antonio, Chair
 Dean Wyrick, Cedar Hill, Vice Chair
 Karen Barlow, Fort Worth
 Dr. Julian Biggers, Jr., Lubbock
 Burtram Butler, Galveston
 Jane L. Guzman, Dallas
 James Mathis, Huntsville
 Nancy Pressler, Houston
 Norma Watson, Austin

Agency Functions

The regulation of professional counselors in Texas was established in 1981. The Texas Department of Health (TDH), with advice from the Texas State Board of Examiners of Professional Counselors, is responsible for examining, licensing and regulating the use of titles related to professional counseling. The board's act is a title act in that it regulates those who use the title "licensed professional counselor" and prohibits unlicensed individuals from using the title. To fulfill its responsibilities, the TDH board, with the advice of the advisory board, adopts rules regarding the practice, determines the qualifications of applicants, administers a national exam, issues initial and renewal licenses, investigates complaints, and takes disciplinary action to enforce its enabling act. In 1992, the department licensed approximately 9,000 professional counselors.

	FY 1992 Expended	FY 1993 Budgeted
Agency Funding	\$ 332,443	\$ 256,503
Percent of General Revenue	0%	0%

**Number of Positions
(FY 1993)** 8 FTE

Commission Findings and Recommendations

The sunset review of the Texas State Board of Examiners of Professional Counselors included a determination of the continued need for the regulation carried out by the board, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the board.

Need for Regulation

The Sunset Commission concluded that the current regulation of professional counselors was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate professional counselors and recommended that the Texas State Board of Examiners of Professional Counselors be merged with the boards that regulate psychologists, marriage and family therapists, and social workers.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission adopted a number of standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The commission did not develop any additional recommendations that specifically related to the board.

Fiscal Impact

No fiscal impact other than costs resulting from the merger is anticipated as a result of the recommendations.

Complete List of Recommendations

1. Merge the programs that regulate marriage and family therapists, professional counselors, psychologists, and social workers and create a new agency to administer the programs.
2. Require that fees be set by the board as necessary to cover the cost of regulation.

3. Authorize the board to issue temporary licenses.
4. Require that all licensing examinations be validated.
5. Require mandatory continuing education for all licensees.
6. Standardize the enforcement process of the board and provide adequate enforcement authority.
7. Require training for new members of the board.
8. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
9. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Council for Social Work Certification

Board Members

Jim Harvey, El Paso, Chair
 Hermilia Anzaldua, McAllen
 Sherri Abee, Abilene
 Barbara Dever, Bryan
 Roscette Holmes, Houston
 Don Kelley, Nederland
 Leonard Long, Dallas
 Michael Montanez, Lubbock
 Drew Officer, San Antonio

Agency Functions

The regulation of the profession of social work in Texas was established in 1981. The Department of Human Services (DHS), with advice from the Council for Social Work Certification, is responsible for examining, licensing and regulating the use of titles related to the profession of social work. The council's act is a title act in that it regulates those who use titles associated with social work and prohibits unlicensed individuals from using such titles. To fulfill its responsibilities, the DHS board, with the advice of the advisory council, adopts rules regarding the practice, determines the qualifications of applicants, administers a national exam, issues initial and renewal licenses, investigates complaints, and takes disciplinary action to enforce its enabling act. In 1992, the department regulated approximately 12,000 social workers.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 293,391	\$ 304,115
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Percent of General Revenue	0%	0%
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**Number of Positions
(FY 1993)** 4 FTE

Commission Findings and Recommendations

The sunset review of the Council for Social Work Certification included a determination of the continued need for the regulation carried out by the council, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the council.

Need for Regulation

The Sunset Commission concluded that the current regulation of social workers was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate social workers and recommended that the Council for Social Work Certification be merged with the boards that regulate marriage and family therapists, psychologists, and professional counselors.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission adopted a number of standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The commission did not develop any additional major recommendations that specifically related to the board.

Fiscal Impact

No fiscal impact other than costs resulting from the merger is anticipated as a result of the recommendations.

Complete List of Recommendations

1. Merge the programs that regulate marriage and family therapists, professional counselors, psychologists, and social workers and create a new agency to administer the programs.

2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
4. Require mandatory continuing education for all licensees.
5. Standardize the enforcement process of the board.
6. Require training for new members of the board.
7. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
8. Authorize the council to establish a limit on the number of exam retakes, conditions to be met before retakes, and alternative methods of competency testing.
9. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under review.)

Texas Advisory Board of Occupational Therapy

Board Members

Sally Schultz, Plano, Chair
 Kikujo Ford, Fort Worth, Vice Chair
 Graciela Garcia-Estrenda, Houston
 Frances Derrick, Mesquite
 Esperanza Brattin, McAllen
 Stancy Dinkowitz-Beyer, El Paso

Agency Functions

The Texas Advisory Board of Occupational Therapy licenses and regulates the practice of occupational therapy in the state. The board's enabling act is a title act in that it regulates the title of occupational therapist and prohibits unlicensed individuals from representing themselves as occupational therapists. The practice of occupational therapy involves the evaluation and treatment of individuals whose ability to perform the task of daily living is threatened or impaired, so as to prevent and correct physical or emotional dysfunction and to maximize function in the individual's life. To fulfill its responsibilities, the board adopts rules regarding the practice of occupational therapy, determines the qualifications of applicants, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 151,315	\$ 160,000
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Percent of General Revenue	100%	100%
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**Number of Positions
(FY 1993)** 4 FTE

Commission Findings and Recommendations

The sunset review of the health care licensing boards included determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of occupational therapy was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate occupational therapy and recommended that the Texas Advisory Board of Occupational Therapy be merged with the Texas State Board of Physical Therapy Examiners.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission adopted a number of standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The commission did not develop any additional recommendations that specifically relate to the board.

Fiscal Impact

The fiscal impact of the merger is included on the summary sheet for the Texas State Board of Physical Therapy Examiners. No other fiscal impact is expected as a result of the recommendations.

Complete List of Recommendations

1. Merge the boards that regulate occupational therapists and physical therapists into a single policy board.
2. Require that fees be set by the board as necessary to cover the cost of regulation.

3. Require that all licensing examinations be validated.
4. Require mandatory continuing education for all licensees.
5. Standardize the enforcement process of the board and provide adequate enforcement authority.
6. Require training for new members of the board.
7. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
8. Establish a 1-800 number for complaints.
9. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Physical Therapy Examiners

Board Members

Cecilia Garcia-Akers, San Antonio, Chair
 Travis Cox, Seguin, Vice Chair
 Lila Cross, Boerne
 Russell Baird, Wharton
 Julia Hartman, Odessa
 Henry Laird, Amarillo
 Norma Mancilia, El Paso
 Ann Walker, Dallas
 Barbara Brandon Shell, Houston

Agency Functions

The Texas State Board of Physical Therapy Examiners licenses and regulates the practice of physical therapy in the state. The board's enabling act is a practice act in that it regulates the practice of physical therapy and prohibits unlicensed individuals from engaging in the practice. The practice of physical therapy involves the examination, treatment, or instruction of individuals in order to detect, assess, prevent, and alleviate physical disability and pain and also involves the planning, administration, and modification of a patient's treatment. To fulfill its responsibilities, the board adopts rules regarding the practice of physical therapy, determines the qualifications of applicants, administers a national examination three times a year, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 352,854	\$ 351,495
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Percent of		
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General Revenue	100%	100%
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**Number of Positions
(FY 1993)** 7 FTE

Commission Findings and Recommendations

The sunset review of the health care licensing boards included determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of physical therapy was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate physical therapy and recommended that the Texas State Board of Physical Therapy Examiners be merged with the Texas Advisory Board of Occupational Therapy.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission developed a number of recommendations to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The recommendations that specifically relate to the Texas State Board of Physical Therapy Examiners are discussed below.

- Specifically prohibit other health care professionals from representing themselves as providers of physical therapy services. This recommendation eliminates contradictory language of the current statute to ensure that exemptions from the Physical Therapy Act do not allow other health care professionals to represent themselves as providers of physical therapy services.
- Give the board the power not only to license individual physical therapists but also to register physical therapy facilities. These facilities are sometimes run by people

who are not licensed physical therapists. As a result, the board has little authority over such owners who might be unscrupulous. Giving the board the power to license facilities would protect licensees against economic pressures from non-licensees.

- Provide the board with authority to license foreign-trained applicants. Currently the board does not have specific statutory authority to set rules governing the licensing of applicants who received training outside the United States. Such authority will increase the level of physical therapy service in the state.
- Require all persons holding temporary licenses to practice under the supervision of a licensee. Currently, temporary licensees can practice independently. This requirement would ensure that the public is better protected from potentially unqualified practice.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 781,500	\$ 2,057,600

No change in FTE

Complete List of Recommendations

1. Merge the boards that regulate occupational therapists and physical therapists into a single policy board. (Gain: \$55,000/FY 1994-98)
2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
4. Establish a 1-800 number for complaints.
5. Authorize the board to grant inactive status.
6. Require mandatory continuing education for all licensees.

7. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
8. Standardize the enforcement process of the board and provide adequate enforcement authority.
(Cost: \$6,000/FY 1994-98)
9. Require training for new board members of the agency. (Cost: \$4,800/FY 1994-98)
10. Specifically prohibit other health care professionals from representing themselves as providers of physical therapy services.
11. Give the board the power not only to license individual physical therapists but also to register physical therapy facilities. (Gain: \$2,033,400/FY 1994-98)
12. Provide the authority for the board to license foreign-trained applicants.
13. Require all persons holding temporary licenses to practice under the supervision of a licensee.
(Cost: \$20,000/FY 1994-98)
14. Modify the terms of the board members to allow for staggered terms.
15. Allow a person who is qualified as a physical therapist to be eligible for licensure as a physical therapy assistant.
16. Authorize two-year license renewal.
17. Authorize the board to set, by rule, a limit on the number of and the conditions for examination retakes.
18. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Board of Nurse Examiners

Board Members

Morris Parrish, Irving, Chair
 Sara Keele, Houston, Vice Chair
 Lynn Besselman, Amarillo
 Rose Caballero, Corpus Christi
 Pat Crowe, Fort Worth
 Mary Fenton, Galveston
 Eileen Piwetz, Midland
 Nelwyn Ross, El Paso
 Aimee Seamans, San Antonio

Agency Functions

The Board of Nurse Examiners was created in 1909 to regulate the education and practice of professional nursing in Texas. The board's act is a practice act in that it regulates the practice of professional nursing and prohibits unlicensed individuals from engaging in the practice of nursing and from using the title "registered nurse." To fulfill its responsibilities, the board adopts rules regarding the practice, determines the qualifications of applicants, administers a national exam, issues initial and renewal licenses, investigates complaints, and takes disciplinary action to enforce its enabling act. In addition, the board accredits nursing education programs. In 1992, the board regulated approximately 131,000 licensees and accredited 75 nursing programs.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 2,416,781	
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		\$ 2,484,700
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Percent of		
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General Revenue	0%	0%
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**Number of Positions
(FY 1993)** 44 FTE

Commission Findings and Recommendations

The sunset review of the Board of Nurse Examiners included a determination of the continued need for the regulation carried out by this board, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the board.

Need for Regulation

The Sunset Commission concluded that there is a continuing need for the state to regulate the education and practice of professional nursing.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate nursing and recommended that the Board of Nurse Examiners be merged with the board that regulates vocational nurses.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission adopted a number of recommendations to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The major recommendations that specifically relate to the regulation of registered nurses are discussed below.

- Give the board the power to clarify in rule what kind of actions by a registered nurse are dangerous enough to a patient that they must be reported to the board by other health care professionals. State law requires health care professionals to report to the board any action by a registered nurse that could put a patient at risk. Many minor incidents have been reported as a result of the requirement. This change will give the board the authority to clarify the types of actions that must be reported.

- Authorize the board, when the public is in danger, to temporarily suspend a registered nurse's license without a hearing. Currently, the board cannot stop a licensee from practicing without a full hearing and formal board action, which often can take several months. The ability to temporarily suspend a license will allow the board to take immediate action against the licensee when an urgent need exists.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to the State:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 144,684	\$ 361,710

Decrease in FTE: 1

Complete List of Recommendations

1. Merge the boards that regulate registered nurses and vocational nurses into a single policy board.
(Gain: \$361,710/FY 1994-98)
2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
4. Require mandatory continuing education for all licensees.
5. Standardize the enforcement process of the board and provide adequate enforcement authority.
6. Require training for new members of the board.
7. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
8. Define the types of incidents which must be reported under the mandatory reporting requirement.

9. Provide authority for the temporary suspension of licenses.
10. Require memoranda of understanding with agencies that license health facilities to ensure compliance with peer review requirements.
11. Authorize the board to limit the number of examination retakes.
12. Streamline the test application process.
13. Authorize a limited practice license.
14. Authorize the board to verify the identity of a licensee who is the subject of a complaint before notification.
15. Authorize the board to conduct settlement conferences before filing formal charges.
16. Authorize the board to receive grants.
17. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Board of Vocational Nurse Examiners

Board Members

Norma Jean Clark, Corinth, President
 Virginia Bauman, South Padre Island, Vice President
 Betty Fox McLemore, Longview
 Sandra Underwood Knight, Palestine
 Doris A. Parker, Frankston
 Charlotte Jane Sifford, Amarillo
 Rojelio Cuevas, McAllen
 Connie Davis, Fort Worth
 Melba Lee-Hosey, Houston
 Opal Robinson, Lubbock
 Ruth Leopard, San Antonio
 Morris Spector, San Antonio

Agency Functions

The Board of Vocational Nurse Examiners was created in 1951 and has the responsibility and authority to examine, license, and regulate licensed vocational nurses in the state. The board's enabling act is a title act in that it regulates the title of licensed vocational nurse by prohibiting unlicensed individuals from identifying themselves as licensed vocational nurses. To fulfill its responsibilities, the board adopts rules regarding unlicensed practice, determines the qualifications of applicants, administers a national exam, and issues initial and renewal licenses. The board also investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. The board regulates approximately 74,000 licensed vocational nurses and is funded from fee revenues deposited in the Vocational Nurse Examiners Fund outside the state treasury.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 987,174	
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		\$ 1,060,889
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Percent of		
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General Revenue	0%	
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		0%
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**Number of Positions
(FY 1993)** 18 FTE

Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of vocational nursing was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate vocational nursing and recommended that the Board of Vocational Nurse Examiners be merged with the Board of Nurse Examiners.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission developed a number of recommendations to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The recommendations that specifically relate to the Board of Vocational Nurse Examiners are discussed below.

- Allow the board to adjust, by rule, the amount of training a person needs before applying to be a licensed vocational nurse. Currently, the statute requires registered nurses to acquire two years of professional nurse education to apply for a vocational nurse license, although vocational nursing programs are one year in duration. This change would allow registered nurse candidates, qualified to take the vocational nurse

examination in less than two years, to obtain a vocational nursing license.

- Remove the statutory requirement that training programs for a licensed vocational nurse license be 12 months long and allow the board to set the program length by rule. Currently, the statute requires an approved course in vocational nursing to be 12 months in length. This change would allow the board, by rule, to set the course length to match the vocational nurse programs offered in community or post-secondary colleges.

Fiscal Impact

The fiscal impact of the merger is included in the section for the Board of Nurse Examiners. No other fiscal implication is anticipated as a result of the recommendations.

Complete List of Recommendations

1. Merge the boards that regulate registered nurses and vocational nurses into a single policy board.
2. Require that fees be set by the boards as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
4. Authorize the board to issue temporary and inactive licenses.
5. Require mandatory continuing education for all licensees.
6. Standardize the enforcement process of the board and provide adequate enforcement authority.
7. Require training for new members of the board.
8. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
9. Delete the two-year education requirement for registered nurse candidates seeking licensure.

10. Remove the statutory 12-month course length requirement for a vocational nurse program.
11. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

Board Members

Wallace Hamill, Dallas, President
Betty J. Marsh, El Paso, Vice President
Joycie L. Burns, Teague
Jane W. Porter, Irving
Diane C. Shaffer, Beaumont
Dr. Richard W. Stream, Denton
Andrew L. Burns, Jr., Texarkana
Florence P. Anderson, San Antonio
Dr. Henry M. Carder, Dallas

Agency Functions

The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids was created in 1907 and, licenses and regulates the practice of fitting and dispensing hearing aids in the state. The board's enabling act is a practice act in that it regulates the practice of fitting and dispensing hearing aids and prohibits unlicensed individuals from engaging in the practice of fitting and dispensing hearing aids. To fulfill its responsibilities, the board adopts rules regarding the practice of fitting and dispensing hearing aids, determines the qualifications of applicants, administers a state examination, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. The board prescribes and maintains standards for approximately 990 fitters and dispensers and 190 temporary trainees. The board is funded from fee revenues deposited in the state treasury.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 66,737	\$ 69,486
	Percent of General Revenue	100%
	100%	100%

Number of Positions (FY 1993)	2 FTE
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Commission Findings and Recommendations

The sunset review of health licensing boards included a determination of the continued need for regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of hearing aid fitters and dispensers was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate hearing aid fitters and dispensers, speech-language pathologists, and audiologists; and recommended that the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids be merged with the State Committee of Examiners for Speech-Language Pathologists and Audiologists.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission developed one additional recommendation to improve the operation of the agency. The Sunset Commission also adopted standard recommendations to be applied to this

agency and all other health care licensing agencies under review. These are set out elsewhere.

The recommendation that relates specifically to the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids would require licensee-sponsors to directly supervise all activities of temporary permit holders during the internship period. Currently, temporary permit holders are not allowed to fit or dispense hearing aids in the office unless they are supervised by the licensee-sponsor. Because of inconsistencies in the act, these same permittees are allowed to fit and dispense hearing aids in the field without supervision. The recommendation would require that all activities of the temporary permit holder be under direct supervision of a licensee-sponsor.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Cost to General Revenue Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 80,000	\$ 260,000

No change in FTE

Complete List of Recommendations

1. Merge the boards that regulate speech-language pathologists, audiologists, and fitters and dispensers of hearing aids into a single policy board.
(Cost: \$195,000/FY 1994-98)
2. Require licensee-sponsors to directly supervise all activities of temporary permit holders during the internship period. (Cost: \$20,000/FY 1994-98)
3. Require that fees be set by the board as necessary to cover the cost of regulation.
4. Require that all licensing examinations be validated.
(Cost: \$20,000/FY 1994-98)

5. Authorize the board to issue temporary and inactive licenses.
6. Require mandatory continuing education for all licensees.
7. Standardize the enforcement process of the board and provide adequate enforcement authority.
(Cost: \$25,000/FY 1994-98)
8. Require training for new members of the board.
9. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
10. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

State Committee of Examiners for Speech-Language Pathology and Audiology

Board Members

Sandra C. Waters, Houston, Chair
Drew G. Sawyer, M.D., Austin, Vice Chair
Gene R. Powers, Ph.d., Austin
Susan Gay Dorsett, Stephenville
Carol Nelson Gore, El Paso
Charles P. Kuratko, Lubbock
Jane McConnell, Dallas
Teri Mata-Pistokache, McAllen

Agency Functions

The State Committee of Examiners for Speech-Language Pathology and Audiology was created in 1983. The committee licenses and regulates the practice of speech-language pathology and audiology in the state. The board's enabling act is a practice act in that it regulates the practice of speech-language pathology and audiology and prohibits unlicensed individuals from engaging in the practice of these professions. To fulfill its responsibilities, the committee proposes rules regarding the practice of speech-language pathology and audiology. The committee is administratively attached to the Texas Department of Health and the Board of Health approves the committee's rule changes. The committee is also responsible for determining the qualifications of applicants, administering a national examination, issuing initial and renewal licenses, investigating complaints against licensees, and taking disciplinary action to enforce its enabling act. The board prescribes and maintains standards for approximately 4,230 speech-language pathologists, 200 associates in speech-language pathology, 590 audiologists, and 7 associates in audiology. The board is funded from fee revenues deposited in Speech-Language Pathology and Audiology Fund No. 515 in the state treasury.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 145,546	\$ 139,156
	Percent of General Revenue	0% 0%

Number of Positions (FY 1993)	2 FTE
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Commission Findings and Recommendations

The review of the State Committee of Examiners for Speech-Language Pathology and Audiology included an assessment of the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another agency; and changes needed in the agency's statute.

Need for Regulation

The Sunset Commission concluded that the current regulation of speech-language pathologists and audiologists was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that a change was needed in the organizational structure used to regulate speech-language pathologists, audiologists, and hearing aid fitters and dispensers. The commission recommended that the State Committee of Examiners for Speech-Language Pathologists and Audiologists be merged with the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission developed one additional recommendation to improve the operation of the agency. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere.

The recommendation that relates specifically to the State Committee of Examiners for Speech-Language Pathologists and Audiologists requires that an individual licensed as an intern once the person meets the requirements for a master's degree in speech-language pathology or audiology, even though he has not yet officially graduated. Currently, a student cannot become an intern until receipt of his diploma. This recommendation will allow students to become interns sooner and begin meeting experience requirements required for full licensure.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to Speech-Language Pathology and Audiology Fund No. 515:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 18,000	\$ 45,000

No change in FTE.

The fiscal impact of the merger recommendation is included in the final report section for the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

Complete List of Recommendations

1. Merge the boards that regulate speech-language pathologists, audiologists, and fitters and dispensers of hearing aids into a single policy board.
2. Require that an individual be allowed to be licensed as an intern once the person had met the requirements for a master's degree in speech-language pathology or audiology but has not yet officially graduated.
3. Require that fees be set by the board as necessary to cover the cost of regulation.
4. Require that all licensing examinations be validated.

5. Authorize the board to issue temporary and inactive licenses. (Gain: \$45,000/FY 1994-98)
6. Require mandatory continuing education for all licensees.
7. Standardize the enforcement process of the board and provide adequate enforcement authority.
8. Require training for new members of the board.
9. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
10. Authorize the committee to establish procedures for the administration of the licensing examination.
11. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas Board of Chiropractic Examiners

Board Members

James Franklin, San Antonio, President
 David Albracht, Amarillo, Vice President
 George Albert, Magnolia
 Nancy Jones, Dallas
 V. C. Salyer, Dallas
 Raymond Wheless, Plano
 John Wright, Houston
 Nancy Brannon, Gainsville
 Carroll Guice, Longview

Agency Functions

The Texas Board of Chiropractic Examiners licenses and regulates the practice of chiropractic in the state. The board's enabling act is a practice act in that it regulates the practice of chiropractic and prohibits unlicensed individuals from engaging in the practice. The practice of chiropractic involves the evaluation of the biomechanical condition of the spine and musculoskeletal system of the body. The practice of chiropractic also involves the use of adjustment, manipulation, and other procedures to improve the biomechanics of the musculoskeletal system. To fulfill its responsibilities, the board adopts rules regarding the practice of chiropractic; determines the qualifications of applicants; administers a state examination on Texas jurisprudence; X-ray, and clinical competency; issues initial and renewal licenses; investigates complaints against licensees; and takes disciplinary action to enforce its enabling act.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
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	\$ 145,978	\$ 235,144
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Percent of General Revenue	0%	0%
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**Number of Positions
(FY 1993)** 3 FTE

Commission Findings and Recommendations

The sunset review of the health care licensing boards included determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of chiropractic was appropriate.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate chiropractic was appropriate and recommended that the Texas Board of Chiropractic Examiners be continued.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The recommendations specifically related to the Texas Board of Chiropractic Examiners are discussed below.

- Require that the terms of the current board members expire and that the governor appoint an entirely new board. During the review, the Sunset Commission became concerned with the ability of the current board to effectively carry out its responsibilities. Allowing the governor to appoint new board members will provide the opportunity to structure a board better able to carry out the regulation of chiropractors.
- Give the board the power not only to license individual chiropractors but also to license chiropractic facilities. This authority would enable the board to regulate chiropractic facilities whose owners are non-licensees

to ensure that the owners comply with the requirements of the act that regulate the practice of chiropractic.

- Authorize the board, when the public is in danger, to temporarily suspend a chiropractor’s license without a hearing. Currently, the board cannot stop a licensee from practice without a full hearing and formal board action, which often can take several months. The ability to temporarily suspend a license will allow the board to take immediate action against a licensee when an urgent need exists.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to the Chiropractic Examiners Fund No. 140:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 410,000	\$ 1,229,007

No change in FTE

Complete List of Recommendations

1. Require that fees be set by the board as necessary to cover the cost of regulation.
2. Require that all licensing examinations be validated.
3. Authorize the board to issue temporary licenses.
4. Require mandatory continuing education for all licensees.
5. Standardize the enforcement process of the board and provide adequate enforcement authority.
(Cost: \$400,493/FY 1994-98)
6. Require training for new board members of the agency. (Cost: \$4,500/FY 1994-98)
7. Establish a standard approach for licensing out-of-state practitioners coming into Texas.

8. Provide authority for an adequate range of enforcement powers.
9. Establish a 1-800 number for complaints.
10. Require that the terms of the current board members expire and that the governor appoint an entirely new board.
11. Extend protection to the public by requiring the board to license and regulate not only individual chiropractors but also chiropractic facilities.
(Gain: \$1,634,000/FY 1994-98)
12. Provide authority for the temporary suspension of licenses.
13. Authorize the board to set, by rule, the limit on the number of and the condition for examination retakes.
14. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Dental Examiners

Board Members

Dr. James L. Bolton, Borger, President
Dr. Roger P. Byrne, Lubbock
Elizabeth Hernandez, Houston
Dr. E.P. "Penn" Jackson, San Antonio
Glenna H. Johns, Plano
Dr. Charles T. Ku, Lewisville
Dr. Romeo H. Lewis, Jr., Lancaster
Dr. James W. Orr, Austin
I.J. Patterson, Jr., Longview
Dr. Ronald H. Shamblin, Jasper
Dr. Glenda F. Smith, Austin
Mary C. Spinks, Spring
Nancy A. Tibbets, Grandview
Dr. Thomas R. Uribe, San Antonio
Dr. Wilfred D. Whiteside, Corpus Christi

Agency Functions

The Texas State Board of Dental Examiners was created in 1897 and licenses and regulates the practice of dentistry in the state. The board's enabling act is a practice act in that it regulates the practice of dentistry and prohibits unlicensed individuals from engaging in the practice of dentistry. To fulfil its responsibilities, the board adopts rules regarding the practice of dentistry, determines the qualifications of applicants, administers a state examination, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. The board prescribes and maintains standards for approximately 11,000 dentists, 7,000 dental hygienists, and 1,100 dental laboratories. The board is funded from fee revenues deposited in Dental Registration Fund No. 86 in the state treasury.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 869,392	\$ 892,502
	Percent of General Revenue	0%
	0%	0%

Number of Positions (FY 1993)	20 FTE
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Commission Findings and Recommendations

The sunset review of health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of the Texas State Board of Dental Examiners was appropriate.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate dentistry was appropriate and recommended that the Texas State Board of Dental Examiners be continued.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These will be set out elsewhere. The recommendations that specifically relate to the State Board of Dental Examiners are discussed below.

- Require that one-third of the board be composed of public members. Currently, only two of the fifteen members on the board are public members. Requiring one-third public membership will help ensure that the

actions of the board reflect the interests of the public as well as the profession regulated.

- Authorize the board, when the public is in danger, to temporarily suspend a dentist's license without a hearing. Currently, the board cannot stop a licensee from practicing without a full hearing and formal board action, which often can take several months. The ability to temporarily suspend a license will allow the board to take immediate action against the licensee when an urgent need exists.
- Increase the penalty for the unlicensed practice of dentistry from a misdemeanor to a third degree felony. Until 1983, practicing dentistry without a license was a felony offense. In 1983, practicing without a license was reduced to a Class A misdemeanor. The recommendation would increase the penalty for the unlicensed practice of dentistry back from a misdemeanor to a felony.
- Remove the statutory provision that prevents board decisions from becoming effective before an appeal is finished. Currently, board decisions are not effective until all appeals have been exhausted. This recommendation would allow board decisions to be effective until they are reversed on appeal as is the case with the decisions of most other state agencies.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Cost to Dental Registration Fund No. 86:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$90,000	\$195,000

No change in FTE

Complete List of Recommendations

1. Continue the agency for a 12-year period.
2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
(Cost: \$95,000/FY 1994-98)
4. Authorize the board to issue temporary and inactive licenses.
5. Require mandatory continuing education for all licensees.
6. Standardize the enforcement process of the board and provide adequate enforcement authority.
7. Require training for new members of the board.
8. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
(Cost: \$100,000/FY 1994-98)
9. Modify the term structure for members of the dental hygiene advisory committee.
10. Authorize the board to set conditions to limit the number of examination retakes.
11. Require that one-third of the board be composed of public members.
12. Provide authority for the temporary suspension of licenses.
13. Increase the penalty for the unlicensed practice of dentistry from a misdemeanor to a third degree felony.
14. Remove the statutory provision that prevents board decisions from becoming effective before an appeal is finished.

15. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Examiners of Dietitians

Board Members

Pattye Greer, Nacogdoches, Chair
 Alana Webb, Round Rock, Vice Chair
 Lydia Damrel, Vidor
 Cheryl Porter, Midland
 Maxine Freeman, Houston
 Johnnie Stripling, Tyler
 Janice Walker, Houston
 Helen O'Reilly, Richardson
 One vacancy

Agency Functions

The Texas State Board of Examiners of Dietitians was created in 1983 and licenses and regulates the title of licensed dietitian in the state. The board's enabling act is a title act in that it regulates licensed dietitians in the state and prohibits unlicensed individuals from using the title of licensed dietitian without meeting the state's qualifications. To fulfill its responsibilities, the board adopts rules regarding the profession of dietetics, determines the qualifications of applicants, administers a national exam, and issues initial and renewal licenses. The board also receives complaints against licensees or unlicensed individuals who represent themselves as licensed dietitians and takes disciplinary action to enforce its enabling act. The board regulates approximately 3,000 dietitians and is funded from fee revenues deposited in the Licensed Dietitians Fund outside the state treasury.

Agency Funding

FY 1992 Expended FY 1993 Budgeted

\$ 96,749

\$ 89,385

Percent of

General Revenue 0%

0%

**Number of Positions
(FY 1993)** 1.5 FTE

Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of dietetics was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate dietetics was appropriate and recommended that the Texas State Board of Examiners of Dietitians be continued.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed one additional recommendation to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere.

The recommendation specifically related to Texas State Board of Examiners of Dietitians involved changing current statutory references of "dietitian" to "dietitian-nutritionist". This change reflects a broader description of the professions of dietetics and nutrition to provide better information to the public.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Cost to Licensed Dietitians Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 42,632	\$ 287,346

Increase in FTE: 1

Complete List of Recommendations

1. Require that fees be set by the General Appropriations Act as necessary to cover the cost of regulation.
2. Require that all licensing examinations be validated.
3. Authorize the board to issue temporary and inactive licenses.
4. Require mandatory continuing education for all licensees.
5. Standardize the enforcement process of the board and provide adequate enforcement authority.
(Cost: \$279,566/FY 1994-98)
6. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
7. Require training for new members of the board.
(Cost: \$3,000/FY 1994-98)
8. Change the statute to substitute "dietitian/nutritionist" for the current reference of "dietitian".
(Cost: \$4,780/FY 1994-98)
9. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Medical Examiners

Board Members

Dr. William Fleming, III, Houston, President
Mrs. Barbara "June" Coe, Dallas, Vice President
Dr. John H. Boyd, Eden
Dr. Gilberto Aguirre, San Antonio
Mrs. Penny Angelo, Midland
Dr. George Bayoud, Dallas
Dr. Marianne Beard, Grand Prairie
Dr. Catalina Garcia, Dallas
Mrs. Cindy Jenkins, Stowell
Dr. Alfred Johnson, Dallas
Dr. Regina Kyles, Seabrook
Dr. John Lewis, Houston
Dr. Luis Rios, McAllen
Dr. Ratna Solomon, Dallas
Dr. Richard Stasney, Houston

Agency Functions

The Texas State Board of Medical Examiners was created in 1907 and licenses and regulates the practice of medicine in the state. The board's enabling act is a practice act in that it regulates the practice of medicine and prohibits unlicensed individuals from engaging in the practice. The practice of medicine involves diagnosing, treating, and curing a disease, injury or disorder which can be mental or physical. To fulfill its responsibilities, the board adopts rules regarding the practice of medicine and determines the qualifications of applicants. The board administers a national competency exam and a state jurisprudence exam and issues initial and renewal licenses. The board also investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. The board licenses approximately 44,000 physicians. In addition, the board provides oversight to over 700 physician assistants, approximately 85 acupuncturists, and over 3,000 radiologic technicians.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 3,915,605	\$ 4,065,303
	Percent of General Revenue	0%
		0%

Number of Positions (FY 1993)	80 FTE
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Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of the practice of medicine was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate physicians was appropriate and recommended that the Texas State Board of Medical Examiners be continued.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The recommendations that specifically relate to the Texas State Board of Medical Examiners are discussed below.

- Require that the terms of current board members expire and allow the governor to appoint an entirely new board which would have one-third public members. During the review, the Sunset Commission became

concerned with the ability of the current board to effectively carry out its responsibilities. Allowing the governor to appoint new board members will provide the opportunity to structure a board better able to carry out the regulation of physicians. In addition, only three of the board's 15 members are public members. Requiring one-third public membership will help ensure that the actions of the board reflect the interests of the public as well as the profession regulated.

- Require physicians to document and give reasons for denying a patient access to his or her medical records. Currently, physicians may withhold medical records if the practitioner determines that access to the information would be harmful to the health of the patient. This recommendation would require careful documentation of the reasons for denying patient access and not allow physicians to simply deny access because it is permitted by law.
- Require the board to request all information from initial applicants and renewal licensees that is related to sanctions and pending disciplinary matters from other states. The board currently requests information on sanctions taken against out-of-state applicants. This recommendation would increase the types of information collected by the board to ensure that all possible steps are taken to identify physicians that pose risks to the public.
- Allow the board to deny a reciprocal license application if another state's medical board has placed restrictions on the physician's license. The statute currently allows the board to refuse to issue a license only if another state has canceled, suspended or revoked a license. This recommendation would allow the board to consider other state restrictions on a license when considering an application for a physician's license in Texas.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Cost to the Medical Registration Fund No. 55:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 91,000	\$ 220,000

Increase in FTE: 2

Complete List of Recommendations

1. Continue the agency for a 12-year period.
2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
4. Authorize the board to issue temporary and inactive licenses.
5. Require mandatory continuing education for all licensees. **(Cost: \$220,000/FY 1994-98)**
6. Standardize the enforcement process of the board and provide adequate enforcement authority.
7. Require training for new members of the board.
8. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
9. Require that the terms of current board members expire and allow the governor to appoint an entirely new board which would have one-third public members.
10. Require physicians to document and give reasons for denying a patient access to his or her medical records.

11. Require the board to request all information on sanctions and pending disciplinary matters from other states.
12. Remove the authority for the executive director of the agency to perform any duty of the board's secretary-treasurer and transfer temporary suspension authority to a three-member disciplinary panel of the board.
13. Establish time-frames for resolving complaints and taking disciplinary action against doctors.
14. Allow the board to deny a reciprocal license based on sanctions in other states and expand the grounds for discipline and denial of a license.
15. Authorize conditions to limit the number of examination retakes.
16. Allow the board to discipline physicians for over-treating and overcharging.
17. Provide judicial appeal of a board decision to deny reinstatement of a physician's license.
18. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Midwifery Board

Board Members

Jeralean Money, Missouri City, Chair
Elizabeth Lee, Del Rio, Vice Chair
Dr. Stephen Bates, Palestine
Sally Moss, Amarillo
Barbara Cook, Dallas
Dr. Carmen De La Cruz Rocco, Brownsville
Chandler Ford, Austin
Carolyn Routledge, El Paso
Martha Goldfarb, Bastrop
Maria Tafoya, Brownsville
Catherine Merritt, Houston
Michelle Woodruff, Shallowater

Agency Functions

The Midwifery Board was created in 1983. The board identifies the name and address of midwives in the state. The board's enabling act is neither a practice or title act in that it only documents midwives in the state with no administrative power. To fulfill its responsibilities, the board adopts rules regarding the identification of Texas midwives, provides methodology for safe childbirth procedures through the Texas Midwifery Manual, offers voluntary educational courses for midwives, administers a voluntary state exam for midwives who have completed the education course, and issues initial and renewal letters of documentation. The board has no enforcement powers. Consumers must call their district attorney or the Texas Department of Health to register a complaint. The board documents approximately 270 midwives and is funded by a Title V - Federal Block Grant through the Department of Health.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 25,792	\$ 0
	Percent of General Revenue	0% 0%

Number of Positions (FY 1993)	2 FTE
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Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of midwifery was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate midwifery was appropriate and recommended that the Midwifery Board be continued.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed one additional recommendation to improve the board's operation. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere.

The recommendation specifically related to the Midwifery Board involved reducing the size of the Midwifery Board from 12 members to 9 members. Reducing the number of board members returns the board to its original and more manageable size.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to Texas Department of Health Fund 122:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$3,900	\$19,500

No change in FTE

Complete List of Recommendations

Require that fees be set by the General Appropriations Act as necessary to cover the cost of regulation.

1. Require that all licensing examinations be validated.
2. Require mandatory continuing education for all licensees.
3. Standardize the enforcement process of the board and provide adequate enforcement authority.
4. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
5. Reduce the size of the Midwifery Board to nine members. **(Gain: \$19,500/FY 1994-98)**
6. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas Optometry Board

Board Members

Clinton M. DeWolfe, O.D., Blanco, Chair
William D. Pittman, O.D., Mexia, Vice Chair
Marilyn K. Walls, Cleburne
Jimmy Bitner, Kerrville
Barry J. Davis, O.D., Groves
Theresa K. Giolma, San Antonio
Stanley C. Pearle, O.D., Dallas
Floyd L. Thornton, O.D., Wichita Falls
E. M. Wright, O.D., Seminole

Agency Functions

The Texas Optometry Board licenses and regulates the practice of optometry in the state. The board's enabling act is a practice act in that it regulates the practice of optometry and prohibits unlicensed individuals from engaging in the practice. The practice of optometry involves ascertaining and measuring the powers of vision of the human eye; examining and diagnosing visual defects, abnormal conditions, and diseases of the human eye and lids; and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. In addition to these elements, the practice of therapeutic optometry involves the prescribing of a drug or physical treatment and treating the eye and lids in a manner authorized by the Texas Optometry Act. To fulfill its responsibilities, the board adopts rules regarding the practice of optometry and therapeutic optometry, determines the qualifications of applicants, administers a state exam which includes a clinical and jurisprudence section, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. In addition, the board also approves continuing education courses.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 224,416	\$ 219,339
	Percent of General Revenue	0%
	0%	0%

Number of Positions (FY 1993)	4 FTE
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Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of optometry was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate optometry was appropriate and recommended that the Texas Optometry Board be continued.

Major Recommendations

After concluding that the agency was needed, the Sunset Commission developed a number of recommendations to improve public protection and the operations of the agency. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The recommendations that specifically relate to the Texas Optometry Board are discussed below.

- Remove the requirement that certain board members must be affiliated with professional trade associations. Currently, three members of the board must be affiliated with the Texas Optometric Association (TOA)

and three with the Texas Association of Optometrists (TAO). This requirement was intended to allow for balanced representation of the two types of optometric practices. Historically, the TOA represented those optometrists who practice independently, dispensing eyeglasses from within their practices. The TAO represented those who do not dispense and whose practices are often near a retail optical company from which they may lease space. However, changes in the industry have resulted in optometrists affiliating with one or the other association, regardless of the nature of their practice, thus eliminating the need to require association affiliation as a board membership requirement. The Sunset Commission recommendation will remove the requirement that gives associations a set number of appointments and will allow optometrists who have no association affiliation to serve on the board.

- Establish a special license for faculty in optometry schools that provide optometry services to the public. The Texas Optometry Act allows faculty in optometry schools to practice optometry without a license so long as they confine their practice to their faculty duties. This exemption allows qualified faculty to be recruited from out-of-state to teach and provide limited optometric services without completing the state's licensing process. These faculty members provide services, on a limited basis, to patients who are otherwise unable to afford care. Many of those who seek services from teaching institutions are eligible for third party reimbursement. However, in most cases, third party payers require services to be provided by a state-licensed practitioner. The Sunset Commission recommendation will authorize the board to issue a special license to faculty that will allow third party reimbursement to recover the cost of services provided.
- Modify language related to the content and size for advertising for eyeglasses or contact lenses. The Texas Optometry Act allows advertising, including price advertising, if it is not deceptive and also requires that,

when certain items are advertised, affirmative statements must be made to prevent deception to the public. The Sunset Commission concluded, however, that current advertising restrictions were inadequate to protect the public from questionable practices or from misleading advertising. The commission recommended that advertisements that include price information must specify what products and services are, and are not, included in the price. The commission also recommended minimum advertising standards.

- Require optometrists to provide copies of eyeglass prescriptions to patients. The United States Federal Trade Commission (FTC) has adopted a rule that requires optometrists to provide patients they have examined with copies of their eyeglass prescriptions. The rule remedied abuses whereby an optometrist would force a patient to buy his or her eyeglasses from the optometrist by refusing to provide the prescription so it could be filled elsewhere. Current state law does not specifically state that an optometrist must provide a copy of the prescription if the patient intends to have it filled elsewhere. The Sunset Commission recommended that the FTC rule be placed in state statute so the board can enforce this requirement and ensure that patients' rights are protected.
- Specify in law that filling an expired contact lens prescription violates the act and make the penalty \$1,000 for each lens so dispensed. When contact lens prescriptions get out-of-date, they may cause harm to the eye. The Sunset Commission concluded that a prohibition against filling an expired prescription and an associated penalty should be specified in statute to provide better protection to the public.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Cost to Optometry Fund No. 34:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 47,569	\$ 111,619

Increase in FTE: 2

Complete List of Recommendations

1. Require that fees be set by the board as necessary to cover the cost of regulation.
2. Require that all licensing examinations be validated.
(Cost: \$10,000/FY 1994-98)
3. Authorize the board to issue temporary and inactive licenses.
4. Standardize the enforcement process of the board and provide adequate enforcement authority.
(Cost: \$38,214/FY 1994-98)
5. Provide authority for the temporary suspension of licensees.
6. Require training for new members of the board.
(Cost: \$12,872/FY 1994-98)
7. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
8. Remove the requirement that certain board members must be affiliated with professional trade associations.
9. Establish a special license for faculty in optometry schools that provide optometry services to the public.
10. Modify language related to the content and size of advertising of eyeglasses or contact lenses.
(Cost: \$16,095/FY 1994-98)

11. Require optometrists to provide copies of eyeglass prescriptions to the patient.
(Cost: \$12,743/FY 1994-98)
12. Specify in law that filling an expired contact lens prescription violates the act and make the penalty \$1,000 for each lens so dispensed.
(Cost: \$21,695/FY 1994-98)
13. Prohibit discrimination against optometrists by hospitals that deny privileges and by governmental entities, health maintenance organizations, and preferred provider organizations that do not include optometrists or therapeutic optometrists as eligible providers of services.
14. Eliminate the obsolete requirement that optometrists register with the county clerk in the county where they practice and place registration responsibilities with the board.
15. Provide that the privilege to operate a practice by the estate of a deceased licensee should cease one year after the licensee's date of death.
16. Change gender specific language to gender neutral language.
17. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Pharmacy

Board Members

Charles L. Rittenberry, Amarillo, President
Michael K. Lester, Dallas, Vice President
Betty A. "Ann" Peden, Hondo
Thomas A. Aday, Plainview
Charlie B. Bethea, Houston
Jeanette H. Coffield, Jasper
David L. Franklin, Dallas
Jerry D. Pyle, Arlington
Marina P. Sifuentes, Austin

Agency Functions

The Texas State Board of Pharmacy was created in 1907 and licenses and regulates the practice of pharmacy in the state. The board's enabling act is a title and practice act in that it regulates the practice of pharmacy and prohibits unlicensed individuals from engaging in the practice of pharmacy or calling themselves pharmacists or operating a pharmacy. To fulfill its responsibilities, the board adopts rules regarding the practice of pharmacy, determines the qualifications of applicants, administers a national exam and a state jurisprudence exam, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. In addition, the board cooperates with other state and federal agencies in the enforcement of dangerous drug and controlled substances laws or other laws pertaining to the practice of pharmacy. The board prescribes and maintains standards for approximately 16,800 pharmacists and 4,900 pharmacies. The board is funded from fee revenues deposited in Board of Pharmacy funds outside the state treasury.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 1,953,708	\$ 1,946,086
	Percent of General Revenue	0%
	0%	0%

Number of Positions (FY 1993)	32 FTE
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Commission Findings and Recommendations

The sunset review of health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of pharmacy was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate pharmacy was appropriate and recommended that the Texas State Board of Pharmacy be continued.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed a number of recommendations to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These will be set out elsewhere. The recommendations that specifically relate to the Texas State Board of Pharmacy are discussed below.

- Require that one-third of the board be composed of public members. Currently, only two of the nine members on the board are public members. Requiring

one-third public membership will help ensure that the actions of the board reflect the interests of the public as well as the profession regulated.

- Authorize the board, when the public is in danger, to temporarily suspend a pharmacist's or pharmacy's license without a hearing. Currently, the board cannot stop a licensee from practicing or operating a pharmacy without a full hearing and formal board action, which often can take several months. The ability to temporarily suspend a license will allow the board to take immediate action against the licensee when an urgent need exists.
- Authorize the board to deny an applicant a license for conduct that would be the basis for disciplinary action against someone already licensed. Currently, an applicant can commit an offense that would result in the loss of a license and the board cannot deny a license based on the offense. This authority would allow the board to deny licensure to an applicant who has committed infractions that would result in discipline for a licensee.
- Require the board to release the license status of pharmacists with substance abuse problems when asked. Currently, this information is protected from release to employers and the general public. This recommendation would allow employers and interested public to obtain, upon request, information concerning the license status of pharmacists with substance abuse problems.
- Require that out-of-state pharmacies be subject to the same operating requirements as in-state pharmacies. Currently, because of inadequacies in statutory language, the board is unable to extend broad practice rules to state-licensed out-of-state mail order pharmacies that mail prescriptions into the state. This recommendation would allow the board to apply practice rules to out-of-state pharmacies and take action against those pharmacies that violate the rules.

- Require that prescriber information, such as name, address, and phone number, be stamped or printed on each prescription. Currently, a signature is all that is required on a prescription. Many times a signature is illegible and the pharmacist does not know who to contact if questions arise. This recommendation would require doctors to stamp designated prescriber information on all prescriptions.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Cost to Board of Pharmacy funds:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 234,543	\$ 556,006

Increase in FTE: 2

Complete List of Recommendations

1. Continue the agency for a 12-year period.
2. Require that fees be set by the board as necessary to cover the cost of regulation.
3. Require that all licensing examinations be validated.
4. Authorize the board to issue temporary and inactive licenses. (Cost: \$52,800/FY 1994-98)
5. Require mandatory continuing education for all licensees.
6. Standardize the enforcement process of the board and provide adequate enforcement authority. (Cost: \$478,900/FY 1994-98)
7. Require training for new board members of the agency.
8. Establish a standard approach for licensing out-of-state practitioners coming into Texas.

9. Require retention of prescription records for four years.
10. Authorize conditions to limit the number of exam retakes.
11. Require that one-third of the board be composed of public members.
12. Provide authority for the temporary suspension of licenses.
13. Authorize the board to deny an applicant a license for conduct that would be the basis for disciplinary action against someone already licensed.
14. Require the board, when asked, to release the license status of pharmacists with substance abuse problems when asked.
15. Require that out-of-state pharmacies be subject to the same operating requirements as in-state pharmacies. **(Cost: \$24,306/FY 1994-1998)**
16. Require that prescriber information, such as name, address, and phone number, be stamped or printed on each prescription.
17. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Podiatry Examiners

Board Members

Ben Clark, Jr., Dallas, President
 Preston Goforth, Temple, Vice President
 Joseph Valenza, Austin
 Thomas Garrison, Webster
 Ana Laborde, San Antonio
 Eugene Scioli, Lubbock
 Rick Sorrells, Dallas
 Betty Walker, Odessa
 Peter Williams, San Antonio

Agency Functions

The Texas State Board of Podiatry Examiners has the responsibility and authority to examine, license, and regulate the practice of podiatry in the state. The board's enabling act is a practice act in that it regulates the practice of podiatry and prohibits unlicensed individuals from engaging in the practice. The practice of podiatry involves the treatment of any disease, disorder, physical injury, deformity, or ailment of the human foot by any system or method. To fulfill its responsibilities, the board adopts rules regarding the practice of podiatry, determines the qualifications of applicants, administers the state portion of the podiatry examination, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act.

Agency Funding

	FY 1992 Expended	FY 1993 Budgeted
	\$ 106,023	\$ 100,140
Percent of General Revenue	0%	0%

**Number of Positions
(FY 1993)** 3 FTE

Commission Findings and Recommendations

The sunset review of the health care licensing boards included determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of podiatry was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate podiatry was appropriate and recommended that the Texas State Board of Podiatry Examiners be continued.

Major Recommendations

After determining the need for regulation and the appropriate organizational structure, the Sunset Commission adopted a number of standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere. The commission did not develop any additional recommendations that specifically relate to the board.

Fiscal Impact

No fiscal impact is anticipated as a result of the recommendations.

No change in FTE.

Complete List of Recommendations

1. Require that fees be set by the board as necessary to cover the cost of regulation.
2. Require that all licensing examinations be validated.
3. Authorize the board to issue temporary and inactive licenses.

4. Require mandatory continuing education for all licensees.
5. Standardize the enforcement process of the board and provide adequate enforcement authority.
6. Establish a standard approach for licensing out-of-state practitioners coming into Texas.
7. Require training for new board members of the agency.
8. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Texas State Board of Veterinary Medical Examiners

Board Members

Larry M. Dubuisson, D.V.M., Weslaco, President
Clark S. Willingham, Dallas, Vice President
Olivia R. Eudaly, Crowley
James N. Gomez, Brownsville
Alton F. Hopkins, D.V.M., Dallas
Robert D. Lewis, D.V.M., Elgin
Joyce G. Schiff, Dallas
Guy A. Sheppard, D.V.M., San Angelo
John A. Wood, D.V.M., Lufkin

Agency Functions

The Texas State Board of Veterinary Medical Examiners licenses and regulates the practice of veterinary medicine in the state. The board's enabling act is a practice act in that it regulates the practice of veterinary medicine and prohibits unlicensed individuals from engaging in the practice. The practice of veterinary medicine involves the treatment of animals for any physical ailment, injury, deformity, or condition for compensation. To fulfill its responsibilities, the board adopts rules regarding the practice of veterinary medicine, determines the qualifications of applicants, administers a national and state examination, issues initial and renewal licenses, investigates complaints against licensees, and takes disciplinary action to enforce its enabling act. The board issues a regular veterinary medical license and four types of special licenses. The special licenses are for faculty teaching in veterinary schools, veterinarians employed by the Texas Animal Health Commission, veterinarians employed by the Texas Veterinary Diagnostic Laboratory, and veterinarians in specialty areas employed by one employer at one location or special environment.

Agency Funding	FY 1992 Expended	FY 1993 Budgeted
	\$ 454,118	\$ 484,545
	Percent of General Revenue	0% 0%

Number of Positions (FY 1993)	8 FTE
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Commission Findings and Recommendations

The sunset review of the health care licensing boards included a determination of the continued need for the regulation of health care professionals carried out by the boards, whether benefits could be achieved by changing the organizational structure used to carry out the regulation, and whether statutory changes are needed to improve the regulatory ability of the boards under review.

Need for Regulation

The Sunset Commission concluded that the current regulation of veterinarians was appropriate and should be continued.

Reorganization Alternatives

The Sunset Commission concluded that the current independent agency structure used to regulate veterinarians was appropriate and recommended that the Texas State Board of Veterinary Medical Examiners be continued.

Major Recommendations

After concluding the agency was needed, the Sunset Commission developed one recommendation to improve the board's operations. The Sunset Commission also adopted standard recommendations to be applied to this agency and all other health care licensing agencies under review. These are set out elsewhere.

The recommendation that specifically relates to the Texas State Board of Veterinary Medical Examiners would authorize the board, when the public is in danger, to temporarily suspend a veterinarian's license without a hearing. Currently the board cannot stop a licensee from practicing without a full hearing and formal board action,

which often can take several months. The ability to temporarily suspend a license will allow the board to take immediate action against the licensee when an urgent need exists.

Fiscal Impact

The preliminary fiscal impact was determined to be:

Gain to Veterinary Medical Examiners Fund:

<u>FY 1994-95</u>	<u>FY 1994-98</u>
\$ 18,000	\$ 69,500

No change in FTE

Complete List of Recommendations

1. Require that fees be set by the board as necessary to cover the cost of regulation.
2. Require that all licensing examinations be validated.
3. Authorize the department to issue temporary and inactive licenses. **(Cost: \$4,700/FY 1994-98)**
4. Standardize the enforcement process of the board and provide adequate enforcement authority.
5. Provide authority for the temporary suspension of licenses.
6. Require training for new members of the board.
7. Require mandatory continuing education. **(Cost: \$16,800/FY 1994-98)**
8. Change requirements for a quorum of the nine-member board from six to a simple majority of five.
9. Establish a standard approach for licensing out-of-state practitioners coming into Texas. **(Gain: \$91,000/FY 1994-98)**

10. Across-the-board recommendations. (These are standard recommendations placed in the statutes of all agencies under sunset review.)

Appendix

Exhibit 1
HEALTH LICENSING AGENCY BACKGROUND INFORMATION
Fiscal Year 1992

Profession Regulated	Statutory Reference	Date Created	Board Size/Public Members	Number of Employees (FTE)	Number of Licensees	Revenue Generated
Chiropractors	Article 4512b	1949	9 members, 3 public	3	2,901	\$877,600
Dentists	Article 4543, et seq.	1897	15 members, 3 public	20	18,136	\$1,246,764
Dietitians	Article 4512h	1983	9 members, 3 public	1.5	3,061	\$85,018
Hearing Aid Fitters and Dispensers	Article 4556	1970	9 members, 2 public	2	991	\$134,410
Marriage & Family Therapists	Article 4512c-1	1991	9 members, 4 public	3	2,512	\$166,813
Midwives	Article 4512i	1983	12 members, 3 public	2	273	\$18,870
Nurses	Article 4513 - 4528	1909	9 members, 3 public	44	131,015	\$2,995,202
Nursing Home Administrators	Article 4442d	1969	12 members, 3 public	7	2,509	\$449,447
Occupational Therapists	Article 8851	1983	6 members, 2 public	4	3,046	\$215,413
Optometrists	Article 4552	1921	9 members, 3 public	4	2,513	\$871,161
Pharmacists	Article 4542a-1	1907	9 members, 2 public	32	16,883	\$2,379,759
Physical Therapists	Article 4512e	1971	9 members, 3 public	7	6,655	\$679,847
Physicians	Article 4495b	1907	15 members, 3 public	80	44,671	\$6,094,500
Podiatrists	Article 4567, et seq.	1923	9 members, 3 public	3	773	\$137,600
Professional Counselors	Article 4512g	1981	9 members, 4 public	8	9,000	\$396,827
Psychologists	Article 4512c	1969	9 members, 2 public	8	4,345	\$621,006
Social Workers	Ch. 50, H.R.Code	1981	9 members, 3 public	4	12,541	\$399,370
Speech/Language Pathologists/Audiologist	Article 4512j	1983	9 members, 3 public	4	5,027	\$169,082
Veterinarians	Article 8890	1911	9 members, 3 public	8	5,441	\$568,309
Vocational Nurses	Article 4528c	1951	12 members, 2 public	18	74,540	\$1,483,514
Total				262.5	346,833	\$19,990,512

* Created in 1991, information not available.

n/a Not applicable.

Exhibit 1
HEALTH LICENSING AGENCY BACKGROUND INFORMATION
 Fiscal Year 1992
 (cont.)

FUNDING			EXAMINATIONS		ENFORCEMENT ACTIONS			
Source	FY 1992 Expended	FY 1993 Appropriated	Number Given	Pass Rate (%)	Complaints	Investigations	Suspensions	Revocations
Special Fund	\$139,000	\$162,279	260	77	363	178	14	4
Special Fund	\$817,233	\$872,691	755	72.5	555	499	28	4
Special Fund	\$66,048	\$98,810	6	50	2	2	7	0
General Revenue	\$66,737	\$67,141	159	74	152	152	0	0
General Revenue	\$60,987	\$163,345	*	*	*	*	*	*
Federal Grant	\$25,762	0	0	n/a	23	n/a	n/a	n/a
Special Fund	\$2,630,016	\$2,026,354	6,691	87	1,063	1,136	8	107
Special Fund	\$315,196	\$231,451	323	87.5	2,141	97	1	1
General Revenue	\$149,915	\$157,288	411	92	10	11	1	0
Special Fund	\$224,416	\$214,981	197	82	158	79	0	0
Local Fund	\$1,953,708	\$1,746,022	1,436	91	596	141	54	4
General Revenue	\$352,420	\$314,471	965	84	137	18	0	0
Special/Local Fund	\$3,915,605	\$3,364,550	3,658	93	1,930	1,709	26	38
Special Fund	\$102,997	\$95,784	28	88	50	1	5	0
Special Fund	\$332,443	\$256,503	638	83	49	22	0	0
Special Fund	\$557,621	\$528,285	826	85	120	167	6	3
Special Fund	\$293,391	\$304,115	1,382	78	43	40	1	2
Special Fund	\$166,114	\$134,879	0	n/a	2	1	0	0
Special Fund	\$454,118	\$479,324	208	82	160	160	11	3
Special Fund	\$992,540	\$992,940	4,205	91	1,167	961	183	65
Totals	\$13,616,267	\$12,211,213	22,148	82 (avg.)	8,721	5,374	345	231

Exhibit 2
**HISTORICAL COMPARISON OF
 HEALTH LICENSING AGENCY
 LICENSEES, EMPLOYEES, AND BUDGETS**

Profession Regulated	Licenses FY 82	Licenses FY 92	Employees FY 82	Employees FY 92	Expended FY 82	Expended FY 92
Chiropractors	1,297	2,901	2	3	\$70,644	\$139,000
Dental Examiners	12,793	18,136	11	20	\$549,404	\$817,233
Dietitians	*	3,061	*	1.5	*	\$66,048
Hearing Aid Fitters and Dispensers	468	991	1.5	2	\$53,489	\$66,737
Marriage & Family Therapists	*	2,512	*	3	*	\$60,987
Midwives	*	273	*	2	*	\$25,762
Nurses	88,229	131,015	23	44	\$978,196	\$2,630,016
Nursing Home Administrators	n/a	2,509	5	7	\$171,553	\$315,196
Occupational Therapists	*	3,046	*	4	*	\$149,915
Optometrists	1,671	2,513	2.5	4	\$107,133	\$224,416
Pharmacists	12,321	16,883	24	32	\$963,888	\$1,953,708
Physical Therapists	2,718	6,655	2	7	\$94,062	\$352,420
Physicians	37,292	44,671	40	80	\$1,616,519	\$3,915,605
Podiatrists	600	773	1.5	3	\$51,414	\$102,997
Professional Counselors	*	8,000	*	8	*	\$332,443
Psychologists	3,400	4,345	4	8	\$162,313	\$557,621
Social Workers	*	12,541	*	4	*	\$293,391
Speech-Language Pathologists/Audiologist	*	5,027	*	4	*	\$166,114
Veterinarians	3,755	5,441	5	8	\$187,143	\$454,118
Vocational Nurses	63,183	74,540	15	18	\$498,300	\$992,540
Total	227,727	345,833	136.5	262.5	\$5,504,058	\$13,616,267
% Increase	52%		92%		147%	
Average	18,977	17,292	10.5	13	\$423,389	\$684,393

* Created after 1981.
 n/a Not available.

Exhibit 3
HEALTH LICENSING AGENCIES
COMPARISON OF KEY PERFORMANCE MEASURES
Fiscal Year 1992

Profession Regulated	Administrative Costs as a Percent of Budget	Average Time for Complaint Resolution (Days)	Average Time for Disciplinary Action (Days)	Average Cost of Disciplinary Hearings	Exam Pass Rate (%)	Licenses Suspended or Revoked
Chiropractors	19	263	413	\$4,350	77	18
Dentists	18	205	106	\$2,212	72.5	32
Dietitians	*	119	235	\$1,002	50	7
Hearing Aid Fitters and Dispensers	71	20	0	0	74	0
Marriage & Family Therapists (1)	*	*	*	*	*	*
Midwives (2)	*	n/a	n/a	n/a	n/a	n/a
Nurses	15	174	49	\$514	87	115
Nursing Home Administrators	63	135	105	\$1,020	87.5	2
Occupational Therapists	*	99	n/a	\$5,000	92	1
Optometrists	35	100	n/a	n/a	82	0
Pharmacists	24	111	305	\$2,744	91	58
Physical Therapists	14	124	246	0	84	0
Physicians	26	267	315	\$16,751	93	64
Podiatrists	81	33	0	0	88	5
Professional Counselors	*	427	393	n/a	83	2
Psychologists	28	131	93	\$604	85	9
Social Workers	35	50	90	*	n/a	3
Speech-Language Pathologists/Audiologist	*	72	180	n/a	78	0
Veterinarians	22	92	130	\$4,629	82	14
Vocational Nurses	17	98	147	\$267	91	248
AVERAGE	33	140	201	\$3,554	82	32

(1) - Created in 1991

(2) - Not a regulatory program, registration only.

* - Accurate figures were not available.

n/a - Not applicable.

Exhibit 4
AGENCIES ABOLISHED BY SUNSET

Year Abolished	Agency	Comments
1991	1. Office of the Civil Defense and Disaster Compact Administrator for Texas	Inactive when abolished
	2. Texas Conservation Foundation	Functioning when abolished
	3. Council on Disabilities	Functions transferred to the Governor's Committee on People with Disabilities
	4. Good Neighbor Commission	Inactive when abolished
	5. Texas Health and Human Services Coordinating Council	Functions transferred to governor's office, Department of Human Services, and Department of Information Resources
	6. Long-Term Care Coordinating Council for the Elderly	Functions transferred to the Department on Aging
1989	7. State Board of Canvassers	Functions transferred to Secretary of State
	8. Texas Indian Commission	Functioning when abolished
	9. Western Information Network Association	Inactive when abolished
	10. Governor's Commission on Physical Fitness	Functions transferred to the Department of Health
	11. Poultry Improvement Board	Functioning when abolished
1987	12. Medical Care Advisory Committee of the Health and Human Services Coordinating Council	Inactive when abolished
	13. Technology Training Board	Inactive when abolished
1985	14. Office of State Forester	Functioning when abolished
	15. Occupational Safety Board	Inactive when abolished
	16. Texas Coordinating Commission for Health and Welfare Services	Inactive when abolished
	17. Texas Health Facilities Commission	Functioning when abolished
	18. Prosecutor Council	Functioning when abolished
	19. Texas Coastal and Marine Council	Functioning when abolished

Exhibit 4
AGENCIES ABOLISHED BY SUNSET

1983	20. Texas Commission on Interstate Cooperation	Inactive when abolished
	21. Texas Historical Resources Development Council	Functioning when abolished
	22. Texas Energy and Natural Resources Advisory Council	Functioning when abolished
1981	23. Civil Air Patrol	Functions transferred to Department of Public Safety
	24. Board of Library Examiners	Functions transferred to State Library and Archives
	25. Nimitz Memorial Naval Museum Commission	Functions transferred to Department of Parks and Wildlife
	26. Board of Tuberculosis Nurse Examiners	Inactive when abolished
	27. Board of Examiners in Social Psychotherapy	Functioning when abolished
1979	28. Battleship Texas Commission	Functions transferred to Department of Parks and Wildlife
	29. Burial Association Rate Board	Functions transferred to Department of Insurance
	30. Board of County & District Road Indebtedness	Functioning when abolished
	31. Texas Navy, Inc.	Inactive when abolished
	32. Pesticide Advisory Committee	Inactive when abolished
	33. Pink Bollworm Commission	Inactive when abolished
	34. Texas Private Employment Agency Regulatory Board	Functioning when abolished
	35. Stonewall Jackson Memorial Board	Inactive when abolished
36. Vehicle Equipment Safety Commission	Inactive when abolished	

Exhibit 5
STAFF ASSIGNMENTS FOR CURRENT REVIEWS

Texas Alcoholic Beverage Commission	Ken Levine David Holland Rachelle Hill Bruce Crawford Tim Graves Dawn Volcik
Texas Department of Commerce	Cyndie Schmitt Ann Blevins John Hubbard Ying Tang Karl Spock Barbara Hunley
Employees Retirement System of Texas	Ken Levine John Hubbard Karl Spock Barbara Hunley
Teacher Retirement System	Ginny McKay Martha Nelson Karl Spock Barbara Hunley
General Services Commission	Ann Blevins Karl Spock Barbara Hunley
Department of Insurance Office of Public Insurance Counsel	Joe Walraven Merrell Foote Roland Leal Tim Graves Susan Kinney
Department of Public Safety	Joey Longley Ron Allen Charla Ann Baker Martha Nelson Tim Graves Barbara Hunley
Public Utility Commission Office of Public Utility Counsel	Ginny McKay Joe Walraven Merrell Foote Roland Leal Karl Spock Susan Kinney
Texas Turnpike Authority	Ken Levine Dawn Volcik

Exhibit 5
STAFF ASSIGNMENTS FOR CURRENT REVIEWS

Health Licensing Agencies	
Texas Board of Licensure for Nursing Home Administrators	Ron Allen Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Examiners of Marriage and Family Therapists	Cyndie Schmitt Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Examiners of Psychologists	Charla Ann Baker Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Examiners of Professional Counselors	Cyndie Schmitt Joey Longley Susan Gennusa Dawn Volcik
Council for Social Work Certification	Cyndie Schmitt Joey Longley Susan Gennusa Dawn Volcik
Texas Advisory Board of Occupational Therapy Examiners	Ying Tang Joey Longley Susan Gennusa Dawn Volcik
Texas Board of Physical Therapy Examiners	Ying Tang Joey Longley Susan Gennusa Dawn Volcik
Board of Nurse Examiners	Cyndie Schmitt Joey Longley Susan Gennusa Dawn Volcik
Board of Vocational Nurse Examiners	Rachelle Hill Joey Longley Susan Gennusa Dawn Volcik
Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids	David Holland Joey Longley Susan Gennusa Dawn Volcik

Exhibit 5
STAFF ASSIGNMENTS FOR CURRENT REVIEWS

State Committee of Examiners for Speech-Language Pathology and Audiology	David Holland Joey Longley Susan Gennusa Dawn Volcik
Texas Board of Chiropractic Examiners	Ying Tang Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Dental Examiners	David Holland Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Examiners of Dietitians	Rachelle Hill Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Medical Examiners	Charla Ann Baker Joey Longley Susan Gennusa Dawn Volcik
Midwifery Board	Rachelle Hill Joey Longley Susan Gennusa Dawn Volcik
Texas Optometry Board	Ron Allen Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Pharmacy	David Holland Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Podiatry Examiners	Rachelle Hill Joey Longley Susan Gennusa Dawn Volcik
Texas State Board of Veterinary Medical Examiners	Ron Allen Joey Longley Susan Gennusa Dawn Volcik

Exhibit 6
SUNSET ADVISORY COMMISSION MEMBERSHIP
1977-1993

69th Legislature - 1985

Senator Kent Caperton, Vice Chair	Representative Charles Evans*, Chair
Senator Bill Sarpalius	Representative Gary Thompson
Senator Chet Edwards	Representative Bruce Gibson
Senator John Sharp	Representative Patricia Hill
Jess M. Erwin, Jr., Public Member	Harry J. Stone, Jr., Public Member

* Representative Charles Evans was appointed to fill the unexpired term of Representative Elton Bomer

68th Legislature - 1983

Senator Ed Howard, Chair	Representative Charles Evans, Vice Chair
Senator O.H. (Ike) Harris	Representative Elton Bomer
Senator Bill Sarpalius	Representative Ernestine Glossbrenner*
Senator Kent Caperton	Representative Gary Thompson
Vernon McGee, Public Member	Carol Barger, Public Member

* Representative Ernestine Glossbrenner was appointed to fill the unexpired term of Representative Al Brown.

67th Legislature - 1981

Senator Ed Howard, Vice Chair	Representative Bennie Bock, Chair
Senator O.H. (Ike) Harris	Representative Charles Evans
Senator A.R. (Babe) Schwartz	Representative Bill Ceverha
Senator Lloyd Doggett	Representative Al Brown, Jr.*

* Representative Al Brown, Jr. was appointed to fill the unexpired term of Representative Mike Ezzell.

66th Legislature - 1979

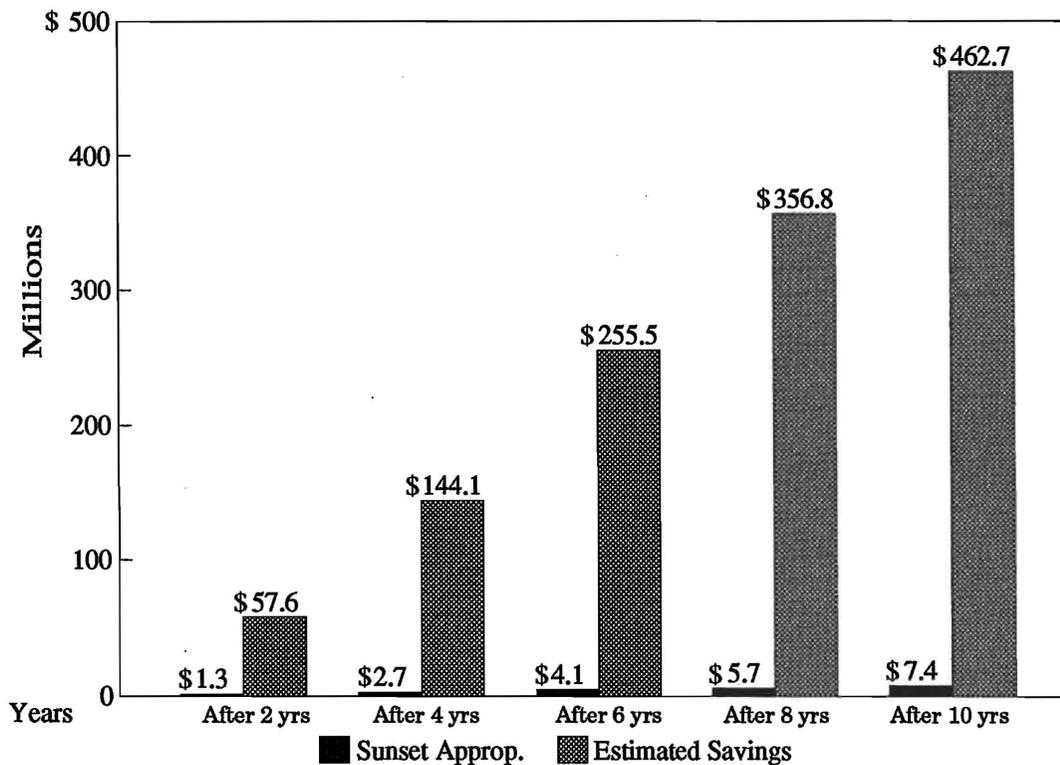
Senator Bill Meier, Chair	Representative Bennie Bock, Vice Chair
Senator Lloyd Doggett	Representative Bill Ceverha
Senator A.R. (Babe) Schwartz	Representative Lee F. Jackson
Senator W.E. Snelson	Representative Lance Laylor

The Sunset Advisory Commission was created September 1, 1977.

**Exhibit 7
Estimated Fiscal Impact
of Sunset Legislation***

Biennial Sunset Appropriation	Number of Budgeted Sunset Staff	Two-Year Estimated Gain (Loss) Resulting From Sunset Legislation
\$ 1,299,000 for 1982-83	23 for 1982-83	\$ 57,550,892 for 1984-85
\$ 1,363,548 for 1984-85	23 for 1984-85	\$ 28,958,572 for 1986-87
\$ 1,469,800 for 1986-87	23 for 1986-87	\$ 24,976,864 for 1988-89
\$ 1,587,068 for 1988-89	25 for 1988-89	\$ (10,235,217) for 1990-91
\$ 1,717,672 for 1990-91	23 for 1990-91	\$ 4,676,464 for 1992-93
\$ 1,805,446 for 1992-93	23 for 1992-93	\$ 66,777,086 for 1994-95**

**Cumulative Fiscal Impact (In Millions)
Sunset Legislation from 1982-1991**



*Gains and losses are estimated from fiscal note information. The cumulative figures shown in the bottom graph assume that gains or losses incurred in each biennium continue into the future.

**Projected from Sunset Commission recommendations.

